

CITY OF HAMILTON

BY-LAW NO. 10-053

A BY-LAW TO GOVERN THE PROCEEDINGS OF COUNCIL
AND COMMITTEES OF COUNCIL

(PROCEDURAL BY-LAW)

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CITY OF HAMILTON**BY-LAW NO. 10-053****A BY-LAW TO GOVERN THE PROCEEDINGS OF COUNCIL
AND COMMITTEES OF COUNCIL**

WHEREAS section 238 of the Municipal Act, 2001 requires that Council of the City of Hamilton adopt, by By-law, procedures governing the calling, place, and proceedings of meetings;

NOW THEREFORE, the Council of the City of Hamilton enacts as follows:

SECTION 1 - DEFINITIONS

1.1 In this By-law,

“**Act**” means the Municipal Act, 2001;

“**amend**” means to alter or vary the terms of a main motion without materially changing its purpose, and amendment has a corresponding meaning;

“**Bill**” means a proposed form of By-law;

“**By-law**” means a By-law, in a form approved by Council, passed for the purpose of giving general effect to a previous decision or proceedings of Council;

“**City**” means the geographical area of the City of Hamilton or the municipal corporation as the context requires;

“**Chair**” means the member presiding at any meeting of Council or Committee;

“**challenge**” means to appeal a ruling of the Chair;

“**Clerk**” means the City Clerk, or his or her designate;

“**Closed Meeting**” means a meeting, or part of a meeting, of Council or a Committee, which is closed to the public as permitted by the Act, also referred to as an “in-camera meeting”;

“**Committee**” means a Standing Committee, Licensing Tribunal, Selection Committee or an Advisory Committee or Task Force established by Council from time to time;

“**Committee of the Whole**” means all Members of Council present, sitting in committee of the whole;

“**Council**” means the City Council;

“**defer / table**” ⁽¹³⁻³¹⁹⁾ means to delay consideration of a matter by Council or a Committee until a specified time or event;

“**Deputy Mayor**” means a Member of Council who is appointed from amongst Council on a scheduled basis: ⁽¹⁰⁻²³⁰⁾

- (a) to assist the Mayor; and
- (b) to act from time to time in the place of the Mayor, exercising:
 - (i) all the rights, powers and authority of the Mayor when the Mayor is absent from the City or the office of Mayor is vacant; and
 - (ii) subject to paragraph (i), those rights, powers and authority of the Mayor that:
 1. the Mayor is unable to exercise for the time being due to illness, incapacity or other reason, including acting in the place of the Mayor at any Council or Committee meeting when the Mayor is absent; or,
 2. the Mayor refuses to exercise;

“**emergency**” means a situation or impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or not;

“**ex-officio**” means by virtue of the office or position and the Mayor is an ex officio member of all Standing Committees who, when attending a Standing committee meeting, shall have full voting privileges and shall be counted for the purposes of the Standing Committee’s quorum as such quorum is set out in Section 5.4 of this By-law;

“**majority**” for the purposes of voting, means more than half the total of members of Council or Committee present and not prohibited by statute from voting;

“**Mayor**” means the Head of the Council and in this By-law means the Deputy Mayor when the Deputy Mayor is acting in place and stead of the Mayor;

“**meeting**” means any regular or special meeting of Council or Committee;

“Member of Council” means a member of Council, including the Mayor;

“motion” means a proposal by a member for the consideration of Council or a Committee that is moved by a member and seconded by another member;

“notice of motion” means a notice of motion received by the Clerk in writing, moved by a member for inclusion on a future agenda of a meeting of Council or Committee;

“point of order” means a question by a member with respect to any departure from the Procedural By-law or in the practised conduct of Council or Committee business;

“point of privilege” means a question by a member with respect to the rights of a member individually or Council or a Committee collectively hold, that ensure Council’s or a Committee’s ability to function freely;

“quorum” means the number of members required to be present at a meeting to validate the transactions of its business;

“recess” means a short intermission in a meeting’s proceedings which does not close the meeting, and after which business will immediately be resumed at exactly the point where it was stopped;

“refer” means to refer ⁽¹³⁻³¹⁹⁾ a matter seeking its consideration by any individual or body, including a Committee;

“recorded vote” means a written record of the name and vote of each member of Council or a Committee who votes on a question and of each member present who does not vote;

“rules of procedure” means the rules and procedures set out in this By-law, for the calling, place and proceedings of the meetings of Council and its Committees;

“Senior Management Team” means the City Manager and General Managers appointed by Council and the Medical Officer of Health appointed by the Board of Health;

“Standing Committee” means a Committee established by Council, comprised entirely of Members of Council, to carry out duties on an ongoing basis, as specified by Council; and

“website” means the official City internet website.

SECTION 2 - APPLICATION

- 2.1** The rules of procedure shall be observed in all proceedings of Council and shall be the rules for the order and dispatch of business in Council and unless specifically provided, with necessary modifications, apply to all Committees.
- 2.2** All matters relating to the proceedings of Council and Committees for which rules have not been provided for in this By-law and its Appendices shall be decided, as far as is reasonably practicable, with reference to the parliamentary rules as contained in the most recent edition of *Bourinot's Rules of Order*.

SECTION 3 – COUNCIL MEETINGS

3.1 First Council Meeting

The First Meeting of Council shall be held on the first Wednesday of December in an election year at 5:00 p.m. ⁽¹³⁻³¹⁹⁾

The Proceedings of the First Meeting of Council shall include:

- (a) Ceremonial - special address by guests;
- (b) Filing of Declarations of Office in accordance with the provisions of the Act;
- (c) Council appointments to Standing Committees, Boards and Agencies; and
- (d) Confirming By-law.

3.2 Regular Meeting Times

- (1) Unless otherwise decided by Council, regular meetings of Council shall be held:
- (a) every second and fourth Wednesday of each month, commencing at 5:00 p.m., ⁽¹³⁻³¹⁹⁾ unless such day is a public or civic holiday, in which case Council shall set an alternate day and time; or
 - (b) in accordance with the schedule approved by Council.
- (2) Advance notice of meetings for the public's information may be found by accessing the City's website at www.hamilton.ca (Select Public Meetings and Consultations.)

3.3 Location of Meetings

Meetings of Council shall be held in the Council Chambers at City Hall in the City of Hamilton or at such other place within the City of Hamilton as Council may from time to time determine.

3.4 Special Meetings of Council

- (1) In addition to regular meetings, the Mayor may at any time summon a special meeting of Council by giving written direction to the Clerk stating the date, time, and purpose of the special meeting.
- (2) The Clerk shall also summon a special meeting of Council when requested to do so in writing by a majority of Members of Council.
- (3) The Clerk shall give each Member of Council, or his or her designated staff, notice of a special meeting of Council at least 48 hours before the time appointed for such meeting by:
 - (a) delivering a written notice personally;
 - (b) delivering such notice at his or her residence or place of business; or
 - (c) facsimile transmission or electronic mail to such residence or place of business.
- (4) The written notice to be given under subsection (3) shall state the nature of the business to be considered at the special meeting of Council and no other business other than that which is stated in the notice shall be considered at such meeting except with at least two-thirds of the Members of Council present and voting in the affirmative.

3.5 Meetings of Council for Emergencies

- (1) Despite any other provisions of this By-law, a meeting of Council for an emergency may be called by the Mayor, without written notice, to deal with an emergency, provided that an attempt has been made by the Clerk to notify Members of Council about the meeting as soon as possible and in the most expedient manner available.
- (2) The only business to be dealt with at a meeting of Council for an emergency shall be business dealing directly with the emergency.
- (3) The lack of receipt of a notice of, or an agenda for, a meeting of Council for an emergency by any Member of Council shall not affect the validity of the meeting or any action taken at such meeting.

3.6 Quorum

- (1) As soon as there is a quorum after the time set for the meeting, the Mayor shall take the chair and call the meeting to order.
- (2) A majority of Members of Council is necessary to constitute a quorum of Council.

- (3) If the Mayor does not attend within 15 minutes of the time a quorum is to be present for a meeting of the Council, the Deputy Mayor shall call the Members of Council to order and he/she will preside until the arrival of the Mayor. ⁽¹³⁻³¹⁹⁾
- (4) If a quorum is not achieved within 30 minutes after the time appointed for a meeting of Council, the Clerk shall record the names of the Members of Council present and the meeting shall stand adjourned until the date of the next regular meeting or other meeting called in accordance with the provisions of this By-law.
- (5) If Quorum cannot be maintained during a meeting, the Clerk will advise the Chair that quorum is lost and the decision to continue the meeting will rest with the Chair. During the absence of quorum, no decisions may be approved. ⁽¹³⁻³¹⁹⁾

3.7 Remedy for Lack of Quorum – Municipal Conflict of Interest Act

Where the number of Members of Council who, by reason of provisions of the Municipal Conflict of Interest Act, are disabled from participating in a meeting is such that at that meeting the remaining Members of Council are not of sufficient number to constitute a quorum, then, the remaining number of Members of Council shall be deemed to constitute a quorum, provided such number is not less than 2.

3.8 Delegations

Delegations are not permitted at meetings of Council.

3.9 Order of Business

The Order of Business for the regular meetings of Council, unless changed by Council in the course of the meeting, shall be as follows: ⁽¹⁰⁻²³⁰⁾

- (a) Approval of Agenda
- (b) Declarations of Interest
- (c) Ceremonial Activities
- (d) Approval of Minutes of Previous Meeting
- (e) Communications
- (f) Committee Reports
- (g) Motions
- (h) Notice of Motions
- (i) Statement by Members (non-debatable)

- (j) Private and Confidential
- (k) By-laws and Confirming By-law
- (l) Adjournment

3.10 Rules of Debate

- (1) No Member of Council shall be deemed to have precedence or seniority over any other Member of Council.
- (2) Before speaking to a question or motion, a Member of Council shall be recognized by the Mayor and be placed on the speakers' list.
- (3) When a Member of Council is speaking, no other Member of Council shall pass between that Member of Council and the Mayor or interrupt that Member of Council except to raise a point of order or privilege.
- (4) If a Member of Council disagrees with the announcement of the Mayor that a question is Carried or Lost, he or she may immediately after the declaration by the Mayor, object to the Mayor's declaration and require that a recorded vote be taken.
- (5) A Member of Council may require the question or motion under discussion to be read at any time during the debate but not so as to interrupt a Member of Council who is speaking.
- (6) The following matters may be introduced orally without written notice and without leave:
 - (a) a point of order
 - (b) a point of privilege
 - (c) a motion to adjourn
 - (d) a motion to call the question
 - (e) a motion to go into committee of the whole
 - (f) a motion to recess.
- (7) The following motions may be introduced without notice and without leave, but shall be in writing and signed by the Mover and Seconder:
 - (a) to amend
 - (b) to suspend the rules of procedure
 - (c) to refer (see section 3.11(14))
 - (d) to defer/table ⁽¹³⁻³¹⁹⁾
 - (e) to go into a closed meeting.

(8) **Relinquishing the Chair**

The Mayor may designate another Member of Council as acting Chair during any part of a meeting of the Council and while presiding, such Member of Council shall have all the powers of the Mayor with respect to chairing the meeting and shall be entitled to vote as a Member of Council.

3.11 Voting Procedures

- (1) Every Member of Council present at a meeting of Council or Committee when a question is put shall vote unless prohibited by statute, in which case, the Clerk shall record the name of the Member of Council and the reason that he or she is prohibited from voting.
- (2) When a vote is taken and a tie results, a question is deemed to be lost.
- (3) If any Member of Council at a meeting of Council does not vote when a question is put and a recorded vote is taken, he or she shall be deemed to have voted in the negative except where prohibited from voting by statute.
- (4) When a recorded vote is requested by a Member of Council immediately before or after a question is put, the Clerk shall record the name and vote of every Member of Council on the question.
- (5) When the Mayor calls for a vote on a question, each Member of Council shall occupy his or her seat and shall remain in his or her seat until the result of the vote has been declared by the Mayor, and during such time no Member of Council shall walk across the room or speak to any other Member of Council or make any noise or disturbance.
- (6) After a question is put by the Mayor, no Member of Council shall speak to the question nor shall any other motion be made until after the vote is taken and the result has been declared.
- (7) No vote shall be taken by ballot or by any other method of secret voting and every vote so taken is of no effect, except where permitted by statute.
- (8) Despite subsection (7), a meeting may be closed to the public during a vote if:
 - (a) the vote relates to an issue permitting the meeting to be closed to the public in accordance with section 8 (Closed Meetings) of this By-law; and

- (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the City or persons retained by or under a contract with the City.
- (9) The Mayor shall, upon request of a Member of Council, divide a question and the vote upon each proposal shall be taken separately.

(10) **Notice of Motion**

- (a) Notice of all new motions, except motions listed in subsections 3.10(6) and 3.10(7), shall be given in writing:
 - (i) at a meeting of Council, but shall not be debated until the next regular meeting of Council; or
 - (ii) delivered to the Clerk at any time prior to noon of the last business day preceding the date of the meeting at which the notice of motion is to be introduced.
- (b) Where a Member of Council's notice of motion has been called by the Mayor at the subsequent meeting and not proceeded with, it shall be dropped from the agenda unless Council decides otherwise.
- (c) Where Council has determined not to drop a notice of motion from the agenda, and at the second meeting such notice of motion is called by the Mayor and not proceeded with, it shall be deemed to have been withdrawn.

(11) **Dispensing with Notice**

A motion may be introduced without notice if Council, without debate, dispenses with notice on the affirmative vote of the majority of the Members of Council present and voting.

(12) **Motion to Withdraw**

After a motion is moved and seconded it shall be deemed to be possession of Council, but may, by the majority vote of Council, withdrawn at any time before decision or amendment. ⁽¹³⁻³¹⁹⁾

(13) **Motion to Amend**

A motion to amend:

- (a) shall be presented in writing, duly moved and seconded;
- (b) shall be made only to a previous question or to amend an amendment to the question;
- (c) shall be relevant to the question to be decided;

- (d) shall not be received if in essence it constitutes a rejection of the main question;
- (e) shall be put in the reverse order to that which it is moved.

(14) Motion to Defer/Table ⁽¹³⁻³¹⁹⁾

A motion to defer/table a question:

- (a) shall be duly moved and seconded
- (b) is debatable
- (c) when discussion of the item is to resume, requires a motion to lift from the table

(15) Motion to Refer

- (a) A motion to refer the question:
 - (i) shall include the name of the individual or body to whom the question is to be referred.
 - (ii) may include instructions respecting the terms upon which the question is to be referred.
- (b) A motion to refer a question is not debatable except where instructions are included, in which case, only the instructions shall be debatable.
- (c) A motion to refer a question may be amended in accordance with subsection 3.11(13).
- (d) When a motion to refer a question to Council is defeated by a Standing Committee, the Chair of the Standing Committee shall call the question on the matter. ⁽¹⁰⁻²³⁰⁾

(16) Motion to Adjourn

A motion to adjourn a Council meeting shall always be in order except:

- (a) when a Member of Council is speaking or during the taking of a vote;
- (b) immediately following the affirmative resolution of a motion that a vote on the question now be taken;
- (c) when a Member of Council has already indicated to the Mayor, that he or she desires to speak on the question;
- (d) when resolved in the negative, cannot be made again until Council has conducted further proceedings.

(17) Motion to Call the Question

A motion to call the question shall be in order except when a Member of Council is speaking or before the first-time speakers' list is exhausted.

(18) **Motion to Reconsider** ⁽¹⁰⁻²³⁰⁾

- (a) At any regular Council Meeting, after a matter has been decided by Council, a Member of Council who voted in the majority, may present a Notice of Motion to reconsider the matter. The Chair may ask the Member of Council to confirm that he or she voted with the majority on the issue in question. Such Notice of Motion shall be referred to the next available meeting of Council and shall be included on the agenda under "Motions".
- (b) No decided matter shall be reconsidered more than once during the term of Council.
- (c) A motion to reconsider a decided matter shall require the approval of at least two-thirds of Council present.
- (d) Actions of Council that cannot be reversed or suspended cannot be reconsidered.
- (e) No motion to reconsider may, itself, be the subject of a motion to reconsider.
- (f) Debate on a motion to reconsider shall be confined to reasons for or against the reconsideration.
- (g) Sub-sections (a) to (f) do not apply when a motion pertains to a decision of a previous Council.

(19) The following motions are procedurally in order in the following sequence:

- (a) to adjourn
- (b) to recess
- (c) to request information
- (d) to call the question
- (e) to defer/table ⁽¹³⁻³¹⁹⁾
- (f) to refer
- (g) to amend

(20) The following motions are not debatable⁽¹³⁻³¹⁹⁾

- (a) a motion to adjourn
- (b) a motion to refer (except on the advisability or appropriateness of referring the question), close, limit or extend debate
- (c) a motion to suspend the rules

- (d) a point of privilege
- (e) a motion to lift from the table

(21) **Motions Beyond Jurisdiction of Council**

A motion in respect of a matter which is beyond the jurisdiction of Council shall not be in order.

3.12 **Bills and By-laws**

- (1) All Bills coming before Council shall be in typewritten form and shall contain no blanks except as may be required to conform to accepted procedure or to comply with provisions of any statute or regulation and shall be complete with the exception of the number and date.
- (2) All Bills coming before Council shall receive one reading, unless otherwise requiring more than one reading, pursuant to a Provincial or Federal statute or regulation.
- (3) Every Bill shall be introduced upon motion by a Member of Council, and any number of Bills may be introduced together in one motion, but Council may at the request of a Member of Council, deal separately with any Bill. If Council deals separately with a Bill:
 - (a) all amendments or debate on the content of the Bill shall be held in committee of the whole;
 - (b) Council will move into committee of the whole for discussion on any Bill following a successful verbal motion to go into committee of the whole;
 - (c) all amendments made in committee of the whole shall be reported by the Mayor to Council, which shall receive the same forthwith, and after the report has been received, a vote on the motion to pass the Bill shall be taken;
 - (d) every By-law passed by Council shall be numbered and dated and shall be sealed with the seal of the municipality and signed by the Mayor and Clerk.
- (4) No Bill or By-law may be defeated on the floor of Council without reconsideration of the original motion which gave rise to the consideration of the Bill or By-law.

3.13 **Editorial and Other Changes**

- (1) The Clerk may make the following changes to By-laws or resolutions to: ⁽¹³⁻³¹⁹⁾
 - (a) Correct spelling, punctuation or grammatical errors, or errors that are of a clerical, typographical or similar nature.

- (b) Alter the style or presentation of text or graphics to improve electronic or print presentation.
 - (c) Replace a description of a date or time with the actual date or time.
 - (d) If a provision provides that it is contingent on the occurrence of a future event and the event occurs, remove text referring to the contingency and make any other changes that are required as a result.
 - (e) When the name, title, location or address of a body, office, person, place or thing has been altered, change any reference to the name, title, location or address to reflect any alteration in name, title, location or address.
 - (f) Correct errors in the numbering of provisions or other portions of a By-law and make any changes in cross-references that are required as a result.
 - (g) If a provision of a transitional nature is contained in a By-law, make any changes that are required as a result.
 - (h) Make a correction, if it is patent both that an error has been made and what the correction should be.
- (2)
- (a) The Clerk may provide notice of the changes made under paragraphs (1)(a) to (c) inclusive in the manner that he or she considers appropriate.
 - (b) The Clerk shall provide notice of the changes made under paragraphs (1)(d) to (h) inclusive in the manner that he or she considers appropriate.
 - (c) In determining whether to provide notice under subsection 2(a), the Clerk shall consider:
 - (i) the nature of the change; and
 - (ii) the extent to which notice, and the information provided in it, would provide assistance in understanding the relevant legislative history.
 - (d) In providing notice under subsection 2(a) or 2(b), the Clerk shall state the change or the nature of the change.
- (3) No legal significance shall be inferred from the timing of the exercise of a power under this section.
- (4) Regardless of when a change is made to a By-law under this section, the change may be read into the By-law as of the date it was enacted if it is appropriate to do so.

3.14 Shareholder and Board of Director Meetings

Where Council acts as the Shareholder or the Board of Directors, or both, of a corporation:

- (a) Council shall meet as the Shareholder or the Board of Directors as necessary to complete such business as would normally be completed by the Shareholder or Board of Directors and as required by the corporation's by-laws and resolutions and any laws that govern the corporation; and
- (b) the Mayor and Clerk are authorized, upon approval by Council, to sign any necessary resolutions.

SECTION 4 - COMMITTEE OF THE WHOLE ⁽¹³⁻³¹⁹⁾

4.1 Council may, by resolution:

- (a) move into the Committee of the Whole ⁽¹³⁻³¹⁹⁾ to consider, including debate, Committee reports on the Council meeting agenda; and
- (b) move out of the Committee of the Whole ⁽¹³⁻³¹⁹⁾ to report to Council.

SECTION 5 – STANDING COMMITTEE MEETINGS

5.1 Standing Committees

The Standing Committees reporting to Council shall be as follows:

- (a) General Issue Committee ⁽¹⁰⁻²³⁰⁾
- (b) Board of Health
- (c) Public Works Committee
- (d) Planning Committee ⁽¹⁰⁻²³⁰⁾
- (e) Emergency & Community Services Committee
- (f) Audit, Finance & Administration Committee ⁽¹⁰⁻²³⁰⁾

5.2 Appointment of Standing Committee Chairs and Vice Chairs

- (1) Each Standing Committee shall recommend to Council the appointment of a Chair, Vice-Chair and, where applicable, 2nd Vice-Chair for the required term.
 - (a) The term of the Chair, Vice-Chair and 2nd Vice-Chair shall be for a calendar year, or part of a calendar year in an election year.
 - (b) No Member of Council may serve as Chair, Vice-Chair or 2nd Vice-Chair of the same Standing Committee for more than one year in a Council term.

- (c) The role of the Chair of the General Issues Committee shall be rotated amongst the Deputy Mayors. ⁽¹⁰⁻²³⁰⁾
- (2) Despite paragraphs (1)(a) and (b), the Mayor shall stand as Chair for the term of Council for the following Committees:
 - (a) Board of Health

5.3 Standing Committee Membership

- (1) General Issues Committee and Board of Health shall be comprised of all Members of Council. ⁽¹⁰⁻²³⁰⁾
- (2) The Public Works Committee and Planning Committee shall be comprised of a minimum of 8 Members of Council. ⁽¹⁰⁻²³⁰⁾
- (3) The Emergency & Community Services Committee shall be comprised of a minimum of 5 and a maximum of 8 members of Council and the Audit, Finance & Administration Committee shall be comprised of a minimum of 5 and maximum of 7 members of Council. ⁽¹¹⁻⁰⁷⁴⁾
- (4) Each Member of Council shall sit on a minimum of 2 Standing Committees, in addition to the Board of Health and General Issues Committee. ⁽¹³⁻³¹⁹⁾
- (5) Membership on Standing Committees shall be for the duration of the term of Council.

5.4 Quorum

The quorum for all Standing Committees shall be a half of the membership rounded up to the nearest whole number. ⁽¹⁰⁻²³⁰⁾

5.5 Regular Meeting Times of Standing Committees⁽¹¹⁻²⁸⁷⁾

- (1) Unless otherwise decided by Council, regular meetings of the Standing Committees shall be as follows:
 - (a)(i) General Issues Committee shall meet on the first and third Wednesday of every month commencing at 9:30 a.m.; ⁽¹³⁻³¹⁹⁾
 - (ii) Board of Health shall meet on the third Monday of every month commencing at 1:30 p.m.; ⁽¹³⁻³¹⁹⁾
 - (iii) Public Works Committee shall meet on the first and third Monday of every month commencing at 9:30 a.m.;

- (iv) Planning Committee shall meet on the first and third Tuesday of every month commencing at 9:30 a.m.;
 - (v) Emergency & Community Services Committee shall meet on the first and third Monday, if required of every month commencing at 1:30 p.m.;
(13-319)
 - (vi) Audit, Finance & Administration Committee shall meet on the first and third Monday, if required of every month commencing at 9:30 a.m.;
(13-319) unless such a day is a public or civic holiday, in which case an alternate date and time will be selected; or
- (b) in accordance with the schedule approved by Council.
- (2) In addition to regular meetings, a special meeting of a Standing Committee may be scheduled, when required, at locations and times to permit convenient access for members of the public most affected by such a matter.
(10-230)
- (3) Advance notice of meetings for the public's information may be found by accessing the City's website at www.hamilton.ca (Select Public Meetings and Consultations.)

5.6 Committee Reports

- (1) Each Standing Committee shall make recommendations to Council.
- (2) A minimum of 48 hours shall pass before a Standing Committee Report is presented to Council.
- At the request of the Ward Councillor, every effort will be made for reports to be released at an earlier date to provide adequate opportunity for review.
(10-230)
- (3) Despite subsection (2), this rule may be suspended by the affirmative vote of two-thirds of the Members of Council present and voting.

5.7 Rules of Procedure

- (1) The rules governing the procedure of the Council and conduct of Members of Council at Council meetings shall be observed in Standing Committees, so far as they are applicable.
- (2) No member of Council shall speak more than once, until every member of a Standing Committee, followed by every Member of Council who is not a member of the Standing Committee, has spoken, and then only to provide information or seek clarification from the Chair, other Members of Council or staff. A Member of Council who is not a member of a Standing Committee may speak before members of the Standing Committee when the subject matter directly affects is or her Ward.
(10-230)

- (3) A Member of Council may place an item on a future agenda of a Standing Committee meeting by delivering a Notice of Motion (see Section 3.11(10)) to the Chair of the Standing Committee and to the Committee Legislative Assistant. ⁽¹⁰⁻²³⁰⁾
- (4) A member of Council who is not a member of a Standing Committee is entitled to attend such Standing Committee meetings and to participate, provided that the Member of Council shall:
 - (a) not be counted for quorum purposes, and;
 - (b) not move any motion or vote on any matter. ⁽¹⁰⁻²³⁰⁾

5.8 Duties of Standing Committees

The duties of the Standing Committees shall be as set out in Appendices A to F inclusive.

5.9 Provisional Governance Committee

- (1) The Provisional Governance Committee may carry out the duties and responsibilities of the Council only at such times when, to the satisfaction of at least 5 members of Council attending a properly scheduled meeting of Council, at least 8 members of Council are not able to attend such meeting due to death, illness or circumstances attributable to an emergency which has been declared by the Mayor or his or her designate in accordance with the City's Emergency Plan.
- (2) The Provisional Governance Committee shall be comprised of eight Members of Council, and shall elect its own Chair from amongst the attending Members. ⁽¹⁰⁻²³⁰⁾
- (3) The Provisional Governance Committee shall have all the powers and duties that may legally be delegated to the Committee pursuant to the Act, or any other applicable Provincial or Federal legislation, subject to the following conditions and restrictions:
 - (a) the delegation shall be effective only during the times specified; and
 - (b) the Committee shall conduct its meetings in accordance with this By-law, providing that the quorum for the constitution of a valid meeting of the Committee shall be 5 Members of Council.

5.10 Order of Business

The general Order of Business for the regular meetings of Standing Committees, unless changed by the Standing Committee in the course of the meeting, shall be as follows: ⁽¹⁰⁻²³⁰⁾

- (a) Changes to the Agenda
- (b) Declarations of Interest

- (c) Approval of Minutes of Previous Meeting
- (d) Delegation Requests
- (e) Consent Items
- (f) Public Hearings/Delegations
- (g) Staff Presentations
- (h) Discussion Items
- (i) Motions
- (j) Notice of Motions
- (k) General Information/Other Business
- (l) Private and Confidential
- (m) Adjournment

5.11 Delegations

- (1) Persons who wish to attend as a delegation to address a Standing Committee on a matter that:
 - (a) is not listed on a Standing Committee agenda, may make a request in writing to be listed as a delegation, such request to be received by the Clerk, no later than 12 noon on the day before the Standing Committee meeting.
 - (b) is listed on the agenda for a Standing Committee meeting, may make a request in writing to be listed as a delegation, such request to be received by the Clerk no later than 12:00 noon. If the Standing Committee is meeting on a Monday, the deadline will be 12:00 noon on the Friday. ⁽¹³⁻³¹⁹⁾
 - (c) provided that a person may attend as a delegation in the absence of a request under paragraphs (a) or (b) where prescribed by applicable legislation or allowed by the Standing Committee. ⁽¹⁰⁻²³⁰⁾

The request forms are available at www.hamilton.ca (*Select Request to Speak to a Committee*)

- (2) A request to attend as a delegation shall include the person's name, address, telephone number, reasons for the delegation, and if applicable the name, address and telephone number of any person, corporations or organizations which he or she represents.

- (3) Upon receipt of a request to attend as a delegation, the Clerk shall list the delegation request on the next appropriate agenda for the relevant Standing Committee and the decision whether or not to entertain the delegation will be made by the Standing Committee.
- (4) A delegation granted permission to appear before the Standing Committee is encouraged to provide the Clerk with a brief of his or her presentation, which in turn will be provided by the Clerk to the Members of the Standing Committee in advance of the meeting.
- (5) When a person is listed as a delegation on a Standing Committee agenda and such person, without notification to the Clerk, does not attend said meeting, that person must make a new request to be considered as a delegation and must re-apply in accordance with subsections (1) and (2).
- (6) A delegation shall be limited to a presentation of not more than five minutes, except as otherwise prescribed for a public meeting by applicable legislation.
**Delegations can be two or more people; however, the presentation is still limited to five minutes. ⁽¹⁰⁻²³⁰⁾
- (7) A delegation making a request to address a Standing Committee in accordance with applicable legislation shall be heard without the request being received in writing and in advance, if not required by such legislation.

5.12 Public Hearings

General

- (1) Public Hearings shall be held at Standing Committee meetings, as required by applicable legislation, or by Council. ⁽¹³⁻³¹⁹⁾
- (2) Appropriate advertising shall be undertaken as required by applicable legislation, by-law, or according to City policy, to advise interested persons.

Procedure

- (3) A delegation shall be in accordance with section 5.11.
- (4) Public Hearings shall commence with:⁽¹⁰⁻²³⁰⁾
 - (a) an introduction of the subject matter by the Chair or by staff;
 - (b) the staff presentation, if any and if not waived by the members of the Standing Committee;

- (c) the signing in of all delegations on a sheet, provided by staff, with their name, address, including postal code, phone number and e-mail address (optional).

Written information

- (5) A delegation may provide additional written material regarding the subject matter, for the public record. Where a delegation wishes copies of the information to be provided to all members of a Standing Committee, either 1 copy of the material shall be provided to the Clerk at least 2 weeks ahead of the meeting date, for inclusion in the agenda or 25 copies shall be provided to the Clerk for distribution at the meeting.

SECTION 6 – ESTABLISHMENT OF ADVISORY COMMITTEES OR TASK FORCES

- 6.1 Council may from time to time, as needed, establish Advisory Committees or Task Forces in response to specific matters requiring immediate or long term attention.
- 6.2 When Council or a Standing Committee approves of the formation of the Advisory Committee or Task Force the following procedures, if applicable, will be followed:
 - (a) the Clerk may invite citizens to serve as members and such invitations shall include the Advisory Committee or Task Force's mandate including any membership expertise requirements and the time needed to complete the mandate;
 - (b) applications received for membership shall be forwarded by the Clerk to the Selection Committee;
 - (c) the Selection Committee shall consider balanced geographical representation in selecting the members;
 - (d) the rules of procedure shall be observed so far as they are applicable;
 - (e) all minutes and reports shall be submitted to the Standing Committee to which the Advisory Committee or Task Force reports; and
 - (f) staff may act as resource persons in a non-voting capacity.
- 6.3 When an Advisory Committee or Task Force has completed its mandate, the Standing Committee to which the Advisory Committee or Task Force reports shall dissolve it by motion.

SECTION 7 - CONDUCT OF MEMBERS - ORDER AND DECORUM

- 7.1 No member of Council or a Committee shall:
- (a) speak disrespectfully of any vote of Council or a Committee;
 - (b) use offensive words or unparliamentary language in or against Council or a Committee or against any member, or any officer or employee of the City;
 - (c) disobey the rules of Council or a Committee or a decision of the Mayor or a Chair of a Committee on questions of order or practice or upon the interpretation of the rules and should a member persist in such disobedience after having been called to order by the Mayor or a Chair of a Committee, the Mayor or a Chair may forthwith order him or her to vacate the place the meeting is being held. If the member apologizes, he or she may, by vote of a majority of the members, be permitted to take his or her seat;
 - (d) speak in a manner that is discriminatory in nature based on an individual's race, ancestry, place of origin, ethnic origin, citizenship, creed, gender, sexual orientation, age, colour, marital status, family status or disability;
 - (e) in the case of Council only, bring food or beverages, water excepted, into the place the meeting is being held;
 - (f) speak on any matter other than the matter being debated; or
 - (g) speak on a matter longer than a 5 minute period, without leave of Council or a Committee, except as otherwise prescribed by applicable legislation.
- 7.2 No person except members of Council or a Committee, the Clerk, and officials authorized by the Clerk:
- (a) shall be allowed on the floor of the place a meeting is being held while Council or a Committee is sitting;
 - (b) shall, before or during a meeting of the Council or a Committee, place on the desks of members or otherwise distribute any material whatsoever unless such person is so acting with the approval of the Clerk.
- 7.3 No person shall display signs or placards, applaud participants in debate or engage in conversation or other behaviour which may disrupt the proceedings of Council or a Committee.
- 7.4 Electronic devices at Meetings:
- (a) Every person shall have cellular telephones, pagers, blackberries, portable computers and any similar electronic devices switched to a non-audible function during Council and Committee meetings.

- (b) Staff from the Office of the City Clerk are exempted from subsection (a) when using electronic devices for record-keeping purposes.

SECTION 8 – MEETINGS CLOSED TO THE PUBLIC

For the purposes of this section, “Committee” means any advisory or other committee, subcommittee or similar entity of which at least 50% of the members are also members of Council.

- 8.1 No meeting of Council or a Committee or part thereof shall be closed to the public unless the subject matter being considered is:
 - (a) the security of the property of the City;
 - (b) personal matters about an identifiable individual, including City employees;
 - (c) a proposed or pending acquisition or disposition of land for City purposes;
 - (d) labour relations or employee negotiations;
 - (e) litigation or potential litigation, including matters before administrative tribunals, affecting the City;
 - (f) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; or
 - (g) a matter in respect of which Council or a Committee may hold a closed meeting under an Act other than the Municipal Act, 2001.
- 8.2 A meeting of Council shall be closed to the public if the subject matter relates to the consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act if Council is designated as head of the institution for the purposes of that Act;
- 8.3 A meeting of Council or a Committee may be closed to the public if:
 - (a) it is held for the purposes of educating or training members; and
 - (b) at the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of Council or the Committee.
- 8.4 Before holding a meeting or part of a meeting that is to be closed to the public, a Council or Committee shall state specifically by resolution the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting.

SECTION 9 - ROLE OF CLERK

- 9.1 The Clerk shall distribute the regular agendas of Council and Standing Committee meetings to members of Council and Senior Management Team at least 5 days prior to the scheduled meetings.
- 9.2 The Clerk shall make the regular agendas of Council and Standing Committee meetings, available to the media and general public, at least 24 hours following the distribution set out in subsection 9.1.
- 9.3 The Clerk may make the regular agendas of Council and Standing Committee meetings available on the City website.
- 9.4 The Clerk shall advise the Mayor or Chair when items are required to be added to or removed from an agenda.
- 9.5 The Clerk shall submit for confirmation the minutes of the previous regular Council or Standing Committee meeting. Upon approval of the majority of the members of Council or Standing Committee, the Mayor or Chair and Clerk shall sign the minutes as confirmed or as amended.
- 9.6 The Clerk shall advise the Mayor or Chair, if in his or her opinion, a matter or portion of a matter being discussed in a meeting that is closed to the public is not procedurally appropriate in accordance with section 239 of the Act and section 8 of this By-law.
- 9.7 All matters not covered by this By-law shall be decided by the Mayor or Chair. The Mayor or Chair may call upon the Clerk to provide advice regarding procedure. The Clerk shall provide this advice following which the Mayor or Chair will announce his or her ruling.
- 9.8 The Clerk shall assume the role of the Mayor or Chair as the chair of Council or a Standing Committee, when a ruling of the Mayor or Chair is challenged by a Member of Council on a decision. The Clerk shall take a vote of the challenge for Members of Council in favour or opposed to the ruling. The ruling fails when there is a majority vote in favour to the challenge.

SECTION 10 – GENERAL

- 10.1 This By-law shall not be amended or repealed except by a majority vote of all Members of Council.
- 10.2 No amendments or repeal of this By-law shall be considered at any meeting of Council unless notice of Council's intention to amend or repeal is provided to the public.

- 10.3 General guidelines describing the respective roles and responsibilities of Council, the Mayor and the Chair of a Committee are set out in Appendix G to this By-law.
- 10.4 A Code of Conduct, setting out general standards for acceptable conduct by Members of Council in the performance of their public duties, is set out in Appendix H to this By-law.
- 10.5 This By-law comes into force on March 11, 2010.
- 10.6 The short title of this By-law is the Procedural By-law or the Council Procedural By-law.
- 10.7 By-law No. 03-301, governing the rules and procedures of Council of the City of Hamilton is repealed.

PASSED this 10th day of March, 2010.

Fred Eisenberger
Mayor

Kevin C. Christenson
City Clerk

Appendix A**GENERAL ISSUES COMMITTEE** ⁽¹³⁻³¹⁹⁾

Composition: General Issues Committee shall be comprised of all 16 members of Council:

- Mayor
- Chair of General Issues Committee to be rotated amongst the Deputy Mayors
- All Members of Council

Mandate:

General: To report and make recommendations to Council on matters relating to:

- Council Strategic Plan
- Corporate Strategic Plan
- MPMP, OMBI
- Annual Operating and Capital Budgets
- Economic Development matters
- Portfolio Management Strategy – Real Estate Acquisitions/Disposals
- Hamilton International Airport matters
- G.R.I.D.S.
- Vision 20/20
- Department Work Programs: Planning and Economic Development
- Legal Services – litigation matters
- Human Resources – labour negotiations
- Boards and Agencies
- Hamilton Utilities Corporation ⁽¹³⁻³¹⁹⁾
- any and all other matters which Council chooses to refer to the General Issues Committee for consideration

Specific duties shall include:

- To review and monitor the City's and Council's Strategic Plan
- To review corporate and program objectives and performance measures and make recommendations to Council
- To consider and recommend to Council on matters relating to budgets, budget monitoring, re-assessment and related tax policies
- To consider and recommend to Council on matters relating to Business Development, the Small Business Enterprise Centre, Incentive

Loans/Grants programs and approvals, BIA initiatives, the Hamilton Incubator of Technology and Tourism

- To consider and recommend to Council on matters relating to G.R.I.D.S.
- To receive briefings on legal matters involving the City and give direction to the City Solicitor on litigation matters
- To receive information on labour negotiations and provide direction to the Director of Labour Relations
- To consider and make recommendations to Council on matters regarding Boards and Agencies
- To Meet as Shareholders and/or Board of Directors of a corporation when required.
- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee

Appendix B**BOARD OF HEALTH**

Composition: The Board of Health shall be comprised of all 16 members of Council:

- Mayor (as Chair)
- All Members of Council

Mandate:

General: To ensure the City of Hamilton meets or exceeds its obligations as a Board of Health under the Health Protection and Promotion Act, and in all matters relating to Public Health in order to promote well-being and create opportunities to enhance the quality of life in our community.

Specific duties shall include:

- To consider and recommend to Council on policy matters and emerging issues related to Public Health
- To provide advice and guidance to the Public Health Department including input to Departmental Strategic Planning initiatives to ensure alignment with Council's Mission, Vision, Values and Goals, and the Social Development Strategy
- To receive delegations from the public and conduct public hearings as required by statute and Council
- To consider and recommend to Council the overall service levels in relation to the delivery of Public Health programs
- To consider and recommend to Council policies governing service delivery of the Department
- To consider and monitor program implementation and performance through staff reports
- To consider the public health needs of the community and recommend advocacy by Council to address these needs
- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee

Appendix C**PUBLIC WORKS COMMITTEE**

Composition: The Public Works Committee shall be comprised of a minimum of 8 Members of Council.

Mandate:

General: To report and make recommendations to Council on matters relating to:

- Water & Wastewater (Collection/Distribution, Treatment, and Compliance)
- Waste Management (Solid Waste Planning, Collection, and Disposal)
- Operations & Maintenance (Roads, Traffic, Forestry & Beautification, Parks & Cemeteries, and Trails)
- Transit (Operations and Transit Fleet, ATS)
- Fleet and Facilities (Central Fleet, Corporate Buildings, Energy Office)
- Capital Planning and Implementation (Strategic and Environmental Planning, Asset Management, Design and Construction, Open Space Planning)
- Major road construction projects

Specific duties shall include:

- To consider and recommend to Council, Service Programs and Service Levels for all direct and indirect services provided by the Department (i.e. business plans, management plans, operating plans, and other relevant plans)
- To consider and recommend to Council, Policies, By-laws, and procedures governing service delivery implemented by the Department
- To consider and recommend to Council, Asset Management Plans and Forecasts for all infrastructure managed by the Department
- To consider and monitor program implementation and performance through staff reports and make recommendations to Council respecting program management initiatives (i.e. continuous improvement, budget performance, revenue generation and other relevant issues)
- To consider and recommend to Council, procurement in accordance with corporate policies
- To consider recommendations of any Sub-Committees and/or Task Forces established by Committee and Council which report directly to the Public Works Committee
- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee

Appendix D**PLANNING COMMITTEE** ⁽¹³⁻³¹⁹⁾

Composition: The Planning Committee shall be comprised of a minimum of 9 Members of Council.

Mandate:

General: To report and make recommendations to Council on matters relating to:

- Long Range Planning, land use management, development planning and engineering, and downtown planning and implementation
- Parking Operations and Enforcement, School Crossing Guards
- By-law Enforcement, Municipal Licensing, Lottery Licensing, Building Code issues

Specific duties shall include:

- To consider and recommend to Council on:
 - the administration and enforcement of the Ontario Building Code, Zoning By-laws, the Property Standards By-laws, Licensing By-law, Animal Control By-law, Sign By-law and other relevant By-laws
 - all matters related to the Planning Act, the Ontario Heritage Act, the Municipal Act, 2001, the Niagara Escarpment Act and other applicable legislation regarding planning, development engineering, by-law enforcement and licensing and downtown planning issues
 - the City's Official Plan and Zoning By-laws and amendments thereto, pursuant to the Planning Act, and to conduct such related public meetings as may be required
 - applications for subdivision and condominium approval pursuant to the Planning Act and Condominium Act, as applicable
 - matters such as community planning, urban design guidelines, heritage policy and related housing policy and programs in accordance with the directions contained in the Official Plan
 - matters relating to Parking Operations and Enforcement
- To advise and assist Council in any matters arising from the work of the Committee of Adjustment in considering applications for consent and minor variance under the Planning Act, including possible City participation at any Ontario Municipal Board Hearings to consider the appeal of Committee of Adjustment decisions
- To consider recommendations of any Sub-Committees and/or Task Forces established by Committee and Council which report directly to the Planning Committee

- To receive delegations for the public and conduct public hearings as required by statute and Council, specific to the mandate of this committee on matters under the Standing Committee

Appendix E**EMERGENCY & COMMUNITY SERVICES COMMITTEE**

Composition: The Emergency & Community Services Committee shall be comprised of a minimum of 5 or maximum of 8 members of Council. ⁽¹¹⁻⁰⁷⁴⁾

Mandate:

General: To report and make recommendations to Council on matters relating to:

- Social Development and Early Childhood Services
- Strategic Services
- Benefit Eligibility
- Community Programs
- Employment and Income Support
- Social Housing and Homelessness
- Homes for the Aged: Macassa Lodge and Wentworth Lodge
- Hamilton Veterans Committee ⁽¹²⁻⁰⁷²⁾
- Recreation
- Fire protection, fire prevention, emergency medical services, corporate emergency planning & preparedness, and corporate radio communications

Specific duties shall include:

- To consider and recommend to Council on:
 - service levels for all direct and indirect services provided by the Department
 - policies governing service delivery implemented by the Department
 - procurement in accordance with corporate policies
 - asset management plans for all community facility infrastructure
 - the delivery of protective services including fire operations, fire prevention, emergency medical services, corporate emergency planning and preparedness, and corporate radio communications
- To consider and monitor program implementation and performance through staff reports
- To consider recommendations of any Sub-Committees and/or Task Forces established by Committee and Council which report directly to the Emergency and Community Services Committee
- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee

Appendix F**AUDIT, FINANCE & ADMINISTRATION COMMITTEE** (10-230)

Composition: The Audit, Finance & Administration Committee shall be comprised of a minimum of 5 or 7 members of Council.

Mandate:

General: To report and make recommendations to Council on matters relating to:

- Internal/external audits
- Oversight of internal control, financial reporting
- Human Resources - programs and services
- Programs related to Financial Planning and Policy, Treasury Services, Customer Service, Information Technology, Legislative Services, Records Management, Legal Services, Procurement and Risk Management
- Access & Equity

Specific duties shall include:

- To consider and make recommendations to Council on:
 - matters of policy respecting human resources, including health and safety, union/management relations, organizational planning and development and compensation administration
 - matters of policy involving communications issues
 - matters of policy and oversight involving financial management, investment, reserves, debt, procurement and risk management
 - matters of policy involving general policies and procedures and administrative By-laws
 - all audit matters, including promoting an appropriate environment for the management of public funds and the economy, efficiency and effectiveness of operations and a high level of accountability. Ensure compliance with laws, regulations, policies and support high standard of ethical conduct
 - matters of policy and direction related to Access and Equity, including the annual corporate accessibility plan
- To act as liaison to the Access & Equity volunteer advisory committees (with the exception of the Advisory Committee for Persons with Disabilities reporting to the General Issues Committee)
- To consider recommendations of any Sub-Committees and/or Task Forces established by Committee and Council which report directly to the Audit and Administration Committee

- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee

Appendix G**ROLES OF COUNCIL, MAYOR AND COMMITTEE CHAIR****PREAMBLE**

The general requirements for holding office for elected officials for the City of Hamilton are contained in the Municipal Act, 2001.

GENERAL ROLE/GUIDELINES (COUNCIL)

- (a) Within the authority of enabling legislation, to develop policies for the purpose of guiding the administration of municipal government in the City of Hamilton.
- (b) Subject to legislative restrictions, develop regulations to be adopted in By-laws and resolutions for the overall benefit of the citizens of the community.
- (c) Appoint statutory officers and senior officials to ensure that a functional management system is in place and which will administer the City within the adopted policies of Council.
- (d) To collectively oversee the administrative functions as carried out by appointed officials within the delegated authority and the policies adopted by Council.
- (e) To monitor the administrative process and ensure that the will and direction of the City is placed into effect.
- (f) To be prepared to attend regular and special meetings of Council and Committees as required and to participate in the debate for the purpose of developing and adopting policies and directions for the City of Hamilton.
- (g) Note that absence from the meetings of Council for three successive months results in a member's seat being declared vacant unless authorized by resolution of Council.
- (h) To act as liaison between the citizens they represent and the City, to ensure that the intention of established policies and regulations are applied in a manner that is conducive to the interests of the citizens as a whole.
- (i) To oversee the financial affairs and delivery of City services through the adoption of policies and budget control guidelines and to ensure that appropriate audit procedures and monitoring programmes are in effect.

ROLE OF THE MAYOR

The Mayor is responsible to act as the Head of Council, as detailed in the Municipal Act, 2001 providing leadership to other Members of Council.

- (a) To act as the Council's corporate representative when dealing with other government agencies and the private sector consistent with the vision and direction expressed by the Council of the day.
- (b) The Mayor and the City Manager must work in close liaison as the pivotal link between the policy-making body of Council and the administrative organization of the City.
- (c) The role of Mayor is considered as statutory and policy-related, to act as the Head of Council and to co-ordinate political representation on behalf of the City when required at meetings, receptions, functions, and community activities, and to direct administrative functions to the attention of the City Manager.

ROLE OF COMMITTEE CHAIR

- (a) To ensure that the general functions noted in the roles of Council and in the policies and procedures established by the City are maintained.
- (b) To ensure that the rules of procedure with respect to conduct are followed.
- (c) The role of Chair, in co-ordinating the meetings of a Committee, will be considered statutory and policy-related, with administrative functions to be delegated to appointed staff and officials through the appropriate General Manager or Medical Officer of Health, following appropriate reporting procedures of the City.
- (d) It is recognized that the role of Chair, as outlined above, does not provide any administrative authority over staff, and that any administrative requests should be brought to the attention of the City Manager, appropriate General Manager or Medical Officer of Health or appropriate delegated staff.

DUTIES OF COMMITTEE CHAIR

- (a) Open the meetings of the Committee by taking the chair and calling the members to order.
- (b) Announce the business before the Committee and the order in which it is to be acted upon.
- (c) Receive and submit, in the proper manner, all motions presented by the members of the Committee.

- (d) Put to a vote all motions, which are moved, or necessarily arise in the course of the proceedings, and to announce the result.
- (e) Enforce the rules of procedure and rule upon all procedural matters.
- (f) Guide the members when engaged in debate in accordance with the rules of procedure.
- (g) Enforce on all occasions the observance of order and decorum among the members and the attending public.
- (h) Order any member persisting in a breach of the rules of procedure to vacate the meeting room.
- (i) Permit questions to be asked through the Chair of any staff in order to provide information to assist any debate when the Chair deems it proper.
- (j) Rule on any points of order or points of privilege without debate or comment.
- (k) Rule whether a motion or proposed amendment is in order.
- (l) Determine which member has the right to speak.
- (m) Ascertain that all members who wish to speak on a motion have spoken and that the members are ready to vote, and shall then put the vote.
- (n) May call a member to order.
- (o) Where it is not possible to maintain order, the Chair may, without any motion being put, adjourn the meeting to a time to be named by the Chair.
- (p) Adjourn the meeting when the business is concluded.
- (q) The Chair may state relevant facts and the Chair's position on any matter before the Committee without leaving the chair, but it shall not be permissible for the Chair to move a motion or debate a question without first leaving the chair.
- (r) If the Chair desires to leave the chair to move a motion, or to take part in the debate, the Chair shall call on the Vice-Chair, or in the absence of the Vice-Chair, on another member to preside until the Chair resumes the chair.
- (s) The Committee Chair shall vote on any questions before the Committee and in the event of an equality of votes the Committee Chair will not have an extra casting vote and the question being voted upon is deemed lost.

Appendix H**CODE OF CONDUCT FOR MEMBERS OF COUNCIL****PREAMBLE****Purpose:**

A written Code of Conduct helps to ensure that the members of Council share a common basis for acceptable conduct. The Code of Conduct is not intended to replace personal ethics. The Code of Conduct:

- is designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate.
- serves to enhance public confidence that the City's elected representatives operate from a base of integrity, transparency, justice and courtesy.
- forms a part of the City's Procedural By-law No. 10-053, as amended.
- is enforced by the Integrity Commission under the City's Integrity Commissioner By-law No. 08-154, as amended.

Statutory Provisions Regulating Conduct:

In addition, the Code of Conduct operates along with and as a supplement to the existing five statutes that govern the conduct of members of Council:

- the *Municipal Act, 2001*
- the *Municipal Conflict of Interest Act*
- the *Municipal Elections Act, 1996*
- the *Municipal Freedom of Information and Protection of Privacy Act*
- the *Criminal Code (Canada)*

SECTION 1 - DEFINITIONS

1.1 In this Code of Conduct:

- (a) "benefit" means anything (other than a gift) given that confers an advantage, including but not limited to discounted or free services, food or beverages for immediate consumption, activities or event tickets, unless payment in any form, including the exchange of goods or services, of equal or greater value is received by the individual or entity giving the benefit;

- (b) “charity” means a registered charity as defined in the *Income Tax Act* (Canada) or successor legislation, which has a registration number issued by the Canada Revenue Agency, or successor agency;
- (c) “City” means the City of Hamilton, either in the sense of the geographic area of the municipality or in the sense of the identity of the municipal corporation, as the context requires;
- (d) “community organization” means a non-profit group of persons organized for the advancement of a civic, cultural, social, health, philanthropic or recreational purpose within the City of Hamilton;
- (e) “confidential information” includes but is not limited to information:
 - i) in the possession of the City that the City is either prohibited from disclosing, is required to refuse to disclose or exercises its discretion to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act*¹ or other legislation; and
 - ii) concerning matters that are considered in an in-camera meeting under section 239 of the *Municipal Act, 2001*²;
- (f) “Council” means the Council of the City of Hamilton;
- (g) “family member” means:
 - i) spouse, including but not limited to common-law spouse and same-sex partner;
 - ii) child, mother, father, sister, brother, grandchild, grandparent, aunt, uncle, niece and nephew;
 - iii) mother-in-law, father-in-law, sister-in-law and brother-in-law;

¹ Generally, the *Municipal Freedom of Information and Protection of Privacy Act* restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature and information that is personal, and permits the restriction or prohibition of disclosure of information that is subject to solicitor-client privilege.

² Section 239 of the *Municipal Act, 2001* permits information concerning the following matters to be considered in an in-camera meeting: the security of the property of the City; personal matters about an identifiable individual, including City employees; a proposed or pending acquisition or disposition of land by the City; labour relations or employee negotiations; litigation or potential litigation, including matters before administrative tribunals, affecting the City; advice that is subject to solicitor-client privilege, including communications necessary for that purpose; a matter in respect of which Council may hold a closed meeting under another Act; a matter relating to the consideration of a request under the *Municipal Freedom of Information and Protection of Privacy Act*, or the education or training of the members of Council .

- iv) step-mother, step-father, step-sister, step-brother and step-child; and
- v) child, mother or father in a relationship where the role of parent has been assumed;
- (h) “gift” means any real or personal property given, including but not limited to artwork, clothing, money, gift certificates or gift cards, unless payment in any form, including the exchange of goods or services, of equal or greater value is received by the individual or entity giving the gift;
- (i) “in camera” means the conduct of a meeting or part of a meeting, of Council or a Committee of Council, which is closed to the public as permitted under section 239 of the *Municipal Act, 2001*; and
- (j) “lobbyist” means a person who is registered as a lobbyist in the City’s Voluntary Lobbyist Registry.

SECTION 2 - GENERAL

2.1 The key statements of principle that underlie the Code of Conduct are as follows:

- (a) Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- (b) Members of Council shall be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- (c) Members of Council shall perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- (d) Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and Council.

SECTION 3 - APPLICATION

3.1 This Code of Conduct applies to all members of Council including the Mayor.

SECTION 4 - GIFTS AND BENEFITS

- 4.1** No member of Council shall accept a fee, advance, gift or benefit that is connected directly or indirectly with the performance of their duties in office, unless permitted by the exceptions listed in subsection 4.3.
- 4.2** For the purposes of subsection 4.1, a fee or advance paid to or a gift or benefit given with the member of Council's knowledge to their family member or to their staff that is connected directly or indirectly to the performance of their duties in office is deemed to be a gift or benefit to that member of Council.
- 4.3** The following are exceptions to subsection 4.1:
- (a) compensation authorized by law;
 - (b) such gifts or benefits that normally accompany the duties of office and are received as an incident of protocol or social obligation;
 - (c) a political contribution otherwise reported by law;
 - (d) admission to a widely attended event, such as a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event, offered by the entity responsible for organizing and presenting the event and unsolicited by the member of Council, if attending or participating in their official capacity, including:
 - (i) participation in an event as a speaker or panel participant by presenting information related to City matters;
 - (ii) performance of a ceremonial function appropriate to the member of Council's office;
 - (iii) attendance at an event that is appropriate to the official capacity of the member of Council;
 - (e) admission to a charity or community organization event offered by the charity or community organization for whose benefit the event is being held and unsolicited by the member of Council;
 - (f) admission to a training or education program, including meals and refreshments furnished to all attendees, if such training or education is related to the member of Council's duties in office and in the interest of the City;
 - (g) services provided without compensation by persons volunteering their time;

- (h) a suitable memento of a function honouring the member of Council;
 - (i) food, lodging, transportation and entertainment provided by federal, provincial or municipal governments or by political subdivisions of them or by a foreign government within a foreign country;
 - (j) food and beverages consumed at banquets, receptions or similar events, if:
 - (i) attendance serves a legitimate business purpose;
 - (ii) the person extending the invitation or a representative of the organization is in attendance; and
 - (iii) the value is reasonable and the invitations infrequent;
 - (k) communication to the office of a member of Council including subscriptions to newspapers and periodicals.
- 4.4** Except for paragraph (c), the exceptions listed in subsection 4.3 do not apply to lobbyists. Lobbyists are not permitted to give a gift or benefit under this section unless it is a political contribution permitted by law.
- 4.5(1)** In the case of paragraphs (b), (h), (i), (j) and (k) of subsection 4.3, if the value of the gift or benefit exceeds \$200, or if the total value received from any one source during the course of a calendar year exceeds \$200, the member of Council shall within 30 days of receipt of the gift or benefit or of reaching the annual limit, file a disclosure statement with the City Clerk. The disclosure statement must indicate:
- (a) the nature of the gift or benefit;
 - (b) its source and date of receipt;
 - (c) the circumstances under which it was given or received;
- (2) Any disclosure statement made under subsection paragraph 4.5(1) will be a matter of public record.

SECTION 5 - CONFIDENTIALITY

- 5.1** No member of Council shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

- 5.2** No member of Council shall use confidential information for financial or other gain, or for the financial or other gain of a family member or any person or corporation. For example, no member of Council should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.
- 5.3** No member of Council shall disclose the content of a matter that has been discussed at or the substance of deliberations of an in-camera meeting, except for content that has been authorized by Council or a Committee of Council to be released to the public.
- 5.4** Examples of the types of content that a member of Council must keep confidential under this section include but are not limited to:
- (a) items under litigation, negotiation, or personnel matters;
 - (b) information that infringes on the rights of others (e.g., sources of complaints where the identity of a complainant is given in confidence);
 - (c) price schedules in contract tender or Request For Proposal submissions if so specified;
 - (d) information deemed to be personal information under the *Municipal Freedom of Information and Protection of Privacy Act*;
 - (e) statistical data required by law not to be released (e.g. certain census or assessment data).
- 5.5** Members of Council shall not access or attempt to gain access to confidential information in the possession of the City unless it is necessary for the performance of their duties and not prohibited by Council policy.

SECTION 6 - USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES

- 6.1** No member of Council shall use or permit the use of City land, facilities, equipment, supplies, services, City employees or other resources (for example, City-owned materials, websites, Council transportation delivery services or Councillor global budgets) for activities other than the business of the City.
- 6.2** No member of Council shall obtain financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings or drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the City.

SECTION 7 - ELECTION CAMPAIGN WORK

- 7.1 Members of Council are required to comply with the *Municipal Elections Act, 1996*.
- 7.2 No member of Council shall use the facilities, equipment, supplies, services or other resources of the City for any election campaign or campaign-related activities, except on the same basis (including paying a fee if any) as such resources are normally made available to members of the public.
- 7.3 No member of Council shall use their newsletter or their website linked through the City's website for any election campaign or campaign-related activities.
- 7.4 No member of Council shall use the services of City employees for any election campaign or campaign-related activities during hours in which those City employees receive any compensation from the City.

SECTION 8 - CONDUCT AT COUNCIL AND COMMITTEE

- 8.1 Members of Council shall conduct themselves with decorum at Council and Committees of Council in accordance with the provisions of the Procedural By-law.
- 8.2 Under its Accountability and Transparency Policy, the City supports ensuring accountability and transparency in all its actions. Accordingly, in addition to disclosing a pecuniary interest under the *Municipal Conflict of Interest Act*, members of Council shall disclose non-pecuniary interests they have in a matter, either on their own behalf or while acting for, by, with or through another, prior to consideration of that matter at Council or a Committee of Council.
- 8.3 Examples of types of non-pecuniary interests in a matter to be disclosed under subsection 8.2 include but are not limited to:
- (a) a member of Council being a director or senior officer of an entity, whether or not appointed by Council;
 - (b) a member of Council's family member being a director or senior officer of an entity;
 - (c) a member of Council or their family member holding a licence or other permission issued by the City.
- 8.4 Subsection 8.2 does not apply to a non-pecuniary interest which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member of Council.

SECTION 9 - REPRESENTING THE CITY

- 9.1** Members of Council shall make every effort to participate diligently in the activities of the agencies, boards, and commissions to which they are appointed.

SECTION 10 - IMPROPER USE OF INFLUENCE

- 10.1** No member of Council shall use the influence of their office for any purpose other than for the exercise of their official duties.
- 10.2** Examples of types of prohibited conduct under this section include but are not limited to:
- (a) the use of one's status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's family members, City employees, friends, or associates, business or otherwise, including attempts to secure preferential treatment beyond activities in which members of Council normally engage on behalf of their constituents as part of their official duties;
 - (b) the holding out of the prospect or promise of future advantage through a member of Council's supposed influence within Council in return for present actions or inaction.
- 10.3** For the purposes of this section "private advantage" does not include a matter that:
- (a) is of general application;
 - (b) affects a member of Council, their family members, City employees, friends, or associates, business or otherwise, as one of a broad class of persons; or
 - (c) that concerns the remuneration or benefits of a member of Council.

SECTION 11 - BUSINESS RELATIONS

- 11.1** No member of Council shall act as a paid agent before Council, its Committees, or an agency, board or commission of the City except in compliance with the *Municipal Conflict of Interest Act*.
- 11.2** No member of Council shall refer a third party to a person, partnership, or corporation in exchange for financial or other gain.

**SECTION 12 - CONDUCT RESPECTING CURRENT AND PROSPECTIVE
EMPLOYMENT**

- 12.1 No member of Council shall allow the prospect of their future employment by a person or entity to detrimentally affect the performance of their duties as a member of Council.

SECTION 13 - CONDUCT RESPECTING CITY EMPLOYEES

- 13.1 Only Council as a whole has the authority to approve budget, policy, Committee processes and other such matters. Accordingly, members of Council shall direct requests for action outside of Council-approved budget, process or policy, to the appropriate Standing Committee.
- 13.2 Under the direction of the City Manager, City employees serve the Council as a whole, and the combined interests of all members of Council as evidenced through the decisions of Council. Accordingly:
- (a) members of Council shall be respectful of the role of City employees to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council;
 - (b) no member of Council shall maliciously, falsely, negligently or recklessly injure the professional or ethical reputation, or the prospects or practice of City employees; and
 - (c) members of Council shall show respect for the professional capacities of City employees.
- 13.3 No member of Council shall ask, request or compel City employees to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
- 13.4 No member of Council shall use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any City employee with the intent of interfering with that employee's duties, including the duty to disclose improper activity.

SECTION 14 - RESPECT FOR THE CITY AND ITS BY-LAWS

- 14.1 Members of Council shall encourage public respect for the City and its By-laws.

SECTION 15 - ADHERENCE TO COUNCIL POLICIES AND PROCEDURES

- 15.1** Members of Council shall observe the terms of all policies and procedures established by City Council, provided that a member of Council's failure to observe the rules of procedure as set out in sections 1 to 8 and Appendices A to G and I of the Procedural By-law is deemed not to be a contravention of this Code of Conduct. The rules of procedure set out in sections 1 to 8 and Appendices A to G and I are in the control of the Chairs of Committees and Council and members of Committees and Council. In addition, investigations of closed meetings, which are addressed in section 8, are under the jurisdiction of either the Ombudsman appointed under the *Ombudsman Act* or such closed meeting investigator as may be appointed by the City under section 239.2 of the *Municipal Act, 2001*.⁽¹²⁻¹⁰⁰⁾
- 15.2** Subsection 15.1 does not prevent a member of Council from requesting that Council grant an exemption from a policy or procedure and such an exemption may be limited as to time or scope and subject to amendment or revocation.

**SECTION 16 - COMPLAINTS UNDER THE INTEGRITY
COMMISSIONER BY-LAW**

- 16.1** No member of Council shall take a reprisal or make a threat of reprisal against a Complainant or any other person for providing information to the Integrity Commissioner under the Integrity Commissioner By-law.
- 16.2** No member of Council shall obstruct the Integrity Commissioner in carrying out their responsibilities under the Integrity Commissioner By-law.
- 16.3** Examples of the types of obstruction prohibited under subsection 16.2 include but are not limited to:
- (a) destroying documents including erasing electronic documents;
 - (b) withholding or concealing documents including electronic documents;
 - (c) failing to respond to the Integrity Commissioner within 15 days after a written request is given or within such longer period as the Integrity Commissioner may allow.

SECTION 17 – HARASSMENT

- 17.1** It is the policy of the City that all persons be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment³. Accordingly:
- (a) no member of Council shall harass another member of Council, City employees or any member of the public; and
 - (b) all members of Council shall:
 - i) treat one another, City employees and members of the public appropriately and without abuse, bullying or intimidation; and
 - ii) make all reasonable efforts to ensure that their work environment is free from discrimination and harassment.

SECTION 18 - EMPLOYMENT OF FAMILY MEMBERS

- 18.1** No member of Council shall attempt to influence the hiring or promotion of their family member.
- 18.2** No member of Council shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate their family member.
- 18.3** If a family member of a member of Council is an applicant for employment with the City or candidate for promotion or transfer, the family member will proceed through the usual selection process with no special consideration.
- 18.4** No member of Council shall act as a supervisor of their family member, or be placed in a position where they could have influence over their family member's employment.
- 18.5** No member of Council shall attempt to use a family relationship for financial or other gain.

SECTION 19 - COMPLIANCE WITH THE CODE OF CONDUCT

³ Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the *Ontario Human Rights Code*.

19.1 Where, under the Integrity Commissioner By-law, the Integrity Commissioner decides that a member of Council has contravened this Code of Conduct, they may, under section 19 of that By-law:

- (a) reprimand the member of Council; or
- (b) suspend the remuneration paid to the member of Council in respect of their services as a member of Council for period of up to 90 days.

SECTION 20 - INTERPRETATION

20.1 Members of Council seeking clarification of any part of this Code of Conduct may consult with the City Clerk, City Solicitor or the Integrity Commissioner.

Appendix I**CRITERIA FOR THE CREATION OF ADVISORY COMMITTEES
OR TASK FORCES**

- (a) That all requests for the formation of an Advisory Committee or Task Force be presented to a Standing Committee for consideration.
- (b) That all requests, upon approved motion by the Standing Committee, be referred to the applicable General Manager for a report back on the following;
 - (i) inventory of previous and existing activities related to the issue
 - (ii) the time needed to complete the mandate
 - (iii) reporting structure, membership composition, mandate, objectives, legislative requirements, work plan and timelines for the Special Purpose Body
 - (iv) responsibilities of the members
 - (v) membership expertise requirements for the Special Purpose Body
 - (vi) proposed budget allocation requirement and source of funding
 - (vii) staffing requirements
 - (viii) other necessary resources, and
 - (ix) term limits