

Bill 120, as amended December 14, 2023

By-law No. 120-2010 was amended by By-law No. 49-2011; By-law No. 124-2011; By-law No. 11-2012; By-law No. 38-2012; By-law No. 06-2013 (now repealed); By-law No. 109-2013; By-law No. 130-2013; By-law No. 133-2013; By-law No. 01-2014; By-law No. 46-2014; By-law No. 58-2014; By-law No. 94-2014; By-law No. 55-2015; By-law No. 65-2015; By-law No. 2018-31; By-law No. 2018-80; By-law No. 2019-03; By-law No. 2019-16; By-law No. 2019-36; By-law No. 2019-41; By-law No. 2020-11 (now repealed); By-law No. 2020-16; By-law No. 2020-51; By-law No. 2021-44, By-law No. 2022-36; By-law No. 2022-40; By-law No. 2023-68; and By-law No. 2023-97.

THE REGIONAL MUNICIPALITY OF NIAGARA

Procedural By-law

By-law No. 120-2010

Amendments

By-law No. 49-2011
By-law No. 124-2011
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By-law No. 2022-36
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By-law No. 2023-97

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November 21, 2013
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June 19, 2014
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May 21, 2015
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THE REGIONAL MUNICIPALITY OF NIAGARA
PROCEDURAL BY-LAW

BY-LAW NO. 120-2010

A BY-LAW TO GOVERN THE CALLING, PLACE AND
PROCEEDINGS OF THE MEETINGS OF COUNCIL
AND ITS COMMITTEES

WHEREAS subsection 238(2) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended, provides that every municipality shall pass a procedure by-law for governing the calling, place and proceedings of meetings;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF NIAGARA
HEREBY ENACTS AS FOLLOWS:

1. **INTERPRETATION**

1.1 Definitions

For the purposes of this By-law:

- (a) “Act” means the Municipal Act, 2001, S.O. 2001, c.25, as amended from time to time;
- (b) “Acting Chair” means the Member appointed by by-law to act in the place and stead of the Chair;
- (c) “Acting Committee Chair/Co-Chair” means the Member appointed by the members of the Committee to act as Chair/Co-Chair of the Committee in the place and stead of the Committee Chair/Co-Chair;
- (d) “Ad Hoc Committee” means an Advisory Committee of specified duration, established by Council to undertake the review of a special issue or short term project. Such a Committee shall be governed by clear terms of reference including a clause indicating when the Committee will cease to exist;
- (e) “Advisory Committee” means any board, commission or committee established by Council, other than a Standing Committee, which has at least one (1) Member appointed from Council. The member(s) appointed by Council may be Member(s), staff of the Region, and/or member(s) of the public;

- (f) “Area Municipality” means any one of the municipalities of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, and the Township of West Lincoln;
- (g) “Chair” means the head of Council;
- (h) “Clerk” means the Clerk of the Region appointed under the Act and shall include a "Deputy Clerk" and any other employee of the Region to whom the Clerk has delegated any of the Clerk's powers and duties under the Act, to the extent that they are authorized to perform any of the duties of the Clerk under this By-law;
- (i) “Closed Session” means a Meeting or a part of a Meeting of Council, a Committee or Committee of the Whole, which is not open to the public in accordance with the Act;
- (j) “Committee” means any Standing, Ad Hoc, Steering or Advisory Committee, Sub-Committee or board and any other similar group composed of individuals appointed by Council, or similar entity established by Council and composed of Members;
- (k) “Committee Chair/Co-Chair” means the chair or co-chair of a Committee;
- (l) “Committee of the Whole” means a Standing Committee composed of all the members of Council;
- (m) “Committee Vice-Chair” means the vice-chair of a Committee;
- (n) “Council” means the Council of the Region;
- (o) “Councillor” means a person elected or appointed as a member of Council;
- (p) “Delegation”: means information provided to a Committee or Council in person, or over video conference, by an individual or group, on an issue already on an agenda of Committee or Council, or which is within the jurisdiction and mandate of Committee or Council to take action on;
- (q) “Majority” means more than half of the votes cast by the Members who are present and eligible to vote;

- (r) “Meeting” means any regular, special, committee or other meeting of Council;
- (s) “Member” means a member of Council, including the Chair;
- (t) “Motion” means a proposal by a Member presented in a Meeting in accordance with the Rules of Procedure for the consideration of Council or Committee;
- (u) “Notice of Motion” means an oral notice at Council or a written notice received by the Clerk’s Office advising Council that the Motion described therein will be brought at a future meeting of Council;
- (v) “Pecuniary Interest” means a direct or indirect pecuniary interest of a Member as defined in the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50;
- (w) “Procedural Motion” means any Motion concerning the manner or time of consideration of any matter before the Council, as opposed to the substance thereof, and includes, without limitation, the following:
 - (i) to extend the time of the meeting;
 - (ii) to refer;
 - (iii) to defer to a specific date;
 - (iv) to recess;
 - (v) to adjourn;
 - (vi) to move the question be put; or
 - (vii) to suspend the Rules of Procedure;
- (x) “Recorded Vote” means a written record of the name and vote of each Member who votes on a question and of each Member present who does not vote;
- (y) “Region” means the Regional Municipality of Niagara;
- (z) “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;

- (aa) “Special Meeting” means a meeting other than a regularly scheduled meeting, called pursuant to the Act or the provisions of this By-law;
- (bb) “Standing Committee” means a Committee established by Council, composed entirely of members of Council, to carry out duties on an ongoing basis, as specified by Council; and
- (cc) “Substantive Motion” means any Motion other than a Procedural Motion.
- (dd) “Authorized Leave” from a Committee meeting means an approved absence that is beyond an individual’s control, such as bereavement; serving as a juror or witness, or as the parent or guardian of a minor who has been compelled to attend court to serve as a witness in any court; an illness that has prevented a member to attend two or more consecutive meetings; hospitalization and caring for a sick child or parent.
- (ee) “Unauthorized Leave” from a Committee meeting means an absence that is due to a vacation; short-term illness; work commitments; an event that would have the member miss one meeting for the reason cited.
- (ff) “Electronic Participation” means participation in a Meeting from a remote location by electronic means or service as determined and provided by the Clerk.

2. **GENERAL**

- 2.1 The Rules of Procedure contained in this By-law shall be observed in all proceedings of Council and shall be the rules for the order and dispatch of business in Council.
- 2.2 The Rules of Procedure contained in this By-law shall be observed, with necessary modifications, in proceedings of all Committees.
- 2.3 All matters not specifically provided for in this By-law shall be regulated in accordance with the parliamentary procedures outlined in Bourinot’s Rules of Order.
- 2.4 In the absence of any statutory obligations, the Rules of Procedure may be temporarily suspended by Council by an affirmative vote of two-thirds of the Members present.

- 2.5 This By-law shall not be amended or repealed except by an affirmative vote of two-thirds of the Members present, but no such amendment or repeal may be considered at any meeting of Council unless notice of the proposed amendment or repeal has been given at a previous regular meeting of Council. The requirement to give notice shall not be waived.
- 2.6 If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.
- 2.7 Members of the public, including accredited and other representatives of any news media, may use cameras, recording equipment, television cameras, and any other devices of a mechanical, electronic, or similar nature to transcribe or record open session proceedings of Council and Committees. These devices may not be used in such a way as to obstruct or disrupt the proceedings of the meeting.
- 2.8 A Council, Committee or Board member who participates in a Board, Committee or Council meeting remotely via electronic means (e.g. audio and/or video), will have the same rights and responsibilities as if he or she were in physical attendance, including the right to vote.
- 2.9 The method and technology used for Electronic Participation in open or closed session meetings and the procedure for voting shall be determined by the Clerk and Chief Administrative Officer, in consultation with the Regional Chair, based on advice and resource available from Information Technology staff and the prevailing circumstances.
- 2.10 The Regional Chair or Acting Regional Chair and/or Committee Chairs/Co-Chairs of the Budget Review Committee of the Whole, Corporate Services Committee, Planning and Economic Development Committee, Public Health and Social Services Committee and Public Works Committee shall not be permitted to participate electronically at any meeting over which they are presiding.
 - (a) A Committee or Board Chair (including Co-Chair/Vice Chair) may participate electronically at any meeting, other than those noted above, subject to consultation with Clerk's staff and the staff representative for that Committee in advance to ensure appropriate procedures are in place for electronic participation.
- 2.11 Any Council or Committee member who wishes to participate in a meeting electronically shall provide the Clerk a minimum of 24 hours' notice in advance.

- 2.12 Members who are participating electronically in a closed session meeting must ensure that no other person is in the location from which they are taking part in the meeting, or make appropriate arrangements so that any other persons cannot see or hear any of the confidential deliberations taking place. If this is not possible, the Member must withdraw from the meeting until it has reconvened in open session.

3. **ROLE OF COUNCIL**

3.1 It is the role of Council:

- (a) to represent the public and to consider the well-being and interests of the Region;
- (b) to develop and evaluate the policies and programs of the Region;
- (c) to determine which services the Region provides;
- (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
- (e) to ensure the accountability and transparency of the operations of the Region, including the activities of the senior management of the Region;
- (f) to maintain the financial integrity of the Region; and
- (g) to carry out the duties of Council under the Act or any other statute.

4. **ROLE OF THE CHAIR**

4.1 It is the role of the Chair:

- (a) to act as chief executive officer of the Region;
- (b) to preside over Council meetings so that its business can be carried out efficiently and effectively;
- (c) to provide leadership to Council;
- (d) without limiting clause (c), to provide information and recommendations to Council with respect to the role of Council described in clauses 3.1(d) and 3.1(e) of this By-law;
- (e) to represent the Region at official functions; and

- (f) to carry out the duties of the head of council under the Act and any other statute.

4.2 As chief executive officer of the Region, the Chair shall:

- (a) uphold and promote the purposes of the Region;
- (b) promote public involvement in the Region's activities;
- (c) act as the representative of the Region both within and outside Niagara Region, and promote the Region locally, nationally and internationally; and
- (d) participate in and foster activities that enhance the economic, social and environmental well-being of the Region and its residents.

4.3 It shall be the duty of the Chair, with respect to any meetings over which he or she presides, to:

- (a) preserve order and decide all questions of order, subject to appeal, and without argument or comment, state the rule applicable to any point of order if called upon to do so;
- (b) receive and submit to a vote all Motions presented by the members of Council or Committee, as the case may be, which do not contravene the Rules of Procedure;
- (c) announce the results of the vote on any Motions so presented;
- (d) decline to put to a vote Motions which are contrary to the Rules of Procedure or which are beyond the jurisdiction of Council;
- (e) enforce on all occasions the observance of order and decorum among the Members;
- (f) authenticate by his or her signature, when necessary, all by-laws, minutes and resolutions of Council or Committee;
- (g) adjourn the meeting when business is concluded;
- (h) adjourn the sitting without a question being put or suspend or recess the sitting for a time to be named if considered necessary;

- (i) represent and support Council, declaring its will and implicitly obeying its decisions in all things; and
 - (j) perform other duties when directed to do so by resolution of Council.
- 4.4 The Chair shall be the chair of the Committee of the Whole meetings except for Budget Review Committee of the Whole Meetings. The Chair may also select another Member to Chair Committee of the Whole meetings.
- 4.5 The Chair shall be a member of all Committees and shall have full privileges, including the right to vote at meetings thereof, but shall not be eligible to be the Committee Chair/Co-Chair or Committee Vice-Chair.
- 4.6 The Chair shall only vote in a Council meeting to break a tie vote.
- 4.7 In accordance with the Act, in each term, as soon after the commencement of the term as is reasonably possible, Council shall appoint by by-law, and in alphabetical order, each of the members of council to serve as Acting Chair for designated periods of time, which periods shall insofar as is practicable, be of equal duration. The Acting Chair shall serve in circumstances where the Chair is absent or refuses to act or the office is vacant and while so acting in the place and stead of the Chair, such Member shall have all powers and duties of the Chair.

5. **REGULAR MEETINGS OF COUNCIL AND COMMITTEE OF THE WHOLE**

- 5.1 All meetings of Council and Committee of the Whole shall be held in the Council Chambers at 2201 St. David's Road, Thorold, according to the schedule to be set annually and approved by Council, or at such other time or place as may be designated by Council from time to time.
- 5.2 Regular meetings of Council shall be held on a Thursday, commencing at 6:30 p.m. in Open Session or at such other time as may be designated by the Regional Chair from time to time.
- 5.3 All Closed Session items for discussion at Regional Council shall be discussed in Closed Session following 'Other Business'.
- 5.4 The curfew for each regular meeting of Council is 10:30 p.m. The meeting shall stand adjourned at that curfew, unless the curfew is extended to 11:00 p.m. at the latest, by an affirmative vote of the majority of Members present.

- 5.5 The curfew for each Committee of the Whole meeting is 10:30 p.m. The meeting shall stand adjourned at that curfew, unless the curfew is extended to 11:00 p.m. at the latest, by an affirmative vote of the majority of Members present.
- 5.6 Council may, by resolution, go into Committee of the Whole and the Chair shall chair the meeting and shall maintain order during the meeting.
- 5.7 The Rules of Procedure contained in this By-law shall be observed in the Committee of the Whole, with necessary modifications, except that:
 - (a) the number of times a Member may speak on any question shall not be limited; and
 - (b) a Motion to adjourn shall not be permitted, except when meeting apart from a regular Council Meeting.
- 5.8 The proceedings of the Committee of the Whole, when held as part of the proceedings at a Council Meeting, shall be reported by the Chair of Committee of the Whole as soon as the Committee of the Whole rises.
- 5.9 The report of the Committee of the Whole, when held apart from a regular Council Meeting, shall be treated in the same manner as a Committee report when being considered by Council.
- 5.10 The Chair and Vice Chair of the Budget Review Committee of the Whole shall be elected for a term of two (2) budget years directly at Council.
- 5.11 The Budget Review Committee of the Whole shall receive delegations from interested persons at public participation meetings designated as part of the budget process.
- 5.12 The meetings of the Council Business Planning Committee of the Whole may be chaired by the Chair or a Member selected by the Chair. The use of meeting facilitators shall also be permitted at Council Business Planning Committee of the Whole meetings and participation in such meetings but not voting may be extended by the Committee to parties who are not members of the Committee.
- 5.13 The Chair shall have a pre-meeting to review the agenda prior to Council meetings to ensure the appropriate placement of items on the agenda, to provide appropriate timing for presentations and to ensure an effective meeting.

6. **SPECIAL MEETINGS**

- 6.1 Upon notice as set out in Section 6.2, the Chair may, at any time, call a Special Meeting of Council or the Committee of the Whole and upon receipt of a petition of the majority of the Members, the Clerk shall call a Special Meeting of Council or Committee of the Whole for the purpose and at the time and place set out in the petition.
- (a) Every effort should be made to circulate a petition for a call for a special meeting to all members of Council.
- 6.2 The Clerk shall provide all Members with notice of a Special Meeting at least forty-eight (48) hours before the time appointed for such meeting by personal delivery, facsimile, e-mail or other electronic means to the Member's residence or office, or by contacting the Member by telephone.
- 6.3 No business may be transacted at a Special Meeting of Council other than that specified in the notice or agenda.
- 6.4 The lack of receipt of a notice of, or an agenda for, a Special Meeting by any Member shall not affect the validity of the Special Meeting or any action taken thereat.

7. **EMERGENCY MEETINGS**

- 7.1 Notwithstanding any other provision of this By-law, an Emergency Meeting of Council may be called by the Chair without written notice to deal with an emergency or extraordinary situation, provided that an attempt has been made by the Clerk to notify the Members about the meeting as soon as possible and in the most expedient manner available.
- 7.2 The only business to be dealt with at an Emergency Meeting shall be business dealing directly with the emergency or extraordinary situation.
- 7.3 The lack of receipt of a notice of, or an agenda for, an Emergency Meeting by any Member shall not affect the validity of the Emergency Meeting or any action taken thereat.

8. **QUORUM**

- 8.1 A majority of Members representing at least one-half of the Area Municipalities is necessary to form a quorum of Council and Committee of the Whole.

- 8.2 As soon as there is a quorum after the time set for the Meeting, the Chair shall call the meeting to order.
- 8.3 If a quorum is still not present within thirty (30) minutes after the time set for the Meeting, then the Clerk shall record the names of the Members present and the Meeting shall stand adjourned until the date of the next Meeting.
- 8.4 If a quorum is lost during a Meeting and is not regained within fifteen (15) minutes, the Meeting shall stand adjourned until the next Meeting.
- 8.5 The quorum of all Committees, except for Committee of the Whole, shall be as set out in Sections 22.9; 22.10; 22.11; 22.12 and 22.13.
- 8.6 Where the number of Members who, by reason of the provisions of the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, are disabled from participating in a meeting, is such that at that meeting the remaining Members are not of sufficient number to constitute a quorum, then the remaining number of Members shall be deemed to constitute a quorum, provided such number is not less than two (2).
- 8.7 Where by reason of an approved Authorized Leave by the Committee Chair, a member(s) is disabled from participating in a meeting, the number of Members shall be reduced temporarily to determine quorum, provided such number is not less than two (2).

9. **PUBLIC ACCESS TO MEETINGS**

- 9.1 Except as otherwise provided in this Section, all Meetings shall be open to the public.
- 9.2 As per the Canadian Charter of Rights and Freedoms, meetings shall be conducted to respect the freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.
- 9.3 When determined by the Regional Clerk, security personnel (third party, by-law enforcement officer, or Sergeant-at-Arms) shall be present to oversee the media and public areas of the gallery.

- 9.4 If a member of the public or media is deemed to be disruptive by the Chair or presiding officer, the security personnel shall be directed to request the person to stop being disruptive. In the event that the disruptive behaviour continues, the security personnel shall provide the person with a warning. If the warning is not adhered to by the person, the security personnel shall advise the Chair or presiding officer.
- 9.5 When advised by security personnel that the disruptive behaviour is continuing, or if the Chair or presiding officer deems the person to exhibit improper conduct, the person may be expelled from the meeting. If the decision is made to expel the person from the meeting, security personnel will request the person to leave the meeting room. If the person is non-compliant to the request to leave the room, security personnel will contact local police services for assistance.
- 9.6 In the absence of security personnel, the Regional Clerk (or designate) shall assume the role of the security personnel.
- 9.7 A Meeting or part of a Meeting may be closed to the public if the subject matter being considered is:
- (a) the security of the property of the Region;
 - (b) personal matters about an identifiable individual, including Regional employees;
 - (c) a proposed or pending acquisition or disposition of land by the Region;
 - (d) labour relations or employee negotiations;
 - (e) litigation or potential litigation, including matters before administrative tribunals, affecting the Region;
 - (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
 - (h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;

- (i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- (k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

9.8 A meeting of part of a meeting shall be closed to the public if the subject matter being considered is:

- (a) a request under the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, if Council is designated as head of the institution for the purposes of that act; or
- (b) an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ombudsman appointed under the Ombudsman Act, an Ombudsman referred to in subsection 223.13(1) of the Municipal Act, 2001, or the investigator referred to in subsection 239.2(1) of the Municipal Act, 2001.

9.9 A Meeting of Council or of a Committee may be closed to the public if the following conditions are both satisfied:

- (a) the meeting is held for the purpose of educating or training the Members.
- (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 Committee.

9.10 Before holding a Meeting or part of a Meeting that is to be closed to the public, Council or Committee shall state by resolution:

- (a) the fact of the holding of the Closed Session and the general nature of the matter to be considered at the Closed Session; or

- (b) in the case of a meeting under Section 9.9, the fact of the holding of the Closed Session, the general nature of its subject-matter and that it is to be closed under that Section.
- 9.11 Only items contained in the resolution provided for in Section 9.10 shall be considered by the Council or Committee in closed session.
- 9.12 A Meeting shall not be closed to the public during the taking of a vote except where:
 - (a) the provisions of this By-law or the Act permit or require the Meeting to be closed to the public; and
 - (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the Region or persons retained by or under a contract with the Region.
- 9.13 After the Council agenda has been adopted by resolution, a motion to move into closed session is only in order if the motion relates to an item already on the approved agenda and a closed session is permitted in accordance with the provisions of this by-law.
- 9.14 After the motion to move into closed session has been adopted, the Chair or presiding officer shall remind all persons of the public and media (and designated staff) that are vacating the room to ensure all their personal belongings and equipment are also removed.
- 9.15 The Chair or presiding officer shall provide sufficient time to accommodate the public and media (and designated staff) to orderly vacate the room, up to a maximum of five minutes.
- 9.16 In the event there is heavy or bulky media equipment, and upon the discretion of the Regional Clerk (or designate), the equipment may be left in the meeting room if the equipment is verified by the Clerk to be powered off, unplugged, and pointed away from the Council seating areas.
- 9.17 If an emergency occurs during a closed session meeting, the meeting will be automatically deemed suspended in order for staff to manage the emergency.
- 9.18 If a non-emergency event occurs during a closed session meeting, the Chair of Committee or Council will openly declare the meeting suspended in order for staff to manage the event.

- 9.19 If an unauthorized recording device is located during a closed session meeting, the Chair of Committee or Council will openly declare the meeting suspended in order for staff to manage the event.

The Regional Clerk (or designate) shall attempt to locate the owner of the device. The owner will be asked to demonstrate that the device did not record the closed session meeting to the satisfaction of the Clerk. If the device inadvertently recorded the closed session meeting, the Clerk will request the owner of the device to erase the recording to the satisfaction of the Clerk. If the owner of the device is non-compliant to the request of the Clerk, local police services may be called for assistance.

- 9.20 After the closed session has concluded, the Chair or presiding officer shall provide sufficient time for the media and public to return to the media table.

- 9.21 All deliberations while in Closed Session shall remain confidential unless otherwise agreed upon by a Majority vote of Council. Only the final results of deliberations may be made public when such disclosure is authorized by Council.

10. **PUBLIC NOTICE OF MEETINGS**

- 10.1 The Clerk shall provide public notice of all meetings of Council and Committee by posting a notice on the website of the Region which includes the place, date and time of the Meeting and the Meeting agenda.

11. **COUNCIL AGENDA**

- 11.1 The Clerk shall prepare the agenda for all regular meetings of Council. The order of proceedings shall be as follows, or as otherwise determined by the Clerk:

- (a) Call to Order;
- (b) Land Acknowledgement Statement;
- (c) Moment of Reflection;
- (d) Singing of 'O Canada';
- (e) Adoption of Agenda:
 - (i) Addition of Items;

- (ii) Changes in Order of Items
- (f) Disclosures of Pecuniary Interest;
- (g) Presentations;
- (h) Chair's Reports, Announcements, Remarks;
- (i) Delegations (related to Committee Reports)
- (j) Adoption of Minutes of Previous Open Session and Closed Session Meeting(s);
- (k) Correspondence, Petitions:
 - (i) Receive and/or Refer to Staff;
 - (ii) For Consideration
- (l) Committee Reports (Open Session);
- (m) Chief Administrative Officer's Reports;
- (n) Motions;
- (o) Notices of Motion;
- (p) Other Business;
- (q) Motion for Closed Session;
- (r) Closed Session;
 - (i) Committee Reports - Closed Session
 - (ii) Confidential Report(s) directly submitted to Council
- (s) Report from Closed Session;
- (t) By-laws; and
- (u) Adjournment.

- 11.2 The business of each Meeting shall be dealt with in the order in which it stands in the agenda, unless otherwise decided by a Majority vote of the Members present.
- 11.3 Every item of correspondence, petition, report and other written material intended to be presented to Council shall be legibly written or printed and shall be signed by at least one person. The Clerk may submit such written communication to Council in summary form.
- 11.4 The Clerk shall distribute the agenda for each regular Council meeting to every Member by mail, personal delivery, facsimile, e-mail or other electronic means, not less than seventy-two (72) hours before the scheduled meeting.
- 11.5 Other Business: A member may make a statement regarding events and issues or bring forward information or ask a question during this portion of the agenda; however, no argument, opinion or facts shall be stated, except so far as may be necessary to explain the item, and no debate shall be permitted with respect to the item.

12. **DISCLOSURE OF PECUNIARY INTEREST**

- 12.1 In accordance with the Municipal Conflict of Interest Act, where a Member has any Pecuniary Interest in any matter and is present at a Council meeting or Committee meeting at which the matter is the subject of consideration, the Member shall:
 - (a) disclose their Pecuniary Interest following the adoption of the agenda;
 - (b) prior to any consideration of the matter at the Meeting, disclose the interest and the general nature thereof;
 - (c) not take part in the discussion of, or vote on, any question in respect of the matter; and
 - (d) not attempt in any way, whether before, during or after the Meeting, to influence the voting on any such question.
- 12.2 Where a meeting is not open to the public, in addition to complying with the requirements set out above, the Member shall forthwith leave the meeting for that part during which the matter is under consideration.

- 12.3 Where the interest of a Member has not been disclosed by reason of his or her absence from the particular Meeting, the Member shall disclose his or her interest at the next Meeting at which such Member attends.
- 12.4 The Clerk shall record in reasonable detail the particulars of any disclosure of Pecuniary Interest made by members of Council or Committees, as the case may be, and any such record shall appear in the minutes of that particular Meeting of Council or of Committee.

13. **DELEGATIONS AND PRESENTATIONS**

- 13.1 Any person, group of persons or organization wishing to address a Standing Committee with respect to a matter already on a Committee agenda shall submit a written request to the Clerk no later than 9:00 a.m. on the Thursday the week prior to the meeting of the Committee. Delegation requests to address a Standing Committee on matters not already on the agenda must be submitted at least 14 days before the date and time of the meeting of the Committee. The Clerk shall direct delegations to the appropriate Committee and delegations will not be permitted at more than one Committee.
- 13.2 It is Council's preference that all delegations be made to the appropriate Standing Committee. Nevertheless, delegations shall be permitted to appear at Council meetings with respect to items on the Council agenda provided a written request is made to the Clerk by 9:00 a.m. on Friday prior to the meeting. Delegates requesting to appear at Council who have already presented at a Standing Committee on the same matter shall be limited to speak not more than five (5) minutes unless otherwise determined by Council and shall only provide new information on the matter involved.
- 13.3 Any person wishing to submit a written communication with respect to items on the council agenda may do so by filing the submission with the Clerk by 9:00 a.m. on the Friday prior to the Council meeting.
- 13.4 Written notice to the Clerk from a delegation shall include the person's name, address; telephone number and a detailed brief of their presentation outlining the request/direction the presenter is seeking from the Standing Committee or Council and if applicable, the name, address and telephone number of any person(s) or organization which he or she represents. The brief will form part of the official record of the proceedings of Committee or Council and therefore will be considered to be a public document.

(a) Delegations appearing at Council or Standing Committee must submit delegation materials (slide deck, written outline of the delegation, speaking notes) no later than 48 hours prior to the meeting. If a delegation is to be provided at Council and the materials are not submitted within the deadline, a 2/3 majority vote will be required for the delegation to proceed. A delegation request made on the day of Standing Committee or Council shall not be permitted to provide presentation materials.

13.5 In the case of extenuating circumstances, a Standing Committee or Council may, by a Majority vote permit a person to appear as a delegation who does not appear on the agenda. A written request must be made to the Clerk by 4:00 p.m. two days prior to the Standing Committee or Council meeting to request a delegation under this section that contains the person's name, address; telephone number and a detailed brief of their presentation outlining the request/direction the presenter is seeking from the Standing Committee or Council. If the delegation request does not relate to a matter already on the agenda, it must pertain to an emergent matter.

13.6 Delegations and presentations shall be limited to a presentation of not more than ten (10) minutes, unless otherwise determined by the Committee Chair/Co-Chair or Regional Chair. A delegation of not more than five (5) persons, representing a group or organization, shall be limited to two (2) speakers, permitted to speak not more than ten (10) minutes in total. Only new information is to be presented by successive speakers of such delegation.

13.7 No deputant shall:

- a) speak disrespectfully of any person;
- b) use offensive words or unparliamentary language;
- c) speak on any subject other than the subject for which he/she has received approval to address Council or Committee; or
- d) disobey the rules of procedure or a decision of the Chair or Council

Delegates will accept any decision of the Chair/Co-Chair/Vice Chair or Regional Chair and not enter into cross debate.

13.8 Delegations concerning labour relations, union negotiations and any employee relations will not be heard at any Standing Committee or Council meetings. All signed submissions received by the Clerk concerning these matters shall be referred to the Chief Administrative Officer of the Region.

- 13.9 Delegations shall not be permitted at Council meetings to address planning matters that were considered at a public meeting pursuant to the provisions to the Planning Act.
- 13.10 Presentations for the purposes of Sections 13.6 and 13.11 are defined as visual presentations given by an agency, board, commission or staff, and shall be limited to:
- (a) Council business related to services provided by the Region, and programs, policies and practices of the Region;
 - (b) Council – sponsored awards
 - (c) Corporate Employee Recognition (CERT);
 - (d) Recognition of staff or Councillor accomplishments at the provincial, national or international level; and
 - (e) matters within The Regional Municipality of Niagara’s jurisdiction
- 13.11 Presentations, as defined in Section 13.10, shall be limited to not more than two (2) per Council meeting.
- 13.12 The Clerk shall encourage presentations as defined in Section 13.10 to be made at Standing Committee meetings wherever possible.

14. **MINUTES OF MEETINGS**

- 14.1 The minutes of every Meeting, whether it is closed to the public or not, shall be recorded by the Clerk, in the case of meetings of Council, or appropriate officer, in the case of meetings of Committee. For the purposes of this Section 14.1, “Clerk” means the Clerk, Deputy Clerk or designate.
- 14.2 The minutes of all meetings of Council and Committees shall record:
- (a) the place, date and time of meeting;
 - (b) the name of the presiding officer and the record of the attendance of the Members present and those who have sent their regrets, and the name of the recording secretary and senior staff present; and
 - (c) without note or comment, all resolutions, decisions and other proceedings of the meeting.

- 14.3 The Members may inform the Clerk's office where reasonable of all planned absences, late arrivals and early departures from Council and Committee meetings.
- 14.4 The minutes of each Council meeting shall be presented to Council at the next regular meeting for approval.
- 14.5 After the Council minutes have been approved by Council, they shall be signed by the Chair and the Clerk.
- 14.6 The public Committee report of each Committee meeting shall be presented to Council at the next regular Council meeting for consideration and adoption of Committee recommendations contained in it.
- 14.7 Recordings of Meetings shall be retained in accordance with the Region's Records Retention By-law.
- 14.8 The closed session Committee report of each Council or Committee meeting shall be presented to Council at their next regular Council meeting for; and consideration and adoption of Committee recommendations contained in it, in closed session by Council and reported on in open session, as follows:

That the minutes of closed session of the respective Council and/or Standing Committee held on the meeting date be received and the recommendations contained therein be approved or approved as amended, including the following:

That Confidential Report Number, dated,
respecting Report Title, report's disposition.

- 14.9 A Confidential Report that is submitted directly to Council shall be considered in closed session by Council and reported on in public, as follows:

That Confidential Report Number, respecting the subject matter, be received and the recommendations contained therein be approved or approved as amended.

15. **CODE OF CONDUCT**

- 15.1 A code of conduct setting out general standards for acceptable conduct by Members in performance of their public duties is set out in Appendix "A" to this By-law.

16. **RULES OF DEBATE**

- 16.1 Any Member who wishes to speak must raise his or her hand and be recognized by the Chair. Once recognized, the Member, if able, shall stand to speak to the matter.
- 16.2 When two (2) or more Members raise their hands, the Chair shall designate the order in which they may speak.
- 16.3 No Member may speak more than once on the same matter unless Regional Council, dispense with this provision with an affirmative vote of at least two-thirds of the members present, except in explanation of a material part of that Member's remarks which may have been misunderstood, and in doing so, that Member shall not introduce any new matter. A reply shall be allowed to a Member who has made a Substantive Motion.
- 16.4 No Member may speak to the same question or in reply for any longer than ten (10) minutes including comments, questions to staff and staff responses in Council and Committee of the Whole, without leave of the Council or Committee of the Whole.
- 16.5 Members of Council may only ask questions of clarification of delegations for a maximum of five (5) minutes at both Standing Committee and Council and shall hold all statements and debate until a motion has been duly moved and seconded.
- 16.6 When a Member is speaking, no other Member shall pass between that Member and the Chair or interrupt that Member except to raise a point of order.
- 16.7 Any Member 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 while speaking.
- 16.8 When the minutes of a Standing Committee meeting are presented to Council, the Committee Co-Chairs, Chairs or Vice Chairs shall have the first opportunity to speak to the matters included and may explain the basis for the Standing Committee's recommendations.

17. **POINTS OF PRIVILEGE AND ORDER**

- 17.1 When a Member believes that his or her rights, privileges or integrity, or those of the Members collectively have been prejudicially affected, that Member may ask leave of the Chair to raise a question of privilege and after leave is granted, the Member shall state the point of privilege to the Chair and the point of privilege shall be immediately decided by the Chair.
- 17.2 When a Member desires to call attention to a deviation or departure from the Rules of Procedure, that Member shall ask leave of the Chair to raise a point of order and after leave is granted, the Member shall state the point of order to the Chair and the point of order shall be immediately decided by the Chair.
- 17.3 It shall be the duty of the Chair to decide all points of privilege and order and, if called upon to do so, to state the rule applicable to any point of order, practice or procedure. The Chair's ruling on a point of order shall be made without debate and shall be final subject only to an immediate appeal from such ruling by a Member.
- 17.4 In the case of an immediate appeal by a Member from the decision of the Chair on a point of order, practice or procedure, such Member shall state the grounds for the appeal and such appeal must be decided, without debate, by the concurring votes of a majority of Members present on "Shall the ruling of the Chair be sustained".
- 17.5 When the Chair calls a Member to order, that Member shall cease speaking until the point of order is dealt with and that Member shall not speak again to the matter under discussion, without the permission of the Chair, unless to appeal the ruling of the Chair.
- 17.6 When the Chair considers that the integrity of the Chief Administrative Officer or a member of the staff has been impugned or questioned, the Chair may permit the Chief Administrative Officer or other staff member present to make a statement to the Council.

18. **NOTICES OF MOTION**

18.1 Except as otherwise provided in this By-law, all notices of Motion shall be:

- (a) presented at a meeting of Council, but shall not be debated until the next regular meeting of Council; or
- (b) delivered to the Clerk not less than seven (7) days prior to the date of the Meeting at which the Motion is to be introduced.

18.2 A Motion may be introduced without notice if Council, without debate, dispenses with the requirement for notice on the affirmative vote of two-thirds of the Members present.

19. **MOTIONS**

19.1 A Motion may only be considered if written notice thereof was distributed with the agenda for the Meeting at which the Motion is considered, unless:

- (a) the Motion is for Council to adopt a report of a Committee, which report was distributed with the agenda for the Council meeting, in which case the presence of the report constitutes written notice of the adopting Motion; or
- (b) the Motion is to:
 - (i) call the question;
 - (ii) refer;
 - (iii) defer;
 - (iv) recess;
 - (v) adjourn;
 - (vi) suspend the Rules of Procedure;
 - (vii) decide an appeal on a point of order, practice or procedure; or
 - (viii) amend a Motion.

- 19.2 Notwithstanding Section 19.1, a Motion which relates to an expenditure of \$1,000,000 or more may only be considered if written notice thereof and a written staff report thereon were distributed not less than twenty-four (24) hours prior to the time of the Meeting.
- 19.3 All motions including motions to adopt a report of a Committee, shall be moved and seconded before being debated or put to a vote.
- 19.4 After a Motion has been read or stated by the Chair, it shall be deemed to be in the possession of Council, but may, with the permission of Council, be withdrawn by the originator at any time before a decision or amendment.
- 19.5 A Motion shall be decided without debate or amendment if it is to:
- (a) call the question;
 - (b) refer or defer;
 - (c) adjourn; or
 - (d) extend curfew.

Provided that where a matter that is subject to a Motion to refer is a recommendation of a Standing Committee, the Co-Chair, Chair or Vice Chair of that Committee may address matters raised in the Motion to refer, prior to a vote on the Motion.

- 19.6 The priority of Motions, in declining order, is set out as follows. Each matter or Motion takes precedence over those that are below it in this list (i.e. if moved, it must be decided before others ranking below it):
- (a) call the question:
 - (b) refer;
 - (c) defer;
 - (d) adjourn;
 - (e) suspend the Rules of Procedure;
 - (f) decide an appeal on a point of order, practice or procedure; and
 - (g) amend a Motion.

All other Motions not listed above are of lower priority and are of equal priority among them.

19.7 Consideration of a Motion may be interrupted by consideration of a Motion with higher priority.

19.8 When a Motion is under debate, no other Motion shall be in order except a Motion to amend.

19.9 Motion to Adjourn

(a) A Motion to adjourn:

(i) is not debatable;

(ii) is not amendable;

(iii) shall not include qualifications or additional statements; and

(iv) is always in order, except when a Member is speaking, when the Members are voting or when made in Committee of the Whole.

(b) When a Motion to adjourn has been decided in the negative, no further Motion to adjourn shall be made until Council has conducted further proceedings.

19.10 Motion to Amend

(a) A Motion to amend:

(i) shall be relevant to the main Motion;

(ii) shall not be received if in direct opposition to the main Motion;

(iii) is debatable; and

(iv) is amendable, however, an amendment to the amendment is not.

(b) Only one Motion to amend an amendment to the question shall be allowed at one time and any further amendment must be to the main question.

- (c) Voting on the main Motion and amending Motions shall be conducted in the following order:
 - (i) a Motion to amend a Motion to amend the main Motion;
 - (ii) a Motion (as amended or not) to amend the main Motion; and
 - (iii) the main Motion (as amended or not).

19.11 Motion to Refer

- (a) A Motion to refer a matter under consideration back to a Committee or other body:
 - (i) is not debatable, except when instructions are included, in which case only the instructions shall be debatable;
 - (ii) is amendable with respect to the Committee or other body to which the matter is to be referred and the instructions to the Committee or other body; and
 - (iii) shall take precedence over all amendments or debate of the original Motion until it is decided.
- (b) A Motion to refer a matter shall specify the Committee or other body to whom the matter is being referred and may contain instructions from Council.
- (c) A Motion to refer a matter may only be moved by a Member who has not yet spoken on the matter (except to give the reason(s) for the Motion to refer) unless every Member who wishes to speak on the matter has had an opportunity to do so.

19.12 Motion to Extend Curfew

- (a) A Motion to extend curfew beyond the hour of 10:30 p.m.:
 - (i) is not amendable;
 - (ii) is not debatable; and
 - (iii) is always in order, except when a Member is speaking or when the Members are voting.

- (b) Requires a majority vote of the Members present.

19.13 Motion to Defer

- (a) A Motion to defer a matter under consideration:
 - (i) is not amendable;
 - (ii) is not debatable;
 - (iii) is always in order, except when a Member is speaking or when the Members are voting; and
 - (iv) shall specify a date at which time the matter will again be considered by Council.

19.14 Motion to Rise With/Without Report

- (a) A Motion to rise and report shall be decided without debate.
- (b) A Motion to rise without report:
 - (i) is always in order;
 - (ii) takes precedence over any other Motion; and
 - (iii) is debatable.

19.15 Motion to Call the Question

A motion that a vote on the question be now taken:

- (a) can be made only by a Member who is recognized by the Chair as the next speaker wishing to speak to the motion in the following words, "that the question be now put";
- (b) cannot be proposed when there is an amending motion under consideration, except for the purpose of moving that the amending motion be put;
- (c) when resolved in the affirmative, requires that the question (motion, amending motion or motion as amended, whichever is under consideration) be put forward immediately without debate or amendment;

- (d) Requires a majority vote of the Members present.
- (e) is not a point of order;
- (f) is not amendable; and
- (g) is not debatable.

19.16 Motion to Reconsider

- (a) At any regular Council Meeting, after a matter has been decided by Council, a Member who voted in the majority may present a Notice of Motion to reconsider the matter. Such Notice of Motion shall be referred to the next available Meeting of Council and shall be included on the agenda under "Motions".
- (b) Actions of Council that cannot be reversed or suspended cannot be reconsidered.
- (c) Before accepting a Notice of Motion to reconsider, the Chair may ask the Member to confirm that he/she voted with the majority on the issue in question.
- (d) A Motion to reconsider a decided matter shall require the approval of at least two-thirds of Council present.
- (e) No decided matter may be reconsidered more than once, nor shall a Motion to reconsider be reconsidered.
- (f) No debate on a Motion to reconsider shall be permitted, however, the mover of a Motion to reconsider may provide or may make a brief and concise statement outlining the reasons for proposing such reconsideration.
- (g) If a Motion to reconsider is decided in the affirmative at a Meeting, then consideration of the original decided matter may become the next order of business or may be referred to a subsequent meeting.
- (h) A Motion to reconsider a Standing Committee decided matter, shall not be reconsidered by a Committee before the motion is submitted to Council for consideration.

19.17 Motion to Recess

- (a) A “recess” is a short intermission in the meeting’s proceedings which does not close the meeting, and after which business will immediately be resumed at exactly the point where it was interrupted.
- (b) A Motion to recess:
 - (i) is not debatable;
 - (ii) is amendable as to the length of the recess; any such amendment is not debatable; and
 - (iii) requires a Majority vote.

19.18 Upon the request of any member of Council/Committee, a motion under consideration that contains distinct propositions, can have each proposition voted on separately.

19.19 Notwithstanding Section 19.1, a Motion shall be in writing or in electronic form to permit the display on the screens in the Council Chamber during debate.

19.20 Motion to Close the Speakers List

- (a) A Motion to close the speakers list as it stands at this time:
 - (i) can be made only by a Member who is recognized by the Chair as the next speaker wishing to speak to the motion in the following words, “that the speakers list be closed as it stands at this time”;
 - (ii) when resolved in the affirmative, the Chair will advise the members of the names that are listed on the speakers list;
 - (iii) once the speakers list is exhausted the question (motion, amending motion or motion as amended, whichever is under consideration) be put forward immediately without further debate;
 - (iv) Requires a majority vote of the Members present;
 - (v) is not a point of order;
 - (vi) is not amendable;
 - (vii) is not debatable.

20. **VOTING PROCEDURES**

- 20.1 A Motion shall be put to a vote by the Chair immediately after all Members desiring to speak on the Motion have spoken in accordance with the Rules of Procedure.
- 20.2 Unless otherwise provided in the By-law or requested by the Chair, a vote may be by voice, show of hands, standing or otherwise.
- 20.3 Unless otherwise provided in the By-law, every Member shall have one (1) vote.
- 20.4 Except for the election of the Chair, no vote shall be taken by ballot or by any other method of secret voting.
- 20.5 Except as otherwise required under the Act, any other statute or this By-law, all Motions, resolutions and by-laws shall be carried, passed and enacted, as the case may be, by a Majority vote.
- 20.6 After a Motion is put to a vote by the Chair, no Member shall speak on that Motion, nor shall any other Motion be made until after the result of the vote is announced by the Chair.
- 20.7 No Member shall leave his or her seat or make any noise or disturbance while a vote is being taken until the vote is declared.
- 20.8 Unless otherwise provided in the By-law, when a question or Motion is put to a vote, every Member present at a Council meeting shall vote thereon, except where the Member is disqualified from voting by reason of a declared Pecuniary Interest or is absent from the Council Chambers when the question or Motion is put to a vote.
- 20.9 Every Member who is not disqualified from voting by reason of a declared Pecuniary Interest shall be deemed to vote against the Motion if the Member declines or abstains from voting.
- 20.10 A Member present at the time of a vote may call for a Recorded Vote immediately before or after the taking of the vote.
- 20.11 Unless otherwise provided in the By-law, each Member present, except a Member who is disqualified from voting by reason of a declared Pecuniary Interest, shall indicate his or her vote openly during the taking of a recorded vote and the Clerk shall record each vote.

- 20.12 When a Recorded Vote is taken, the names of those who voted for and those who voted against the Motion shall be entered in the minutes.
- 20.13 The Chair shall announce the result of every vote. If all of the Members present when a vote is taken vote unanimously, the Chair shall announce the vote accordingly.
- 20.14 If a Member doubts the result of a vote as announced by the Chair, that Member may object immediately to the Chair's declaration and, upon the affirmative vote of the Majority of the Members present, the vote shall be re-taken.
- 20.15 Any question on which there is a tie vote shall be deemed to be lost, except where otherwise provided by any act.
- 20.16 Notwithstanding Section 20.15, the Chair shall vote to break a tie vote at Council.
- 20.17 In a vote, the number of Members constituting the Council shall be determined by excluding the number of Members who are present at the Meeting but who are disqualified from voting by reason of a declared Pecuniary Interest.

21. **ENACTMENT OF BY-LAWS**

- 21.1 Every by-law shall receive one (1) reading before being enacted by the Council.
- 21.2 A Motion to amend a by-law shall be introduced after the first reading.
- 21.3 Every by-law enacted by Council shall be signed by the Chair and the Clerk, numbered and sealed with the seal of the Corporation.
- 21.4 No by-law, except a by-law to confirm the proceedings of Council, shall be presented to Council unless its subject matter has been considered and approved by Council.
- 21.5 The proceedings of every meeting of Council shall be confirmed by by-law so that every resolution and decision of Council passed at that meeting shall have the same force and effect as if each and every one of them had been the subject of a separate by-law duly enacted.

22. **COMMITTEES**

- 22.1 All meetings of Standing Committees shall be held in the Council Chamber or the Committee Rooms at 2201 St. David's Road, Thorold.
- 22.2 Standing Committees shall meet on the days and times according to the schedule set annually and approved by Council.
- 22.3 Except as otherwise provided for by the Act or any other statute, Committees may, by resolution, dispense with or alter the time, day and place of any meeting.
- 22.4 A special meeting of a Committee shall be called by the Clerk upon the request of the Committee Co-Chair, Chair or Vice Chair or upon the written request of a majority of the members of that Committee or, in the absence of the Committee Co-Chair, Chair or Vice Chair, upon the request of the Chair.
- 22.5 The Co-Chairs of the following Standing Committee shall be aligned to a respective department Commissioner as follows:
- Public Health and Social Services shall have two (2) Co-Chairs – one (1) aligned to the Public Health Department and one (1) aligned to the Community Services Department.
- 22.6 The Corporate Services Committee, Planning and Development Committee, and Public Works Committee shall be chaired by a Chair and Vice-Chair.
- 22.7 The Co-Chairs/Chair and Vice Chair of each Standing Committee shall be selected by its members.
- 22.8 The term of the Co-Chairs/Chair and Vice Chair shall be for two (2) years.
- 22.9 The quorum of all Committees, except for Committee of the Whole and shall be a majority of its members.
- 22.10 As soon as there is a quorum after the time set for the Meeting, the Committee Chair or Co-Chair shall call the meeting to order.
- 22.11 If a quorum is still not present within thirty (30) minutes after the time set for the Meeting, then the Clerk shall record the names of the Members present and the Meeting shall stand adjourned until the date of the next Meeting.
- 22.12 If a quorum is lost during a Meeting and is not regained within fifteen (15) minutes, the Meeting shall stand adjourned until the next Meeting.

- 22.13 If proper notice of the meeting has been given and a quorum as set out in Section 22.9 is not in attendance at a Committee meeting and therefore, the meeting stands adjourned due to lack of quorum, any emergent items upon the approval of the Chief Administrative Officer and Committee Chairs or Co-Chairs can be considered directly at the next Council Meeting under Committee Reports.
- 22.14 The Rules of Procedure contained in this By-law shall be observed in Committee meetings, with necessary modifications, except that:
- (a) the number of times a Member may speak on any question shall not be limited;
 - (b) the length of time a Member may speak on any question shall not be limited;
 - (c) written Notices of Motion are not required; and
 - (d) Members shall not be required to stand to speak.
- 22.15 Every staff report shall be referred by the relevant Department Commissioner to the Chief Administrative Officer or designate for his or her review, approval and signature, prior to being included in a Committee agenda.
- 22.16 The Committee Co-Chairs, Chairs shall have a pre-committee meeting to review the agenda prior to a Standing Committee meeting to ensure the appropriate placement of items on the agenda; to provide appropriate timing for presentations; and to ensure an effective meeting.
- 22.17 The Clerk shall forward the agenda for every Standing Committee meeting to all Members.
- 22.18 A Member who is not a member of a Standing Committee may attend the meetings of that Committee.
- 22.19 With the consent of the Co-Chair, Chair or Vice Chair of the Standing Committee, a Member who is not a member of the Committee may speak and participate at a meeting of the Committee, but such Member has no vote on the Committee.

- 22.20 All agendas for Standing Committee and Committee of the Whole meetings shall include a list of consent items which shall include all minutes, reports and correspondence recommended for receipt by staff and shall be placed after "Items for Consideration" on the Standing Committee agendas.
- 22.21 All of the items listed in the consent part of the agenda for any Standing Committee or the Committee of the Whole shall be the subject of one motion and that motion shall be neither debatable or amendable; provided however, that any member may ask for any item(s) included in the consent motion to be separated from that motion whereupon the consent motion without the separated item(s) shall be put, and the separated item(s) shall be considered immediately thereafter.
- 22.22 Reports may only be submitted to one Standing Committee for consideration. In cases where a matter could fall within the jurisdiction of more than one Standing Committee, the decision on where the matter should be considered shall be made by the Chief Administrative Officer, or designate, in consultation with the Departments Heads and the Clerk. A Committee of the Whole meeting may be called by the Chair in cases where the report is considered by the Chief Administrative Officer or designate to require the consideration by more than one Committee.
- 22.23 Councillor Information Request(s): All requests for substantive gathering of information (as determined by the appropriate staff in the meeting) or the preparation of reports from staff, shall be put forward as a motion requiring the approval of a majority of the Members present at a Committee meeting. When a request for information can be responded to using existing resources, within a reasonable amount of time and does not present a significant deviation from an approved work plan as determined by staff, a motion is not required and the request shall be noted in the minutes as a "Councillor Information Request".
- 22.24 The Clerk shall make the agenda of every Advisory Committee meeting available in the Clerk's Library for all Members.
- 22.25 Advisory Committees shall consider and report on such matters only as have been referred to them by Council, their respective Standing Committee or such matters as come within their terms of reference.
- 22.26 The minutes of Advisory Committee meetings may be recorded by a secretary designated by the Clerk, by the senior staff member present or by a staff member under the authority of the latter.

- 22.27 The minutes of Advisory Committee meetings shall include sufficient detail where action items are referred to Council (including a list of alternatives considered and costs for any action items) to enable Council to be reasonably conversant with the action required and the deliberations which resulted in the recommendations.
- 22.28 All recommendations and requests of an Advisory Committee shall be directed to its respective Standing Committee.
- 22.29 Every Committee is advisory to Council unless otherwise stated in the terms of reference, by-law or resolution governing the Committee.
- 22.30 No Committee has the power to pledge the credit of the Region, to commit the Region to any particular action or to give specific direction to any staff member, unless specifically granted such power in the terms of reference, by-law or resolution governing such Committee.
- 22.31 All resolutions from the area municipalities requesting endorsement by Regional Council shall be referred to the appropriate standing committee for review and recommendation to Council. Resolutions received from municipalities outside of Niagara Region shall be circulated by the Clerk to Council and if a Member of Council so requests, the Clerk shall refer the resolution to the appropriate Standing Committee for review and recommendation to Council.
- 22.32 All resolutions received from municipalities outside of Niagara Region shall be circulated by the Clerk to Council and if a Member of Council so requests, the Clerk shall refer the resolution to the appropriate Standing Committee for review and recommendation to Council.
- 22.33 Statutory Public Meetings:
- In accordance with the provisions of the Planning Act
- (a) The Integrated Community Planning Committee shall provide for the holding of any and all necessary Statutory Public Meetings in accordance with the provisions of the Planning Act, R.S.O. 1990 c. P.13, as amended from time to time, with respect to Regional Policy Plan Amendments and recommendations to Council on Local Official Plans and General Policy Local Official Plan Amendments.

- (b) Statutory Public Meetings will be held during the regular afternoon agenda of the Integrated Community Planning Committee, unless circumstances would necessitate it being scheduled during the evening where the statutory public meeting will be the only item.

A matter may be scheduled on the regular afternoon agenda of the Integrated Community Planning Committee only in the following circumstances:

- (i) The matter is routine and non-controversial (e.g. Housekeeping Amendment);
- (ii) The information meeting resulted in no known public issues or controversy;
- (iii) Discussion with the Chair/Vice-Chair and Regional Councillors from the particular municipality confirms that an afternoon public meeting is appropriate;
- (iv) Notification will be in accordance with the statutory requirements of the Planning Act and good public participation (e.g. written in plain English, achieves the Region's accessibility policy);
- (v) The proposed amendment will be available for public review in accordance with the Planning Act;
- (vi) The staff report is available for public review prior to the public meeting;
- (vii) The Clerk of the Committee shall maintain the record of the public meeting.

22.34 The presiding Committee Chairs and Co-Chairs shall only vote in the event of a tie or when a recorded vote is requested.

22.35 A Co-Chair who is not presiding during the vote shall be required to vote.

23. **TEMPORARY VACANCIES**

- 23.1 Except for the Chair, if a Member who is also a member of the council of an Area Municipality is unable to act as a member of either council for a period exceeding one (1) month, the council of the Area Municipality may appoint one of its members as an alternate member of Council to act in place of the Member until the Member is able to resume acting as a member of both councils.
- 23.2 The clerk of the Area Municipality shall certify in writing to the Clerk that the council of the Area Municipality has appointed the named member of that area municipal council to act at Council as an alternate member.
- 23.3 Such alternate member shall not take a seat on Council until he or she takes the declaration of office as required by the Act.
- 23.4 Such alternate member shall be deemed to be a member of Council for the designated meeting(s) and may vote at the meetings provided that the member for whom the alternate is acting remains absent from the meeting.

24. **POST-ELECTION PROCEDURE**

- 24.1 The inaugural meeting of Council following a regular election shall be held after the councils of the Area Municipalities have held their first meetings but, in any event, not later than 31 days after the term of Council commences.
- 24.2 The inaugural meeting will consist of a morning and afternoon session and shall be called by the Clerk for a date following the inaugural Council meetings of all area municipalities. The morning session shall commence at 10:00 a.m. in the Council Chamber and shall be chaired by the Clerk. The purpose of the morning session shall be for the declarations of office for all Councillors by the Clerk and the election of the Chair. Following the election of the Chair, the meeting shall be adjourned until 4:00 p.m. at which time the meeting will resume and the order of proceedings shall be as follows:
- (a) Call to Order
 - (b) Singing of 'O Canada'
 - (c) Declarations of Oaths of Office to Regional Chair and Councillors
 - (d) Invocation

- (e) Chair's Inaugural Address
 - (f) Resolution to receive Inaugural Address
 - (g) Confirming By-law
- 24.3 No business shall be conducted at the inaugural meeting until after the declarations of office have been made by all Members attending, and the Chair has been elected.
- 24.4 At the inaugural meeting, each person who has been elected to Council is entitled to speak and participate and to have one vote.
- 24.5 The election of the Chair shall be conducted in the following manner:
- (a) The Clerk, acting as Chair, shall call for nominations;
 - (b) Each nomination shall be in writing, regularly moved and seconded, and shall have the written consent of the nominee attached;
 - (c) Prior to the vote being taken, each nominee shall be permitted to speak to his or her nomination for not more than five (5) minutes;
 - (d) The speakers shall be called upon in the alphabetical order of their names;
 - (e) The voting for the election of the Chair shall be conducted by secret ballot as permitted by the Municipal Act;
 - (f) To be elected as Chair, a nominee shall obtain the concurring votes of a majority of the Members present;
 - (g) If there are more than two (2) nominees and if, upon the vote, no nominee receives the majority required for election, the name of the nominee receiving the least number of votes shall be dropped and another vote shall be conducted;
 - (h) If two (2) or more nominees are tied with the least number of votes, a special vote shall be taken to decide which one of such tied nominees' names shall be dropped from the list of names to be voted upon in the next vote; and
 - (i) Such voting shall continue until either:

- (i) A nominee receives the majority required for election, at which time such nominee shall be declared elected; or
- (ii) It becomes apparent by reason of an equality of votes that no nominee can be elected.

24.6 The principal business of the Council meeting held the week after the inaugural meeting shall consist of:

- (a) The establishment of the size of each Standing Committee of Council;
- (b) The appointment of Councillors to Standing Committees, Advisory Committees, Agencies, Boards and Commissions; and

24.7 Prior to the inaugural meeting, each person who has been elected to Council shall submit to the Clerk his or her preferences for the Standing and Advisory Committees of Council (including agencies, boards and commissions) upon which he or she wishes to serve.

24.8 If the number of Members wishing to serve on any Standing or Advisory Committee of Council (including agencies, boards and commissions) is greater than the number of positions available, then the selection shall be conducted by open ballot.

24.9 Each Member shall serve on at least one (1) Standing Committee.

25. **SHORT TITLE**

25.1 The short title of this By-law is "The Procedural By-law".

26. **REPEAL**

26.1 By-law 96-2007 and all amendments thereto are hereby repealed.

27. **EFFECT**

27.1 This by-law shall become effective on the date of passage.

Approved on this 24th day of September, 2010.

Original Signed By Peter Partington, Regional Chair, and Kevin Bain, Regional Clerk

Passed: September 24, 2010.

APPENDIX “A”

THE REGIONAL MUNICIPALITY OF NIAGARA CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

1.0 Application

1.1 This Code of Conduct is established in accordance with section 223.2 of the Municipal Act and applies to Members of the Council of Niagara Region, including the Regional Chair and to Members of Local Board(s).

1.2 The Niagara Region is well respected by the general public, clients, employees, elected officials, suppliers, communities and governments and the purpose of this Code of Conduct is to establish a general standard to provide a common basis for the acceptable conduct of Members and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow the Procedural By-law and other sources of applicable law, including but not limited to:

- *Municipal Act*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*
- *Provincial Offences Act*
- *Criminal Code*
- By-laws and policies of Niagara Region and of its Local Board(s) as applicable, and as may be adopted and amended from time to time.

2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Region and its Local Board(s) by its Members as duly elected public representatives or appointees to ensure that they each operate from a foundation of integrity, justice, truth, honesty and courtesy.

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2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve the public in a conscientious and diligent manner;
- Members shall observe and act with the highest standard of ethical conduct and integrity;
- Members shall avoid the improper use of the influence of their office or appointment and act without self-interest;
- Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;
- Members shall be cognizant that they are at all times representatives of the Region, its Local Board(s) and of Council, as applicable, and shall recognize the importance of their duties and responsibilities, take into account the public character of their function, and always maintain and promote the public trust in the Region and its Local Board(s); and
- Members will uphold the laws of Canada, Ontario and the laws and policies adopted by Council from time to time.

3.0 Definitions

3.1 The following terms shall have the following meanings in this Code of Conduct:

- (a) “CAO” means the Chief Administrative Officer of the Region;
- (b) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (c) “Chair” means the Regional Chair;
- (d) “confidential information” means information or records that are in the possession, in the custody or under the control of the Region and/or its Local Board(s) that the Region is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedural By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;

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- (e) “conflict of interest” means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative or appointee such that it might influence his or her decision in a particular a matter;
- (f) “Council” means the Regional Council for Niagara Region;
- (g) “fiduciary” means the obligation of a person in a position of authority to act on behalf of another, assuming a duty to act in good faith and with care, candour and loyalty in fulfilling this obligation;
- (h) “frivolous” includes something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense;
- (i) “Local Board” means a local board of the Region as defined in section 223.1 of the *Municipal Act*, including the Niagara Transit Commission;
- (j) “Member” means a Member of the Council for the Region or a Member of a Local Board;
- (k) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (l) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (m) “Region” means The Regional Municipality of Niagara;
- (n) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (o) “staff” means the CAO and all commissioners, officers, directors, managers, supervisors and all non-union and union staff of the Region and the Region’s Local Boards, whether full-time, part-time, contract, seasonal or volunteer, as well as agents and consultants acting in furtherance of the Region’s and/or the Region’s Local Board’s business and interest;

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- (p) “vexatious” includes something that is instituted without sufficient grounds and serving only to cause annoyance, frustration or worry.

4.0 Responsibilities of Council and its Local Board(s)

- 4.1 Council and its Local Board(s) are responsible for and dedicated to providing good and effective government for the public in the region in an open, accountable and transparent manner.

5.0 General Obligations

- 5.1 In carrying out their duties, Members shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council, Local Board or any committee and in accordance with the Region’s Procedural By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (d) respect the individual rights, values, beliefs and personality traits of any other person and refrain from imposing their own personal moral and religious beliefs on others;
- (e) refrain from making statements known to be false or with the intent to mislead Council, other Members or the public;
- (f) accurately communicate the decisions of Council and its Local Board(s) and respect the decision-making process even if they disagree with the ultimate determinations and rulings; and
- (g) refrain from making disparaging comments about another Member or unfounded and speculative accusations about the motives of another Member.

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6.0 The Role of Staff

- 6.1 Council as a whole approves the budget, policies and governance of the Region through its by-laws and resolutions. Individual Members do not direct or oversee the functions of the staff of the Region or any of its Local Boards.
- 6.2 Staff employed by the Region and its Local Board(s) work under the direction of the CAO or the senior staff leader of the Local Board, as applicable. Inquiries of staff from Members should be directed to the CAO or to the appropriate senior staff leader of the Local Board as applicable. Members shall not publicly criticize staff. Should a Member have any issue with respect to staff, such issue shall be referred to the CAO or senior staff leader of the Local Board, as applicable who will direct the matter to the particular staff member’s appropriate superior.
- 6.3 Members shall respect the role of staff in the administration of the business affairs of the Region and any of its Local Board(s). Members shall respect that staff:
- (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
 - (b) work within the business and legal affairs of the Region and any of its Local Board(s) and Members must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of those affairs and, therefore, Members shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person’s duties, including any duty to disclose improper activity; and
 - (c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, Members must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

7.0 Regional or Board Property

- 7.1 The community places its trust in Council and its Local Board(s) and those it appoints to make decisions for the public good as custodians of these public assets.

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7.2 By virtue of their office or appointment, Members must not use or permit the use of the Region's or Local Board's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Region or its Local Board(s). No Member shall seek financial gain for themselves, family or friends from the use or sale of intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held or owned by the Region or its Local Board(s), as applicable.

8.0 Gifts and Benefits

8.1 Gifts to Members risk the appearance of improper influence. Gifts may improperly induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the Region or Local Board, as applicable. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality or any form of personal benefit connected directly or indirectly with the performance of their duties. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.

8.2 For greater clarity, Members shall not accept any gift or benefits in their public capacity other than in the following circumstances:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office or appointment and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law, in the case of Members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable token, memento or souvenir received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or appointment or at a function honouring the Member;

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- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity;
- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - (i) attendance serves a legitimate purpose related to the normal business of the Region or its Local Board(s),
 - (ii) the person extending the invitation or a representative of the organization is in attendance, and
 - (iii) the value is reasonable and the invitations are infrequent;
- (h) gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.); and
- (i) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.
- (j) except in the case of any gift or benefit described in (c) and (d), the total value of a gift or benefit from any one source over any 12 month period shall not exceed \$500.

9.0 Confidentiality

9.1 Members receive confidential information from a number of sources as part of their work. This includes information received in confidence by the Region or its Local Board(s) that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council or its Local Board(s). Members shall comply with applicable policies related to confidentiality and access to information.

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- 9.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting and the Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. A Member shall not, either directly or indirectly, release, make public or in any way divulge or discuss any such information or any confidential aspect of the closed deliberations to or with, anyone, unless authorized by Council or its Local Board(s), as applicable or as required by law. This is not intended to prohibit necessary communications with other Members or staff as to what took place during closed deliberations they were not present at.
- 9.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Region or its Local Board(s) that is relevant to matters before the Council, Local Board or committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Region and must follow the same processes as any private citizen to obtain such information.
- 9.4 Members shall not release information subject to the Region’s or Local Board’s solicitor-client privilege, unless expressly authorized by Council, or the Local Board or as required by law.
- 9.5 Members shall not misuse confidential information in any way or manner such that it may cause detriment to the Region, Council, Local Board or any other person, or will benefit themselves or others.
- 9.6 Members shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, Regional policies, procedures and rules, ethical standards and, where appropriate, professional standards.
- 10.0 Discrimination and Harassment**
- 10.1 Members shall treat all members of the public, another Member and staff with respect and without abuse, bullying or intimidation and ensure that their work environment at the Region and its Local Board(s) is free from discrimination and harassment.

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10.2 Members shall not use indecent, abusive or insulting words, phrases or expressions toward any member of the public, another Member or staff. Members shall not make an expression in any manner that is discriminatory to any individual based on the individual’s race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status or disability.

11.0 Improper Use of Influence

11.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.

11.2 Members shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

11.3 Members who are asked to support charitable activities within the community may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. In doing so, Members shall ensure that they do not have a conflict between their private interest and their duties to the public. Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds.

12.0 Conflicts of Interest

12.1 Members shall avoid conflicts of interest, both pecuniary and non-pecuniary. Members shall take proactive steps to mitigate conflicts of interest in order to maintain public confidence in the Region, its elected officials or appointees. Members are encouraged to seek guidance from the Integrity Commissioner and/or legal advisors when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, pecuniary or non-pecuniary.

13.0 Council Policies and Procedures

13.1 Members shall strictly observe and adhere to the policies, procedures and rules established by Council and/or its Local Board(s), as applicable.

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14.0 Election Activity

14.1 Members are required to conduct themselves in accordance with the *Municipal Elections Act, 1996*, and any applicable policies. The use of resources of the Region and its Local Board(s), both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member’s campaign and any other election campaigns for municipal, provincial or federal office.

15.0 Respect for the Code of Conduct

15.1 Members shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the Region or its Local Board(s), as applicable. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. Members shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner.

15.2 Members shall cooperate with requests for information during any investigations or inquiries under the Code. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been lodged under the Code or any process for complaints adopted by the Region.

16.0 Penalties for Non-Compliance with the Code of Conduct

16.1 Where Council or a Local Board receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council or the Local Board, as applicable may impose, in accordance with the Municipal Act, 2001, the following penalties on the Member:

- (a) a reprimand; or
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period up to 90 days.

17.0 Complaint Protocol

17.1 The Complaint Protocol – Code of Conduct is Appendix 1 to the Code of Conduct.

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COMPLAINT PROTOCOL

Code of Conduct for Members of Council and Local Boards

Appendix 1

PART A - INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Code of Conduct may seek to address the prohibited behaviour or activity themselves in the following manner by following the Informal Complaint Procedure:
 - (a) document the incident(s) where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;
 - (b) advise a third party about the concerns regarding the Member's actions;
 - (c) advise the Member that the behaviour or activity appears to contravene the Code of Conduct;
 - (d) identify to the Member the specific provision(s) of the Code of Conduct that may have been contravened;
 - (e) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to undertake to refrain from future occurrences of the prohibited behaviour or activity;
 - (f) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to settle or resolve the issue;
 - (g) if applicable:
 - (i) confirm to the Member that his or her response is satisfactory, or
 - (ii) advise the Member that his or her response is unsatisfactory;
 - (h) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.

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2. Individuals are strongly encouraged to pursue the Informal Complaint Procedure as the first means of remedying behaviour or activity of a Member that they believe violates the Code of Conduct.
3. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint.
4. The Informal Complaint Procedure is not a precondition or a prerequisite to pursuing the Formal Complaint Procedure set out in Part B.

PART B - FORMAL COMPLAINT PROCEDURE

Formal Complaints

1. (1) Any individual who identifies or witnesses behaviour or activity by a Member that they reasonably believe contravenes the Code of Conduct may file a formal complaint to request an inquiry by the Integrity Commissioner as to whether a Member has contravened the Code of Conduct in accordance with the following requirements:
 - (a) all complaints shall be in writing on the prescribed form and shall be dated and signed by an identifiable individual;
 - (b) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and must be accompanied by a supporting sworn affidavit setting out the evidence in full in support of the allegation; and
 - (c) Council may also file a complaint against any of its Members by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.
- (2) Individuals filing a formal complaint must provide a full and complete record of evidence to the Integrity Commissioner who is under no obligation whatsoever to, but may, seek additional or further information to supplement or complete the evidentiary record to substantiate or support the allegation set out in the complaint.

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Filing of Complaint and Classification by Integrity Commissioner

2. (1) The complaint shall be filed with the Regional Clerk, who shall forward the matter forthwith to the Integrity Commissioner without added comment.
- (2) The Integrity Commissioner shall initially classify the complaint to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 3.

Complaints Outside Integrity Commissioner’s Jurisdiction

3. If the complaint, including the supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint relates to matters addressed by other legislation or complaint procedure under another Region procedure, policy or rule, the Integrity Commissioner shall advise the complainant in writing that the matter is not within their jurisdiction

Limitation Period

4. Complaints must be submitted within six (6) weeks of the Complainant becoming aware of the alleged contravention and no more than six (6) months after it occurred.

Periodic Reports to Council

5. (1) The Integrity Commissioner shall provide an annual report to Council summarizing his or her activities, including a report on all complaints received and on their disposition (including complaints deemed and ruled not to be within the jurisdiction of the Integrity Commissioner).
- (2) Notwithstanding Section 5(1), Council may by resolution request that the Integrity Commissioner provide a periodic report more frequently than once a year.

Refusal to Conduct Investigation

6. If the Integrity Commissioner is satisfied, after considering the information contained in the complaint, that a complaint:
 - (a) is frivolous or vexatious,

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- (b) is not made in good faith,
- (c) constitutes an abuse of process,
- (d) discloses no grounds or insufficient grounds for an investigation, or
- (e) has otherwise been dealt with by Council or a Respondent Member in a manner that is satisfactory to the Integrity Commissioner;

the Integrity Commissioner shall not be required to conduct an investigation and, where this becomes apparent in the course of an investigation, the Integrity Commissioner shall terminate the inquiry and provide notice to the complainant and, if necessary, to the Member.

Opportunities for Resolution

7. Following receipt and review of a formal complaint or at any time during the investigation where the Integrity Commissioner, in his or her discretion, believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

Investigation

8. (1) The Integrity Commissioner may proceed as follows, except where the Integrity Commissioner has a full factual record and believes, in his or her discretion, that no additional information is required, where otherwise required by the *Public Inquiries Act, 2009*, or where the Integrity Commissioner has not otherwise terminated the inquiry:
 - (a) provide the Member with an outline of the complaint with sufficient particularity to allow the Member to understand the complaint against him or her but shall not have any obligation to disclose:
 - (i) the identity of any witnesses set out in the complaint or that are questioned/interviewed by the Integrity Commissioner,

unless it is essential for the Member to adequately respond to the complaint;

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- (b) request that the Member provide a written response to the allegations to the Integrity Commissioner within ten (10) days; however no additional information may be provided as part of a response unless requested by the Integrity Commissioner; and
 - (c) provide a copy of the Member’s response to the complainant with a request that any written reply be provided by the complainant within ten (10) days; however no additional information may be provided as part of a response unless requested by the Integrity Commissioner.
- (2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Region’s computers and servers, and may enter any Region work location relevant to the complaint for the purpose of investigation and potential resolution.
- (3) The Integrity Commissioner may, but is under no obligation, to provide the Member and Complainant with a draft of the proposed report on the complaint.
- (4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Member unless the Member has had an opportunity either in person or in writing to comment to the Integrity Commissioner on the proposed finding(s).
- (5) The Integrity Commissioner may, but is under no obligation, to advise either the Member or the complainant of any proposed sanction or recommendation the Integrity Commissioner may include in the report to Council.
- (6) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or any other person encountered during the formal complaint investigation.
- (7) The Integrity Commissioner shall retain all records related to the complaint and investigation but may provide copies of certain records, in confidence, to Regional administrative staff who are required to ensure that any such records are securely and confidentially retained.

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Complaints in a Municipal Election Year

9. Notwithstanding any other provision of this Complaint Protocol, no complaint may be referred to the Integrity Commissioner during the period of time starting on nomination day for a regular election and ending on voting day in a regular election as set out in the Municipal Elections Act.

If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election as set out in the Municipal Elections Act, the Integrity Commissioner shall terminate the inquiry on that day. If an inquiry is terminated for the above reason, the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, the Complainant or the Member or former Member whose conduct is concerned makes a written request to the Integrity Commissioner that the inquiry be commenced.

Advice Provided to Member by Integrity Commissioner

10. (1) Subject to Section 10(2), a Member is entitled to rely upon any written advice given by the Integrity Commissioner to the Member respecting the Code of Conduct in any subsequent consideration of the conduct of the Member in the same matter provided that the Member fully disclosed all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.
- (2) A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code of Conduct or generally at law, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of the investigation that may impact the Member's rights under the Code of Conduct or at law.

Investigation Report

11. (1) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the fact of any settlement and/or any recommended remedial or corrective action.

APPENDIX "A"

- (2) The Integrity Commissioner may provide a copy of the report to the complainant and the Member whose conduct has been investigated in advance of the public release of the report, in strict confidence until the report is publicly released.
- (3) Where the complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings although such information may be included in a report or as part of an annual or other periodic report by the Integrity Commissioner.

Findings

12. If the Integrity Commissioner determines that:
 - (a) there has been no contravention of the Code of Conduct, or
 - (b) a contravention occurred but:
 - (i) the Member took all reasonable measures to prevent it,
 - (ii) it was trivial,
 - (iii) it was committed through inadvertence, or
 - (iv) it resulted from an error of judgment made in good faith,

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*, including but not limited to, a recommendation of no penalty.

Report to Council

13. Upon receipt of a report from the Integrity Commissioner, the Regional Clerk shall place the report on the next regular agenda of Council for consideration by Council and Council must consider the report at that meeting and may accept or refuse the recommendations set out in the report and accept, refuse or vary any penalties or sanctions contained in the report. A report from the Integrity Commissioner may also be considered by Council in advance of its next regular meeting should Council agree to hold a special or other meeting before its next regular meeting to consider the report.

APPENDIX “A”

No Reports Prior to Municipal Election

14. Notwithstanding any other provision of this Complaint Protocol, the Integrity Commissioner shall not make any report to Council or to any other person during the period of time starting on nomination day for a regular election and ending on voting day in a regular election as set out in the Municipal Elections Act.

Duty of Council

15. Council shall consider and make a determination on the Integrity Commissioner's report at the same meeting at which the report is tabled.

Public Disclosure

16. (1) The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where it does not interfere with the course of any investigation, except as required by law and as required by this Complaint Protocol.
- (2) The Integrity Commissioner shall retain all records for a one-year period related to any complaints and investigations although copies may be provided to the Region's administrative staff, subject to the duty of confidentiality under subsection 223.5 of the *Municipal Act, 2001*.
- (3) The identity of the Member who is the subject of the complaint shall not be treated as confidential information in the Integrity Commissioner's report to Council. The identity of the complainant may be disclosed if deemed appropriate and necessary by the Integrity Commissioner or if consented to by the complainant.
- (4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Regional Clerk.

Delegation

17. The Integrity Commissioner may delegate in writing to any person, other than a Member of Council, any of the Integrity Commissioner's powers and duties under Part V.1 of the *Municipal Act, 2001*.

APPENDIX "A"

Code of Conduct — Formal Complaint Form/Affidavit

AFFIDAVIT OF _____

I, _____ (full name), of the (City, Town etc.)

_____ (municipality of residence) in the Province of Ontario.

MAKE OATH AND SAY (or AFFIRM):

1. I have personal knowledge of the facts as set out in this affidavit, because

_____.

(insert reasons e.g. I work for... I attended a meeting at which... etc.)

2. I have reasonable and probable grounds to believe that:

(specify name of Member)

a member of the Council or Local Board(s) of Niagara Region, has contravened section(s) _____ (specify section(s)) of the Code of Conduct for Members of Council and Local Boards of Niagara Region. The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space above, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please use the attached Schedule A form. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B etc. and attach them to this affidavit.)

This affidavit is made for the purpose of requesting that this matter be reviewed and/or investigated by Niagara Region’s appointed Integrity Commissioner and for no other purpose.

SWORN (or AFFIRMED) before me at the)

_____ (City, Town etc. of),)

in the Regional Municipality of Niagara on)

_____ (date))

) _____

(Signature)

A Commissioner for taking affidavits etc.

Please note that signing a false affidavit may expose you to prosecution under ss. 131 and 132 or 134 of the *Criminal Code*, R.S.C. 1985, c. C-46 and also to civil liability for defamation.

28959031.4

**APPENDIX "B"
MOTIONS TABLE**

MOTION	* 1 2 3 4 5 6 7	Debatable	Non-Debatable	Amendable	Non-Amendable	Always in order except When a Member is speaking, Members are voting or when made in a Committee of the Whole	NOTES
Adjourn (Section 19.9)	4		X		X	X shall not include qualifications or additional statements	When decided in the negative, no further motion to adjourn shall be made until Council has conducted further proceedings.
Amend (Section 19.10)	7	X		X Not more than once Additional amendments are to be to the main motion			Shall be relevant to the main motion Shall not be in direct opposition to the main motion. Shall be voted on in the following order: a motion to amend a motion to amend the main motion; a motion (as amended or not) to amend the main Motion; and the main Motion (as amended or not).
Decide an appeal on a point of order, practice or procedure (Section 17.4)	6		X				Member shall state the grounds for the appeal and such appeal must be decided, without debate, Requires a Majority vote.
Defer (Section 19.13)	3		X		X	X	Shall specify a date when the matter will again be considered by Council.
Extend Curfew (Section 19.12)			X		X	X	Requires a Majority vote.
Recess (Section 19.17)			X	X Only as to the length of the recess			Requires a Majority vote.
Call the question (Section 19.15)	1		X		X	can be made only by a Member who is recognized by the Chair as the next speaker wishing to speak to the motion	cannot be proposed when there is an amending motion under consideration, except for the purpose of moving that the amending motion be put; when resolved in the affirmative, requires that the question (motion, amending motion or motion as amended, whichever is under consideration) be put forward immediately without debate or amendment; is not a point of order. Requires a Majority vote.
Refer (Section 19.11)	2		X	X Only with respect to the committee or other body to which the matter and instructions are being referred			Shall take precedence over all amendments or debate of the original motion until it is decided. Shall specify the Committee or other body to whom the matter is being referred and may contain instructions from Council. May only be moved by a Member who has not yet spoken on the matter (except to give the reasons for the motion to refer) unless every Member who wishes to speak on the matter has had an opportunity to do so.
Rise without report (Section 19.14)		X					Always in order and takes precedence over any other motion
Rise with report (Section 19.14)			X				
Suspend these rules (Section 2.4)	5						affirmative vote of two-thirds of the Members present.

* Any motion that is not given a priority is of equal priority among themselves, following those with ranking.

APPENDIX "C"
COUNCIL / COMMITTEE DIFFERENCES

ISSUE	IN COUNCIL	IN COMMITTEE	IN COMMITTEE OF THE WHOLE
Motions - Making	Motions must be in writing, unless Regional Council, dispense with notice on the affirmative vote of at least two-thirds of the members present	Motions may be in writing or oral	Same as "in Committee"
Quorum	A majority of Members representing at least one-half of the Area Municipalities is necessary to form a quorum.	The quorum of all Committees, except for Committee of the Whole, shall be a majority of its members.	A majority of Members representing at least one-half of the Area Municipalities is necessary to form a quorum.
Recorded vote - the vote shall commence with the Member requesting the recorded vote and voting shall continue in a counter clockwise rotation	Allowed	Allowed	Allowed
Member speaking - length of time	No Member may speak to the same question or in reply for any longer than ten (10) minutes including questions to staff, without leave of the Council.	No limitation	No Member may speak to the same question or in reply for any longer than ten (10) minutes including questions to staff, without leave of the Committee of the Whole.
Member speaking - number of times	Once, per issue unless permitted by Council by concurring votes of majority	No limitation	No limitation
Member speaking - manner	If able, may stand	May be seated	May be seated