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Administration Committee Report
21-002 (Governance Review Sub-
Committee Report 21-001)
Date: February 4, 2021

Bill No. 021

CITY OF HAMILTON

BY-LAW NO. 21-021

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

CONSOLIDATION

TRACKED CHANGES VERSION

This By-law is a consolidated version and includes amendments made by those amending by-laws listed on the following page. This consolidation is prepared for purposes of convenience only and is not the official or legal version of the By-law. For accurate reference to the By-law, certified copies should be obtained through the City Clerk's Office.

Please Note:

General Amendments are highlighted in yellow

Strong Mayor Powers Amendments are highlighted in blue

REVISIONS made after publishing to Governance Review Sub-Committee agenda
(November 25, 2024)

REVISIONS MADE BY GOVERNANCE REVIEW SUB-COMMITTEE (NOVEMBER 25,
2024)

and

Page numbers are incorrect

CITY OF HAMILTON
CONSOLIDATED BY-LAW NO. 21-021

Incorporating amendments made by:

By-law Number

Effective Date

21-148	August 13, 2021
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23-116	June 21, 2023
23-137	July 14, 2023
23-212	November 8, 2023
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24-__	December 11, 2024

CITY OF HAMILTON
BY-LAW NO. 21-021

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

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

WHEREAS, the Council of the City of Hamilton, in adopting Item 4 of Audit, Finance and Administration Committee Report 21-021 on February 24, 2021 recommended that By-laws 18-270, 19-090, 19-212, 19-308, 20-042, 20-055, 20-103, 20-129, 20-145, 20-146, 20-151, 20-184 be repealed and replaced;

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

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SECTION 1 - DEFINITIONS

1.1 In this By-law,

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

“**Advisory Committee**” means a group of appointed citizens established by Council for the purpose of providing advice on matters that are related to the specific mandate of the committee.

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

~~“**Approve**” means to support or endorse the action, report or document.~~

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

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

“**Carried**” for the purposes of voting, means more than half the total of members of Council or Committee present and not prohibited by statute from voting, voted in favour.

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

“**Challenge**” means to appeal a ruling of the Chair.

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

“**Clerk**” means the City Clerk, or their designate.

“**Closed Meeting**” means a meeting, or part of a meeting, which is closed to the public as permitted by **Section 239 of** the Act, also referred to as an “in-camera meeting”.

“**Committee**” means a Standing Committee, Sub-Committee, Selection Committee or an Advisory Committee or Task Force established by Council from time to time.

“**Committee of the Whole**” means a Committee comprised of all Members of Council that directly reports to Council.

“Confirming By-law” means a by-law to confirm and ratify the actions of Council.

“Consent Items” means those items on an agenda of a Standing Committee, Sub-Committee or Advisory Committee that may be approved by Committee without debate.

“Council” means the City Council.

“Defeated” for the purposes of voting, means more than half the total of members of Council or Committee present and not prohibited by statute from voting, voted in opposition.

“Defer” means to delay consideration of a matter by Council or a Committee until a specified time or event.

“Deputy Mayor” means a Member of Council who is appointed for a one month period from amongst members of Council on a rotation basis determined by the Clerk at the beginning of the term of Council:

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

“ELE” means Electronic meeting procedures and applies to Virtual and Hybrid meetings and used only when the procedures for Electronic meetings differ from In-Person (INP) procedures.

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

“Ex-officio” means by virtue of the office or position and the Mayor is an ex officio member of all Standing Committees who, when attending a Standing Committee meeting, shall have full voting privileges and shall be counted for the purposes of the Standing Committee’s quorum as such quorum is set out in subsection 5.4(1) of this By-law.

“Friendly Amendment” means an amendment made to the motion under debate with the consent of the mover and seconder, and without the requirement for an amending motion to be made.

“Hearing” means a Meeting or hearing in a proceeding to which the *Statutory Powers and Procedure Act* applies.

“Hybrid” means a proceeding where some members participate virtually and some members participate in-person at Council and Committee meetings.

“INP” means In-Person meeting procedures and applies only when the procedures for In-Person meetings differs from Electronic (ELE) meeting procedures.

“In-Person” means a proceeding where members participate In-Person at Council and Committee meetings.

“Lost” for the purposes of voting, means more than half the total of members of Council or Committee present and not prohibited by statute from voting, voted in opposition.

“Main Motion” means a proposal by a member that begins the process of making any decision for consideration of Council or a Committee, that is moved by a member and seconded by another member.

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

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

“Mayoral Veto” means those veto powers included in the Strong Mayor Powers and described in section 284.11 of the Act.

“Meeting” means any scheduled, special or other meeting of a Council, local board or of a committee of either of them, that is IN-PERSON / VIRTUAL / HYBRID where, a quorum of members is present, and members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the Council, local board or committee.

“Member of Council” is a person who has been elected to City Council.

“Motion” means a proposal by a member for the consideration of Council or a Committee included in the published agenda, that is moved by a member and seconded by another member. A Motion may be Procedural or Substantive in nature.

“Notice of Motion” means advanced, written notice, given by a member and received by the Clerk, advising Council or Committee that a Motion will be brought forward at a future Meeting of Council or Committee that may be included in the published agenda or in the addendum a written notice received by the Clerk’s Office advising Council that the Motion described therein, respecting a matter not already on an agenda, will be brought forward by a Member of Council at a future meeting of Council.

“Point of Order” means a request to the Chair to raise a question a question raised by a member with respect to any departure from the Procedural By-law. After leave is granted, the Member shall state the point of **privilege order** to the Chair and the Chair will immediately decide on the point. ~~or in the practised conduct of Council or Committee business.~~

“Point of Privilege” means a request to the Chair to raise a question of privilege, when the Member believes that his, his or their rights, privileges or integrity, or those of the Members collectively have been prejudicially affected. After leave is granted, the Member shall state the point of privilege to the Chair and the Chair will immediately decide on the point. ~~after that affects the credibility, reputation, and dignity of a Member individually or that Council or Committee collectively hold, that ensure Council’s or a Committee’s ability to function freely; a need for assistance, to be excused for illness or a personal emergency.~~

“Prescribed Committee” is a Committee established under the Act that consists solely of members of Council for the purposes of Section 284.8 of the Act.

“Procedural Motion” means any motion concerning the manner or time of consideration of any matter before the Council or the Committee, as opposed to the substance thereof, and includes, without limitation, the following: a motion to adjourn; to call the question; to go into committee of the whole; to recess; to refer; to defer; to go into a closed meeting; to suspend the rules of procedure and to lift.

“Public Hearing” means a Meeting or portion of a Meeting held pursuant to the requirements of a statute, regulation or by-law to hold a public meeting to hear representations on a matter from any person who attends the public meeting.

“Question” means an issue before a meeting on which a decision has to be made. A question cannot be debated, amended or voted on until it has been proposed as a motion.

“Quorum” means the number of members equal to a majority of Council or Committee’s membership. ~~required to be present at a meeting to validate the transactions of its business.~~

“Receive” means to acknowledge the receipt of information and to include it in the official record.

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

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

“Refer” means to send a matter currently under consideration to an individual; a department; a Committee or Council for their consideration.

“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.

“Selection Committee” means a Committee established by Council, comprised entirely of Members of Council, to interview and report back to Council on the appointment of citizen representatives to agencies, boards and Committees, and reports directly to Council, with the exception of the Hamilton Police Services Board Selection Committee for the recruitment of the one person appointed by resolution of council to the Hamilton Police Services Board which is comprised of six (6) community representatives and six (6) Council representatives with full voting privileges.

“Senior Leadership Team” means the City Manager and General Managers appointed by Council and anyone designated by the City Manager.

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

“Strong Mayor Powers” means those powers, duties and responsibilities set out in Part VI.1 of the Act, titled “Special Powers and Duties of the Head of Council”, and any regulation made thereunder, applying solely to the person who has been elected as Mayor (head of council) under the provisions of the *Municipal Elections Act, 1996*.

“Sub-Committee” means a Committee established by Council, comprised of some Members of Council and in certain circumstances also citizen members. Sub-Committees report up to an assigned Standing Committee with members of Sub-Committees being appointed by Council, with the exception of the Public Health Sub-Committee, which reports directly to the Board of Health.

“Task Force” means a temporary ad hoc group of appointed citizens established by Council for the purpose of providing advice on matters related to a specific mandate of the task force.

“Time Sensitive” means useful for a specific amount of time only or has to be used or completed by a specific time.

“Virtual” means a proceeding where members participate online or on a computer screen, rather than In-Person during Council and Committee meetings.

“Website” means the official City website.

“Writing/Written” means ensuring a process whereby Councillors are able to request information in an alternate format, such as large print or in Braille.

SECTION 2 - APPLICATION

- 2.1** The rules of procedure shall be observed in all IN-PERSON / VIRTUAL / HYBRID proceedings of Council and shall be the rules for the order and dispatch of business in Council and unless specifically provided, with necessary modifications, apply to all Committees.

- 2.2** All matters relating to the IN-PERSON / VIRTUAL / HYBRID proceedings of Council and Committees for which rules have not been provided for in this By-law and its Appendices shall be decided, as far as is reasonably practicable, with reference to the parliamentary rules as contained in the most recent edition of *Bourinot's Rules of Order*, Geoffrey H. Stanford, Fourth Edition.
- 2.3** Notwithstanding any other provisions of this By-Law, where Council or a Committee convenes for the purpose of holding a Hearing, the provisions of the relevant statute, the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended or re-enacted from time to time, together with any procedures and practices established by the Council or Committee, shall govern the Hearing, as applicable.

SECTION 3 – COUNCIL MEETINGS

3.1 First Council Meeting

- (1) The First Meeting of Council shall be held at a time and place to be fixed by the Clerk provided that it shall not be held later than 31 (thirty-one) days after the term of Council commences.
- (2) The IN-PERSON Proceedings of the First Meeting of Council shall include:
- (a) Ceremonial - special address by guests;
 - (b) Filing of Declarations of Office in accordance with the provisions of the Act;
 - (c) Council appointments to Committees, boards and agencies; and
 - (d) Confirming By-law.
- (3) Despite subsection 3.1(2), and provided all requirements of the Act relating to the First Meeting of Council can be satisfied, the First Meeting of Council may be held as a VIRTUAL or HYBRID proceeding in the event of an Emergency.

3.2 Regular Council Meeting Times

- (1) Unless otherwise decided by Council, Regular Council meetings shall be held:
- (a) in January:
on the fourth Wednesday of the month, commencing at 9:30 a.m. unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;
 - ~~(b) in January:
on the fourth Wednesday of the month, commencing at 9:30 a.m. unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;~~
 - (c) in February, March, April, May, June, July, August, September, October and November: at least once per month on a Wednesday, commencing at 9:30 a.m., unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;

- (c) in December:
at least once on a Wednesday, commencing a 9:30 a.m., unless such a day is a public or civic holiday, in which case Council shall set an alternative day and time; or
 - (d) in accordance with the schedule approved by Council.
- (2) That, from time to time, there may be a need for Special Council Meeting at 5:00 p.m. to accommodate a Ceremonial Activity where the individuals being recognized are unable to attend a meeting during the day;
 - (3) Advance notice of meetings for the public's information may be found by accessing the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca .
 - (4) A meeting of Council shall adjourn after being in session for eight **8 (eight)** hours;
 - (5) A meeting of Council will recess for 30 **(thirty)** minutes within the first **5 (five)** hours of a meeting, in accordance with the *Employment Standards Act*;
 - (6) **Notwithstanding subsection 3.2(4), Council may extend the meeting for a maximum of one (1) hour, with at least two-thirds (2/3's) of the Members of Council present and voting in the affirmative with the inability to suspend the rules to extend the meeting further.**

3.3 Location of Meetings

- (1) IN-PERSON / **VIRTUAL** / HYBRID Meetings of Council shall be held in the Council Chambers at City Hall in the City of Hamilton or at such other place within the City of Hamilton as Council may from time to time determine.
- (2) **VIRTUAL only participation meetings will be held using electronic methods and not in a specific physical location.**

3.4 Special Meetings of Council

- (1) In addition to scheduled Council meetings, the Mayor may, at any time, summon a special meeting of Council by giving written direction to the Clerk stating the date, time, and purpose of the special meeting.
- (2) The Clerk shall summon a special meeting of Council when requested to do so in writing by a majority of Members of Council.
- (3) The Clerk shall give each Member of Council, or their designated staff, notice of a special meeting of Council at least 2 **(two)** days before the time appointed for such meeting by:
 - (c) delivering a written notice personally;
 - (d) delivering such notice at their residence or place of business; or
 - (e) facsimile transmission or electronic mail to such residence or place of business.

- (4) The written notice to be given under subsection 3.4(3) shall state the nature of the business to be considered at the special meeting of Council and no business other than that which is stated in the notice shall be considered at such meeting.
- (5) Notwithstanding subsection 3.4(4), other business may be considered at a special meeting with at least two-thirds (2/3's) of the Members of Council present and voting in the affirmative.
- (6) Notwithstanding subsection 3.4(4), other business introduced under subsection 13.1(1) shall be considered at a special meeting pursuant to the Strong Mayor Powers does not require a Motion or vote of Council.
- (7) The Clerk shall prepare the Order of Business for a special meeting of Council with the appropriate selection of agenda categories from subsection 3.11.

3.5 Meetings of Council for Emergencies

- (1) Despite any other provisions of this By-law, a meeting of Council for an emergency may be called by the Mayor, without written notice, to deal with an emergency, provided that an attempt has been made by the Clerk to notify Members of Council about the meeting as soon as possible and in the most expedient manner available.
- (2) The only business to be dealt with at a meeting of Council for an emergency shall be business dealing directly with the emergency.
- (3) The lack of receipt of a notice of, or an agenda for, a meeting of Council for an emergency by any Member of Council shall not affect the validity of the meeting or any action taken at such meeting.
- (4) The Clerk shall prepare the Order of Business for an emergency meeting of Council with the appropriate selection of agenda categories from subsection 3.11.
- (5) In the case of an emergency, Council may hold its meetings at any convenient location within or outside the municipality, and such meetings may be held as IN-PERSON / VIRTUAL / HYBRID meetings, with the details posted on the City's website.

3.6 Cancellation of a Council Meeting

- (1) The Clerk may cancel a Council meeting in consultation with the Mayor or the Deputy Mayor in the Mayor's absence.
- (2) The Clerk shall give each Member of Council, or their designated staff, notice of a cancellation of a meeting of Council at least 2 (two) days prior to the time appointed for such meeting by:
 - (c) delivering a written notice personally;
 - (d) delivering such notice at their residence or place of business; or
 - (e) facsimile transmission or electronic mail to such residence or place of business.

- (3) The written notice to be given under subsection 3.6(2) shall state the reason for the cancellation of the meeting.
- (4) The Clerk shall ensure that the meeting cancellation information is posted to the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca.

3.7 Quorum

- (1) As soon as there is a quorum after the time set for the meeting, the Mayor shall take the chair and call the meeting to order.
- (2) A majority of Members of Council is necessary to constitute a quorum of Council.
 - (2.1) A Member of Council participating in-person or virtually shall be counted in determining whether or not a quorum of Members is present at any point in time.
- (3) If the Mayor does not attend within 15 (fifteen) minutes of the time appointed for a Council meeting, and hasn't made arrangements for another member of Council to chair the meeting in their absence, and a quorum of Council is present, the Deputy Mayor shall take the chair and call the meeting to order and will preside until the arrival of the Mayor.
- (4) If the Mayor, in their absence has made arrangements for the Deputy Mayor or another member of Council to chair the meeting, the Deputy Mayor or the applicable member of Council shall take the chair and call the meeting to order and will preside until the arrival of the Mayor.
- (5) If a quorum is not achieved within 15 (fifteen) minutes after the time appointed for a meeting of Council, the Clerk shall record the names of the Members of Council present and the meeting shall stand adjourned until the date of the next scheduled Council meeting or other meeting called in accordance with the provisions of this By-law.
- (6) **INP** If Quorum cannot be maintained during an IN-PERSON Council meeting, the Clerk will advise the Mayor or Deputy Mayor that quorum is lost the meeting will be recessed for up to 15 (fifteen) minutes to allow members to return. Following the recess, if quorum is not regained, the decision to continue the meeting will rest with the Mayor or Deputy Mayor. During the absence of quorum, no decisions may be approved.
- ELE** If Quorum cannot be maintained during a VIRTUAL / HYBRID Council meeting, due to a loss of members' electronic connection, the Clerk will advise the Mayor or Deputy Mayor that quorum is lost and the meeting will be recessed for up to 15 (fifteen) minutes to allow for the member's electronic connection to be restored. If quorum cannot be restored within 15 (fifteen) minutes the meeting will be recessed to the next available business day. The Clerk will ensure that details regarding the time of the continuation of the Council meeting is on the

City's website. Where Quorum during a VIRTUAL/HYBRID Council meeting is lost for any other reason the INP procedure shall apply.

3.8 Remedy for Lack of Quorum

Municipal Conflict of Interest Act

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

3.9 Delegations

Delegations are not permitted at meetings of Council.

3.10 Communication Items

- (1) Communication Items shall be addressed to the Mayor and Members of Council or the City Clerk and shall be presented to Council for consideration.
- (2) Communication Items shall be forwarded to the Office of the City Clerk no later than 12 Noon on the Wednesday of the week prior to the City Council meeting for inclusion in the printed Council Agenda.
- (3) Communication Items not received for inclusion in the Agenda package, shall be introduced under Changes to the Council Agenda, provided that they are received in the Office of the City Clerk no later than 12 Noon on the business day prior to the Council meeting.
- (4) Communication Items shall not be anonymous or contain any defamatory, obscene, offensive, indecent, improper, rude or vulgar language.
- (5) Communication Items shall not contain the personal information without their express consent, with the exception of the author's name. Any personal information found in the communication will be redacted pursuant to the obligations of *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), this Procedural By-law and other relevant legislation or procedure.
- (6) Debate on Council communications shall be limited to the recommended disposition, or limited to reason for or against the referral of the matter to an appropriate Standing Committee.
- (7) Resolutions from other municipalities requesting support will be included on the Council Agenda to be received, unless otherwise directed by a Member of Council.
- (8) Receipt of resolutions from other municipalities by City Council shall not be construed as endorsement by the City of any recommendations or actions contained therein.
- (9) Communications respecting labour relation matters, conduct of a member(s) of staff and matters before another body (i.e. Police Services Board) will not be placed on

~~the Council Agenda and will be forwarded forthwith by the City Clerk to the relevant City Department or body for consideration and appropriate action.~~

- ~~(10) Communications which are in substance an allegation of a violation of the Code of Conduct or the *Municipal Conflict of Interest Act* by a member of Council or any member of a local board will not be placed on a Council agenda but will be returned to the author who will be advised of the informal and formal mechanisms for bringing such allegations to the attention of the Integrity Commissioner.~~
- ~~(11) Notwithstanding subsections 3.10(9) and 3.10(10) Council may add any communication item to a Council Agenda.~~

3.10 Order of Business

- (1) The Order of Business for scheduled IN-PERSON / VIRTUAL / HYBRID meetings of Council, unless amended by Council in the course of the meeting, shall be as follows:
- (a) Call to Order
 - (b) Approval of Agenda
 - (c) Declarations of Interest
 - (d) Ceremonial Activities
 - (e) Approval of Minutes of Previous Meeting
 - (e) ~~Communications~~ Items for Information (if required)
 - (f) Committee ~~Reports~~ Recommendations
 - (g) ~~Motions~~ Items for Consideration (if required)
 - (h) Notices of Motions
 - (i) Statement by Members (non-debatable)
 - (j) Council Communication Updates
 - (k) Private and Confidential
 - (l) By-laws ~~and Confirming By-law~~
 - (m) Adjournment
- (2) All Ceremonial Activities at Council meetings will take place virtually, during an Emergency.

3.11 Bills and By-laws

- (1) All Bills coming before Council shall be in typewritten form and shall contain no blanks except as may be required to conform to accepted procedure or to comply with provisions of any statute or regulation and shall be complete with the exception of the number and date.
- (2) All Bills coming before Council shall receive one reading, unless otherwise requiring more than one reading, pursuant to a Provincial or Federal statute or

regulation.

- (3) Every Bill shall be introduced upon motion by a Member of Council, and any number of Bills may be introduced together in one motion, but Council may at the request of a Member of Council, deal separately with any Bill. If Council deals separately with a Bill:
- ~~(a) all amendments or debate on the content of the Bill shall be held in committee of the whole;~~
 - ~~(a) Council will move into committee of the whole for discussion on any Bill following a successful verbal motion to go into committee of the whole;~~
 - ~~(b) all amendments made in committee of the whole shall be reported by the Mayor to Council, which shall receive the same forthwith, and after the report has been received, a vote on the motion to pass the Bill shall be taken;~~
- (4) Every By-law passed by Council shall be numbered and dated and shall be sealed with the seal of the municipality and signed by the Mayor and Clerk.
- (5) A Bill or By-law that is defeated on the floor of Council may shall be subject to the reconsideration of the original motion which gave rise to the consideration of the Bill or By-law.
- (6) When a Bill or By-law has been defeated on the floor of Council, any member who voted on the prevailing side may introduce a motion to reconsider at a subsequent meeting, as per subsection 6.3(9).

3.12 Editorial and Other Changes

- (3) The Clerk may make changes to By-laws or ~~resolutions~~ Council decisions to:
- (a) Correct spelling, punctuation or grammatical errors, or errors that are of a clerical, typographical or similar nature.
 - (b) Alter the style or presentation of text or graphics to improve electronic or print presentation.
 - (c) Replace a description of a date or time with the actual date or time.
 - (d) If a provision provides that it is contingent on the occurrence of a future event and the event occurs, remove text referring to the contingency and make any other changes that are required as a result.
 - (e) When the name, title, location or address of a body, office, person, place or thing has been altered, change any reference to the name, title, location or address to reflect any alteration in name, title, location or address.
 - (f) Correct errors in the numbering of provisions or other portions of a By-law and make any changes in cross-references that are required as a result.
 - (g) If a provision of a transitional nature is contained in a By-law, make any changes that are required as a result.
 - (h) Make a correction, if it is patent both that an error has been made and what the correction should be.
- (4) The Clerk:
- (a) may provide notice of the changes made under subsections 3.12(1)(a) to 3.12(1)(c) inclusive in the manner that they consider appropriate.

- (b) shall provide notice of the changes made under subsections 3.12(1)(d) to 3.12(1)(h) inclusive in the manner that they consider appropriate.
 - (c) in determining whether to provide notice under subsection 3.12(2)(a), shall consider:
 - (i) the nature of the change; and
 - (ii) the extent to which notice, and the information provided in it, would provide assistance in understanding the relevant legislative history.
 - (d) in providing notice under subsection 3.12(2)(a) or 3.12(2)(b), shall state the change or the nature of the change.
- (5) No legal significance shall be inferred from the timing of the exercise of a power under this section.
- (6) Regardless of when a change is made to a By-law under this section, the change may be read into the By-law as of the date it was enacted if it is appropriate to do so.

3.13 Shareholder and Board of Director Meetings

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

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

3.14 Board of Health Meetings

- (1) Where Council is exercising the jurisdiction of a Board of Health under the *Health Protection and Promotion Act, 1990*:
 - (a) Council shall meet as necessary to complete such business as would normally be completed by a Board of Health and as required pursuant to the *Health Protection and Promotion Act, 1990* and its Regulations, any Public Health Standards published by the Minister, and any other applicable law including municipal by-laws and policies governing a Board or Health; and
 - (b) the Mayor and Clerk are authorized, upon approval by Council operating as a Board of Health, to sign any necessary resolutions.
- (2) The Public Health Sub-Committee shall report directly to the Board of Health;
- (3) **Council may by resolution, move into the Board of Health for the consideration of the Public Health Sub-Committee Minutes. A member of the Board of Health may:**
 - (a) request that a matter contained within the Public Health Sub-Committee Minutes be voted on separately by the Board of Health;
 - (b) amend a matter contained within the Public Health Sub-Committee Minutes;

- (c) in the event, an amendment is considered to be contrary to the main motion within the Public Health Sub-Committee Minutes, Board of Health will follow the following process:
 - (i) The main motion within the Public Health Sub-Committee Minutes shall be voted upon;
 - (ii) If the vote result is deemed to be Carried, the matter is considered closed; and
 - (iii) if the vote result is deemed to be lost, the amendment considered to be contrary to the main motion within the Public Health Sub-Committee Minutes, may be introduced if duly moved and seconded.
- (d) **Move that the Board of Health rise to report to Council.**

3.15 Declarations of Interest

- (3) In this Section:
 - (a) An "Interest" means a 'disqualifying interest' or a 'non-disqualifying interest' as such terms are defined within the Council approved Code of Conduct to which the member is bound.
- (4) Where a member has disclosed an Interest at a meeting in accordance with a Council approved Code of Conduct to which the member is bound, the member, shall file a written statement with the Clerk.
- (5) Where a member, has disclosed an Interest and filed a written statement with the Clerk, as required by subsection 3.15(2), the Clerk, shall:
 - (a) file the written statement by the member in the Declarations of Interest Registry;
 - (b) record the Interest in the minutes of the meeting;
 - (c) file a record of the Interest recorded in the minutes of the meeting in the Declarations of Interest Registry; and
 - (d) make the Declarations of Interest Registry available for public inspection.

3.16 Provisional Governance Committee During a Declared Emergency

- (1) The Provisional Governance Committee may carry out the duties and responsibilities of the Council only at such times when, to the satisfaction of at least 5 (five) Members of Council attending a properly scheduled meeting of Council, at least 8 (eight) Members of Council are not able to attend such meeting due to death, illness or circumstances attributable to an emergency which has been declared by the Mayor or their designate in accordance with the City's Emergency Plan.
- (2) The Provisional Governance Committee shall be comprised of eight Members of Council and shall elect its own Chair from amongst the attending Members.
- (3) The Provisional Governance Committee shall have all the powers and duties that may legally be delegated to the Provisional Governance Committee pursuant to the Act, or any other applicable Provincial or Federal legislation, subject to the following conditions and restrictions:

- (a) the delegation shall be effective only during the times specified; and
- (b) the Provisional Governance Committee shall conduct its meetings in accordance with this By-law, providing that the quorum for the constitution of a valid meeting of the Provisional Governance Committee shall be 5 (five) Members of Council.

3.17 Council Communication Updates

- ~~(1) All staff Communication Update documents sent to Council and posted on the website will be published by the Clerk on the Council agenda for receipt into the public record.~~
- ~~(2) A member may refer any of the items listed within the Council Communication Updates to a Standing Committee by contacting the Clerk and any item so referred shall be placed on the next available agenda of the respective Standing Committee.~~

SECTION 4 - COMMITTEE OF THE WHOLE

- 4.1** A Committee of the Whole meeting may be called by the Mayor, as required, to deal with specific City Wide items, such as the City's annual budgets.
- 4.2** Council may, by resolution:
 - (a) move into Committee of the Whole to consider and debate, Standing Committee Reports; Selection Committee Reports and the Reports of Committees who report directly to Council on the Council meeting agenda; and
 - (b) move out of Committee of the Whole to report to Council.
- ~~**4.3** During the consideration of Standing Committee Reports and Selection Committee Reports a member may:~~
 - ~~(a) request that a matter contained within the Committee Report be voted on separately at Council;~~
 - ~~(b) amend a matter contained within the Committee Report;~~
 - ~~(i) in the event, an amendment is considered to be contrary to the main motion within the Committee Report, Council will follow the following process:~~
 - ~~1. The main motion within the Committee Report shall be voted upon;~~
 - ~~(a) if the vote result is deemed to be Carried, the matter is considered closed; and~~
 - ~~(b) if the vote result is deemed to be lost, the amendment considered to be contrary to the main motion within the Committee Report, may be introduced if duly moved and seconded.~~
- ~~**4.4** During the consideration of Reports a member may lift an item from the Information Section with the approval of a majority of the members present, for the matter:~~
 - ~~(a) to be voted upon by Council; or~~
 - ~~(b) to be debated and/or amended by Council.~~
- ~~**4.5** An information item that is lifted from a Report and amended, will be given an item number and added to the appropriate section of the Standing Committee Report,~~

~~Selection Committee Report, or the Report of Committee who reports directly to Council.~~

SECTION 5 – COMMITTEE MEETINGS

5.1 Standing Committees

The Standing Committees that report directly to Council shall be as follows:

- (a) General Issues Committee
- (b) Public Works Committee
- (c) Planning Committee
- (d) Emergency and Community Services Committee
- (e) Audit, Finance and Administration Committee

5.2 Appointment of Committee Chairs and Vice Chairs

- (1) Pursuant to the Strong Mayor Powers, the Mayor shall appoint the Chair and Vice-Chair(s) of the Committee of the Whole save and except where the Mayor has delegated such authority to Council.
- (2) Subject to subsection 5.2(1), each Standing Committee ~~(defined as a Prescribed Committee)~~ shall recommend to **where the Mayor has delegated the authority to Council**, Council shall appointment a Chair, Vice Chair and, where applicable, 2nd Vice Chair **for each relevant Committee for** the required term:
 - (a) The term of the Chair, Vice Chair and 2nd Vice Chair shall be for a calendar year, or part of a calendar year in an election year.
 - (b) No Member of Council may serve as Chair, Vice Chair or 2nd Vice Chair of the same Standing Committee for more than one year in a Council term.
- (3) Despite subsections 5.2(2)(a) and (b):
 - (a) the Mayor may stand as the Chair of the General Issues Committee for the term of Council **with the Vice Chair being rotated amongst the Deputy Mayors;** or
 - (b) the Chair of the General Issues Committee may **be appointed for a calendar year, or part of a calendar year in an election year with the Vice Chair being rotated amongst the Deputy Mayors.**
- ~~(4) The Vice Chair of the General Issues Committee shall be rotated amongst the Deputy Mayors when the Mayor is Chair of the General Issues Committee or the Deputy Mayor from the previous month shall be the Vice Chair of the General Issues Committee when the Chair of the General Issues Committee is rotated amongst the Deputy Mayors.~~
- (3) **The Chair or Vice Chair of a Sub-Committee, Advisory Committee or Task Force established by Council may serve for more than one year in a Council term.**

- (4) Each Sub-Committee, Advisory Committee and Task Force consisting of members of Council and citizens shall appoint their respective Chair and Vice-Chair as the first matter of business at the beginning of each term. The Chair or Vice Chair of a Sub-Committee, Advisory Committee or Task Force established by Council may serve for more than one year in a Council term.
- (5) Despite subsection 5.2(1) the role of Chair of the General Issues Committee Budget meetings may be chaired by the Mayor or a Councillor with an understanding of financial reporting for the budget year. Despite subsection 5.2(1)(a) and (b) the Chair of the General Issues Committee Budget meetings may serve for more than one year in a Council term.
- (6) The role of Vice-Chair of the General Issues Committee Budget meetings may be vice-chaired by a Councillor with an understanding of financial reporting for the budget year. Despite subsection 5.2(1)(a) and (b) the Vice-Chair of the General Issues Committee Budget meetings may serve for more than one year in a Council term.

5.3 Standing Committee Membership

- (1) General Issues Committee shall be comprised of all Members of Council.
- (2) Public Works Committee shall be comprised of a minimum of 8 Members of Council.
- (3) Planning Committee shall be comprised of a minimum of 7 Members of Council.
- (4) Emergency and Community Services Committee shall be comprised of a minimum of 7 Members of Council.
- (5) Audit, Finance and Administration Committee shall be comprised of a minimum of 7 members of Council.
- (6) Each Member of Council shall sit on a minimum of ~~3~~ 2 Standing Committees, in addition to the General Issues Committee.
- (7) Membership on Standing Committees shall be for the duration of the term of Council.
- (8) The Mayor is an ex-officio member of all Standing Committees who, when attending a Standing Committee meeting, shall have full voting privileges and shall be counted for the purpose of the Standing Committee's quorum as set out in subsection 5.4(1).

5.4 Quorum

- (1) The quorum for all Committees shall be a majority (as defined in the Procedural By-Law, e.g. if membership is 5, quorum is 3) of the membership.
- (2) A Member of a Committee participating in-person or virtually shall be counted

in determining whether or not a quorum of members is present at any point in time.

- (3) As soon as there is a quorum after the time set for the meeting, the Chair shall take the chair and call the meeting to order.
- (4) If the Chair does not attend within 15 (fifteen) minutes of the time appointed for a Committee meeting, and hasn't made arrangements for another Committee member to Chair the meeting in their absence, and a quorum of Committee is present, the Vice Chair shall take the chair and call the meeting to order and will preside until the arrival of the Chair.
- (5) If the Chair, in their absence has made arrangements for another member of the Committee to chair the meeting, the applicable member of the Committee shall take the chair and call the meeting to order and will preside until the arrival of the Chair.
- (6) If a quorum is not achieved within 15 (fifteen) minutes after the time appointed for an IN- PERSON / VIRTUAL / HYBRID meeting of Committee, the Clerk shall record the names of the Members of Council present and the meeting shall stand adjourned until the date of the next scheduled Committee meeting or another meeting may be called in accordance with the provisions of this By-law, except as provided for in 5.4(6) and 5.4(7).
- (7) **INP** If Quorum cannot be maintained during an IN-PERSON Committee meeting, the Clerk will advise the Chair that quorum is lost the meeting will be recessed for up to 15 (fifteen) minutes to allow members to return. Following the recess, if quorum is not regained, the decision to continue the meeting will rest with the Chair. During the absence of quorum, no decisions may be approved.

ELE If Quorum cannot be maintained during a VIRTUAL / HYBRID Standing Committee meeting, due to a loss of members' electronic connection, the Clerk will advise the Chair that quorum is lost and the meeting will be recessed for up to 15 (fifteen) minutes to allow for the member's electronic connection to be restored. If quorum cannot be restored within 15 (fifteen) minutes the meeting will be recessed to the next available business day. The Clerk will ensure that details regarding the time of the continuation of the Standing Committee meeting is on the City's website. Where Quorum during a VIRTUAL/HYBRID Standing Committee meeting is lost for any other reason the INP procedure shall apply.
- (8) If quorum is not achieved within 15 (fifteen) minutes after the time appointed for an IN- PERSON / VIRTUAL / HYBRID meeting of Committee, the Chair may decide to proceed informally to hear scheduled presentations. Ratification of any decisions will be postponed to a future meeting.
- (9) If quorum is not achieved within 15 (fifteen) minutes after the time appointed for an IN- PERSON / VIRTUAL / HYBRID meeting of a Committee, the Chair may allow the Committee to discuss items of interest. Ratification of any

decisions will be postponed to a future meeting.

5.5 Location of Meetings

- (1) IN-PERSON / VIRTUAL / HYBRID Standing Committee Meetings shall be held in the Council Chambers at City Hall in the City of Hamilton or at such other place within the City of Hamilton as Council may from time to time determine.

5.6 Standing Committee Meeting Times

- (1) Unless otherwise decided by Council, scheduled meetings of the Standing Committees will be as follows:
 - (a) (i) General Issues Committee shall meet at least once per month on a Wednesday commencing at 9:30 a.m.;
 - (ii) Public Works Committee shall meet at least once per month commencing at 1:30 p.m.;
 - (iii) Planning Committee shall meet at least once per month on a Tuesday commencing at 9:30 a.m.;
 - (iv) Audit, Finance and Administration Committee shall meet at least once per month on a Thursday commencing at 9:30 a.m.;
 - (v) Emergency and Community Services Committee shall meet at least once per month on a Thursday commencing at 1:30 p.m.;
 - (b) In the event a meeting date, as shown in subsections 5.6(1)(a)(i) to 5.6(1)(a)(v) falls on a day which is a public or civic holiday, an alternate date and time will be selected;
 - (c) In the event a Planning Committee meeting date, follows a public or civic holiday on a Monday, the Planning Committee shall meet on the Friday of that week;
 - (d) In accordance with the schedule approved by Council.
- (2) In addition to scheduled Standing Committee meetings, a special meeting of a Standing Committee may be scheduled when required, at the call of the Chair, at locations and times to permit convenient access for members of the public most affected by such a matter with at least 2 (two) days notice, delivering notice in accordance with subsections 5.16(3) and 5.16(4).
- (3) Advance notice of Committee meetings for the public's information may be found by accessing the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca.
- (4) A meeting of Committee shall adjourn after being in session for 8 (eight) hours;
- (5) A meeting of Committee will recess for 30 (thirty) minutes within the first 5 (five) hours of a meeting, in accordance with the *Employment Standards Act*;
- (6) Notwithstanding subsection 5.6(4), Committee may extend the meeting for a maximum of one (1) hour, with at least two-thirds (2/3's) of the Members of Committee present and voting in the affirmative ~~with the inability to suspend the rules to extend the meeting further.~~

5.7 Cancellation of a Committee Meeting

- (1) The Clerk may cancel a Committee meeting in consultation with the Committee Chair or the Committee Vice Chair in the Committee Chair's absence.
- (2) The Clerk shall give each Member of the Committee, or their designated staff, notice of a cancellation of a Committee meeting at least 2 **(two)** days prior to the time appointed for such meeting by:
 - (a) delivering a written notice personally;
 - (b) delivering such notice at their residence or place of business; or
 - (c) facsimile transmission or electronic mail to such residence or place of business.
- (3) The written notice to be given under subsection 5.7(2) shall state the reason for the cancellation of the meeting.
- (4) The Clerk shall ensure that the meeting cancellation information is posted to the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca.

5.8 Committee **Recommendations to Council** Reports

- (1) Each Standing Committee, the Selection Committee, and other Committees that report directly to Council shall make recommendations to Council **through the consideration of their Minutes.**
- (2) The Public Health Sub-Committee shall make recommendations to the Board of Health;
- (3) A minimum of 2 **(two)** days shall pass before the **Report Minutes** of a Standing Committee, the Selection Committee, or other Committee that reports directly to Council is presented to Council to provide adequate opportunity for review. Every effort will be made for Standing Committee and/or Selection Committee **Report Minutes** to be released at an earlier date.
- (4) A minimum of 2 **(two)** days shall pass before the **Report Minutes** of the Public Health Sub-Committee is presented to the Board of Health to provide adequate opportunity for review. Every effort will be made for the Public Health Sub-Committee **Report Minutes** to be released at an earlier date.
- (5) Despite subsection 5.8(2), this rule may be suspended by the affirmative vote of two-thirds **(2/3's)** of the Members of Council present and voting.
- (6) Despite subsection 5.8(4), this rule may be suspended by the affirmative vote of two-thirds **(2/3's)** of the Members of the Board of Health present and voting.
- (7) **During the consideration of Minutes a member of Council may:**
 - a) request that a matter contained within the Committee Minutes be voted on separately at Council;

- b) amend a matter contained within the Committee Minutes;
- c) in the event, an amendment is considered to be contrary to the main motion within the Committee Report, Council will follow use the following process:
 - (i) The main motion within the Committee Report shall be voted upon;
 - (ii) if the vote result is deemed to be Carried, the matter is considered closed; and
 - (iii) if the vote result is deemed to be lost, the amendment considered to be contrary to the main motion within the Committee Report, may be introduced if duly moved and seconded.

5.9 Rules of Procedure

- (1) No member of Council shall speak more than once on any matter at a Council meeting without passing of a motion to do so.
- (2) A member of a standing Committee who has spoken to a matter for the first time, will be permitted to speak a second time, after every member of the Standing Committee has had an opportunity to Speak.
- (3) A member of Council who is not a member of a standing committee, may speak during a committee meeting with the leave of the Chair, has spoken to a matter for the first time, will be permitted to speak a second time, after every member of the Standing Committee, followed by every member of Council who is not a member of the Standing Committee, has spoken, and then only to provide information or seek clarification from the Chair, other Members of Council or staff.
- (4) A Member of Council may place an item on a future agenda of a Standing Committee meeting by delivering a Notice of Motion as set out in subsection 6.3(1) to the Chair of the Standing Committee and to the Committee Legislative Coordinator.
- (5) A Member of Council who is not a member of a Standing Committee is entitled to attend such Standing Committee meetings and to participate, provided that the Member of Council shall:
 - (a) not be counted for quorum purposes, and;
 - (b) not move any motion or vote on any matter.
- (6) **Staff presentations will be included on an agenda to precede the related item (under Items for Discussion) and will be limited to a maximum of 10 minutes.**

5.10 Duties of Standing Committees

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

5.11 Order of Business

- (1) The general Order of Business for the IN-PERSON / VIRTUAL / HYBRID scheduled meetings of Committees, unless amended by the Committee in the course of the meeting, shall be as follows:
 - (a) Call to Order
 - (b) Ceremonial Activities
 - (c) Approval of Agenda
 - (d) Declarations of Interest
 - (e) Approval of Minutes of Previous Meeting
 - ~~(f) Communications~~
 - ~~(f) Delegation Requests~~
 - (f) Delegations
 - ~~(g) Staff Presentations~~
 - (g) ~~Consent~~ Items for Information
 - (h) Public Hearings (if required)
 - (i) ~~Discussion~~ Items for Consideration
 - (j) Motions
 - (k) Notice of Motions
 - ~~(l) General Information/Other Business~~
 - (l) Private and Confidential
 - (m) Adjournment
- (2) The Clerk may prepare the Order of Business for the scheduled meetings of Committees with slight adjustments to the general Order of Business when deemed necessary.
- (3) All Ceremonial Activities at Committee meetings will take place virtually, during an Emergency.

5.12 Delegations

- (1) Any person, group of persons, or organization, who wishes to appear as a delegation to address a Committee may appear in-person or virtually.
- (2) Any person, group of persons, or organization wishing to address a Committee with respect to a matter already on a Committee agenda, shall make a submit a written request to the Clerk, using the 'Request to Speak to a Committee of Council' form (available on the City's website) no later than 12:00 p.m. (Noon) the day prior to meeting. If the Committee is meeting on a Monday, the deadline will be 12:00 p.m. (Noon) on the Friday preceding the meeting.
- (3) Any person, group of persons, or organization wishing to address a Committee with respect to a matter not already on a Committee agenda, shall submit a

written request to the Clerk, using the 'Request to Speak to a Committee of Council' form (available on the City's website) at least 14 (fourteen) days before the date and time of the regular Committee meeting.

- (4) Delegations shall be limited to an oral presentation of not more than 5 (five) minutes speaking time.
- (5) Notwithstanding subsection 5.12(4), an extension of speaking time may be granted with the approval of a majority of the members of the Committee present.
- (6) Any delegate(s) wishing to submit presentation materials (slides, supporting documentation, speaking notes, delegation outlines) or who wish to appear before Committee through a pre-recorded video, shall submit the materials and/or pre-recorded video no later than 12:00 p.m. (Noon) 2 (two) business days before the meeting. If the Committee is meeting on Monday, the deadline will be 12:00 p.m. (Noon) on the Thursday preceding the meeting.
- (7) Delegates are encouraged to provide a written brief of their presentation to the Clerk, at least 5 (five) days in advance, which will be provided to the members of the Committee and become part of the public record.
- (8) A request to delegate shall include the name(s) of all delegates, reasons(s) for the delegation, and the contact information (name, address, email and/or phone number) for any person, group of persons, or corporation/organization which they represent.
- (9) The Clerk shall consider all requests and direct delegations to the appropriate Committee, as appropriate.
- (10) Delegations will not be permitted at more than one Committee on the same topic, except as required by by-law.
- (11) Delegates who have previously appeared before a Committee on a subject matter and request to speak to a Committee a second time on the same subject matter, shall be limited to providing only new information as part of their subsequent appearance.
- (12) Delegations are to refrain from referring to an individual(s) by their proper name(s) when delegating before Committee.
- (13) Delegations respecting labour relation matters, conduct of a member(s) of staff and matters before another body (i.e. Police Services Board) will not be placed on a Committee Agenda and will be forwarded forthwith by the City Clerk to the relevant City Department or body for consideration and appropriate action.
- (14) Delegations which are in substance an allegation of a violation of the Code of Conduct or the *Municipal Conflict of Interest Act* by a member of Council or any member of a local board will not be placed on a Committee agenda and the delegate will be advised of the informal and formal mechanisms for bringing such allegations to the attention of the Integrity Commissioner.
- (15) Requests to delegate that are outside the jurisdiction of the municipality will not be placed on a Committee Agenda.

- (16) Delegate shall not:
- (i) speak disrespectfully of any person and maintain order and decorum in accordance with this by-law;
 - (ii) speak on any subject other than the subject for which he/she/they has received approval from the Clerk to address with Committee.
 - (iii) violate the rules of procedure or a decision of the presiding officer.
- ~~(17) Notwithstanding subsections 5.12(9), 5.12(11) and 5.12(12), a Standing Committee member may add the delegation request on a Standing Committee Agenda.~~
- ~~(18) Delegates appearing IN-PERSON or VIRTUALLY will adhere to Section 8, Order and Decorum of this by-law.~~
- (17) Members of Committees can ask questions of the delegations for clarification purposes only and not for debate.
- (18) When a person is listed as a delegation on a Committee agenda and such person, without notification to the Clerk, does not attend said meeting, that person must make a new request to be considered as a delegation and must re-apply in accordance with subsections 5.12(1) and 5.12(2).

5.13 Public Hearings at Standing Committees

- (1) Public Hearings shall be held at Standing Committee meetings.
- (2) Advertising or notice of a Public Hearing shall be undertaken as required by applicable legislation, by-law, or according to City policy, to advise interested persons.
- (3) Public Hearings shall commence with:
 - (a) an introduction of the subject matter by the Chair or by staff;
 - (b) the staff presentation, if any and if not waived by the members of the Standing Committee; and
 - (c) **INP** The signing in of all delegations on a sheet, provided by staff, with their name, address, including postal code, phone number and e-mail address (optional).
 - ELE** Presentations by delegations who have registered to attend VIRTUALLY, will be heard.
- (4) Persons who wish to appear as a delegation IN-PERSON or VIRTUALLY to address Standing Committee on a matter that is the subject of a Public Hearing may make a delegation in accordance with Section 5.12.
- (5) **INP** Notwithstanding subsection 5.13(4), Standing Committee shall hear oral representations from any person in attendance at a Public Hearing, whether or not a request was made in advance.
 - ELE** Notwithstanding subsection 5.13(4), Standing Committee shall only hear oral representations from persons who have registered to attend

VIRTUALLY.

- (6) IN-PERSON or VIRTUAL delegations made at a Public Hearing shall be limited to an oral presentation of not more than 5 (five) minutes.
- (7) Where a delegation wishes to provide written material to become part of the public record to the members of the Standing Committee at a Public Hearing, the delegation shall:
 - (a) comply with subsection 5.12(8); or
 - (b) if after the deadline, provide a copy of the written material to the Clerk at the IN-PERSON meeting for distribution after the meeting; or
 - (c) if after the deadline, provide a copy of the written material to the Clerk via email at a VIRTUAL / HYBRID meeting for distribution after the meeting.

5.14 Correspondence Communication Items

- (1) Correspondence items shall be addressed to the Chair and Members of Committee or the City Clerk and shall be published for Members of Council and the public weekly on the City's website, as Council's Weekly Correspondence Listing.
- (2) Correspondence items shall be forwarded to the Office of the City Clerk no later than 12:00 p.m. (Noon), each Friday to allow for publishing that same week in Council's Weekly Correspondence Listing.
- (3) When the date described in subsection 5.14(2) is a public or civic holiday, the correspondence item shall be forwarded to the Office of the City Clerk no later than 12:00 p.m. (Noon) on the last business day prior to the date as set out in subsection 5.14(2), for inclusion in Council's Weekly Correspondence Listing.
- (4) If a Member of Council would like a correspondence item listed in the Council's Weekly Correspondence Listing placed on a Committee agenda, the Member must advise the Clerk's Office no later than 12:00 p.m. (Noon) on the day prior to the meeting.
 - (a) If a member of Public Health Sub-Committee would like a relevant item of correspondence listed in the Council's Weekly Correspondence Listing placed on a Public Health Sub-Committee agenda, the member must advise the Clerk's Office no later than 12:00 p.m. (noon) on the day prior to the meeting.
- (5) Correspondence items that are anonymous or contain any defamatory, obscene, offensive, indecent, improper, rude or vulgar language shall not be included in Council's Weekly Correspondence Listing, and will not be retained as part of the official record.
- (6) Correspondence items shall not contain personal information without their express consent, with the exception of the author's name. Any personal information found in the correspondence will be redacted pursuant to the obligations of *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), this Procedural By-law and other relevant legislation or

procedure.

- (7) **Correspondence** items shall only contain the author's name. Any other names of individuals found in the **correspondence** will be redacted pursuant to the obligations of *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), this Procedural By-law and other relevant legislation or procedure, unless the individual has given their express consent to the Clerk in writing.
- (8) **Correspondence** items that are relevant to a matter that appears on the Standing Committee Agenda, will be **added to the relevant agenda**.
- (9) **Correspondence items that are relevant to a matter that appears on a Standing Committee Agenda, received after the prescribed deadline as set out in subsection 5.14(4) will be included on the Council Agenda as an item(s) for information, to be received during the consideration of the Standing Committee Report.**
- (10) **Correspondence items listed on a Council's Weekly Correspondence Listing that are placed on a Committee agenda by a Member of Council, will be listed under 'Correspondence', with the disposition, as 'Be received for information'.**
- (11) **Committee Members may move an amendment during the Committee meeting, to amend the disposition of the item, to endorse it, and/or to circulate notice of the distribution to external parties.**
- (12) **Debate on correspondence shall be limited to the recommended disposition, or limited to reason for or against the referral of the matter to an appropriate Committee.**
- (13) **Correspondence** respecting labour relation matters, conduct of a member(s) of staff and matters before another body (i.e. Police Services Board) will not be placed on the Standing Committee Agenda and will be forwarded forthwith by the City Clerk to the relevant City Department or body for consideration and appropriate action.
- (14) **Correspondence** which are in substance an allegation of a violation of the Code of Conduct or the *Municipal Conflict of Interest Act* by a member of Council or any member of a local board will not be placed on a Committee agenda but will be returned to the author who will be advised of the informal and formal mechanisms for bringing such allegations to the attention of the Integrity Commissioner.
- (15) **A Standing Committee member may read out an email or a letter for the Committee respecting a matter on the agenda and ask that the correspondence item become part of the official record with the approval of a majority of the members present.**
- (16) **Notwithstanding subsections 5.14(9) and 5.14(10) a Standing Committee member may add any communication item to a Standing Committee Agenda.**

5.15 Reconsideration of a Matter Decided Within a Standing Committee Meeting

- (1) At any Standing Committee Meeting, after a matter has been decided by the Standing Committee, including both successful or failed motions, a Member of the Standing Committee who voted **on the prevailing side**, may present a Motion to reconsider the matter prior to the adjournment of the meeting. The Chair may ask the Member of the Standing Committee to confirm that they voted **on the prevailing side of** the issue in question.
 - (i) **In the event of a tie the prevailing side is the defeated side.**
- (2) A motion to reconsider a decided matter shall require the approval of at least two-thirds **(2/3's)** of Standing Committee members present.
- (3) No motion to reconsider may, itself, be the subject of a motion to reconsider.
- (4) Debate on a motion to reconsider shall be confined to reasons for or against the reconsideration.
- (5) The following motions cannot be reconsidered:
 - (a) to adjourn;
 - (b) to recess; and
 - (c) to suspend the rules of procedure.

5.16 Declarations of Interest

- (1) In this Section:
 - (a) An "Interest" means a 'disqualifying interest' or a 'non-disqualifying interest' as such terms are defined within the Council approved Code of Conduct to which the member is bound.
- (2) Where a member has disclosed an Interest at a meeting in accordance with a Council approved Code of Conduct to which the member is bound, the member, shall file a written statement with the Clerk.
- (3) Where a member, has disclosed an Interest and filed a written statement with the Clerk, as required by subsection 5.15(2), the Clerk, shall:
 - (a) file the written statement by the member in the Declarations of Interest Registry;
 - (b) record the Interest in the minutes of the meeting;
 - (c) file a record of the Interest recorded in the minutes of the meeting in the Declarations of Interest Registry; and
 - (d) make the Declarations of Interest Registry available for public inspection.

5.17 Special Meetings of a Standing Committee

- (1) In addition to scheduled Standing Committee meetings, the Mayor or the Standing Committee Chair may, at any time, summon a special meeting of a Standing Committee by giving written direction to the Clerk stating the date, time, and purpose of the special meeting.

- (2) The Clerk shall summon a special meeting of a Standing Committee when requested to do so in writing by a majority of Members of the Standing Committee.
- (3) The Clerk shall give each Member of the Standing Committee or their designated staff, notice of a special meeting of a Standing Committee at least 2 (two) days before the time appointed for such meeting by:
 - (a) delivering a written notice personally;
 - (b) delivering such notice at their residence or place of business; or facsimile transmission or electronic mail to such residence or place of business.
- (4) The written notice to be given under subsection 5.16(3) shall state the nature of the business to be considered at the special meeting of a Standing Committee and no business other than that which is stated in the notice shall be considered at such meeting.
- (5) Notwithstanding subsection 5.16(4), other business may be considered at a special meeting with at least two-thirds (2/3's) of the Standing Committee members present and voting in the affirmative.
- (6) The Clerk shall prepare the Order of Business for a special meeting of a Standing Committee with the appropriate selection of agenda categories from subsection 5.11.

5.18 Change to a Scheduled Committee Meeting

- (1) The Clerk may change the time or location of a Committee meeting in consultation with the Committee Chair or the Committee Vice Chair in the Committee Chair's absence.
- (2) The Clerk shall give each Member of the Committee, or their designated staff, notice of the change to the Committee meeting at least 2 (two) days prior to the time appointed for such meeting by:
 - (a) delivering a written notice personally;
 - (b) delivering such notice at their residence or place of business; or
 - (c) facsimile transmission or electronic mail to such residence or place of business.
- (3) The written notice to be given under subsection 5.17(2) shall state the reason for the change to the meeting.
- (4) The Clerk shall ensure that the change to the Committee meeting is posted to the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca.

**SECTION 6 - RULES OF DEBATE, VOTING PROCEDURES
AND MOTION PROCEDURES**

6.1 Rules of Debate

- (1) No Member of Council shall be deemed to have precedence or seniority over any other Member of Council.
- (2) Before speaking to a question or motion, a Member of Council shall be recognized by the Mayor or the Chair and be placed on the speakers' list.
- (3) When a Member of Council is speaking, no other Member of Council shall pass between that Member of Council and the Mayor or the Chair or interrupt that Member of Council except to raise a point of order or privilege.
- (4) A Member of Council may require the question or motion under discussion to be read at any time during the debate but not so as to interrupt a Member of Council who is speaking.
- (5) A Member of Council may not speak on any matter other than the matter being debated.
- (6) All Members of Council are restricted to a 5 (five) minute time limit when asking a question and/or making a statement during Council and Committee meetings.
- ~~(7) Notwithstanding subsection 6.1(6), an extension of a specific allotment of time to the 5 (five) minute speaking restriction may be granted with the approval of a majority of the members of the Council or Committee present.~~
- (8) The following matters may be introduced orally without written notice and without leave:
 - (a) a point of order
 - (b) a point of privilege
 - (c) a motion to adjourn
 - (d) a motion to call the question
 - (e) a motion to go into committee of the whole
 - (f) a motion to recess
 - (g) a motion to refer
 - (h) a motion to defer
 - (i) a motion to go into a closed meeting
 - (j) a motion to suspend the rules of procedure
 - (k) a motion to lift
- (9) **Relinquishing the Chair**

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

6.2 Voting Procedures

- (1) Once a motion is moved and seconded it shall be deemed to be in the possession of Council or Committee.
 - (2) All votes other than those that require one-third (1/3) of members of Council or two-thirds (2/3's) of members of Council or two-thirds (2/3's) majority, are majority votes.
 - (3) Where a Member of Council present at a meeting of Council or Committee is prohibited from voting by statute, the Clerk shall record the name of the Member of Council and the reason that they are prohibited from voting.
 - (4) **INP** When an electronic voting system is available at an IN-PERSON meeting every Member of Council or Committee present and participating in a vote on a motion, shall vote electronically excluding those motions referred to in (i) and (ii) below which shall be by show of hands:
 - (i) procedural (majority vote: refer, defer, withdraw, recess, call the question and adjourn);
 - (ii) **Receiving delegation submissions and presentations;**
 - (iii) **Adopting minutes;**
 - (iv) **Approving or amending the agenda;** and
 - (v) ~~Consent~~ Items **for Information, considered in a block.**
 - ELE** When an electronic voting system is available at a VIRTUAL / HYBRID meeting every Member of Council or Committee present and participating in a vote on a motion, shall vote electronically excluding those motions referred to in (i) and (ii) below which shall be by show of hands:
 - (i) procedural (majority vote: refer, defer, withdraw, recess, call the question and adjourn);
 - (ii) **Receiving delegation submissions and presentations;**
 - (iii) **Adopting minutes;**
 - (iv) **Approving or amending the agenda;** and
 - (v) ~~Consent~~ Items **for Information, considered in a block.**
- Any member of Council or Committee may request the chair conduct an electronic vote for the above mentioned exclusions.**
- (5) When an electronic voting system is available for a vote, the results will be displayed and recorded in the proceedings.
 - (6) When an electronic voting system is not available every Member of Council or Committee present shall vote by a show of hands.
 - (7) When an electronic vote is taken and a member advises the Mayor or the Chair of a point of privilege with respect to their vote being omitted or in error immediately following and prior to the taking of another vote, the vote will be considered void and a new electronic vote will be retaken immediately.

- (8) When an electronic vote is taken and a member advises the Mayor or the Chair of a point of privilege with respect to their vote being omitted or in error following the taking of another vote, the member's request will be considered through a vote to reconsider the matter:
- (i) If a two-thirds (2/3's) majority vote to reconsider is decided in the affirmative, the electronic vote will be retaken immediately;
 - (ii) If a two-thirds (2/3's) majority vote to reconsider is decided in the negative, the original electronic vote stands.
- (9) When a vote is taken and a tie results, a question is deemed to be lost.
- (10) **INP** When a Member of Council at an IN-PERSON meeting of Council or Committee does not disclose a pecuniary interest, and does not vote on a Motion, the member will be deemed as having voted in the negative and when an electronic voting system is in use the recusal will be displayed and noted in the proceedings.
- ELE** When a Member of Council at a VIRTUAL / HYBRID meeting of Council or Committee does not disclose a pecuniary interest, and does not vote electronically on a Motion, the Mayor/Chair will call on the member to vote 3 (three) times, if the member doesn't respond the member will be noted as being 'Not Present' during the vote.
- (11) When an electronic voting system is not available and a recorded vote is requested by a Member of Council or Committee immediately before or after a question is put, the Clerk shall record the name and vote of every Member of Council or Committee on the question.
- (12) When the Mayor or the Chair calls for a vote on a question, each Member of Council or Committee shall occupy their seat and shall remain in their seat until the result of the vote has been declared by the Mayor or the Chair, and during such time no Member of Council or Committee shall walk across the room or speak to any other Member of Council or Committee or make any noise or disturbance.
- (13) After a question is put by the Mayor or the Chair, no Member of Council or Committee shall speak to the question nor shall any other motion be made until after the vote is taken and the result has been declared.
- (14) No vote shall be taken by ballot or by any other method of secret voting and every vote so taken is of no effect, except where permitted by statute.
- (15) Despite subsection 6.2(14), a meeting may be closed to the public during a vote if:
- (a) the vote relates to an issue permitting the meeting to be closed to the public in accordance with Section 9 (Meetings Closed to the Public) of this By-law; and
 - (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the City or persons retained by or under a contract with the City.

- (16) The Mayor or the Chair shall, upon request of a Member of Council or Committee, divide a question, if the question under consideration contains distinct propositions, and the vote upon each proposal shall be taken separately.
- (17) If a Member of Council or Committee disagrees with the announcement of the Mayor or the Chair that a question is Carried or Lost on a vote by show of hands, they may immediately after the declaration by the Mayor or the Chair, object to the Mayor's or the Chair's declaration and require that a recorded vote be taken.
- (18) Members of Council who are appointed as representatives of an Advisory Committee, do not have voting rights while attending an Advisory Committee meeting.

6.3 Motion Procedures

(1) Notice of Motion

- (a) Notice of all new motions, except motions listed in subsection 6.1(8) shall be given in writing:
 - (i) at a meeting of Council or Committee, but shall not be debated until the next meeting of Council or Committee; or
 - (ii) delivered to the Clerk at any time before 12:00 p.m. (Noon) on the last business day preceding the date of the meeting at which the notice of motion is to be introduced.
- (b) Where a Member of Council's or Committee's motion has been called by the Mayor or the Chair at the subsequent meeting and not proceeded with, it shall be dropped from the agenda unless Council or Committee decides otherwise.
- (c) Where Council or Committee has determined not to drop a motion from the agenda, and at the second meeting such motion is called by the Mayor or the Chair and not proceeded with, it shall be deemed to have been withdrawn.

(2) Dispensing with Notice

Where a matter is time sensitive or is an emergency, the Motion may be introduced without notice if Council or Committee, without debate, dispenses with notice on the affirmative vote of two-thirds (2/3's) of the Members of Council or Committee present and voting.

(3) Motion to Withdraw

After a motion is moved and seconded it shall be deemed to be in possession of Council or Committee and may be withdrawn by the mover at any time before decision or amendment.

(4) Motion to Amend

(a) A motion to amend:

- (i) shall be presented in writing, duly moved and seconded;
- (ii) shall be made only to a previous question or to amend an amendment to the question;
- (iii) shall be relevant to the question to be decided; shall not be received if, in essence it constitutes a rejection of the main question;
- (iv) shall be put to a vote in the reverse order to that which it is moved.

(b) If the amendment is not considered a “Friendly Amendment”, then the motion to amend:

- (i) If more than one, will be put to a vote in the reverse order to that in which they were moved;
- (ii) Will be decided upon or withdrawn before the main motion is put to the vote;
- (iii) Will not be amended more than once, provided that further amendments may be made to the main motion; and,
- (iv) Will not be directly contrary to the main motion.

(5) Motion to Defer

(a) A motion to defer a question:

~~(a) is debatable; and~~

~~(b) shall include the date when the question is to be considered.~~

(i) may include instructions respecting the terms upon which the question is to be referred deferred;

(c) A motion to defer a question is not debatable except where instructions are included, in which case, only the instructions shall be debatable.

(d) A motion to defer a question may be amended in accordance with subsection 6.3(4).

(e) When a motion to defer a question to Council is defeated by a Standing Committee, the Chair of the Standing Committee shall call the question on the matter.

(f) A member who has spoken to the motion under debate shall not be permitted to move a motion to refer defer a question.

(6) Motion to Refer

(a) A motion to refer the question:

- (i) shall include the name of the individual or body to whom the question is to be referred;
- (ii) may include instructions respecting the terms upon which the

- question is to be referred;
- (b) A motion to refer a question is not debatable except where instructions are included, in which case, only the instructions shall be debatable.
 - (c) A motion to refer a question may be amended in accordance with subsection 6.3(4).
 - (d) When a motion to refer a question to Council is defeated by a Standing Committee, the Chair of the Standing Committee shall call the question on the matter.
 - (e) A member who has spoken to the motion under debate shall not be permitted to move a motion to refer a question.
 - ~~(f) A motion to refer a question is only in order after all first time speakers have been heard.~~

(7) **Motion to Adjourn**

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

- (a) when a Member of Council or Committee is speaking or during the taking of a vote;
- (b) immediately following the affirmative resolution of a motion that a vote on the question now be taken;
- (c) when a Member of Council or Committee has already indicated to the Mayor or the Chair, that they desire to speak on the question;
- (d) when decided in the negative, cannot be made again until Council or Committee has conducted further proceedings.
- (e) When the balance of business on a Council or Committee agenda has been dealt with. In this case, the Mayor or Chair shall have the authority to adjourn the meeting without the necessity of a motion.

(8) **Motion to Call the Question**

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

(9) **Motion to Reconsider a Matter Decided by Council**

- (a) At any Council Meeting, after a matter has been decided by Council, including both successful or failed motions, a Member of Council who voted **with the prevailing side**, may present a Notice of Motion to reconsider the matter. The Chair may ask the Member of Council to confirm that they voted with the **prevailing side of** the issue in question. Such Notice of Motion shall be referred to the next scheduled meeting of Council and shall be included on the agenda under "Motions".
 - (i) **In the event of a tie the prevailing side is the defeated side;**
 - (ii) **Members of Council absent from the vote are not permitted to bring forward a Notice of Motion to reconsider a matter.**
- (b) No decided matter shall be reconsidered more than once during the term of Council.

- (c) A motion to reconsider a decided matter shall require the approval of at least two-thirds (2/3's) majority of Council present.
- (d) It is not in order to reconsider a decided matter when the motion has been implemented, resulting in a legally binding commitment that is in place on the date that a motion to reconsider is to be debated.
- (e) No motion to reconsider may, itself, be the subject of a motion to reconsider.
- (f) Debate on a motion to reconsider shall be confined to reasons for or against the reconsideration.
- (g) The following motions cannot be reconsidered:
 - (i) to adjourn;
 - (ii) to recess; and
 - (iii) to suspend the rules of procedure.
- (h) Subsections 6.3(9)(a) to (f) do not apply when:
 - (i) a motion pertains to a decision of a previous Council;
 - (ii) a motion that, while pertaining to a previously decided motion, does not alter the core purpose or intent of the previously decided motion;
 - (iii) a motion presented in respect of a previously decided matter for the purpose of strengthening or clarifying the original decision; or
 - (iv) a motion presented in respect of a previously decided matter for the purpose of moving a matter through a series of necessary steps or phases.

(10) **Order of Procedural Motions**

The following motions are procedurally in order in the following sequence:

- (a) to adjourn;
- (b) to recess;
- (c) to request information;
- (d) to call the question;
- (e) to defer;
- (f) to refer;
- (g) to amend.

(11) **Non-Debatable Motions**

The following motions/actions are not debatable:

- (a) a motion to adjourn;
- (b) a motion to refer (except where instructions are included, in which case, only the instructions shall be debatable);
- (c) a motion to suspend the rules of procedure;
- (d) a point of order; and
- (e) a point of privilege.

(12) **Motion to Suspend the Rules of Procedure**

The rules governing the procedure of the Council or Committee at Council or Committee meetings may be suspended and shall require the approval of at least two-thirds (2/3's) majority of members present with the exception of subsection 5.6(6) and any rule which is required to be followed by law.

(13) Motions Beyond Jurisdiction of Council

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

SECTION 7 – ESTABLISHMENT OF ADVISORY COMMITTEES OR TASK FORCES

- 7.1** Council may from time to time, as needed, establish Advisory Committees or Task Forces consisting of members of Council and citizens in response to specific matters requiring immediate or long term attention.
- 7.2** When Council approves of the formation of the Advisory Committee or Task Force the procedures as outlined in Appendix G shall be followed.
- 7.3** When an Advisory Committee or Task Force consisting of members of Council and citizens has completed its mandate, the Standing Committee to which the Advisory Committee or Task Force reports shall dissolve it by motion.

SECTION 8 - ORDER AND DECORUM

- 8.1** No Person in attendance IN-PERSON or VIRTUALLY at a Council or Committee meeting shall:
- (a) be disrespectful or disrupt the Meeting in any manner;
 - (b) bring food or beverages, water excepted, into the Council Chamber when an IN-PERSON meeting is being held;
 - (c) address remarks to anyone but the Chair;
 - (d) interrupt a person who has the floor;
 - (e) applaud participants in debate.
- 8.2** Should a person persist in conducting themselves in a manner contrary to the rules set forth in subsection 8.1 after having been called to order by the Mayor or a Chair of a Committee, the Mayor or a Chair of a Committee may expel that person and may request the assistance of security and/or Police in doing so.
- 8.3** Notwithstanding subsection 8.2, in the event a member of the public is conducting themselves in a manner which poses a threat to the personal safety of themselves or others in attendance at the meeting, they shall be removed from the meeting, without warning.
- 8.4** Should a Member of Council persist in conducting themselves in a manner contrary to the rules set forth in subsection 8.1 after having been called to order by the Mayor or the Chair of the Committee, the Mayor or the Chair may order them to vacate the place the meeting is being held:
- (i) If the Member of Council apologizes, they may, by two-thirds (2/3's) majority vote of the Council or Committee members (excluding the member

- of Council or Committee in question), be permitted to remain at the meeting; and
- (ii) Any Member of Council other than the member ordered to vacate the place the meeting is being held may appeal the Mayor's or Chair's ruling, and Council or Committee may overturn the Chair's ruling by two-thirds (2/3's) majority vote of the Council or Committee members (excluding the member of Council or Committee in question). An appeal is not in order once a vote under subsection 8.4 (i) has taken place.
 - (iii) exclusions from voting provided for in subsections 8.4(i) and (ii) shall apply notwithstanding any other provisions in the By-law that require a member of Council or Committee to vote.
- 8.5** No person except members of Council or a Committee, the Clerk, and officials authorized by the Clerk, shall:
- (a) be allowed on the floor while an IN-PERSON / HYBRID meeting is being held, namely where members of Council or Committee, the Clerk, and officials authorized by the Clerk are seated and from which they speak;
 - (b) before or during an IN-PERSON / HYBRID meeting of the Council or a Committee, place on the desks of members or otherwise distribute any material whatsoever unless such person is so acting with the approval of the Clerk.
- 8.6** Signs or placards are permitted at Council and Committee Meetings, provided:
- (a) they do not contain disrespectful or offensive language;
 - (b) they do not disrupt the Meeting;
 - (c) they do not disrupt an attendee's ability to view the proceedings; and
 - (d) they do not contain solid handles or hard backings.
- 8.7** Electronic devices at IN-PERSON / VIRTUAL / HYBRID meetings:
- (a) Every person shall have all electronic devices, including but not limited to phone, computers, and similar electronic devices, etc. switched to a non-audible function during Council and Committee meetings.
 - (b) The use of personal electronic devices at IN-PERSON / VIRTUAL / HYBRID Closed Meetings be strictly prohibited;
 - (c) The use of City electronic devices at IN-PERSON / VIRTUAL / HYBRID Closed Meetings be limited to text communications;
 - (d) The use of all electronic devices at IN-PERSON / VIRTUAL / HYBRID Closed Meetings are not to be used as a telephone, recording device or camera;
 - (e) Staff from the Office of the City Clerk are exempted from 8.7(c) when using electronic devices for record-keeping purposes.

SECTION 9 – MEETINGS CLOSED TO THE PUBLIC

- 9.1** Except as provided in this **Section 239 of the Act**, all Committee and Council meetings shall be open to the public.
- 9.2** For the purpose of subsections 9.3, 9.5, 9.6 and 9.7, "Committee" shall mean the Public Health Sub-Committee and any committee of which at least 50% of the

members are also members of Council.

- 9.3** A meeting of Council or a Committee or part thereof may be closed to the public if the subject matter being considered is:
- (a) the security of the property of the City or a local board;
 - (b) personal matters about an identifiable individual, including City or local board employees;
 - (c) a proposed or pending acquisition or disposition of land for City or a local board purposes;
 - (d) labour relations or employee negotiations;
 - (e) litigation or potential litigation, including matters before administrative tribunals, affecting the City or a local board;
 - (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (g) a matter in respect of which Council or a Committee may hold a closed meeting under an Act other than the *Municipal Act, 2001*;
 - (h) information explicitly supplied in confidence to the City or a 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 City 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 City or a 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 City or a local board.
- 9.4** A meeting of Council shall be closed to the public if the subject matter relates to the consideration of:
- (a) a request under the *Municipal Freedom of Information and Protection of Privacy Act* if Council is designated as head of the institution for the purposes of that Act; and
 - (b) an ongoing investigation respecting the City or a municipally-controlled corporation by the Ombudsman appointed under the *Ombudsman Act*.
- 9.5** A meeting of Council or a Committee may be closed to the public if:
- (a) it is held for the purposes of educating or training Council members; and
 - (b) at the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of Council or the Committee.
- 9.6** Before holding a meeting or part of a meeting that is to be closed to the public, a Council or Committee shall:
- (a) state specifically by resolution the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting;
 - (b) state specifically that members of the public will be invited to return to hear any further deliberations when Council or Committee reconvenes in Open Session, indicated by the removal of the frosting on the

windows and the elimination of the white noise; and

- (c) Council or Committee will, in the event they are in Closed Session for more than 30 (thirty) minutes, wait up to 5 (five) minutes upon reconvening in Open Session before proceeding with the meeting, to provide members of the public and the media time to return to the meeting room.
- 9.7 A member of Council, of a Local Board or of a Committee of either of them can participate virtually in a meeting that is closed to the public.
- 9.8 A vote may be taken during a meeting that is closed to the public pursuant to subsections 9.3, 9.4 and 9.5, if the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board is permitted.

SECTION 10 – VIRTUAL PARTICIPATION AT COUNCIL AND/OR COMMITTEE MEETINGS

- 10.1 Virtual participation, in accordance with the *Municipal Act, 2001* and/or any other applicable legislation, is permitted by members of Council at Council and/or Committee meetings when attending in-person is not possible.
- 10.2 Virtual participation, in accordance with the *Municipal Act, 2001* and/or any other applicable legislation, is permitted by Citizen Committee members at Committee meetings when attending in-person is not possible.
- 10.3 Virtual participation, that is consistent with the obligation to hold public meetings in accordance with the *Municipal Act, 2001* and/or any other applicable legislation, or at a Standing Committee of Council is permitted by members of the public at Committee meetings.
- 10.4 Members of Council and Citizen Committee members who intend on participating at a meeting virtually should advise the Clerk at least 2 (two) days prior to the meeting.
- 10.5 The Mayor, Deputy Mayor, Chair or Vice Chair presiding at a Council or Committee meeting shall attend in-person at a HYBRID meeting.
- 10.6 Members of Council and staff attending virtually, shall during Closed Meetings ensure they are in a private room/area and use headphones or some other type of hearing equipment that eliminates the opportunity for those not participating in the Closed meeting to overhear the discussion.

SECTION 11 – IN-PERSON / VIRTUAL / HYBRID LIVE RECORDINGS OF MEETINGS

- 11.1 All VIRTUAL Council and Committee meetings shall be streamed live.
- 11.2 All IN-PERSON / HYBRID Council and Committee meetings may be

streamed live.

- 11.3 Upon being apprised that an IN-PERSON / HYBRID meeting is interrupted and cannot proceed with its live feed, due to loss of connection, sound or video, the meeting will continue as long as quorum is maintained and the connection will be resumed as soon as possible.
- 11.4 Upon being apprised that a VIRTUAL meeting is interrupted and cannot proceed with its live feed, due to loss of connection, sound or video, the meeting will be recessed for up to 15 (fifteen) minutes.
- 11.5 If the live feed of a VIRTUAL meeting cannot be resumed within 15 (fifteen) minutes, the meeting will be considered adjourned with the names of the Council/Committee members present and any decisions of Council/Committee up to the point in time of the interruption shall be recorded in the minutes of the meeting. The Council/Committee meeting will be rescheduled to another day or the next regularly scheduled meeting date.

SECTION 12 - ROLE OF CLERK

- 12.1 The Clerk shall make the agendas of Council and Committee meetings available to members of Council and Senior Leadership Team electronically at least 5 (five) days prior to the scheduled meetings.
- 12.2 The Clerk shall make the agendas of Council and Committee meetings available to the media and general public electronically, simultaneously with the distribution set out in subsection 12.1 on the City's website.
- 12.3 The Clerk shall advise the Mayor or Chair when items are required to be added to or removed from an agenda.
- 12.4 The Clerk shall submit for confirmation the minutes of the previous Council or Committee meeting. Upon approval of the majority of the members of Council or Committee, the Mayor or Chair and Clerk shall sign the minutes as confirmed or as amended.
- 12.5 The Clerk shall advise the Mayor or Chair, if in their opinion, a matter or portion of a matter being discussed in a meeting that is closed to the public is not procedurally appropriate in accordance with Section 239 of the Act and Section 9 of this By-law.
- 12.6 The Mayor or Chair may call upon the Clerk to provide advice regarding procedure. The Clerk shall provide this advice following which the Mayor or Chair will announce their ruling.
- 12.7 The Clerk shall assume the role of the Mayor or Chair as the chair of Council or a Committee, when a ruling of the Mayor or Chair is challenged by a Member of Council or Committee. The Clerk shall take a vote of the challenge for Members of Council or Committee in favour or opposed to the ruling on the question "Should the ruling of the Chair be upheld?". The ruling is upheld when there is a two-thirds (2/3's) majority vote in favour of the question.

SECTION 13 – STRONG MAYOR POWERS

13.1 Addition of Business

- (1) The Mayor may introduce any matter for consideration by Council, and require Council to discuss and vote on any such matter, pursuant to the Strong Mayor Powers:
 - (i) any such matter introduced by the Mayor under the Adoption of the Agenda pursuant to the Strong Mayor Powers does not require a Motion or vote of Council.
 - (ii) the Clerk is authorized to include the addition of business pursuant to the Strong Mayor Powers in the Agenda and minutes.
 - (iii) any such matter introduced by the Mayor under the Adoption of the Agenda pursuant to the Strong Mayor Powers shall be considered under the respective agenda heading unless the Mayor directs otherwise.

13.2 By-law(s) Introduction

- (1) The Mayor may introduce a by-law for consideration by Council, and require Council to vote on any such by-law, pursuant to the Strong Mayor Powers:
 - (i) any by-law(s) introduced by the Mayor pursuant to the Strong Mayor Powers under the Adoption of the Agenda pursuant to the Strong Mayor Powers does not require a Motion or vote of Council.
 - (ii) the Clerk is authorized to include any by-law(s) introduced by the Mayor pursuant to the Strong Mayor Powers in the Agenda and minutes.
 - (iii) a By-law introduced by the Mayor pursuant to the Strong Mayor Powers to advance a provincial priority shall, in accordance with Subsection 284.11.1(4) of the Act, shall be passed if more than one-third (1/3) of the Members of Council (6 Members) vote in favour.

13.3 By-law(s) Approval and Veto

- (1) In accordance with Strong Mayor Powers, and subject to the timelines set out in Part VI.1 of the Act and the associated regulations, the Mayor shall communicate to the Clerk:
 - (i) Written approval of By-laws enacted by Council; or
 - (ii) Written notice of any By-laws that the Mayor intends to Veto pursuant to Strong Mayor Powers, and a written veto document as prescribed by the Act.
- (2) Upon receipt of written notice from the Mayor as set out in paragraph (1), and in accordance with the timelines prescribed in the Act (Regulations), the Clerk shall advise Council and the public by:
 - (i) Posting notice of the Mayor's approval of the By-laws on the City's website; or
 - (ii) Posting notice of Mayoral Veto of a By-law or By-laws on the City's website and advising all Members by e-mail, including providing a copy of the veto document.

(3) In accordance with Strong Mayor Powers, and subject to the timelines set out in Part VI.1 of the Act and the associated regulations, Council may override a Mayoral Veto with two-thirds (2/3's) of the Members of Council (12 Members) vote to override the veto.

(i) The Mayoral Veto override shall be introduced by Motion:

(a) Without prior notice at any regular Council meeting under Adoption of Agenda; or

(b) At a Special meeting called for this purpose in accordance with subsection 3.4 (Special Meetings of Council).

SECTION 14 – GENERAL

14.1 This By-law shall not be amended or repealed except by a majority vote of all Members of Council.

14.2 General guidelines describing the respective roles and responsibilities of Council, the Mayor and the Chair of a Committee are set out in Appendix F to this By-law.

14.3 This By-law comes into force on the date on which it is passed.

14.4 The short title of this By-law is the Procedural By-law or the Council Procedural By-law.

14.5 By-law Nos. 18-270, 19-090, 19-212, 19-308, 20-042, 20-055, 20-103, 20-129, 20-145, 20-146, 20-151, 20-184, governing and amending the rules and procedures of Council of the City of Hamilton are repealed.

14.6 In the event of a conflict between the provisions of this By-Law and the Act, or any other legislation, the provisions of the Act and legislation shall prevail, to the extent of the conflict.

14.7 In the event of a conflict between the provisions of this By-Law and the Terms of Reference for any Sub-Committee, Advisory Committee or Task Force, the provisions of this By-law shall prevail, to the extent of the conflict.

PASSED this 24th day of February, 2021.

F. Eisenberger
Mayor

A. Holland
City Clerk

Appendix A

GENERAL ISSUES COMMITTEE**COMPOSITION**

The General Issues Committee shall be comprised of all 16 members of Council.

MANDATE*General:*

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

- Council Strategic Plan
- Corporate Strategic Plan
- Municipal Benchmarking Network Canada (MBNC)
- Annual Operating and Capital Budgets
- Economic Development matters
- Portfolio Management Strategy – Real Estate Acquisitions/Disposals
- Hamilton International Airport matters
- Growth Related Integrated Development Strategy (GRIDS)
- Vision 20/20
- Upper Levels of Government Funding Matters
- Department Work Programs: Planning and Economic Development
- Legal Services – all matters having definite litigation
- Human Resources – labour negotiations
- Departmental Organizational Structure Changes
- Boards and Agencies
- Hamilton Utilities Corporation
- Climate Change
- Housing Services
- Biodiversity Action Plan
- any and all other matters which Council chooses to refer to the General Issues Committee for consideration

Specific duties shall include:

- To review and monitor the City's and Council's Strategic Plan
- To review corporate and program objectives and performance measures and make recommendations to Council
- To consider and recommend to Council on matters relating to budgets, budget monitoring, re-assessment and related tax policies
- To consider and recommend to Council on matters relating to Business Development, the Small Business Enterprise Centre, Incentive Loans/Grants programs and approvals, BIA initiatives, the Hamilton Incubator of Technology and Tourism
- To consider and recommend to Council on matters relating to GRIDS
- To receive briefings on legal matters involving the City and give direction to the City Solicitor on litigation matters
- To receive information on labour negotiations and provide direction to the Director of Labour Relations

Appendix A

- To consider and make recommendations to Council on matters regarding Boards and Agencies
- To Meet as Shareholders and/or Board of Directors of a corporation when required.
- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee
- To consider recommendations of any Sub-Committees and/or Task Forces which report directly to the General Issues Committee
- To consider Citizen Committee Report recommendations of any Advisory Committee which reports directly to the General Issues Committee

Appendix B**PUBLIC WORKS COMMITTEE****COMPOSITION**

The Public Works Committee shall be comprised of a minimum of 8 Members of Council, plus the Mayor as ex-officio.

MANDATE*General:*

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

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

Specific duties shall include:

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

Appendix C

PLANNING COMMITTEE**COMPOSITION**

The Planning Committee shall be comprised of a minimum of 9 Members of Council, plus the Mayor as ex-officio.

MANDATE*General:*

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

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

Specific duties shall include:

To consider and recommend to Council on:

- the administration and enforcement of the Ontario Building Code, Zoning By-laws, the Property Standards By-laws, Licensing By-law, Animal Control By-law, Sign By-law and other relevant By-laws
- all matters related to the *Planning Act*, the *Ontario Heritage Act*, the *Municipal Act, 2001*, the *Niagara Escarpment Act* and other applicable legislation regarding planning, development engineering, by-law enforcement and licensing and downtown planning issues
- the City's Official Plan and Zoning By-laws and amendments thereto, pursuant to the *Planning Act*, and to conduct such related public meetings
- applications for subdivision and condominium approval pursuant to the *Planning Act* and *Condominium Act*, as applicable
- matters such as community planning, urban design guidelines, heritage policy and related housing policy and programs in accordance with the directions contained in the Official Plan
- matters relating to Parking Operations and Enforcement
- To advise and assist Council in any matters arising from the work of the Committee of Adjustment in considering applications for consent and minor variance under the *Planning Act*, including possible City participation at any Ontario Land Tribunal (OLT) Hearings to consider the appeal of Committee of Adjustment decisions
- To consider recommendations of any Sub-Committees and/or Task Forces which report directly to the Planning Committee
- To receive delegations for the public and conduct public hearings as required by statute and Council, specific to the mandate of this committee on matters under the Standing Committee
- Matters that have the potential of litigation and are under the mandate of this Standing Committee; with all matters having definite litigation going to the General Issues Committee.
- To consider Citizen Committee Report recommendations of any Advisory Committee which reports directly to the Planning Committee.

Appendix D

EMERGENCY and COMMUNITY SERVICES COMMITTEE**COMPOSITION**

The Emergency and Community Service Committee shall also be the Committee of Management for Long-Term Care Homes and shall be comprised of a minimum of 7 members of Council, plus the Mayor as ex-officio, who have met the eligibility criteria under the *Fixing Long-Term Care Act*, 2021, S.O. 2021, c. 39, Sched. 1, as amended or replaced.

MANDATE*General:*

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

- Children's Services
- Ontario Works
- Neighbourhood Development
- Long-Term Care Homes: Macassa Lodge and Wentworth Lodge
- Recreation
- Fire Services
- Paramedic Services
-

Specific duties shall include:

To consider and recommend to Council on:

- the governance and the management of the City's Long-Term Care Homes as the Committee of Management for Long Term Care Homes
- service levels for all direct and indirect services provided by the Department
- policies governing service delivery implemented by the Department
- procurement in accordance with corporate policies
- plans for community facility infrastructure
- the delivery of protective services including fire operations, fire prevention, corporate emergency management, and corporate radio communications
- the delivery of emergency medical (paramedic) services
- To consider and monitor program implementation and performance through staff reports
- To consider recommendations of any Sub-Committees and/or Task Forces which report directly to the Emergency and Community Services Committee
- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee
- Matters that have the potential of litigation and are under the mandate of this Standing Committee; with all matters having definite litigation going to the General Issues Committee.
- To consider Citizen Committee Report recommendations of any Advisory Committee which reports directly to the Emergency and Community Services Committee

Appendix E

AUDIT, FINANCE and ADMINISTRATION COMMITTEE

COMPOSITION

The Audit, Finance and Administration Committee shall be comprised of a minimum of 7 members of Council, plus the Mayor as ex-officio.

MANDATE

General:

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

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

Delegated Authority:

- To hold hearing on complaints made pursuant to Section 20 of the *Development Charges Act, 1997* and Section 257.85 of the *Education Act*.

Specific duties shall include:

To consider and make recommendations to Council on:

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

- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee
- To consider recommendations from the Auditor General as per the Office of the Auditor General Charter (Schedule F1 to Appendix E).
- Matters that have the potential of litigation and are under the mandate of this Standing Committee; with all matters having definite litigation going to the General Issues Committee.
- To consider Citizen Committee Report recommendations of any Advisory Committee which reports directly to the Audit, Finance and Administration Committee

Schedule F1 to Appendix E

CITY OF HAMILTON**OFFICE OF THE AUDITOR GENERAL CHARTER****INTRODUCTION**

The Office of the Auditor General provides independent, objective audit, assurance and special investigative services designed to add value and improve the City of Hamilton's operations. The Office of the Auditor General (OAG) brings a systematic, disciplined approach to evaluating and improving the effectiveness of the City's risk management, control and governance processes.

The OAG assists City Council in holding itself and its administrators accountable for the quality of stewardship over public funds and for the achievement of value for money in City operations.

SCOPE

The Office of the Auditor General completes the following types of work:

- Compliance Auditing
- Value for Money Auditing
- Special Investigations (Fraud and Waste, Whistleblower)

Audit, Assurance and Special Investigations

Audit and Assurance work includes the examination and evaluation of the adequacy and effectiveness of the City's governance, risk management process, systems of internal control and the quality of performance in carrying out assigned responsibilities to achieve the organization's goals and objectives. This includes both compliance and value for money audits. The City's processes should function in a manner that ensures:

- Risks are appropriately identified and managed.
- Significant financial, managerial, and operating information is accurate, reliable and timely.
- Actions are in compliance with policies, standards, procedures, and applicable laws and regulations.
- Resources are acquired economically, used efficiently and are adequately protected.
- Programs, plans and objectives are achieved.
- Significant legislative and regulatory issues impacting the City are recognized and addressed properly.

- Quality and continuous improvement are fostered in the organization's internal control processes.

In addition to audits, special investigations may be undertaken by the OAG pursuant to Council having given that authority under the Whistleblower By-law (19-181) and the City of Hamilton's Fraud Policy and Protocol. These include reviews or investigations of matters of alleged or suspected wrongdoing, per the Whistleblower By-law or fraud, waste or other similar activities reported by employees or residents through the Fraud and Waste Hotline or other mechanisms.

The Auditor General has been appointed by By-law 19-180 (Auditor General By-law) as an Auditor General under Section 223.19 of the *Municipal Act, 2001*, with the responsibilities, including the powers, duties and protections, under Sections 223.19 to 223.23 of the *Municipal Act, 2001*. These responsibilities apply to the extent authorized by these sections of the *Municipal Act, 2001*. The powers and protections provided to the Auditor General (by appointment as an Auditor General) strengthens the position of independence and institutional authority of the Auditor General while providing information to Council for its oversight role.

AUTHORITY

The Office of the Auditor General is granted full, free and unrestricted access to any and all records, property and personnel relevant to any function under review. Access to personal information is provided for under the *Municipal Freedom of Information and Protection of Privacy Act* (in particular, Subsections 31(c) and 32(d)).

The OAG has the authority to conduct audits and reviews of all City departments, Members of Council, agencies, boards and commissions, as well as other entities the City is related to or has an interest in.

All employees will assist the OAG in fulfilling its objectives, in a timely manner.

As an Auditor General, the OAG has the responsibilities, including the powers, duties and protections, under Sections 223.19 to 223.23 of the *Municipal Act, 2001* for:

- City Departments;
- Members of Council;
- Local boards (not including the Board of Health, the Hamilton Public Library Board, the Police Services Board or other local boards in accordance with the current definition of "local board" under Section 223.1 of the *Municipal Act, 2001*);
- Municipally-controlled corporations (a corporation that has 50 per cent or more of its issued and outstanding shares vested in the City or that has the appointment of a majority of its board of directors made or approved by the City, not including a corporation established in accordance with Section 203 of the *Municipal Act, 2001*); and

- Grant recipients (as currently defined under Section 223.1 of the *Municipal Act, 2001* as “a person or entity that receives a grant directly or indirectly from the municipality, a local board or a municipally-controlled corporation”);

These responsibilities under Section 223.19 to 223.23 of the *Municipal Act, 2001* include the powers to access information and to examine persons under Section 33 of the *Public Inquiries Act, 2009*; the duty to preserve secrecy with respect to all matters that come to its knowledge in the course of performing its functions; and the protection of not being a competent or compellable witness in a civil proceeding.

The relevant excerpts from the *Municipal Act* (accessed on March 1, 2023 at <https://www.ontario.ca/laws/statute/01m25#BK272>) are included below for reference:

Auditor General

223.19 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Auditor General who reports to council and is responsible for assisting the council in holding itself and its administrators accountable for the quality of stewardship over public funds and for achievement of value for money in municipal operations. 2006, c. 32, Sched. A, s. 98.

Same

(1.1) The Auditor General shall perform his or her responsibilities under this Part in an independent manner. 2009, c. 33, Sched. 21, s. 6 (11).

Exceptions

(2) Despite subsection (1), the responsibilities of the Auditor General shall not include the matters described in clauses 296 (1) (a) and (b) for which the municipal auditor is responsible. 2006, c. 32, Sched. A, s. 98.

Powers and duties

(3) Subject to this Part, in carrying out his or her responsibilities, the Auditor General may exercise the powers and shall perform the duties as may be assigned to him or her by the municipality in respect of the municipality, its local boards and such municipally-controlled corporations and grant recipients as the municipality may specify. 2006, c. 32, Sched. A, s. 98.

Grant recipients

(4) The authority of the Auditor General to exercise powers and perform duties under this Part in relation to a grant recipient applies only in respect of grants received by the grant recipient directly or indirectly from the municipality, a local board or a municipally-controlled corporation after the date on which this section comes into force. 2006, c. 32, Sched. A, s. 98.

Delegation

(5) The Auditor General may delegate in writing to any person, other than a member of council, any of the Auditor General's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(6) The Auditor General may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

(7) The Auditor General is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Duty to furnish information

223.20 (1) The municipality, its local boards and the municipally-controlled corporations and grant recipients referred to in subsection 223.19 (3) shall give the Auditor General such information regarding their powers, duties, activities, organization, financial transactions and methods of business as the Auditor General believes to be necessary to perform his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Access to records

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality, the local board, the municipally-controlled corporation or the grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

No waiver of privilege

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. 2006, c. 32, Sched. A, s. 98.

Powers re examination

223.21 (1) The Auditor General may examine any person on oath on any matter pertinent to an audit or examination under this Part. 2006, c. 32, Sched. A, s. 98.

Application of *Public Inquiries Act, 2009*

(2) Section 33 of the *Public Inquiries Act, 2009* applies to an examination by the Auditor General. 2009, c. 33, Sched. 6, s. 72 (3).

Duty of confidentiality

223.22 (1) The Auditor General and every person acting under the instructions of the Auditor General shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(2) Subject to subsection (3), the persons required to preserve secrecy under subsection (1) shall not communicate information to another person in respect of any matter described in subsection (1) except as may be required,

- (a) in connection with the administration of this Part, including reports made by the Auditor General, or with any proceedings under this Part; or
- (b) under the *Criminal Code* (Canada). 2006, c. 32, Sched. A, s. 98.

Same

(3) A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General under section 223.20 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege. 2006, c. 32, Sched. A, s. 98.

Section prevails

(4) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 32, Sched. A, s. 98.

Testimony

223.23 Neither the Auditor General nor any person acting under the instructions of the Auditor General is a competent or compellable witness in a civil proceeding in connection with anything done under this Part. 2006, c. 32, Sched. A, s. 98.

INDEPENDENCE

Independence is an essential component to maintaining public trust and preserving objectivity and integrity associated with the audit function.

To provide for the independence of Office of the Auditor General, its personnel report to the Auditor General, who reports functionally to the Audit, Finance and Administration Committee of Council and administratively to the City Manager. Audit and other reports (such as the Fraud and Waste Annual Report and Serious Matter Reporting) are sent directly to the Audit, Finance and Administration Committee for discussion and approval and then to Council. These reporting relationships help ensure independence, promote comprehensive audit objectivity and coverage, and assure adequate consideration of audit recommendations.

All OAG activities shall remain free of influence by any element in the organization, including matters of audit selection, scope, procedures, frequency, timing or report content to permit maintenance of an independent and objective attitude necessary in rendering reports. The Auditor General has the authority to revise and extend the scope of any audit or investigation in the course of their examination.

The OAG shall have no direct operational responsibility or authority over any of the activities it reviews. Accordingly, it shall not develop nor install systems or procedures, prepare records or engage in any other activity which would normally be audited or investigated.

RESPONSIBILITIES

The Auditor General and the staff of the OAG have the responsibility to:

- Review operations within the City at appropriate intervals to determine whether planning, organizing, directing and controlling are in accordance with management instructions, policies and procedures and in a manner that is consistent with both City objectives and high standards of administrative practice.
- Determine the adequacy and effectiveness of the systems of internal accounting, financial and operating controls.
- Review the reliability, utility and integrity of financial information and the means used to identify, measure, classify and report such information.
- Review the established systems to ensure compliance with those policies, plans, procedures, laws and regulations which would have a significant impact on operations and reports and determine whether the organization is in compliance.
- Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- Carry out value for money (VFM) / performance audits to determine the efficiency and effectiveness of services and evaluate attainment of corporate objectives and value to residents.
- Report to those members of management who should be informed or who should take corrective action, the results of audit examinations, the audit opinions formed, and the recommendations made.
- Evaluate any plans or actions taken to correct reported conditions and provide timely follow-up to ensure satisfactory disposition of audit findings in the manner and timeframe committed to by management in the original audit report. If the corrective action is considered unsatisfactory, hold further discussions to achieve acceptable disposition.
- Develop a flexible multi-year work plan, including any risks or control concerns identified by management or other audits as well as appropriate special tasks or projects requested by management.
- Undertake assessments, investigations, or refer issues to other appropriate parties as a result of disclosures under a Whistleblower By-law or the Fraud and Waste Hotline.
- Maintain a professional audit staff with sufficient knowledge, skills and experience and engage external subject matter experts as required for audits and investigations.

AUDIT PLANNING

Each term of Council, the Auditor General shall prepare a multi-year work plan, setting out the proposed work for the term.

For the projects, the following sources are considered:

- Prioritization of the audit universe using a risk-based methodology;
- Requests from Members of Council, senior management and staff;
- Any audits planned for the past term but delayed or not completed;
- Any conditions, concerns, or risks discovered or communicated throughout past years; and
- Input from members of the public, via the Fraud and Waste Hotline and resident complaints or suggestions.
- Areas likely to provide significant payback in terms of increased revenues, reduced costs, operational efficiencies and quality of services.

The multi-year work plan will be presented to the Audit, Finance and Administration Committee for approval. Any changes to the work plan requested by Council or individual Members of Council will require a majority of at least two-thirds (2/3's) the total members of Council present and not prohibited by statute from voting for the Auditor General to consider.

REPORTING

A written report is prepared and issued by the Auditor General following the conclusion of each audit or assurance project. The report will include management's responses to the report findings and recommendations. Management's response will include a statement of general agreement or disagreement with the stated findings and recommendations as well as a timeframe for anticipated completion of action to be taken and an explanation for any recommendation not addressed.

The OAG is responsible for appropriate follow up on audit findings and recommendations. All significant findings will remain open until the Auditor General has determined management has appropriately taken action to resolve the finding. Follow up audits will be completed as OAG capacity permits.

By-law 19-181 (Whistleblower By-law), Section 19 – Responsibility of the Auditor General requires a semi-annual report for, in the aggregate, on the number, nature and outcome of disclosures of serious wrongdoing made under this By-law. A Fraud, Waste, and Whistleblower Semi-Annual Update report is submitted to the Audit, Finance and Administration Committee and captures at a high level the special investigations activity undertaken by the OAG. This is in addition to the Fraud and Waste Annual Report.

The OAG does not perform consulting and risk assessment work, as this would compromise the independence of the OAG.

All reports are generally presented to the Audit, Finance and Administration Committee. Reports may be presented to the General Issues Committee, if appropriate.

PROFESSIONAL STANDARDS

Under the Auditor General's authority granted in this Office of the Auditor General Charter, all OAG activity will be guided by the following professional standards and/or legislative requirements:

- *Municipal Act*, Sections 223.19-223.23 (Auditor General), as applicable.
- City of Hamilton Whistleblower By-law (19-181).
- Government Auditing Standards (commonly referred to as generally accepted government auditing standards or GAGAS, or the "Yellow Book"), issued by the U.S. Government Accountability Office for audit and assurance work.
- Certified Fraud Examiners Code of Professional Standards issued by the Association of Certified Fraud Examiners for Fraud, Waste and Whistleblower assessments and investigations.

OAG professional staff are also bound by the standards and ethics of their respective professional organizations, which include the Chartered Professional Accountants of Canada (CPA), Institute of Internal Auditors (IIA), and Association of Certified Fraud Examiners (ACFE).

(Approved by Council – March 29, 2023 – Report AUD23005)

Appendix F

ROLES OF COUNCIL, MAYOR AND COMMITTEE CHAIR

PREAMBLE

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

GENERAL ROLE/GUIDELINES (COUNCIL)

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

Appendix F

ROLE OF THE MAYOR

(including the Deputy Mayor, **save and except for the Strong Mayor Powers**, while fulfilling the duties of Mayor)

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

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

ROLE OF COMMITTEE CHAIR

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

DUTIES OF COMMITTEE CHAIR

- (a) Open the meetings of the Committee by taking the chair and calling the members to order.
- (b) Announce the business before the Committee and the order in which it is to be acted upon.
- (c) Receive and submit, in the proper manner, all motions presented by the members of the Committee.
- (d) Put to a vote all motions, which are moved, or necessarily arise in the course of the proceedings, and to announce the result.

Appendix F

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

Appendix G

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

- (a) That all requests for the formation of an Advisory Committee or Task Force be presented to a Standing Committee for consideration.
- (b) That all requests, upon approved motion by the Standing Committee, be referred to the applicable General Manager for a report back on the following;
 - (i) inventory of previous and existing activities related to the issue
 - (ii) inclusion of a sunset clause, which outlines the time needed to complete the mandate
 - (iii) reporting structure, membership composition, mandate, objectives, legislative requirements, work plan and timelines for the Special Purpose Body
 - (iv) responsibilities of the members
 - (v) membership expertise requirements for the Special Purpose Body
 - (vi) proposed budget allocation requirement and source of funding
 - (vii) staffing requirements
 - (viii) other necessary resources
- (c) The Clerk may invite citizens to serve as members and such invitations shall include the Advisory Committee or Task Force's mandate including any membership expertise requirements and the time needed to complete the mandate;
- (d) Applications received for membership shall be forwarded by the Clerk to the Selection Committee;
- (e) The Selection Committee may consider balanced geographical representation in selecting the members, where appropriate;
- (f) The rules of procedure shall be observed so far as they are applicable;
- (g) Appointees shall seek to serve the public interest in accordance with the Council approved Code of Conduct for Local Boards.
- (h) All minutes and reports shall be submitted to the Standing Committee to which the Advisory Committee or Task Force reports; and
- (i) Staff may act as resource persons in a non-voting capacity.