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**Policy and Priorities  
AGENDA**

P&P-03/2019

April 15, 2019

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

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<b>2. Adoption of Agenda</b>	
<b>3. Disclosure of Pecuniary Interest and the General Nature Thereof</b>	
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## **Recommendation Report Regarding Amendment to Interim Control By-law 4046 (2018) 770 Foss Road (File No. AM-01-2019)**

### Executive Summary:

The purpose of this report is provide Council with a recommendation regarding the request to amend Interim Control By-law 4046 (2018) for 770 Foss Road. By-law 4046 (2018) prohibits the use of land, buildings or structures for cannabis purposes during the period of the interim control by-law other than those that lawfully existed prior to the passing of the by-law. Following the February 25<sup>th</sup>, 2019 public meeting, Council approved the recommendation in the Information Report directing staff to prepare the Recommendation Report on this matter.

The applicant seeks approval to establish a cannabis production facility consisting of: a retrofitted 8,361.3 m<sup>2</sup> (90,000 ft<sup>2</sup>) greenhouse for the purpose of cannabis cultivation, a retrofitted 2,787.1 m<sup>2</sup> (30,000 ft<sup>2</sup>) headhouse with a 929 m<sup>2</sup> (10,000 ft<sup>2</sup>) addition for the purpose of cannabis harvesting and utility infrastructure and a 464.5 m<sup>2</sup> (5,000 ft<sup>2</sup>) office accessory to the cannabis production facility.

### Location:

The property is located on the south side of Foss Road, north side of Sumbler Road, west of the CP Railway tracks and east of Church Street in the rural area of Pelham. The surrounding land uses include a greenhouse operation and residential uses to the north, the railway and agricultural uses with accessory residential uses to the east, residential and agricultural uses to the south and residential uses to the south (Figure 1).

The property is 12.0 ha (29.74 acres) in area, with 6.0m (19.6 ft) driveway frontage on Foss Road. It is noted that the driveway is a shared driveway with 776 Foss Road. In addition to the existing greenhouse on the property, a single detached dwelling is also located on the site. It is also noted that demolition permits have been issued for the demolition of some of the greenhouse structures that were on site.

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Figure 1 – Location Map



Project Description and Purpose:

The applicant has requested an amendment to the Interim Control By-law 4046 (2018) to establish a cannabis production facility consisting of: a retrofitted 8,361.3 m<sup>2</sup> (90,000 ft<sup>2</sup>) greenhouse for the purpose of cannabis cultivation, a retrofitted 2,787.1 m<sup>2</sup> (30,000 ft<sup>2</sup>) headhouse with a 929 m<sup>2</sup> (10,000 ft<sup>2</sup>) addition for the purpose of cannabis harvesting and utility infrastructure and a 464.5 m<sup>2</sup> (5,000 ft<sup>2</sup>) office accessory to the cannabis production facility. This is depicted on the applicant's Site Plan in Figure 2.





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Agency Comments:

On February 5, 2019, a notice was circulated to commenting agencies and Town departments. To date the following comments have been received (Appendix A):

Niagara Region

- It is the Region's position that the growing, processing and distribution of cannabis is considered an agricultural use according the Region of Niagara Official Plan in the rural agricultural areas and may be considered industrial uses in urban areas. No objection subject to meeting technical requirements, however supports the Town's efforts to review its policies and regulations regarding cannabis-related uses. Further comments can be provided if the circulation of any future Planning Act application is required.

Building

- Building permits are required for any buildings over 10m<sup>2</sup>. Written approval of the Niagara Peninsula Conservation Authority and the Niagara Region will be required.

Enbridge

- No objection.

Canada Post & Hydro One

- No comments or conditions.

Public Works

- Request further information regarding servicing (subject to further review).

Public Comments:

On February 5, 2019, a public meeting notice was circulated to all property owners within 120 metres of the property. A summary of comments that have been received as of the date of writing of this report has been included below. Full copies of written comments are included in Appendix B. The comments received verbally are detailed in the Public Meeting Minutes in Appendix C.

Sue Aide / Henry Penner

- Object due to concerns about odour, impact on enjoyment of property, light pollution and traffic.

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- Encroachment of the westerly irrigation pond on property. Would like the pond removed or property purchased. Concerned about liability due to the pond.

Anthony Bachynski

- Requests future notices on this file.

Peter & Lynda Haakman

- Concerned about odour, light pollution, excessive noise and decreased property value.
- Shared driveway creates concerns about increased traffic, security and safety.

Pati Troup & Ray Vandendogerd

- Highly opposed. Believe too close to Town and that it should be away from houses.
- Concerned about decreased property value, odour, enjoyment of property, light pollution, traffic volume and amount of taxes cannabis production facilities pay.

Valerie McCombs

- Concerned about decreased property values, location too close to residences, increased traffic.

Jim Jeffs (Pelham Community Preservation Coalition)

- Indicates the request for amendment in premature.
- Concerned about property values, traffic and requests Council deny the request for amendment.

Lin Zavitz

- Requested amendment be denied and that future facilities only occur in industrial areas.

Rob Enter

- Concerned about odour, light, property values and impacts on the community.

Peter Van Caulart

- Impressed by the odour suppression technology proposed.

Dave Shafford

- Town is a trusting community and does not wish to be fooled.

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Dave Nicholson

- Requested information on lighting, type of product produced and prospect of a lawsuit.
- Asked how Leviathan would deal with fungus on plants.

Bill Heska

- Concerned the technologies proposed are not proven technology.

Sant (Beri) Grewal

- Questioned how carbon filters will be maintained.

David & Brenda Horton

- Concerned about the facility's impact on ground water resources.

Clara Rosati

- Concerned about lighting and the potential health impacts on a family member sensitive to UV light.
- Believes more time is needed to understand the impact of cannabis facilities.

Tim Nohara

- Questioned whether the Town could collect additional property taxes from the facility.
- Believes the request for amendment is premature in the absence of regulations.

Sandy Jeffs

- Concerned about odour, light pollution, sewer capacity and crime in proximity to children.
- Believes facility should be located in an industrial area.
- Believes Leviathan should enter into a Site Plan Agreement with the Town.

Natalie Diduch

- Requests future notices regarding this application.

Donna Huxley

- Questioned the type of lighting proposed and the size of trees proposed to be planted.

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Louis Dam

- Questioned the statistics provided by Leviathan relating to the odour mitigation techniques.

Dave Klynhesselink

- Questioned Health Canada requirement for odour and light pollution and correspondence from the Town.

Tod Mowter

- Questioned why the facility is proposed to be located close to residences.

John Glasbergen

- Concerned that the odour mitigation technology will not work, about dust from use of the gravel driveway and that Leviathan has indicated they may take legal action against the Town.

Roger Robert

- Concerned about potential trespassing on neighbouring properties and security of facility.

Eva Brown

- Enquired as to whether the facility is in production and whether Leviathan would consider growing a different crop.

Bruce Russel

- Concerned about impact on property values.

Phil Glasbergen

- Concerned about the potential for expansion to the facility in the future.

David Ripley

- Questioned whether Leviathan would employ the same technologies in other parts of the Town if purchased additional property.

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Katherine Willard

- Requested that Council make good intentional decisions for the community now and in the future.

Patrick Handscombe

- Suggested Leviathan employ the odour mitigation technology that was successful at the illegal facility Molson Brewery in Barrie.

Nancy Beamer

- Council needs to be given time to make a good decision on a challenging issue.

Planning staff further note that verbal comments were received from members of the public who wished to remain anonymous due to the controversial nature of the requested amendment. These verbal comments indicated that they were supportive of the request for amendment by Leviathan subject to conditions requiring the installation of the systems related to odour and light suppression. Further, the verbal comments spoke to the number of jobs being created by the industry and the spin off benefits associated with it. They also noted that there was a bad odour in proximity to existing operations prior to their operation due to nearby farming operations and that the greenhouses were creating light pollution prior to being used for cannabis production.

In response to the large number of public comments and concerns raised in writing and at the public meeting on February 25, 2019, Planning staff have organized the comments into major topics for ease of response.

### *Odour*

One of the largest concerns for residents and staff is odour impacts resulting from cannabis cultivation. Staff note that the existing cannabis cultivation facilities in the Town where odour has been a problem are within greenhouses which are not sealed and often vented. These greenhouses have tried to reduce their odour impacts by installing carbon filters and misting of air before it leaves the building which have been somewhat successful. However, carbon filters will only clean the air that passes through the filters and direct venting to the outdoors has gone unfiltered resulting in a bad odours.

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The Leviathan Cannabis Group is proposing to construct a sealed greenhouse with air locks included in the floor plan which will reduce the amount of odour able to escape the facility as well as to employ additional odour mitigation techniques including charcoal filters, bi-polar ionization and high pressure fog. Each of these systems are proven technology in mitigating odours in various settings. Carbon filtration can remove 50 - 98 % of Volatile Organic Compounds (VOCs) from cannabis production provided they are replaced according to the manufacturer's directions (generally 6-12 months).<sup>1</sup> Bi-polar ionization is a widely documented method of cleaning air including VOCs with a range between 75 and 100 percent removal efficiency.<sup>2</sup> High pressure fog and misting systems are widely documented for their success in addressing odours from landfills. In addition to this information, the Leviathan Group has provided anecdotal research on these technologies being implemented specifically in cannabis production. This research provided consistent testimony from producers and regulators in various locations that the technologies were effective (refer to Appendix 4 of Appendix D).

Staff recommend that the Leviathan Group enter into a Site Plan Agreement with the Town which will control the development of the property. Further, staff recommend that the agreement contain clauses which require Leviathan to provide a security deposit to the Town for the value of the odour mitigation systems that are proposed. The security deposit will only be released when Leviathan provides the Town with a certification from a Professional Engineer or Industrial Hygienist that the systems are installed and operational as well as maintenance and monitoring plan for the odour mitigation systems. These measures would give the Town and citizens some assurance that odours will be controlled as committed to by Leviathan. Further, planning staff recommend that the Town amend the current nuisance by-law or alternatively, adopt a separate cannabis nuisance by-law which will allow the Town to fine cannabis producers for allowing offensive odours to cross the property line. It is anticipated that a by-law could be prepared and adopted by Council prior to the 770 Foss Road facility being operational if the amendment to the Interim Control By-law is approved by Council.

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<sup>1</sup> Denver Public Health & Environment, *Cannabis Environmental Best Management Practices Guide*, [https://www.denvergov.org/content/dam/denvergov/Portals/771/documents/EQ/MJ%20Sustainability/CannabisBestManagementPracticesGuide\\_FINAL.pdf](https://www.denvergov.org/content/dam/denvergov/Portals/771/documents/EQ/MJ%20Sustainability/CannabisBestManagementPracticesGuide_FINAL.pdf), (October 2018).

<sup>2</sup> Ki-Hyun Kim et al, "Air ionization as a control technology for off-gas emissions of volatile organic compounds," *Environmental Pollution* 225 (2017): 740.



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### *Light Pollution*

Many residents expressed concerns about light pollution from cannabis production facilities. Blackout curtains are a recognized method for reducing the light pollution impacts from greenhouses. Leviathan has committed to installing these curtains on the ceiling as well as the walls of cultivation areas and has provided a product information sheet for the blackout curtains which indicates that the curtains shade 99.9% of light (Appendix 5 to Appendix D).

In addition to the blackout curtains, the proposed cannabis cultivation area is located toward the centre of the property, a significant distance from adjacent dwellings. In addition, the view into this portion of the property is buffered by wooded areas on the south and west sides, an existing greenhouse on the north side and the railway tracks on the west side are significantly higher in elevation than the 770 Foss Road property resulting in a further obstructed view from the west.

Leviathan has also provided a photometric plan demonstrating that there will be no light spill from the parking lot light standards and building light fixtures onto adjacent lands.

Planning staff recommend that the site plan agreement include clauses requiring Leviathan provide a security deposit to the Town which would be released upon certification from an Engineer that the blackout curtains have been installed and are operational as well as the submission of a light control plan. Further, the nuisance by-law as discussed relating to odour would permit the Town to issue fines in the event the curtains are not deployed as indicated in the light control plan.

### *Proximity to Residential Uses*

Another concern that was raised by many members of the public is the location of the proposed cannabis production facility in proximity to residential uses. Planning staff note that the greenhouse (cultivation) portion of the facility will be located approximately 231 metres from the nearest residential use (776 Foss Road) and 219 metres from the nearest residential zone. Most impacts are anticipated from the cultivation process rather than the office, headhouse or processing area and so setbacks from this area have been most heavily considered. Planning staff conducted a review of regulations in a number of different municipalities both within the Niagara Region and outside and noted that where a setback to a sensitive receptor or a residential zone is included for cannabis production facilities, the



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typical setback is 150 metres. Leviathan's proposed office will be located closest to residential uses and zones and will maintain a setback of more than 150 metres. Based on this analysis, Planning staff are of the opinion that the proposed location of the cannabis production facility is generally consistent with regulations in the industry relating to proximity to sensitive uses. Further, proximity to residential uses is normally cited as a concern due to odour and light impacts which have been discussed in detail above.

#### *Property Values*

A number of members of the public raised concerns about cannabis production facilities causing a negative impact to residential property values. Planning staff contacted Municipal Property Assessment Corporation (MPAC) staff for information on this matter. MPAC staff's preliminary analysis has shown no impact on sales of properties within 1 kilometer of a facility at this time. This analysis was upheld as part of a recent decision by the assessment appeals board. MPAC will be completing an official study for the 2021 tax year.

#### *Tax Classification*

A number of residents expressed dissatisfaction that cannabis production facilities are classified in the farm tax class and therefore pay lower taxes than many residential property owners. This is currently under review by the Municipal Property Assessment Corporation but has no bearing on Leviathan's proposal. MPAC has advised that they are committed to doing a reassessment of the existing cannabis production facilities in the Town this year.

#### *Ground water*

Some residents cited concerns about the impact on groundwater in the area as a number of local residents are on wells. Leviathan has indicated that they will be using the ponds on site for irrigation and potable water (after treatment) purposes. In addition, cannabis is a less water intensive crop than the cucumbers that were previously grown on site. Further the floor area of greenhouses has been greatly reduced from what previously existed. Based on this information, no negative impacts are anticipated to groundwater.

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### *Sewer Capacity*

The issue of sewer capacity was raised by residents, Regional and Town Public Works staff. Leviathan will be providing additional information to satisfy Regional and Town Public Works staff that the existing sewer can accommodate the flows from the facility. This information will be subject to further review. It is recommended that clauses be included in the Site Plan Agreement that require Leviathan to confirm the sewer capacity to the satisfaction of the Director of Public Works prior to any building permits being issued.

### *Security*

Some residents raised concerns about the need for security around the site and the resulting perception that the facility was unsafe near children. The security measures are prescribed by Health Canada and include fencing, security personnel, cameras and alarm systems. The security measures are meant to act as a deterrent for potential illegal activity. Further, the legalization and regulation of cannabis as a whole is intended to curb illegal activity related to cannabis. As discussed above, the facility is located a reasonable distance from residential uses which is consistent with regulations in other municipalities. Access to these facilities is highly controlled and would not impact the safety of children.

### *Traffic*

A number of residents brought up concerns about the impact the facility will have on traffic levels on Foss Road. Leviathan has provided a letter from Hugo Chan, Traffic Engineer with IBI Group which indicates that the proposed facility will result in minimal traffic impacts during weekday peak traffic hours (Appendix 12 to Appendix D) on Foss Road. In addition, no concerns have been raised by Town Public Works staff regarding potential traffic impacts resulting from the facility.

### *Future Expansion*

While Leviathan has indicated the potential interest in a future expansion to the proposed facility on this property, the requested amendment at this time would only permit the facility as proposed at this time.

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Any future expansion to the facility would be subject to regulations in place at that time as well as an amendment to the recommended site plan agreement with the Town.

#### *Property Specific Concerns*

The residents at 781 Church Street have raised concerns that the existing irrigation pond extends onto their property and have requested it be removed. Leviathan has agreed to install gabions in this portion of the pond to effectively remove it from the adjacent property. A security deposit for this work can be included in the Site Plan Agreement.

The resident at 768 Foss Road expressed a concern about dust on the driveway to the facility. Leviathan has agreed to pave the driveway to address this concern and this will be a requirement of the site plan control agreement.

The residents at 776 Foss Road expressed concerns about the increased use of the driveway and the impact on their security and safety. It is acknowledged that the driveway has been used by the cucumber facility for employees and shipments for many years. The proposed cannabis production facility will be equipped with security in the form of personnel, fencing, cameras and alarm systems. Further, Leviathan has indicated willingness to provide some additional tree planting between the shared driveway and the residence on 776 Foss Road (on the 776 Foss Road property) to protect the owner's privacy if they are willing. It is acknowledged that this property will experience some impacts, however the impacts are not so severe to cause an adverse impact.

#### Policy Review:

##### ***Planning Act***

Section 38 of the *Planning Act*, R.S.O. 1990 provides Council with the ability to adopt an Interim Control By-law for a one-year period in order to undertake a review of land use planning policies within the municipality. An Interim Control By-law can be extended for an additional year.

On October 15, 2018, Council approved By-law 4046(2018) prohibiting the use of land, buildings or structures for cannabis purposes in order to allow the Town to review policies and regulations relating to cannabis uses.

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The *Planning Act, R.S.O.* 1990 provides that decisions of Council in respect to planning matters shall be consistent with provincial policy statements that are in effect as of the date of Council's decision and shall conform with provincial plans that are in effect.

***Provincial Policy Statement, 2014***

The Provincial Policy Statement, 2014 (PPS) provides guidance for managing and directing land use to achieve efficient and resilient development and land use patterns. The subject parcels are designated as being partially within a Settlement Area (northern portion of driveway area) and primarily within the Prime Agricultural Area according to the Provincial Policy Statement, 2014 (PPS, 2014).

Policy 1.1.3.1 states that settlement areas will be the focus of growth and development and their vitality and regeneration shall be promoted.

Policy 2.3.3.2 states that all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards in prime agricultural areas. Agricultural uses are defined in the Provincial Policy Statement as "the growing of crops, including nursery, biomass and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment."

The definition of agricultural uses in the Provincial Policy Statement includes the growing of crops and includes horticultural crops. Based on this definition, cannabis cultivation is an agricultural use. Agricultural uses are supported and promoted in the prime agricultural area. No cannabis production is proposed within the settlement area.

***Greenbelt Plan, 2017***

The subject parcel is located partially within the Towns/Villages (driveway only) identified in the Greenbelt Plan. The southern portion of the property containing the proposed cannabis production facility is located outside of the Greenbelt Plan. Therefore, the policies of the Greenbelt Plan do not apply.

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***Niagara Escarpment Plan, 2017***

The subject parcels are not located in the Niagara Escarpment Plan Area; therefore, the Niagara Escarpment Plan policies do not apply.

***The Growth Plan for the Greater Golden Horseshoe, 2017***

The guiding principles of the Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan) is to support the achievement of complete communities that are designed to support healthy and active living and meet people's needs for daily living throughout their lifetime; prioritize intensification and higher densities to make efficient use of land and infrastructure and support transit viability; support a range and mix of housing options, including second units and affordable housing to serve all sizes, incomes and ages of households; provide different approaches to manage growth that recognizes the diversity of communities in the GGH (Greater Golden Horseshoe); protect and enhance natural heritage, hydrologic and landform systems features and functions and integrate climate change considerations into planning and managing growth; support and enhance natural heritage, hydrologic and landform systems, features and functions; support and enhance the long-term viability and productivity of agriculture by protecting prime agricultural areas and the agri-food network.

According to the Growth Plan for the Greater Golden Horseshoe, the property is located partially within a settlement area (driveway only) and predominantly within a prime agricultural area.

Policy 4.2.6.2 indicates that prime agricultural areas will be protected for long-term use of agriculture. Policy 4.2.6.3 states that where agricultural uses and non-agricultural uses interface outside of settlement areas, land use compatibility will be achieved by avoiding or where avoidance is not possible, minimizing and mitigating adverse impacts on the Agricultural System. Where mitigation is required, measures should be incorporated as part of the non-agricultural uses, as appropriate, within the area being developed.

Portions of the property are also identified as part of the Growth Plan as part of the Provincial Natural Heritage System and are considered Key Natural Heritage and Hydrologic Features. No development is proposed within the identified Key Natural Heritage and Hydrologic Features. Section 4.2.4 of the Growth Plan requires a minimum 30 metre vegetated protection zone (buffer) to protect the functions of the adjacent key features.

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The cannabis production facility is not proposed to be located within the portion of the property designated settlement area.

The definition of agricultural uses in the Growth Plan is consistent with the definition in the Provincial Policy Statement. Therefore, the cultivation of cannabis is considered an agricultural use. Policy 4.2.6.3 speaks to avoidance, minimizing and mitigating land use impacts which is part of Leviathan's proposal. The facility is proposed a significant distance away from sensitive receptors on a property that is relatively isolated from neighbouring properties due to the grade, railway tracks, ponds and location of natural heritage features. Further, mitigation measures including odour and light suppression systems are being proposed and will be required as part of the proposed site plan agreement.

With respect to the Provincial Natural Heritage System, no development is proposed closer to any natural heritage features than the existing greenhouse at this time.

Based on this information, it is Planning staff's opinion that the proposed cannabis production facility is consistent with the Growth Plan for the Greater Golden Horseshoe.

***Regional Official Plan, consolidated August 2015***

The Region of Niagara Official Plan identifies this property as Built-up Area (driveway only) and Good General Agricultural Area.

Policy 5.B.6 states that the predominant use of land in Agricultural Areas is for agriculture of all types, including livestock operations as well as associated value retention uses.

The Core Natural Heritage System mapping of the Regional Official Plan identifies portions of the property as Environmental Protection Area, due to the presence of the Upper Coyle Creek Provincially Significant Wetland (PSW) complex, and Environmental Conservation Area due to the presence of Significant Woodland. A creek on neighbouring property to the west is also mapped as Type 2 Fish Habitat.

Policy 7.B.1.11 permits development and site alteration in Environmental Conservation Area and on adjacent lands to Environmental Protection and Environmental Conservation Areas if it has been demonstrated that, over the long term, there will be no significant negative impact on the Core Natural Heritage System component or adjacent lands. Policy 7.B.2.2 permits the waiving of a

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requirement for an Environmental Impact Study in accordance with the Environmental Impact Study Guidelines adopted by Regional Council.

No cannabis production is proposed within the built-up area. It is the Region's position that the growing, processing and distribution of cannabis is considered an agricultural use. Agricultural uses of all types are supported in the Good General Agricultural Area.

No development is proposed closer to Environmental Conservation or Environmental Protection Areas than the existing greenhouse and therefore, requirements for and Environmental Impact Study are waived in accordance with the Region's Environmental Impact Study Guidelines.

It is Planning staff's opinion that the proposed cannabis production facility conforms to the Niagara Region Official Plan.

***Town of Pelham Official Plan, 2014***

A portion of the property is located within the Urban Settlement area of Fenwick and designated Urban Living Area/Built Boundary (driveway only) and the remainder of the property is designated Good General Agricultural in the Town of Pelham Official Plan. Permitted uses in the Good General Agricultural designation are agriculture, single detached dwellings accessory to a farm business or on a vacant lot of record; accessory residential uses on farm properties; bed and breakfast establishments; home occupations and home industries; forestry and other resource management uses; retail commercial uses on farm properties; passive recreational uses, such as walking trails and nature interpretation centres on lands owned by a public authority; agricultural-related exhibitions and tourism establishments; wineries; mineral aggregate operations; and wayside pits and quarries.

Policy B2.1.3.12 indicates that greenhouses and hoophouses are considered an agricultural use, however in the interest of ensuring compatibility within the Agricultural area, greenhouses and hoophouses shall be subject to a Zoning By-law amendment where:

- a) the lot area of the parcel proposed to accommodate the greenhouse or hoophouse is less than 3 hectares;
- b) The total lot coverage of the greenhouse or hoophouse is greater than 30%; or
- c) A retail component is proposed as an accessory use to the greenhouse or hoophouse; or

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- d) Greater than 10,000 litres of water per day will be required to sustain the greenhouse or hoophouse.

Any proposal to develop a greenhouse or hoophouse will be subject to Site Plan Control to ensure lighting, traffic, landscaping and other planning and design matters can be addressed prior to the issuance of a building permit. However, it is noted that the current Town Site Plan Control By-law 1118 (1987) exempts agricultural uses including greenhouses from Site Plan Control.

The cannabis production facility is not proposed to be located within the Urban Living Area/Built Boundary.

With respect to Policy B2.1.3.12(a) of the Official Plan, the property is approximately one hectare in size which triggers the requirement for a Zoning By-law amendment. However, Planning staff note that the Zoning By-law permits the use of a greenhouse on the property as of right and the use of the property for greenhouses is existing. In fact, Leviathan has significantly reduced the floor area of greenhouses on site. Further, the process for a Zoning By-law amendment has been followed as part of the request for amendment to Interim Control By-law 4046(2018), including statutory requirements for public notice and a public meeting under Section 34 (Zoning By-law Amendment) of the Planning Act, despite an amendment to an Interim Control By-law not requiring these processes.

In response to Policy B2.1.3.12(b), the lot coverage of the greenhouse will not exceed 30% of the total lot area. Planning staff also note that the existing zoning permits 60% lot coverage for greenhouses as of right. As discussed above, Leviathan has reduced the floor area of greenhouses on the property.

In response to Policy B2.1.3.129(c) and (d), no retail component is proposed as part of the cannabis production facility and water will be supplied by the ponds on site and therefore, greater than 10,000 liters of water per day will not be required.

Finally, Planning staff recommend that the facility be subject to Site Plan Control and that Council amend Site Plan Control By-law 1118(1987) in order to require this.

The property is also designated Environmental Protection One and Environmental Protection Two. Permitted uses in the Environmental Protection One designation are forest, fish and wildlife management uses, conservation, flood control projects and agricultural drains, small-scale passive



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recreational uses and mineral aggregate operations with no negative impact on natural features or ecological functions. Policy B3.2.4.3 permits development and site alteration on adjacent lands subject to and Environmental Impact Study demonstrating no negative impacts on the feature or its ecological functions. The Environmental Protection Two designation permits locally significant wetlands outside of the Greenbelt Plan, significant habitat of special concern species, significant woodlands, significant valley lands, regionally significant Life Science Areas of Natural and Scientific Interest, savannahs and tall grass prairies, significant wildlife habitat and publicly owned conservation lands. Policy B.3.3.4.1 permits development in the Environmental Protection Two designation provided it has been demonstrated through and Environmental Impact Study that there will be no negative impact to the natural heritage feature or its ecological functions.

As discussed, all development will take place within the footprint of the existing operation and additions will be located further away from the portions of the property designated Environmental Protection One and Two. Therefore, there is no requirement for an Environmental Impact Study.

It is Planning staff's opinion that the proposed cannabis production facility conforms to the Town's Official Plan as agricultural uses are supported in the Good General Agricultural designation and the requirements of Policy B2.1.3.12 specific to greenhouses are satisfied subject to amending the Town Site Plan control by-law to require greenhouses to be under site plan control.

***Zoning By-law 1136 (1987), as amended***

The property is zoned 'Residential Village 1 (RV1)' (driveway only) and 'Agricultural (A)'. The 'Agricultural' zone permits agricultural uses, including greenhouses, seasonal or permanent farm help houses on farms larger than 10 hectares, one single detached dwelling on one lot, home occupations, kennels, animal hospitals, uses, buildings and structures accessory to the foregoing permitted uses and forestry and conservation uses.

Regulations for greenhouses are:

7.3 (a) Minimum Lot Frontage	100 metres (328.08 feet)
(b) Minimum Lot Area	2 hectares (4.94 acres)
(c) Maximum Lot Coverage	(i) 60 percent (greenhouse only) (ii) 70 percent (greenhouse in conjunction with permitted use)
(d) Minimum Front Yard	20 metres

Recommendation Report Regarding Amendment to Interim Control By-law 4046 (2018)  
 770 Foss Road (File No. AM-01-19)  
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(e) Minimum Side Yard or Rear Yard	15 metres (49.21 feet) except where ventilating fans exhaust into the respective side or rear yard, the minimum yards shall be 25 metres (82.02 feet)
(f) Minimum Exterior Side Yard	30 metres (98.43 feet) from the centre line of the road, or 20.5 metres (67.26 feet) from the lot line whichever is greater
(g) Supplementary Setback Distances	(i) All greenhouses shall be located a minimum distance of 45 metres (147.64 feet) from any dwelling on an adjacent lot; (ii) no manure, compost or equipment storage area shall be permitted within 30 metres (98.43 feet) of a street or residential use on an adjacent lot.

Council approved Interim Control By-law 4046 (2018) which prohibits the use of land, buildings or structures for cannabis purposes on October 15, 2018. The By-law is in effect for one-year. Council Approval of an amendment to By-law 4046 (2018) is required for the establishment of a new cannabis production facility while the Interim Control By-law is in effect.

The site plan provided by Leviathan for the proposed facility demonstrates that it complies with the requirements of Zoning By-law 1136 (1987) for greenhouses in the Agricultural zone. Leviathan advises that they will locate ventilating exhaust fans in compliance with the side yard setbacks.

**Staff Comments:**

The applicant filed the request to amend the Interim Control By-law 4046(2018) in December, 2018. Once an application is received, the Town is obligated to process the application and give it its due consideration. Accordingly, the application was circulated to Town departments and agencies and a public meeting was convened. The recommendations of the February 25<sup>th</sup>, 2019 Committee of the Whole meeting, following the public meeting that was held that same date, directed staff to prepare a recommendation report on the request to amend the Interim Control By-law 4046(2018) related to 770 Foss Road. Also, following the public meeting, the applicant provided additional information to respond to the public comments received at that meeting and to respond to staff and agency comments.

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Recommendation Report Regarding Amendment to Interim Control By-law 4046 (2018)  
770 Foss Road (File No. AM-01-19)  
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Staff acknowledge that there has been considerable public interest in this matter and the public meeting was well attended. The applicant has responded to the concerns identified and staff have completed the review of this application with the analysis provided in the preceding sections of this report.

Town Planning, Public Works and Regional staff have reviewed the drawings and submitted materials with the request for amendment to the Interim Control By-law. In addition to reviewing the proposal for land use compatibility and regulations, Planning staff have reviewed the application in the context of an application for Site Plan approval. This has resulted in additional trees and landscaping to improve aesthetics of the site, paving the driveway access, compliance with Town engineering standards, and the requirement of odour monitoring which Leviathan is been agreeable to.

As discussed in this report, Planning staff are of the opinion that the proposed cannabis production facility is consistent with accepted practices for these facilities, is consistent with provincial plans and policies, conforms to the Town's Official Plan and that compatibility concerns expressed by residents can be addressed satisfactorily through a Site Plan Agreement which includes requires:

- odour and light mitigation plans including maintenance and monitoring of odour;
- security deposits for the value of the odour and light mitigation systems;
- certification from a Professional Engineer or Industrial Hygienist that the odour and light mitigation systems are installed and operational;
- confirmation of adequate servicing capacity;
- upgrading the driveway surface to asphalt;
- installation of a gabion to remove the pond from 781 Church Street (if agreeable to resident);
- tree planting on 776 Foss Road (if agreeable to resident);

Based on this assessment and these conditions, Planning staff recommends that Committee of the Whole approve an amendment to Interim Control By-law 4046 (2018) for the property located at 770 Foss Road and amend the Town Site Plan Control By-law 1118 (1987) to require greenhouses to be subject to site plan control approval.

Staff will continue to work on other matters related to lifting the Interim Control By-law 4046(2018) and will be bringing those forward to Council for its consideration in a future report.

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Recommendation Report Regarding Amendment to Interim Control By-law 4046 (2018)  
770 Foss Road (File No. AM-01-19)  
Monday, April 15, 2019

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Prepared by: Shannon Larocque, MCIP, RPP, Senior Planner

Reviewed by: Barbara Wiens, MCIP, RPP, Director of Community Planning and Development

Alternatives:

Council could deny the request to amend Interim Control By-law 4046(2018).

Council could approve the request to amend Interim Control By-law 4046(2018) subject to additional conditions or changes to conditions.

Council could defer approval of the request to amend the Interim Control By-law 4046(2018) with respect to 770 Foss Road until after Council has dealt with the matters relating to lifting the Interim Control By-law 4046(2018).

Attachments:

Appendix A	Agency Comments
Appendix B	Public Comments
Appendix C	Public Meeting Minutes
Appendix D	Response from Leviathan
Appendix E	By-law to Amend Site Plan Control By-law 1118(1987)

Recommendation:

**THAT** Committee receives this Department of Community Planning and Development Report as it pertains to File No. AM-01-19 regarding 770 Foss Road;

**AND THAT** Committee recommends that Council approve the by-law, attached hereto as Appendix E, amending By-law No. 1118 (1987) to require site plan control for greenhouses.

**AND THAT** Committee directs staff to prepare a by-law, authorizing the Mayor and Clerk to execute a Site Plan Agreement with Leviathan Cannabis Group Inc. for 770 Foss Road.

**AND THAT** Committee directs staff to amend the Interim Control By-law 4046 (2018) to permit a cannabis production facility at 770 Foss Road.

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Recommendation Report Regarding Amendment to Interim Control By-law 4046 (2018)  
770 Foss Road (File No. AM-01-19)  
Monday, April 15, 2019

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**AND THAT** Committee directs staff to prepare an amendment to the Town's nuisance by-law or a standalone cannabis by-law which would authorize the Town to issue fines to licensed cannabis producers relating to odour and light.

January 31, 2019

**VIA EMAIL ONLY**

Files: D.11.06.ZA-19-004

Shannon Larocque  
Senior Planner  
Town of Pelham  
20 Pelham Town Square, P.O. Box 400  
Fonthill, ON L0S 1E0

Dear Ms. Larocque:

**Re: Regional and Provincial Review Comments  
Exemption to Town of Pelham Interim Control By-law 4046  
770 Foss Road  
Owner: Leviathan Cannabis Group (c/o Friedmans Law Firm)  
Town of Pelham**

Regional Development Services staff has reviewed the information circulated with the application for exemption to the Town of Pelham's Interim Control By-law 4046 (ICBL 4046). ICBL 4046, passed on October 15, 2018, restricts the use of all land in the municipality for any cannabis-related land uses for a period of one year. The Town is currently conducting a review on land-use policies and regulations pertaining to cannabis-related uses in order to develop appropriate policies and regulations to manage and control these uses.

The subject application indicates that Leviathan Cannabis Group proposes to construct a hybrid greenhouse facility on an approximately 12 ha property, known municipally as 770 Foss Road in Pelham. The applicant proposes to retrofit the existing 90,000 square foot greenhouse for cannabis cultivation purposes with a separate 30,000 square foot headhouse (to be expanded by 10,000 square feet) that will be used for harvesting and utility infrastructure. A 5,000 square foot office space is also proposed.

The application was received by the Region on January 10, 2019. The following comments are provided from a Regional and Provincial perspective to assist the Town in considering this application.

### **Regional and Provincial Policies**

The subject lands are located in part within a Settlement Area (designated growth area) and primarily within the Prime Agricultural Area as per the Provincial Policy Statement (PPS). The Regional Official Plan (ROP) designates the northerly portion of the subject lands as within the Urban Area (built-up area) and the majority of the subject lands as Good General Agricultural Area. Staff note that only a small portion of the subject land is located in the Urban Area (frontage and part of the driveway). Provincial and Regional policies recognize that agricultural land is a valuable asset that must be properly managed and protected. Permitted uses include agricultural uses, agricultural-related uses and on-farm diversified uses. Therefore, while Region does not object to the proposed exemption to allow the use on the subject lands, the Region does support the Town's efforts to review its policies and regulations related to the use.

It is the Region's position that the growing, processing and distribution of cannabis is considered an agricultural use according to the ROP. In Urban Areas, these facilities may be considered industrial uses and permitted on employment lands. The use may be more closely regulated through local Official Plans and Zoning By-laws.

The following additional comments are provided for information in advance of any other Planning Act applications related to development on the lands.

### **Core Natural Heritage System (CNHS)**

Core Natural Heritage (CNHS) mapping identifies portions of an Environmental Protection Area (EPA) associated with the Upper Coyle Creek Provincially Significant Wetland (PSW) complex located on and adjacent to the southernmost portion of the property, as well as Environmental Conservation Area (ECA) associated with Significant Woodland. In addition, the creek located approximately 30 metres (m) west of the property and adjacent to the PSW onsite is mapped as Important (Type 2) Fish Habitat (see attached map). These same features are also identified by the Growth Plan for the Great Golden Horseshoe (Growth Plan) as part of the Provincial Natural Heritage System (NHS) and are considered Key Natural Heritage and Hydrologic Features respectively. The property is also identified as a Groundwater Protection Area (Highly Vulnerable Aquifer).

Regional Official Plan policies require the completion of an Environmental Impact Study (EIS) prior to development or site alteration within 120 m of a PSW, within 50 m of Significant Woodland, and within 30 m of Fish Habitat. The purpose of the EIS is to demonstrate there will be no negative impact on the features or their ecological function over the long term. However, the Region's EIS Guidelines permit waiving of the EIS requirement provided other criteria are met. In this case, provided the redevelopment is considered small or medium-scale, the requirements for an EIS could be waived if the proposed redevelopment maintains a 30 m setback from these key features. Alternatively, the EIS requirement can also be waived if the proposal is for redevelopment contained within the existing footprint, or if redevelopment includes an addition which extends away from the feature. At the Site Plan stage, the buildout plans should be revised to confirm these setback requirements are met.

In addition, staff advise that the Growth Plan includes policies applicable to a new Provincial NHS, portions of which include the undeveloped areas of the property. The applicant should be advised that currently, according to Section 4.2.4 of the Growth Plan, a minimum 30 m vegetation protection zone (buffer) is required to protect the functions of the adjacent key features. Therefore, prior to any future plans for development or site alteration that trigger *Planning Act* approvals, a natural heritage evaluation would be requested to address the Growth Plan policies and identify both a suitable buffer and any additional restrictions (mitigation measures) that may be required to protect the adjacent natural heritage features and functions. If requested, Regional Environmental Planning staff will provide further explanation at the Site Plan stage.

### **Servicing**

Policy 5.C.5 of the ROP states that development outside of the urban boundary will not be provided with municipal sewer services but instead will be expected to depend on private sewage disposal and private water supply. Regional Staff have received the submitted Civil Servicing Report and Leviathan Presentation for the Zoning By-Law Amendment for Leviathan Cannabis Group Inc. In recent correspondence from the Town, the intent of the owner is to connect to the municipal system.

Regional staff have not reviewed the Civil Servicing Report as the design provided was a septic design. The following information will be required to ensure the current Regional Infrastructure can accommodate the development.

#### Municipal Servicing Option

The subject land is within the Foss Road Sewage Pumping Station (SPS) and Forcemain. The Region's Master Servicing Plan has indicated an upgrade to the Foss Road SPS and Forcemain, scheduled for 2022-2031. Currently, the Region has scheduled a Forcemain replacement project for

2025 (Design) and 2027 (Construction). The current flows to the Foss Road SPS are on average between 3.5 and 5.5 L/s during dry days and up to 17 L/s during wet weather, the current capacity of the station is 27 L/sec.

- The Region will require that the applicant provide a letter from an engineer detailing the existing flows and proposed flows from the site to see if there will be any additional flows to the Foss Road SPS and provide the timing of the expected flow to the Foss Road SPS to determine when the Foss Road SPS upgrade is required.
- The letter should provide information on what the plan is for the process water
- The service will require a manhole at the property line in accordance with the Regional Sewer Use By-law
- We have attached the link to the Region's Sewer Use By-law so the applicant can ensure the sewage composition is in accordance with our requirements for treatment:  
<https://www.niagararegion.ca/living/sewage/sewage-bylaw.aspx>

If for some reason the applicant decides to proceed with an on-site septic system our preliminary comments are as follows (detailed calculations were not reviewed by Regional Staff):

#### Private Servicing Option

If the property is proposing to privately service the subject lands, Regional Staff provide the following comments:

The proposed location of the septic system does not appear to meet with Building Code minimum setback requirements (pond, structures).

- The indicated size of the septic system may not be sufficient for the sewage flows generated from the new development. A detailed septic system design using OBC Table 8.2.1.3.B. is required to confirm the flow rate calculations.
- If the property is proposing the service the subject lands, Regional staff will review the detailed flow rate calculations and provide further comments during the Site Plan stage.

#### **Conclusion**

Regional Development Services staff has no objection to the ICBL exemption request from a Provincial or Regional perspective, however does support the Town's efforts to review its policies and regulations regarding cannabis-related uses. Regional Staff will provide further comments when circulated on any future Planning Act applications.

If you have any questions, please contact me at extension 3518 or Aaron Butler, Senior Planner at ext. 3264.

Please send a copy of the staff report and notice of the Town's decisions on these applications.

Sincerely,



Alexsandria Pasquini  
Development Planner

cc: Aaron Butler, Senior Development Planner, Niagara Region  
Jennifer Whittard, Manager of Environmental Planning, Niagara Region  
Susan Dunsmore, Manager Infrastructure Planning, Niagara Region





Legend

- MNR Evaluated Wetlands
  - Non-Provincially Significant Wetland
  - Provincially Significant Wetland
- Wetland Allowance
- CNH - Fish Habitat
- ECA: Significant Woodlands
- Ownership Parcels
- Provincial Natural Heritage System



Notes



0 127.00 254.00 Meters

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**VIA E-MAIL ONLY**

March 27, 2019

**Technical Comments for Site Plan & Zoning By-Law Amendment Application – 2<sup>nd</sup> Submission**

Proposal: Leviathan Cannabis Group – to cultivate cannabis

Location: 770 Foss Road  
Pelham, Ontario

Our File: **ZA-19-004**

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Niagara Regional technical staff have reviewed the above noted application to address the technical concerns related to the zoning by-law application.

**SERVICING**

Technical comments for this development were initially provided to Town staff on January 31, 2019 requesting clarification on how the development is proposing to be serviced and to ensure that the current Regional Infrastructure can accommodate the development.

Technical staff have reviewed the resubmitted Servicing Report, prepared by Gerrits Engineering Ltd. (dated March 20, 2019), and note that the proposed development will be serviced through a private piped system to the existing municipal services available on Foss Road. Based on this, the Region provides the following comments:

- The developer has indicated that the subject lands will be serviced by a holding tank, Sanitary Pump Station (0.4L/s) and 25mm dia. HDPE forcemain which will connect to the existing Municipal Sanitary Main on Foss Road. The applicant also states that the preference is to utilize the existing 50mm dia forcemain throughout the entire site. This would increase the flow to 1.6L/s. The Region has no concerns with either the 25mm or 50mm dia forcemain because the additional flow will not negatively impact the Foss Road Sewage Pumping Station (SPS). Regional staff will require the applicant confirm the size of the forcemain at the future site plan submission.
- Regional staff note that the developer addressed the installation of a manhole at the property line in the Servicing Report. Staff require that the proposed manhole be shown on the Site Plan to ensure that it is in accordance with Region's Sewer Use By-Law 27-2014 – Section 6. The full requirements of this By-Law are available on the Region's website at the following location:

<http://www.regional.niagara.on.ca/living/sewage/sewage-bylaw.aspx>

## **WASTE COLLECTION**

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are met:

- No limit blue/grey containers;
- No limit green containers; and,
- 4 garbage container per property.

February 05, 2019

SHANNON LAROCQUE  
TOWN OF PELHAM  
20 PELHAM TOWN SQUARE  
FONTHILL, ONTARIO, L0S 1E0

Re: 770 FOSS ROAD

Dear Shannon:

This development, as described, will receive mail delivery via lot line delivery to a rural mail receptacle supplied by the owner or developer.

Therefore, Canada Post Corporation has no comments or conditions regarding this project.

Should the description of the project change, I would appreciate an update in order to assess the impact of the change on mail service.

If you have any questions or concerns regarding this decision, I can be reached at 226-268-5914.

I appreciate the opportunity to comment on this project.

Sincerely yours,

*A. Carrigan*

Andrew Carrigan  
Delivery Services Officer



## **Memorandum**

### **Public Works Department - Engineering**

**To:** Shannon Larocque, Senior Planner

**CC:** Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development

**From:** Tolga Aydin, Engineering Technologist

**Date:** February 8, 2019

**Subject:** 770 Foss Road – **First Submission**

The Public Works Department has reviewed the submitted documentation regarding the proposed development located at 770 Foss Road. Please note the following notes and conditions provided.

The following submitted drawings have been considered for the purpose of this application:

- Site Plan and Elevations, by Ehvert, dated April 26, 2017
- Lighting Plan, by Ehvert, dated December 20, 2018
- Site Servicing and Grading Plan, by Ehvert, dated December 21, 2018

The following submitted reports have been considered for the purpose of this application:

- Civil Servicing Report, 770 Foss Road, Town of Pelham, prepared by Gerrits Engineering, Dated December 2018

## Engineering Reports

The following comments shall be addressed to the satisfaction of the Director of Public Works and Utilities.

### Civil Servicing Report

1. 770 Foss Road currently has a 2" water service to property line. If water demands deviate from the submitted Civil Servicing Report such as having the sprinklers in the building or servicing the green house structures with municipal water, the water service will need to be upsized and a meter chamber will be required. Additionally, the Town water system will require modelling to determine the effects of the increased demand. Should a new service be required, the developer shall complete all works through a Temporary Works Permit and be responsible for all costs associated with the installation of a new service within Town right-of way, as well as the removal of the 2" service.

### Site Servicing and Grading Plan

1. Should the driveway access require widening, any necessary widenings are to be completed under a Temporary Works Permit. Any damage caused to the roadway as part of the project construction is to be repaired by the developer at their expense, to the satisfaction of the Director of Public Works.

## **Memorandum**

### **Public Works Department - Engineering**

**To:** Shannon Larocque, Senior Planner

**CC:** Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering

**From:** Tolga Aydin, Engineering Technologist

**Date:** March 29, 2019

**Subject:** 770 Foss Road – **Second Submission**

The Public Works Department has reviewed the submitted documentation regarding the proposed development located at 770 Foss Road. Please note the following notes and conditions provided.

The following submitted drawings have been considered for the purpose of this application:

- Site Plan, by Ehvert, dated April 26, 2017
- Site Grading and Servicing Plan, dated March 20, 2019

The following submitted reports have been considered for the purpose of this application:

- Sewage Water Fixtures Before and After Comparison
- Response to Comments from Pelham, Dated March 20, 2019

## **Engineering Reports**

The following comments shall be addressed to the satisfaction of the Director of Public Works and Utilities.

### **Response to Comments from Pelham**

1. The submitted document does not constitute as a Functional Servicing Report. As a connection to municipal sanitary sewer is requested, a Functional Servicing Report outlining all necessary calculations and justification, as well as confirmation of capacity at the sewer is required. Pelham's sanitary sewer system was modelled in 2017 as part of the Inflow and Infiltration study program, and the report indicates significant capacity restraints at the location of the site. The sanitary system will require modelling to determine the effect the site will have on the system. All costs associated with the modelling are to be borne by the developer.
2. The submitted document speaks to a manhole to be installed at property line but isn't indicated on the Site Servicing and Grading Plan.

### **Site Servicing and Grading Plan**

1. Details of the driveway access are required.
2. The forcemain from the site is not permitted to connect directly into the existing upstream manhole. A manhole is required at property line as per Niagara Region comments, and must outlet via gravity flow into the existing sanitary sewer from here.
3. If a municipal water connection is not required, the existing water service to property line is to be removed from the main, with full reinstatement. All associated costs are to be borne by the developer.



## Shannon Larocque

---

**From:** Belinda Menard  
**Sent:** Thursday, January 24, 2019 1:59 PM  
**To:** Shannon Larocque; Pasquini, Alex; Sarah Mastroianni; Bob Lymburner; Mike Zimmer; Derek Young  
**Cc:** Tolga Aydin; Jason Longhurst  
**Subject:** RE: Request for Comment - Request for Exemption to Interim Control By-law - 770 Foss Road

Hello Shannon,

The building department will require permits for any buildings over 10m<sup>2</sup>, as per the Ontario Building Code. We will require the written approval from the Niagara Peninsula Conservation Authority if applying for building permits and if applicable, the Niagara Region, regarding on-site sewage systems.

Regards,

Belinda



**Belinda Menard, Dipl.T**  
*Building Intake/Plans Examiner*  
**Community Planning & Development**

**e: [bmenard@pelham.ca](mailto:bmenard@pelham.ca)**  
**p: 905.892.2607 x344**  
**[pelham.ca](http://pelham.ca)**

20 Pelham Town Square  
P.O. Box 400  
Fonthill, ON L0S 1E0

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**From:** Shannon Larocque  
**Sent:** Thursday, January 10, 2019 3:53 PM  
**To:** Pasquini, Alex; Sarah Mastroianni; Bob Lymburner; Mike Zimmer; Derek Young  
**Cc:** Tolga Aydin; Jason Longhurst; Belinda Menard  
**Subject:** Request for Comment - Request for Exemption to Interim Control By-law - 770 Foss Road

Good Afternoon,

As most of you are aware, Council passed an interim control by-law on cannabis related uses in October of 2018 for a one year period. We are in receipt of a request for an exemption to the interim control by-law for 770 Foss Road. The material received with the request for exemption has been attached for your information.

Alex and Sarah, the Town does not have a fee or application form for this type of application and so none have been provided. I am assuming that the same goes for the Region and NPCA, but please advise if otherwise.

We are requesting comments from agencies by January 31<sup>st</sup>, 2019. Please note that no hard copies of plans or drawings are being provided with this application as the submission to the Town consists of only the attached.

If you have any questions or require further information, please feel free to contact me.

Regards,

Shannon

 <b>Pelham</b> NIAGARA <i>Vibrant · Creative · Caring</i>	<b>Shannon Larocque, MCIP, RPP</b> <i>Senior Planner</i> <b>Community Planning &amp; Development</b>	<b>e: <a href="mailto:slarocque@pelham.ca">slarocque@pelham.ca</a></b> <b>p: 905.892.2607 x319</b> <b><a href="http://pelham.ca">pelham.ca</a></b>	20 Pelham Town P.O. Box 400 Fonthill, ON L0S
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February 8, 2019

Shannon Larocque  
Senior Planner  
Town of Pelham  
20 Pelham Town Square  
PO Box 400  
Fonthill, ON L0S 1E0

Dear Shannon,

Re: Site Plan Application  
Leviathan  
770 Ross Road  
Town of Pelham

Enbridge Gas Distribution does not object to the proposed application(s).

This response does not constitute a pipe locate or clearance for construction.

The applicant shall contact Enbridge Gas Distribution's Customer Connections department by emailing [CustomerConnectionsContactCentre@enbridge.com](mailto:CustomerConnectionsContactCentre@enbridge.com) for service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping (including, but not limited to: tree planting, silva cells, and/or soil trenches) and/or asphalt paving.

If the gas main needs to be relocated as a result of changes in the alignment or grade of the future road allowances or for temporary gas pipe installations pertaining to phase construction, all costs are the responsibility of the applicant.

In the event that easement(s) are required to service this development, the applicant will provide the easement(s) to Enbridge Gas Distribution at no cost.

Enbridge Gas Distribution reserves the right to amend or remove development conditions.

Sincerely,

A handwritten signature in black ink that reads 'Alice Coleman'.

**Alice Coleman**  
Municipal Planning Coordinator  
Long Range Distribution Planning  
**ENBRIDGE GAS DISTRIBUTION**  
TEL: 416-495-5386  
[MunicipalPlanning@enbridge.com](mailto:MunicipalPlanning@enbridge.com)  
500 Consumers Rd, North York, ON, M2J 1P8

[enbridgegas.com](http://enbridgegas.com)  
**Integrity. Safety. Respect.**

## Shannon Larocque

**From:** Bishmita.Parajuli@HydroOne.com  
**Sent:** Thursday, February 14, 2019 2:33 PM  
**To:** Shannon Larocque  
**Subject:** Pelham, 770 Foss Road, 18216

Hello,

We are in receipt of your Application for Consent, 18216 dated February 1, 2019. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:

<http://www.hydroone.com/StormCenter3/>

Please select "Service Territory Overlay" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail [CustomerCommunications@HydroOne.com](mailto:CustomerCommunications@HydroOne.com) to be connected to your Local Operations Centre

Please let me know if you have any questions or concerns.

Thank you,

**Bishmita Parajuli**

University Co-Op Student, Real Estate Department  
185 Clegg Road  
Markham, ON L6G 1B7

[Bishmita.Parajuli@HydroOne.com](mailto:Bishmita.Parajuli@HydroOne.com)

[www.HydroOne.com](http://www.HydroOne.com)

On behalf of,

**Dennis De Rango**

Specialized Services Team Lead, Real Estate Department  
Hydro One Networks Inc.  
Tel: (905)946-6237

Email: [Dennis.DeRango@HydroOne.com](mailto:Dennis.DeRango@HydroOne.com)

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## Shannon Larocque

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**From:** Sue A <[REDACTED]>  
**Sent:** Tuesday, February 19, 2019 1:18 PM  
**To:** Shannon Larocque  
**Subject:** Re: File NO: AM-01-19 770 Foss Road

Hi Shannon,

We also want to add to our earlier letter.

Where is the liability for this pond if someone visiting gets hurt or worse at this pond. Like I said our grandchildren, nieces & nephews visit. They are getting older & like to go out to our bush where this pond is located. They were here visiting this past weekend.

Thanks  
Susan Alde / Henry Penner

---

**From:** Shannon Larocque <SLarocque@pelham.ca>  
**Sent:** February 19, 2019 8:55 AM  
**To:** Sue A  
**Subject:** RE: File NO: AM-01-19 770 Foss Road

Hi Sue,

Thank you for sending your comments. We will ensure they are forwarded to Council for their information.

Shannon

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-----Original Message-----

**From:** Sue A <[REDACTED]>  
**Sent:** Monday, February 18, 2019 2:37 PM  
**To:** Shannon Larocque <SLarocque@pelham.ca>  
**Subject:** File NO: AM-01-19 770 Foss Road

Hi Shannon

I spoke with you last week, about the pond on the property at 770 Foss Rd.

First of all we are against the greenhouse for the purpose of growing cannabis in our back yard. The smell is terrible. We have a number of neighbors who decided to have & raise families in this small country town. We also have grandchildren

that visit regularly.

How are we supposed to enjoy our backyard & barbecues with family & friends with an aroma like this.

I no longer will be able to hang my clothes & bedding out doors. Which I do at least 7 months out of the year. How would anyone be able climb in there bed at night or dry off after a shower with the way these things would smell. Never mind getting dressed & heading out to function some where. Imagine snuggling up with a child smelling like this.

We enjoying sitting out at night and watching the sky. We moved to the country area for these reasons and more. Our night sky has already diminished with 2 other large cannabis greenhouses not far from us. Our sky glows so bright at night, that you can hardly see the stars.

The traffic on our street has become somewhat of a highway with so many cars & high speed. Taking a country walk is like walking on the side of the highway.

We hear nonstop banging from greenhouse area now.

All said with looking at the blueprints, it clearly shows the pond on the west side of the property is at least 6 feet on our property at points. This being said, if this cannabis greenhouse gets the approval they will need to look purchasing the property that their pond is on.

We also think if there claim that these greenhouses will not give off the terrible aroma & light emissions then they should have an actual model to prove their claims as well.

We would have attended the meeting, but unfortunately we are working at this time.

Thanks

Sue Alde / Henry Penner

[REDACTED]

Fenwick, ON

L0S1C0

[REDACTED]

TOWN OF PELHAM

FEB 19 2019

RECEIVED



A Bachynski

FEB. 19/2019.

TOWN CLERK. RE: FILE AM-01-9

COULD YOU FORWARD ANY  
INFORMATION PRESENT AND  
ANY FUTURE DECISIONS OR  
DEALINGS CONCERNING THE  
FILE ABOVE AND PROPERTY  
CONNECTED TO THE FILE  
TO THE ABOVE ADDRESS.  
-THANK YOU VERY MUCH-

(Tony)

Anthony Bachynski

REF. PROPERTY AT 7110 FOSS ROAD.  
CURRENT ISSUE - AMENDMENT  
TO CONDOM BY-LAW 4046 (2018)



Peter & Lynda Haakman

Jan 26, 2019

[REDACTED]  
LOS 1C0

Nancy Bozzato, Clerk, Town of Pelham

PO Box 400, 20 Pelham Town Square, Fonthill ON

LOS 1E0

Dear Nancy,

As long time residents of the Town of Pelham, and owners of a three acre property at [REDACTED], we have concerns regarding Leviathan/Woodstock's request for an exemption to the Town of Pelham's interim control bylaw on cannabis related land uses, as it applies to its plans for intensification at 770 Foss Rd.

Our property is adjacent to the west side of the driveway to 770 Foss Rd, over which we have an easement, and our house is situated 55 ft off this lane, with the southeast corner of our lot being 100 ft from the proposed location of the security gate. Our concerns are that the marijuana operation:

- 1) will not be able to contain the pungent odours produced by this crop
- 2) will not consistently prevent light pollution
- 3) will not be able to contain excessive noise from ventilation and other equipment
- 4) will create a huge increase in traffic on the shared driveway when at full production, comparable to Canntrust and Redecan. Our security and safety would be negatively impacted and we would be inconvenienced sharing a driveway that is already encroaching on our property.
- 5) will substantially decrease our property value because of its intense industrial nature

The interim control bylaw was put in place to restrict the use of land for cannabis purposes in order to review and update policies. The proposal for 770 Foss Rd. as set out by Leviathan, is too close to us to proceed with development without careful and thorough analysis and consideration.

Sincerely,

Peter & Lynda Haakman









**From:** P Troup [mailto: [REDACTED]]  
**Sent:** Tuesday, February 19, 2019 12:05 PM  
**To:** Nancy Bozzato <NBozzato@pelham.ca>  
**Subject:** Cannabis grow op on foss road, fenwick

We are responding to the notice we received regarding the Foss Rd, Grow op.

We live at [REDACTED] and are highly opposed to this. This is too close to town.  
These grow ops should be in more rural areas away from houses.

It will lower our house value.

The smell is nauseating. How will we be able to enjoy our yards.

The bright lights at night will be annoying.

And what about the taxes they will pay. We pay more property tax than they will.

What is that all about.

And the traffic volume will increase. Church street is already a race track, people drive way too fast on this road. There are kids and dogs here. What will be done about that.

There is already 2 grow ops in fenwick how many do we need.

Time to stop the greed and take care of the people that live here.

Pati Troup and Ray Vandendogerd

**From:** Valerie Eves [mailto: ]

**Sent:** Saturday, February 16, 2019 6:11 PM

**To:** Nancy Bozzato <NBozzato@pelham.ca>

**Subject:** Public Meeting on Feb. 25

I am submitting this for presentation at the meeting regarding the request for amendment to Interim Control By-law 4046 (2018) regarding cannabis related uses. I would like to present this publically.

Thankyou,

Valerie McCombs (Eves)



Good Evening Mr. Mayor and Councillors,

I am not an expert in technicalities regarding filtration systems, nor do I possess extensive knowledge of all the workings of the law. However, as a resident of Fenwick and, should Leviathan be successful in its endeavours to start up a new cannabis production facility on Foss Rd., I will be a very close neighbour to that facility.

I am here to appeal to Leviathan and council on a more personal level and to talk about integrity. I'm quite certain that this company has heard the message loud and clear from the community that they are not welcome here. However, they seem to be deaf in this matter. On the one hand they say that they want to be a good citizen and yet, at the same time, they really aren't showing any regard for the voice of the citizens who already live here. The bottom line is money. They know it and we know it. They are concerned about their shareholders and so they should be. Let me ask how it is that they think we are supposed to trust them when they call our by law "offensive" and then threaten to sue the town? It's not exactly a great way to introduce themselves to what they think is going to be their new community. We, as citizens, have very valid reasons for not wanting any more cannabis facilities in our town. I believe that they can understand our concerns but just don't care. Again, money is the bottom line. Are they prepared to reimburse us for the loss in our property value? At the last meeting they made the ridiculous statement that our property values would actually increase. What nonsense! On what are they basing this? This kind of industry does not belong in residential areas. Period. The increase in traffic in our very quiet neighbourhood will have a huge impact. They want to take advantage of the lower agricultural tax rate and the lower cost of electricity by being located in

a more populated area. Where they belong is out in very rural land where they aren't bothering anybody. They have all of their own interests at heart. They are hoping to cash in on the opportunity to make millions and don't care that they are doing this on the backs of the residents who are paying a much higher rate of property tax than they do while at the same time , losing value in their own property. Can they justify this? Do they even care? This community is sending a loud message and it is that we do NOT want them here and yet their greed makes them continue to push harder and try to get an exemption from a very valid by law that was put in place to protect the town that they don't care about. I'm sorry if I'm not seeing integrity in this company or the individuals who are in high positions and poised to make millions if it weren't for some pesky, unimportant residents who lived here long before they came along. So, I am trying to appeal to their sense of fairness and caring. They tell us that they will be "different" than the other facilities and yet have no proven record of this. We are just to believe them and be guinea pigs in this great experiment. They can promise the moon to us but can they deliver? I suggest that they go somewhere far, far away and then come back and report to us when they have all the glitches worked out.....and there will be glitches. There always are. I would ask Leviathan to please have a heart and get the dollar signs out of their eyes and think about what the residents of this lovely community really want and why we are putting roadblocks in their way. They can go ahead and try to sue the town. They are saying more about their own integrity than anything. All the more reason not to trust them.

I believe we are reasonable people. It would be nice if they just cut their losses and moved on to a more appropriate location.

Valerie McCombs, resident of Fenwick



Dear Mayor Junkin and Councillors,

Feb.20, 2019

During 2 weeks of February, the members of the Pelham Community Preservation Coalition went door to door to approximately 1,000 households in the Town of Pelham to circulate flyers and get signatures on a petition. The petition to the Town of Pelham Council asks Council to **“create by-laws to control cannabis production in the Town of Pelham and its impacts on the residents”**. The overwhelming majority of residents support the message and many thanked our members for taking action. A number of concerned residents said that they were considering putting their houses up for sale before the market value of their properties dropped, due to the increasing number of cannabis grow-ops in the area.

Tonight’s Public Meeting was called because Leviathan submitted an Interim Control By-law (ICB) exemption application to the Town of Pelham. This application for exemption should not be under consideration at all. The existing buildings at the site have been demolished. According to the ICB, no person shall “Use any land, building or structure for any agricultural, commercial or industrial cannabis purpose whatsoever, except for a use that lawfully existed on the date of the passage of this By-law”. That makes it pretty clear that Leviathan has no valid reason to request an exemption.

In its letter to shareholders, Leviathan states that it “intends to utilize, state-of-the-art technology deploying a fully sealed greenhouse facility, with multiple additional protections layered on top of one another to fully mitigate any odour and light issues”.

The issues of light and odour are only 2 of the many concerns of residents. The site in question is in a residential area on Foss Road, with many young children living in the area. The Town of Pelham Planning Act 2014 states under B2.1.3. 12 Greenhouses that, **“Any proposal to develop a greenhouse or hoop house will be subject to Site Plan Control to ensure lighting, traffic, landscaping and other planning and design matters can be addressed prior to the issuance of a building permit”**. Considering just one of those issues, being traffic, Foss Road has narrow shoulders and deep ditches which are poorly drained. There has been an increase in traffic volume since Redecan and CannTrust opened cannabis production facilities (CPF). The addition of another CPF will cause an even greater increase in traffic. We now have 6 CPFs in Pelham, with the related increase in traffic, odour, light pollution and decrease in property values. Six is more than enough.

Leviathan states that it “faced an out-of-the-blue procedural challenge in the form of an interim control by-law issued by the Town Council of Pelham (which was shortly thereafter voted out of office). The suggestion is that Councillors were voted out of office because they introduced the interim control by-law, which is absolutely ludicrous. The By-law was introduced because

cannabis producers were appearing out-of-the-blue and renovating greenhouses and paving over large areas of agricultural land, with no site plan approval. Many municipalities introduced interim control bylaws.

Leviathan states that it wants “to reach an amicable solution with a community of which we intend to be a vital part for decades to come”. This statement is preceded by, “Should Council deny our exemption application, the Company will immediately commence legal action against the Town of Pelham to quash the offensive by-law”.

This seems like an unusual approach to initiate an “amicable solution with a community”.

In consideration of Leviathan’s lack of any valid reason for exemption from the Interim Control By-law and the overwhelming support of residents of Pelham to control cannabis production in the Town of Pelham and its impacts on the residents, we strongly urge Council to deny the By-law exemption to Leviathan.

Respectfully,

Dr. Jim Jeffs, Chair

Pelham Community Preservation Coalition

Comments to be presented by Tim J. Nohara, President & CEO of Accipiter Radar Technologies Inc., at the Public Meeting for a Request for Amendment to Interim Control By-law (4046) (2018) Regarding Cannabis Related Uses 25 February 2019

Mr. Mayor, Councillors and fellow Residents:

My name is Tim Nohara. I have been a resident of Pelham since 1995, along with my large extended family who live, and in many cases work here. I am also the President & CEO of Accipiter Radar Technologies Inc., a business that has successfully grown in Pelham while respecting the character, by-laws and regulations of our Town and the concerns of our neighbours.

I wish to provide a local business-person's perspective to the Mayor, Council and to residents with respect to the proposed Amendment to Interim Control By-law (4046) (2018) Regarding Cannabis Related Uses.

Businesses are and should be regulated, within reason, to ensure they do not negatively impact residents, the Town, and other local businesses in an unequitable fashion.

The Cannabis Production industry is new upon our Town, our province, and our country. And there can be no doubt that our Town, which has the obligation and authority to regulate within its boundaries, has been caught off guard with the rapid arrival of Cannabis producers here.

The Interim Control By-law (4046) (2018) was passed last fall and provides a one-year moratorium on new or expanding cannabis development in order to give Pelham the opportunity to study the Cannabis Production industry and its impacts with a view towards rapidly developing and implementing by-laws and regulations to ensure a reasonable and equitable harmony between Cannabis producers and those who live and work in Pelham. This effort is intended to be carried out and completed in less than eight months from now.

I believe that Council has already directed staff on Feb 4, 2019, to develop a Terms of Reference for a new Cannabis Advisory Committee that is intended to be brought to Council for consideration at the March 18th Policy and Priorities Committee Meeting. The Committee will then be formed and will be able to quickly study, develop and recommend appropriate by-laws and regulations.

In light of the above, it seems as though we have the cart before the horse, doesn't it?

Why would we approve an exemption to the moratorium on Cannabis development, BEFORE we complete the important work of the Cannabis Advisory Committee?

Why would we grant this particular cannabis business an exemption?

The disrespectful comments and threats that have been directed by this public company towards our Town should illustrate to everyone precisely why the moratorium needs to stand until suitable by-laws and regulations are in place.

If the Mayor and Council approve any exemptions to Interim Control By-law 4046 (2018), before appropriate by-laws and regulations can be put in place, that action would seem to counter reason and show bad faith towards addressing the serious concerns of residents in Pelham.

Thank you.

## Shannon Larocque

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**From:** Linda Zavitz <[REDACTED]>  
**Sent:** Friday, February 22, 2019 11:13 AM  
**To:** Shannon Larocque  
**Subject:** Re: concerns re: cannabis

> On 21 Feb 2019, at 21:12, Linda Zavitz <[REDACTED]> wrote:

>

> Hi Shannon,

>

> Just quick follow-up to our conversation this afternoon. What has been permitted to date cannot be changed I suspect but I hope moving forward that the town will deny the exception requested at the Monday night meeting and if there is future development that it will take place in an industrial zoning with enhanced revenue for the town.

> Lin Zavitz

> [REDACTED]

> [REDACTED]

Feb. 20, 2019

Dear Mayor Junkin and Councillors,

**Cannabis is not just another crop.** The skunk-like odour and light pollution from a cannabis greenhouse are unlike any other agricultural crop. We are not concerned about the legalization of cannabis but are concerned about odour and light pollution. However, our **main concern is the existence, permitted size and presence to a residential neighbourhood of an industrial like grow-op facility and how it would affect life in our town.**

What will be the pressure on the towns infrastructure costs?

The town of Leamington has been struggling to upgrade infrastructure services to keep pace with greenhouse construction. On Oct. 16, 2018 CBC News reported Leamington was trying to find money for a new \$80 million sewer line. Their mayor said Leamington has too small a tax base for this cost. They were looking for help from the federal and provincial governments. Looking at the Niagara Region Master Servicing Plan from 2016, it stated the 736 Foss Rd. pumping station had a projected deficit and the trunk sewer line was approaching maximum capacity. At last weeks budget meeting, we learned both projects have been delayed. The sewer ends at the railway on Foss Rd., so if Leviathan joined these costs could increase. Other impacts without site plan approval involve road maintenance, extra hydro demands, water usage, and the high water table levels in Fenwick.

**Cannabis is not just another crop.** If it were why does our Federal government require extremely high security for this highly sought after drug. Cannabis is classified as an agricultural crop but the federal government requires them to have 10 ft. high barbed wire topped fences, full site motion detection, security cameras outside and inside, staff checks, vaults to store dried product, 2yrs. of video retention, etc. Where do you see a winery or tomato greenhouse with this security? Niagara Regional Police have had incidents at a couple of licensed medical facilities. For example; on Sept. 17, 2018 Niagara Police say a 45 yr. old man was seriously shot at a licensed facility in rural Niagara Falls. On January 17, 2019 the Niagara Police Service site stated "It should be noted that organized crime exists within Ontario and it has an effect on public safety and on the economy of the province through criminal ventures. The infiltration of organized crime into the legal marketplace and diversion of cannabis to illicit markets should be a concern for everyone." Such a facility should be located in an industrial area, NOT on a street with many children.

It is unknown how light and odour affects our health but it does affect our sense of well-being and our ability to use and enjoy our homes when they are located next to a grow-op. Many of my neighbours are so distraught that they think about moving away, leaving behind invested time and resources, memories and plans, and their attachment to a place; their home. They do not want council to approve an exemption to Leviathan.

Respectfully,  
Sandy Jeffs

## Shannon Larocque

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**From:** Nancy Bozzato  
**Sent:** Wednesday, February 27, 2019 1:29 PM  
**To:** Barbara Wiens; Shannon Larocque; Holly Willford  
**Subject:** FW: Interim control by-law 4046  
**Attachments:** AM-01-19.Notice-of-Public-Meeting.770FossRd.pdf



**Nancy Bozzato, Dipl.M.M.**  
*Town Clerk*  
**Administration Services**

**e: njbozzato@pelham.ca**  
**p: 905.892.2607 x315**  
**pelham.ca**

20 Pelham Town Square  
P.O. Box 400  
Fonthill, ON L0S 1E0

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**From:** Natalie Diduch [mailto: ]  
**Sent:** Wednesday, February 27, 2019 9:21 AM  
**To:** Nancy Bozzato <NBozzato@pelham.ca>  
**Subject:** Interim control by-law 4046

Hi Nancy,

Hope you're doing well!

Please include me in your notification list of council decision on amendment of this by-law.

I had hoped to attend Monday's public meeting.

Thanks and take care!

Natalie

## Shannon Larocque

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**From:** no-reply@publicservicerequest.com  
**Sent:** Monday, March 11, 2019 10:55 AM  
**To:** Shannon Larocque  
**Subject:** Service Request Changed-# [REDACTED]

Hello Shannon Larocque

An action (Contact Citizen) has been added to Service Request # [REDACTED]

Service : Planning / Zoning Property-Development-Issue

Desc. : The cannabis production on Balfour Street at the previous Balfour Greenhouses is extremely disruptive to the previously enjoyed rural location here in Pelham. What once was a desirous location to which to move, is now a blight on the community and has now earned a reputation as the Orange blob in the night sky AND the skunk smell as we now pass by. Why has town council decided to take a once esteemed town community into one of disrepute because we have non-desirable industry riddled through our countryside and along our residential boundaries? Is this what we call foresight and responsible planning? No, it is short-sighted because it brings temporary infrastructure development and jobs, but makes it that homeowners and business don't want to locate in these areas. It decreases land values and causes current, long-standing residents who care about their community, to throw up their hands in despair and disregard, wanting to move away rather than give to their community. Pay attention, put a halt to such further development, and plan a way to, if at all, at least bring in such development with strict and precise gaurds and measures of responsibility. Stop the stink. Stop the bright night lights. Stop the offense. Regards, Rob Enter [REDACTED]  
[REDACTED], Fenwick [REDACTED]

[Click here to view the request](#)

Thank you.

The Team at [PublicServiceRequest.com](http://PublicServiceRequest.com)



## Minutes

Meeting #: PC-02/2019  
 Date: Monday, February 25, 2019  
 Time: 6:30 PM  
 Location: Meridian Community Centre - Accursi A and B  
 100 Meridian Way  
 Fonthill, ON  
 L0S 1E6

Members Present: Marvin Junkin, Mike Ciolfi, Lisa Haun, Bob Hildebrandt,  
 Ron Kore, Marianne Stewart, John Wink  
 Staff Present: Holly Willford, Teresa Quinlin, Barbara Wiens, Shannon  
 Larocque, Jason Marr, Marc MacDonald, Sarah Leach  
 Media: Applicant and other interested parties

### 1. Call to Order and Declaration of Quorum

Noting that a quorum was present, the Mayor called the meeting to order at approximately 6:39 p.m.

### 2. Adoption of Agenda

**Moved By** John Wink

**THAT the agenda for the February 25, 2019 Public Meeting Under the Planning Act, Special Meeting of Committee of the Whole, be adopted as circulated.**

**Carried**

### 3. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

### 4. Planning Act Application:

The Mayor read into the record the Notice Requirements regarding this application.

#### 4.1 Planning Report - Request for Amendment to Interim Control By-law 4046(2018) - Cannabis Related Uses

##### 4.1.1 Information Report Regarding Request for Amendment to Interim Control By-law 4046 (2018) 770 Foss Road (File No. AM-01-19)

Shannon Larocque, Senior Planner Town of Pelham, made a presentation in regards to the subject application, a copy of which is available upon request in the Clerks office.



**Moved By** Mike Ciolfi

**THAT Committee recommend that Council receive this Department of Community Planning and Development Report and Presentation for information as it pertains to File No. AM-01-19 regarding 770 Foss Road;**

**AND THAT Planning staff be directed to prepare the Recommendation Report on this request for consideration.**

**Carried**

#### **4.2 Applicant's Presentation**

Martin Doane, CEO and Chairman of Leviathan Cannabis Group ('Leviathan'), made a presentation in regards to the subject application, a copy of which is available upon request in the Clerks office.

Martin Doane introduced other members of his team, being: Luvlina Sanghera, Head of Marketing, Jayne Beckwith, Chief Communication Officer, Matt Hotrum, Lead Engineer from Ehvert Engineering.

The presentation, included, but was not limited to the following:

- Leviathan is a publicly traded company
- Leviathan purchased the subject property for approximately four million dollars and has invested an additional two to two and a half million dollars
- Indicated Leviathan is unlike any other licenced producers as the proposed facility will:
  - Be a sealed greenhouse
  - Have large setbacks
  - Omitted almost no odour (0.1%)
  - Have minimum light pollution with blackout curtains being used after 8:00pm
  - Be environmentally responsible with the use of water, wastewater, etc.
  - Estimated twenty-million-dollar economic impact for the Town and local area
  - Hire locally (trades persons and employees)
- Leviathan indicated they will be a good neighbour

**Moved By** Bob Hildebrandt

**THAT Committee recommend that Council receive for information the presentation by Leviathan Cannabis relating to their application for an Amendment to the Interim Control By-law 4046(2018).**

**Carried**

#### **4.3 Public Input**

Peter Van Caulart, indicated he has unfairly judged Leviathan at their Open House and that he owed the company an apology as he researched the technology and was impressed. Mr. Van Caulart inquired if Leviathan would be open to executing a 'certificate of approval' or like document which would indicate if the facility did not meet certain requirements (odor, etc.) the facility would be shut down. In response Mr. Doane indicated that Leviathan would consider executing such a document if the parameters were fair and reasonable.

Dave Shaford, indicated the Town of Pelham is a trusting community and do not wish to be 'fooled'. Mr. Shaford asked Mr. Doane where he and his team reside? Mr. Shaford requested to see photos of any existing facilities that Leviathan may have similar to the proposal. Mr. Doane indicated his team residences in Toronto, New Market and British Columbia. He further advised there are no photo's similar to this facility as none currently exist.

Dave Nicholson, indicated he found the applicant's presentation very informative and requested more information regarding lighting and what cannabis products the facility will be shipping. In response, Mr. Doane indicated there are various stages of the cannabis plant cycle, at the 'veg' state the plant requires twelve hours of light. Depending on the season, the use of artificial light will be required, however, no artificial light will be used after 8:00pm and blackout curtains will be used at the proposed facility. Mr. Doane further indicated the facility will be a wholesaler for medical cannabis and will ship shrink-wrapped dried cannabis flowers.

Mr. Nicholson asked the Mayor if the Town is vulnerable to a lawsuit if Leviathan takes legal action. Mayor Junkin indicated the Town feels the Interim Control By-law was passed legally.

Bill Heska, indicate the Town has had two 'bad experiences' with cannabis production facilities and that he has concerns that the proposed facility will not meet the promises being made as there is no proven success with the technology being proposed. He indicated he felt the survey Leviathan had conducted was not representative. He further inquired how much air would be exhausted at the facility. In response, Mr. Doane indicated

Leviathan is taking an unconventional approach and using cutting edge technology to ensure their promises are being met. Matt Hotrum, Lead Engineer from Ehvert indicated to meet promises the company is using three solutions; the technology is proven and exists however has not been used together in this way for a cannabis facility. Mr. Hotrum noted one of the residents here tonight has already expressed he has researched the technology and that it does work.

Sant (Beri) Grewal indicated he has concerns that Leviathan is using carbon filters and that carbon once activated has a lifespan and will be exhausted into the atmosphere. He questioned how Leviathan will know the carbon is full and will control its emission. In response, Mr. Doane indicated there will be maintenance and protocols to ensure the carbon is dealt with appropriately. Mr. Doane also indicated Leviathan is receptive to public input and hopes to create a citizen's committee.

David and Brenda Burton, inquired if Leviathan has any other production facilities currently operating and expressed concern regarding water, specifically if Leviathan plans to draw water from the well. Furthermore, the Burtons requested the applicant to build a working prototype prior to constructing the facility to ensure the technology works. In response, Mr. Doane indicated Leviathan will be using the pond on the property and collecting rain water. Mr. Doane also indicated the past use as a cucumber farm would require far more water resources than producing cannabis. He further advised, to build an operational prototype would require a license from Health Canada and stressed the technology is not new, it is a new combination of technology that is being used.

Clara Rosati, expressed concerns regarding the survey Leviathan commissioned and feels that the survey is not representative. She also indicated she is very concerned about lighting as her daughter has an autoimmune disorder in which UV light systems are a trigger for her condition and she could die. Finally, she indicated the Interim Control By-law was put in place to allow Council the time to understand the impact of cannabis facilities. In response, Mr. Doane indicated Leviathan hired an accredited polling company to conduct the survey and that it was representative. Mr. Doane further indicated he and Leviathan take her daughters health condition very seriously and would like further dialogue with her to ensure the facility does not engender her daughter.

Tim Nohara, inquired if Mr. Doane felt the Town could change the zoning of cannabis production facilities to therefore increase property taxes collected on those facilities. He also requested more information on the 'commitment' the Town had given Leviathan and / or their predecessor prior to the Interim Control By-law. Lastly, he asked Mr. Doane if he believes the Interim Control By-law is legal. In response, Mr. Doane indicated his

comments regarding property taxes was to state Leviathan will be happy to pay whatever taxes or fees are imposed upon them by the government. Mr. Doane indicated the Town has the right to pass an Interim Control By-law, however the Town has to do this under proper grounds and he felt that was not done. He further indicated he has felt the Town has not worked on this issue to date.

Mayor Junkin voiced he was offended by Mr. Doane's comments regarding the lack of work done by Council to date.

Sandy Jeffs, indicated she has concerns regarding the capacity of the Town's sewers and asked if Leviathan would be willing to pay for the sewers to be upgraded. She stated she believes Leviathan should have to complete a Site Plan Agreement with the Town. She stated the federal government has high security regulations in place for cannabis production facilities (fences, security recording systems, vaults, and staff checks) and questions if Pelham wants this type of a facility where children are growing up. In response, Mr. Doane indicated that residents should be mindful, that if the Leviathan development does not move forward, what else might be there? He further indicated Leviathan has a site plan however is prevented from submitting the document currently.

Donna Huxley, requested more information on outdoor lighting will be outside and how large to tree plantings will be. In response, Mr. Doane indicated the outside lighting will be modest downcast lighting for security. He further indicated Leviathan will be planting more mature trees and fast growing trees. He stated he believes the trees in combination with the blackout curtains will mitigate light pollution.

Ms. Huxley requested information in regards to Redecan, a different cannabis production facility within the Town of Pelham. Ms. Wiens, Director of Community Planning and Development responded to Ms. Huxley's questions. The Mayor reminded the gallery, all questions are to be related this Leviathan and the current application under discussion.

Louis Dam, indicated he is a farmer and is surprised that Leviathan is throwing its cannabis production colleagues 'under-the-bus' publically. He further indicated he believes Leviathan's math regarding odour emissions is incorrect. In this regard he references his experience as a pig farmer. In response, Mr. Doane indicated he will have the statistics and math posted on their website. He further indicated Leviathan is not throwing other producers 'under-the-bus' but are stating their difference.

Dave Klynhesselink requested information on Health Canada's odour emission's and light pollution standards. He also requested clarification regarding the 'letters of intent' Leviathan received in 2017 from the Town of Pelham. In response, Mr. Doane indicated there are compliant production facilities in the Pelham

area that are omitting a lot of odour and light population, while still being compliant with Health Canada standards. He further indicated when a company applies to Health Canada for a cannabis production license, the company is required to demonstrate the property intended to be used is correctly zoned for the production of cannabis from the municipality. The Town of Pelham provided a letter in that regard to Leviathan's predecessor in 2017.

Tod Mowter indicated he is a new resident of Pelham and chose Pelham because of its beauty. He inquired why Leviathan would choose to purchase a property in a residential area instead of a property in the 'middle of no where'. He also expressed concerns regarding traffic and parking. In response, Mr. Doane indicated he has experience building facilities in the 'middle of no where' and those developments have challenges as well. He further indicated that the Niagara Region is a centre of excellence for cannabis production. Mr. Doane explained the facility is building additional parking to ensure there will be no parking on the roadway.

John Glasbergen indicated he has no issues with the applicant's presentation, his concern is that the facility has not yet been proven. He is concerned the technology to mitigate the odour will not work. He further expressed concerns regarding the gravel driveway and the amount of dust that may be caused by employees. Finally, he indicated he was upset that Leviathan has indicated the company is considering suing the Town of Pelham.

Valerie Eves-McCombs read the letter she submitted to the Town of Pelham, a copy of which is available in the Clerks office. Ms. Eves-McCombs expressed concerns regarding odour, traffic, and property values.

Roger Robert, inquired to when Leviathan took possession of the subject property and asked if Leviathan has spoken to neighbours? Mr. Roberts indicated he is a direct neighbour and that no one has spoken to him. He also inquired if Leviathan will ensure the direct neighbours will have security in their backyards to ensure people do not trespass over their property to access the facility. In response, Mr. Doane indicated Leviathan acquired the property in 2018 and believed the neighbours have been reached out to by the company. He apologized for the company having not yet spoken to Mr. Robert. Mr. Doane also indicated the facility will have security.

Jim Jeffs indicated that he has knocked on doors and has circulated a petition which has approximately seven-hundred signatures to create by-laws to control cannabis production. He also expressed concerns regarding traffic on Foss Road. Mr. Jeffs referenced an accident on Foss Road which occurred in 1994. In response, Mr. Doane indicated Leviathan is in support of the petition. Mr. Doane asked if there have been on-going issues

with Foss Road and traffic, why has it not been corrected? He stated this is not a Leviathan issues, rather a Town issue.

Eva Brown asked if the Leviathan facility is currently running, and if not, if Leviathan does not receive an exemption would the company consider growing a different crop? In response, Mr. Doane indicated the facility is not currently operating and indicated Leviathan is not considering growing cucumbers however could potentially grow a different crop.

Bruce Russel indicated he is concerned about his property value. He further asked if the Town would be willing to reduce his property taxes if his property becomes devalued as a result of the Leviathan facility. Mr. Russel also requested clarification to a 'health certificate' Leviathan received for the property. In response, Mr. Doane indicated the Town would have to lower taxes if the property was assessed at a lower value. He also clarified that Leviathan did not receive a 'health certificate' but rather, a letter indicating the property was correctly zoned to cultivate cannabis. He also indicated he believed the property is much cleaner now that Leviathan has taken over.

Phil Glasbergen indicate that he operates a business directly in front of the subject property and that he has in the past rented the facility Leviathan currently owns. He stated that the property in question is very large and has a potential for significant growth, up to one-million square feet. In response, Mr. Doane indicated Leviathan would never expand to one-million square feet, however theoretically the potential might be there.

David Ripley asked if Leviathan had an opportunity to expand and take over a greenhouse currently cultivating cannabis in Pelham, would Leviathan impose the same conditions and expectations proposed to this facility? Mr. Ripley indicated Mr. Doane need not respond as he would not know the future.

Katherine Willard indicated her comments are directed to the Town of Pelham Council. She asked the Council to have pride in the Town of Pelham community and to make a good decision for now and the future. She asked that the Town Council make intentional decisions and not reactionary decisions.

Patrick Handscombe referenced the Molson Brewery in Barrie, where individuals were growing cannabis illegally in the shut down factory and there were no odour issues. He suggested Leviathan research the system that was used. In response, Matt Hotrum, Lead Engineer indicated he knew the facility shut down and indicated the proposed facility in Pelham would recycle 99.9% of air but is not aware how the illegal facility operated.

Nancy Beamer indicated she believes the Town and Leviathan are caught in a 'rock and a hard place'. She stated it was not Town Council which determined cannabis is an agricultural use, but rather the government. She stated it seems Leviathan is trying to be a good neighbour, and going forward with progress

means there always has to be a 'first one'. She stated the issues are not Leviathan's fault and they are reaping the nastiness of the other facilities, and she stated the Town needs to give the Council time to make the right decision.

Dave Nicolson asked how Leviathan proposes to prevent fungus on their plants and what the company would do if the crops had fungus? In response, Dan Grady, Master Grower, indicated there are sanitization protocols being followed, the building is sealed with filtered air, the employee clothing is laundered on site. If the crops did have fungus, the crops would be disposed of and Leviathan would start fresh.

**Moved By** Bob Hildebrandt

**THAT the Rules of Procedure as contained in the Town of Pelham Procedural By-law, be suspended;**

**AND THAT the specified meeting curfew time of 10:00 p.m. be and is hereby waived;**

**AND THAT the remainder of the business listed on the agenda for this meeting continue to be considered until all matters have been concluded, or until a set time of 10:30 p.m., whichever occurs first.**

**Carried**

**Moved By** Bob Hildebrandt

**THAT Committee receive verbal presentations made by the public for information as it pertains to this application**

**Carried**

**4.3.1 Correspondence received from the public regarding application**

**Moved By** Mike Ciolfi

**THAT Committee recommend that Council receive the public written submissions regarding the Application for Amendment to Interim Control By-law 4046(2018) - Cannabis Related Uses, Leviathan Cannabis, by the following individuals:**

- 1. V. Eves-McCombs**
- 2. P. Troup and R. Vandendogerd**
- 3. J. Jeffs**
- 4. P. and L. Haakman**
- 5. S. Alde and H. Penner**
- 6. T. Nohara**

**Carried**



#### **4.4 Committee Input**

Councillor Kore requested Mr. Doane to clarify the proposed footprint of Leviathan after Phase 1 and Phase 2. Councillor Kore referenced an interview from the previous summer, in which he saw Mr. Doane indicate Leviathan intended to grow one-hundred-fifty kilos of cannabis and the facility would reach one-hundred million square feet in expansion. In response, Mr. Doane indicated the plans for the property has changed substantially and Leviathan is no longer intending to reach that capacity for various reasons.

Councillor Kore requested further clarification regarding Leviathan's pricing on cannabis cultivated in Pelham, referencing the interview he saw of Mr. Doane in the previous summer. In response, Mr. Doane indicated the economics and pricing have changed since last year.

Councillor Kore asked Mr. Doane if he is aware of what Leviathan currently pays in property taxes in comparison to the previous owner, Woodstock Biograde. Mr. Doane indicated he did not know. Councillor Kore indicated the property tax was less than \$16,000.00. In response, Mr. Doane stated he is not defending the property taxes and that he feels it is an important public policy issues that needs to be addressed.

Councillor Stewart referenced an earlier response Mr. Doane gave a member of the public regarding whether or not Leviathan has any other facilities currently in production and requested more clarification on the matter. Mr. Doane indicated Leviathan is a public company and cannot answer the question currently. He did indicate Leviathan is currently acquisition oriented and looking at opportunities.

Councillor Ciolfi inquired how many cannabis plants Leviathan plans to grow in Phase 1. In response, Dan Grady, Master Grower indicated Leviathan intends to grow two to three thousand plants.

Councillor Ciolfi inquired how many plants would be grown during full production and how much water each plant requires. In response, Dan Grady, Master Grower indicated Leviathan would grow approximately thirty-thousand cannabis plants in full production and that each plant requires roughly three litres of water.

Councillor Ciolfi asked how the water required would be provided? In response, Mr. Doane indicated the water would be supplied from the on-site ponds.

Councillor Ciolfi directed a question to Ms. Wiens, Director of Community Planning and Development to ask which development approval applications the applicant would have to undergo to launch the proposed application. In response, Ms. Wiens indicated the Planning Department has discussed with the

Leviathan the possibility of the applicant entering into a Site Plan Control Agreement. Currently, Leviathan is open to this option. She further states, the Town’s current Site Plan Control By-law exempts greenhouses from site plan control.

Councillor Ciolfi expressed concerns regarding the sewer system in that area, stating the Town infrastructure is already at capacity.

Councillor Ciolfi asked if the Town could accept the petition which was referenced by. Mr. Jeffs. Holly Willford, Deputy Clerk indicated the Clerk’s office is willing to accept the original petition. No petition was filed at this meeting.

**5. Adjournment**

**Moved By** Mike Ciolfi

**THAT this Special Committee of the Whole, Public Meeting Under the Planning Act, be adjourned.**

**Carried**

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Mayor: Marvin Junkin

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Deputy Clerk: Holly Willford



March 20, 2019

**Via Email**

Ms. Barbara Wiens,  
Director of Community Planning & Development  
Pelham Town Hall  
20 Pelham Town Square  
Pelham, ON L0S 1E0

Dear Barbara Wiens,

**RE: Response to Comments Received from the Town of Pelham, Niagara  
Region and Local Residents**

Leviathan has enclosed a list of responses to address comments, questions and concerns regarding the proposal to cultivate cannabis at 770 Foss Road. These responses have been developed through consultation with engineering companies specialized in specific technical disciplines, including:

- Ehvert Engineering – overall design, including odour and light control,
- Gerrits Engineering – municipal waste flow, and,
- IBI Group – traffic impact on Foss Road

Leviathan has also searched for bylaws and ordinances in Canada and the USA that have been implemented in municipal jurisdictions, as well as studies and surveys on the effectiveness of available technology to mitigate odour and light emissions from the proposed facility. The most comprehensive review found was conducted by Amec Foster Wheeler in 2017 for the County of Santa Barbara, USA, part of which is included for your reference.

If you have any further questions or concerns, please do not hesitate to call.

Thank you,



Paul Gri, P.Eng.

116 - 250 The Esplanade • Toronto • ON • M5A 4J6 • [info@LeviathanCannabis.com](mailto:info@LeviathanCannabis.com)

# Deviathan

## CANNABIS



<b>770</b>	<b>20</b>
<b>Foss</b>	<b>March</b>
<b>Road</b>	<b>2019</b>

Responses to comments from Pelham,  
Niagara Region &  
Local Residents



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1. Pelham Letter of Comments of Feb. 12, 2019	
2. Niagara Region Letter of Comments of Jan. 31, 2019	
3. Oregon - Dechutes County Ordinance No. 2018-12	
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5. Blackout Curtains – OBSCURA 10075 FR AB+B	
6. Light Standard Fixtures ALED4T125	
7. Sewage Demand: Water Fixtures Before and After Comparison	
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10. Drawing SG-1: Updated Site Grading and Servicing Plan	
11. Drawing M-302: Updated Mechanical - Exhaust Fan Placement	
12. IBI Group Traffic Assessment	

## RESPONSE TO FEBRUARY 12, 2019 COMMENTS FROM PELHAM

### ODOUR CONTROL:

Leviathan acknowledges that there are jurisdictions across North America that have had to address odour complaints due to the cultivation of cannabis in their communities. These complaints are largely due to operations that have begun cultivating in vented greenhouses with inadequate odour control measures. As a result, bylaws (Canada) and ordinances (USA) have been put in place. Most communities do not have the financial resources for exhaustive studies to implement appropriate restrictions, while at the same time allowing for the emergence of a new, legal business, with the consequence that they are “good neighbours” and local communities can benefit economically from their presence.

There are jurisdictions that have placed setback restrictions based on whether or not odour control measures are present. These may be applicable to vented greenhouses, but they do not contemplate a sealed structure.

**Leviathan has stated from the outset that it plans to construct a sealed, rather than a naturally vented, greenhouse. This design results in a HVAC system that is more costly, as the structure, from an HVAC design standpoint, has to be considered as a building. All airflows are mechanically controlled.**

**Essentially, the facility becomes an “indoor grow”.**

There are also jurisdictions that have stated in their ordinances, in varying degrees, that an odour control plan must be designed by a licensed Mechanical Engineer, and contingency measures must be incorporated into the design. (See Appendix for Ordinance No. 2018-12, Dechutes County, Oregon).

The County of Santa Barbara commissioned Amec Foster Wheeler to conduct an, “Environmental Impact Report (EIR) for the Cannabis Land Use Ordinance and Licensing Program”. The report was completed in December 2017. A copy of Appendix – F: Cannabis Odor Control from that report is included in the Appendix.

Regarding odours, the Amec report notes from industry experience in the USA that activated carbon filtration is effective, but only for processing and indoor grows. Vapour-phase systems (deodorizing/misting) are effective for greenhouse (naturally vented) facilities.

As a result of this study, Santa Barbara’s Land Use Ordinance for Cannabis (35.42.075 C.6e Odor Abatement Plan) notes that, “approved odor control systems...may include, but are not limited to:

- (1) Activated carbon filtration systems.
- (2) Vapor-phase systems....
- (3) Other odor controls systems...that demonstrate effectiveness in controlling odors.”

The ordinance does not mandate that two or three systems must be used, but only one that is effective is required.

**Leviathan has stated that it is not employing one odour control system, but three – carbon filtration, vapour phase (high pressure fog), and bi-polar ionization which is commonly used in building systems.**

**Leviathan has stated that it wants to build a, “greenhouse facility...completely sealed with state of the art technology”. Both carbon filtration and vapour phase technologies have been used in cannabis facilities successfully. Bi-polar ionization is standard building technology. Leviathan’s facility will employ all three technologies.**

**Leviathan knows of no company with this level of commitment.**

#### **LIGHT MITIGATION:**

Cannabis requires 12 hours of darkness to promote flowering. In the vegetative stage, up to 18 hours of light is employed. Blackout curtains at the ceiling and around the inside of perimeter walls will be deployed by 8pm at the latest. The perimeter side walls are constructed of solid polycarbonate “sandwich” panels. That is, they are comprised of a black panel core encapsulated between two white panels.

As both the sidewall perimeter and ceiling utilize blackout curtains which are not opaque, light is prevented from escaping unless there is a tear or misalignment, which can be repaired.

The Appendix includes specifications for the blackout curtains (Obscura 10075 FR AB+B) which state that 99.9% of light transmission is blocked.

#### **SETBACK FROM KEY HERITAGE & HYDROLOGICAL FEATURES**

Phase 1 of the proposal is essentially on the existing footprint. These setbacks would be addressed, if required, for Phase 2 – an additional 100,000 sq ft greenhouse. Plans for a building permit for Phase 2 have not been submitted.

#### **ROAD REPAIRS AT DEVELOPER EXPENSE IF REQUIRED DUE TO DRIVEWAY WIDENING**

If the driveway is widened, Leviathan will repair, if necessary.



## **DRIVEWAY ILLUMINATION AND SIGNAGE**

Leviathan intends to install a sign on an existing building – the current Head House as noted on the architectural site plan. See drawing A-100 Updated Site Plan in the Appendix.

Leviathan is not planning to install illumination and a sign at the driveway entrance.

## **DRIVEWAY RESURFACING**

The driveway from Foss Road to the entrance gate will be paved as noted on site plan drawing.

## **LANDSCAPED BUFFER ALONG DRIVEWAY**

The property on which the driveway is situated is 20 feet in width. There is insufficient space to add landscaping within that space.

Proposed tree planting has been updated on the site plan drawing A-100 and includes trees in the parking area, north of the parking area and towards the north west (between the facility and the neighbor who uses the driveway. Please advise if additional trees are required.

## **NORTH PROPERTY LINE LANDSCAPING**

As noted above, Leviathan intends to plant additional trees on its property just south of the property line that adjoins with of 760 Foss Road.

Proposed tree planting has been updated on the site plan drawing A-100.

## **FENCING DETAILS**

The fence construction is noted on drawing A-102, which is included in the Appendix. The fence is topped with 3 strands of barbed wire and is 8 feet to the top of the barbed wire.

## **ARCHITECTURAL DETAILS - EXHAUST FAN LOCATIONS**

Fan locations are shown on the updated mechanical drawing M-302 included in the Appendix. None are located on the east side of the greenhouse due to the setback requirement of 25 metres to the property line.

## **SANITARY SEWER**

As requested, drawing SG-1 Site Grading and Servicing Plan has been updated and is included in the Appendix.

Leviathan will have a manhole installed at the property line as requested and if not previously installed.

Condition assessment: Leviathan will inspect the condition of the existing forced main.

The Appendix includes a table titled, “Sewage Demand: Water Fixture Before and After Comparison”, which is a listing of water fixtures comparing the greenhouse operation when growing cucumbers and after the proposed modifications by Leviathan.

According to calculations by Gerrits Engineering, the proposed operation will contribute 0.4 l/s in total based upon the installation of a 25mm forced main as shown on drawing SG-1. For the Town’s downstream pump station, the increase in flow is from 17.0 to 17.4 l/s, well below the capacity of 27 l/s. Please note that Leviathan’s preference would be to utilize the existing 50mm piping and size the entire system accordingly. The flow would increase to 1.6 l/s, and to 18.6 l/s on the Town’s system. This preference assumes that the existing pipe is in good condition. The disturbance and cost of installing a new line would be avoided.

## **WATER SERVICE (2 INCH LINE AT STREET) AND PROCESS WATER**

Leviathan does not intend to apply to connect to the Town water supply. Past practice was to use runoff water and treat with ozone for irrigation and for use as a potable water source.

## **POND AND 781 CHURCH STREET**

It is Leviathan’s understanding that the pond has been in existence for decades. Leviathan is willing to install gabions in the portion that encroaches the neighbour’s property.

## **DETAILS OF LIGHT STANDARDS**

The light standards in the parking area are 25 feet high with dark-sky friendly fixtures. See the Appendix for the description of the fixture ALED4T125. The light is directed within the property limits and the minimum lighting level is utilized that will be compatible with the functionality of the security cameras.

## **TRAFFIC IMPACT ON FOSS ROAD**

Leviathan commissioned IBI Group who have traffic engineers on staff to provide an opinion on the impact of Leviathan's operations on Foss Road. IBI's assessment will be forwarded for addition to the Appendix as soon as it is received.

## **LIAISON COMMITTEE**

Leviathan looks forward to being part of a liaison committee with the purpose of communicating with the community and to address community concerns.

## **RESPONSE TO JANUARY 31, 2019 COMMENTS FROM NIAGARA REGION**

### **KEY NATURAL FEATURES – FISH, WOODLANDS, HYDROLOGICAL FEATURES**

It is Leviathan's understanding that as the development essentially occupies the existing footprint, and the pond does not connect with a fish habitat, an Environmental Impact Study would not be required. (Telephone conversation took place between Jennifer Whittard of Niagara Region, and Paul Gri for Leviathan, on March 1, 2019.

### **SANITARY SEWER AND WATER SERVICE**

Please refer to comments for Pelham above.

## RESPONSE TO PUBLIC COMMENTS

**Note: Public comments briefly noted followed by Leviathan written response in bold.**

- 1: Person 1  
If Leviathan is given approval to build, will it agree to shut down if it can't meet odour control?

**Ideally, Leviathan would welcome a level playing field where all cannabis cultivators must abide by the same rules. Leviathan is committed to using the best available odour and light controlling technologies available. The controls that Leviathan is proposing are not proto-types and have been successfully used elsewhere as noted in the Amec study. Any installation requires ongoing maintenance. Could there be a breakdown? Yes, there could, and Leviathan is committed to maintaining the installation in top working order.**

- 2: Person 2  
We are a trusting community and don't like to be fooled.  
Okay for medical, zero for recreational.

**Did not seem to be an actual question.**

- 3: Person 3  
How protected is Pelham from lawsuit?

**This question was directed to Pelham council.**

- 4: Person 4  
States that Leviathan's proposals for odour control is, "all theory".

**The Amec study surveyed existing cultivation sites in the USA where odour control technologies were successful. These successful technologies were: carbon filtration for indoor grows, and vapour-phase "high pressure fog" for vented greenhouses.**

- 5: Person 5  
Doesn't believe charcoal filtration will work – should only be used as a last resort.

**The Amec study found that for indoor grows carbon filtration is most effective, and for vented greenhouses, vapour-phase systems (high pressure fog) are more effective than carbon filtration.**

**Leviathan proposes to use three systems, carbon filtration, high pressure fog and bi-polar ionization. See Leviathan's strategy proposals under "Odour Control" above.**

6: Person 6

Is there enough capacity for sewage discharge from the property.

**Leviathan will recycle water used for irrigation. Waste from water closets and showers will contribute 0.4 l/s according to Gerrits Engineering with the installation of a 25mm forced main and 1.6 l/s using a 50mm forced main. That increases the Foss Road flow under wet events from 17 to 17.4 l/s and 18.6 l/s, respectively. That is well under the capacity of 27 l/s.**

7: Person 7

Suggestion is to build a prototype to prove the technology.

**The technology is already proven by past installations as surveyed by Amec. The size of the Leviathan's operation is small by comparison to competitors already operating in Pelham. Building a prototype and then building out the full facility would cause further delay in realizing a revenue stream while incurring additional costs. Leviathan has already been delayed at least six months, seen its capital stock lose approximately \$100 million in value, and is losing, by the most conservative of estimates, in excess of \$1.5 million in revenue every month that that there is no cultivation.**

8: Person 8: Ms. Rosati

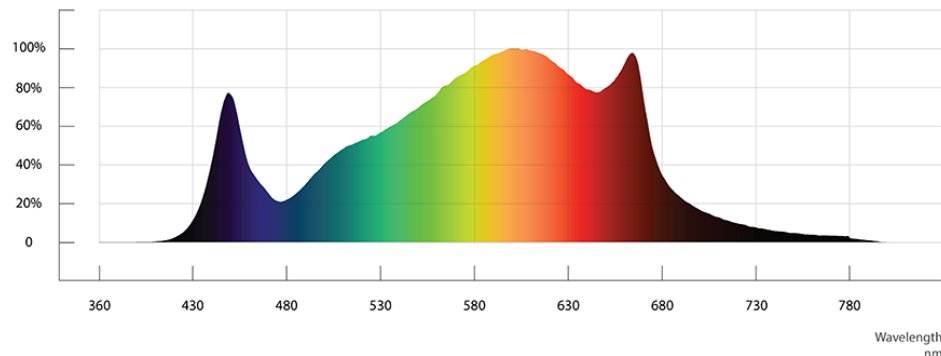
A) Child has weak immune system – sensitive to UV Light.

B) Concerned about buses brought into property.

**A) The lighting used for cultivation will mimic to a certain extent the light from the sun. The sidewalls of the greenhouse are constructed of light-blocking material and blackout curtains will be installed around the perimeter walls and overhead. See "Light Mitigation" above. Also, note that the facility is set back 1000 ft from the road.**

**UV light has a wavelength less than 400nm. The LED lights Leviathan will be using do not emit light with wavelengths less than 400nm as per the graph below.**

Measurements of Normalized  
Photosynthetic Photon Flux



**B) Compared to an operating greenhouse the traffic will not unduly affect Foss Road traffic patterns. There will be employees driving to work and shift start time will be coordinated to avoid the school bus schedule.**

9) Person 9

Economics – pay fair share. Businesses in agriculturally zoned areas pay less tax.

**Leviathan did not develop the land use and zoning map. The company is willing to work the Town of Pelham regarding land use and zoning, in particular if Leviathan does processing of dried product.**

10) Person 10

A) Concerned regarding sewer capacity.

B) Operation should be far from residential areas due to odour and light.

**A) See response to comment “6” above.**

**B) Leviathan received confirmation from the Town of Pelham that cannabis cultivation is applicable for 770 Foss Road. The company is committed to being a good “neighbour” as reflected in the Odour Control strategy described above, and confirmed affective by Amec. Light mitigation will be as described as above. Leviathan is using the best available technologies and in fact is employing three odour control mechanisms, where other companies employ one, or at most, two.**

11) Person 11

A) Concerned about light and odour.

B) Value of house decrease.

- A) See response to concerns 1 and 10 above, and proposals under “Odour Control” and “Light Mitigation”  
It is also worth noting that the greenhouse has been in existence for 40 years. It has changed hands several times since 2007. The last cucumber crop was at the end of 2017. There normally has been activity at the sight. There should not be a comparison between an undeveloped site and Leviathan’s proposal, but between a fully operationally greenhouse with 300,000 sq ft under cultivation and Leviathan’s proposal for 80,640 sq ft under cultivation.
- B) The cannabis industry has revived real estate values in Smith Falls and Leamington. Leviathan understands and sympathizes with the odour and light issues local residents are facing from existing cannabis operations. Leviathan has stated from the start that it will build a sealed facility to control light and odours. See responses to concerns 5, 10 and 11.
- 12) Person 12: Louis Damm  
A) Why throw others under the bus?  
B) Holland has odour control technology.
- A) Leviathan has committed to controlling odour and light and yet Leviathan is being “punished” for the lack of control employed at competitors’ facilities. Leviathan cannot answer for the actions of others not under Leviathan’s control.
- B) Leviathan is willing to listen to anyone who can provide better available technology. Louis Damm has commented to Leviathan in the fall of 2018 about odour technology available in Holland, but has not brought forward any option.
- 13) Person 13  
A) What is the Health Canada odour number?  
B) Asked about licenses.
- A) The Cannabis Regulations state, “The building, or part of a building, where cannabis is produced, packaged, labeled and stored must be equipped with a system that filters air to prevent the escape of odours.
- B) Did not seem to be a question of concern but of general information.
- 14) Person 14: Lives at Foss and Balfour  
A) Concerned about odours.  
B) Leviathan should have bought property somewhere else.
- A) See “Odour Control” above.  
B) See responses to concerns 1, 9, 10 and 11 above.
- 15) Person 15: Has lived on Foss Road for 50 years  
A) Technology not proven  
B) Will there be paving?



C) Why are you picking on Pelham by threatening a lawsuit.

**A) See Leviathan's strategy under "Odour Control" and responses to concerns 1, 5, and 10 above.**

**B) Leviathan will pave the driveway from Foss Road to the entrance gate. The site plan drawing has been updated accordingly.**

**C) Leviathan has relied on past communication with the Town in its planning to develop the site to cultivate cannabis. The company has, and continues to suffer financially as a result of the ICBL. There should be no surprise should a lawsuit be launched should the company face continued delays. Leviathan believes it is being responsible and upfront regarding the situation.**

16) Person 16

A) Moved to town close to 2 years ago. Leviathan doesn't have integrity if threatening a lawsuit.

D) Not a welding area.

E) Leviathan deaf to our concerns.

**A) Did not appear to be an actual question. Woodstock Biomed notified the local authorities and received confirmation of appropriate zoning as per Health Canada requirements. Leviathan purchased Woodstock Biomed and has submitted a responsible plan to address neighbours concerns. See responses to concerns 10, 11 and 15 above.**

**B) Leviathan proposes to grow an agricultural product in an agriculturally zoned area.**

**C) Leviathan has stated that it will build a sealed greenhouse to make it easier to control odours and employ three proven odour control technologies. See "Odour Control", "Light Mitigation", and responses to concerns 5, 10 and 11 above.**

**Leviathan organized a public meeting on November 5, 2018 to present its proposal for 770 Foss Road and listen to concerns from local residents. Due to concerns regarding composting cannabis waste on site that was stated during that public meeting, Leviathan has decided not to compost on site. Waste will be shipped off site for disposal.**

**Leviathan looks forward to being part of a liaison committee for residents to voice concerns regarding cannabis operations.**

**Leviathan listens to residents' concerns.**

17) Person 17: 755 Church St.

A) How long has Leviathan owned the property?

B) Lenny moved debris – was on my property.

**A) The property was purchased by Woodstock Biomed Feb 2018. Leviathan purchased Woodstock Biomed in July 2018.**

**B) Leviathan was not aware of anything done at the end of the property and apologizes.**

- 18) Person 18: Jim Jeffs  
Concerned about increased traffic.

**There was a greenhouse in operation for decades. The last harvest was November 2017. Leviathan does not expect a significant increase in traffic and has contracted IBI Group to estimate the impact. Their report is included in the Appendix.**

- 19) Person 19  
Is the greenhouse currently in operation?

**No, it is not.**

- 20) Person 20: Lives on Balfour St.  
Concerned about loss of property value.

**The comparison should be between an operating greenhouse and Leviathan's proposal as per the response to concern 11.  
Leviathan cannot and should not be liable for the actions of others.  
Leviathan is committed to being a good neighbour and to address odour and light issues as per "Odour Control", "Light Mitigation" and response to concerns 5, 10 and 11 above.**

- 21) Person 21: Phil Glassbergen – Operates greenhouse north of Leviathan

**There did not appear to be an actual question.**

- 22) Person 22: David Ripley  
Purchased home – wants same conditions

**There was an operating greenhouse on the property for decades. See response to concern 20.  
To address the odour and light conditions that are different from a cucumber operation, see Odour Control and Light Mitigation strategy and responses to concerns 5, 10, and 11 above.**

- 23) Person 23  
Comments directed toward Council to use time to develop vision of the community.

**No question directed to Leviathan.**

- 24) Person 24  
How did they control odours in Barrie? (Referring to Molson plant grow-op).

**Leviathan will be using proven technology to control odours. See Odour Control and responses to concerns 1, 5, 10 and 11.**

- 25) Person 25: Nancy  
Comments directed to the community:  
Someone has to be first.  
Cannabis is legal.  
Give the council time to determine what we should do.

**Leviathan was complimented for engaging the community in dialogue. No question was directed to Leviathan.**

- 26) Person 26: Brother of Phil Glassbergen  
Odour control comments. In Barrie (old Molson plant) the cannabis was grown in large tanks.

**Leviathan's proposal for a sealed greenhouse makes the operation very similar to an indoor grow. The main difference is the ability to use natural light through the roof. Thus the HVAC design and odour control is addressed the same as building. See "Odour Control" above.**

## **APPENDIX – LIST OF ATTACHMENTS**

- 1. Pelham Letter of Comments of Feb. 12, 2019**
- 2. Niagara Region Letter of Comments of Jan. 31, 2019**
- 3. Oregon - Dechutes County Ordinance No. 2018-12**
- 4. Amec Foster Wheeler Environmental Impact Report –  
Appendix F: Cannabis Odor Control**
- 5. Blackout Curtains – OBSCURA 10075 FR AB+B**
- 6. Light Standard Fixtures ALED4T125**
- 7. Sewage Demand: Water Fixtures Before and After Comparison**
- 8. Drawing A-100: Updated Site Plan**
- 9. Drawing A-102: Updated Dimensioned Fence Plan**
- 10. Drawing SG-1: Updated Site Grading and Servicing Plan**
- 11. Drawing M-302: Updated Mechanical - Exhaust Fan Placement**
- 12. IBI Group Traffic Assessment**

February 12, 2019

File No. AM-01-19

EMAIL ONLY ([paulgri@zannicengineering.com](mailto:paulgri@zannicengineering.com); [wf@friedmans.ca](mailto:wf@friedmans.ca))

Mr. Paul Gri  
Zannic Engineering  
15 Burnt Log Crescent  
Toronto, ON M9C 2J7

Attention: Paul

**RE: Request for Amendment to Interim Control By-law File No. AM-01-19  
770 Foss Road**

---

For your information, the following comments have been received from agencies, utilities and Town staff in response to your request:

General Comments

- Town staff, residents and Council are concerned about the potential for odour impacts from the proposed cannabis production facility. Is it possible to provide an odour impact analysis to address this concern?
- Town staff, residents and Council are concerned about light pollution from the proposed cannabis production facility. Is it possible to provide a light impact analysis? We acknowledge that photometrics have been provided for the building exterior and parking area lighting, however this does not account for light from the production area.

Proposed Site Plan

- The Region requires an Environmental Impact Study prior to development or site alteration within specified distances of Key Natural Heritage and Hydrologic Features. This requirement can be waived if the proposal is contained within the existing footprint or if the addition extends away from the features. The plans should be revised to confirm these setback requirements are met.
- The Growth Plan for the Greater Golden Horseshoe Section 4.2.4 requires a minimum 30 metre vegetated buffer to protect the functions of key features.

Please refer to Regional comments for further details and contact Regional Environmental Planning staff for further information.

- Should the driveway access require widening, any necessary widening is to be completed under a Temporary Works Permit. Any damage caused to the roadway as part of the project construction is to be repaired by the developer at their expense to the satisfaction of the Director of Public Works.
- Please advise whether there are any plans to pave the existing driveway. The existing gravel surface may create dust impacts to neighbouring residences.
- Please advise whether there are any plans to illuminate the driveway or provide signage on Foss Road. If so, please show on site plan and provide details.
- Please advise whether the applicant is willing to provide a landscaped buffer along the driveway on adjacent property? It does not appear that there is sufficient space on the subject property.
- Please add landscape details on the site plan or provide a separate landscape plan. Town staff recommend adding a planting strip along the property line abutting the southern boundary of 760 Foss Road.
- Please provide fencing details.

#### Architectural Details

- Please provide exhaust fan locations. Note that Section 7.3(e) of Town of Pelham Zoning By-law no. 1136 (1987) requires a minimum side or rear yard for a greenhouse of 15.0 metres, except where ventilating fans exhaust into the respective side or rear yard, the minimum yard shall be 25.0 metres.

#### Servicing Drawings

- Revise to reflect municipal sanitary servicing.

#### Civil Servicing Report

- Revise to reflect municipal sanitary servicing.
- Revise to include confirmation from an Engineer detailing the existing and proposed flows from the site to confirm if there will be any additional flows to the Foss Road Sewage Pumping Station and provide the timing of the expected flow to the Foss Road Sewage Pumping Station to determine when the Foss Road Sewage Pumping Station upgrade is required.
- Provide information on what the plan is for the process water.
- The sanitary service will require a manhole at the property line in accordance with the Regional Sewer Use By-law. Sewage composition must be in accordance with the Regional requirements for treatment.
- Condition assessment of the existing sanitary service is required.
- There is currently a 2" water service to the property line. If water demands deviate from the submitted report such as having sprinklers in the building or servicing the structures with municipal water, the water service will need to be upsized and a meter chamber will be required.

- Should a new service be required, the developer shall complete all works through a Temporary Works Permit and be responsible for all costs associated with the installation of a new service within Town right-of-way, as well as removal of the 2" service.
- The Town will model the servicing network and provide comments once an updated report is received.

Lighting Layout

- Provide light standard and fixture details.

In addition to comments received from commenting agencies, utilities and Town departments, we received a phone call from a resident at 781 Church Street, who indicated that a portion of the westerly irrigation pond is located on her property (reflected on the site plan). The resident requested that the pond be removed from her property or that the affected portion of the property be purchased from her.

These comments are being provided to outline the information required to assist Town staff in bringing a timely recommendation report forward for Council's consideration.

If you have any questions or concerns, please contact me.

Sincerely,



Shannon Larocque, MCIP, RPP  
Senior Planner

cc: Barbara Wiens, Director of Community Planning and Development



January 31, 2019

**VIA EMAIL ONLY**

Files: D.11.06.ZA-19-004

Shannon Larocque  
Senior Planner  
Town of Pelham  
20 Pelham Town Square, P.O. Box 400  
Fonthill, ON L0S 1E0

Dear Ms. Larocque:

**Re: Regional and Provincial Review Comments  
Exemption to Town of Pelham Interim Control By-law 4046  
770 Foss Road  
Owner: Leviathan Cannabis Group (c/o Friedmans Law Firm)  
Town of Pelham**

Regional Development Services staff has reviewed the information circulated with the application for exemption to the Town of Pelham's Interim Control By-law 4046 (ICBL 4046). ICBL 4046, passed on October 15, 2018, restricts the use of all land in the municipality for any cannabis-related land uses for a period of one year. The Town is currently conducting a review on land-use policies and regulations pertaining to cannabis-related uses in order to develop appropriate policies and regulations to manage and control these uses.

The subject application indicates that Leviathan Cannabis Group proposes to construct a hybrid greenhouse facility on an approximately 12 ha property, known municipally as 770 Foss Road in Pelham. The applicant proposes to retrofit the existing 90,000 square foot greenhouse for cannabis cultivation purposes with a separate 30,000 square foot headhouse (to be expanded by 10,000 square feet) that will be used for harvesting and utility infrastructure. A 5,000 square foot office space is also proposed.

The application was received by the Region on January 10, 2019. The following comments are provided from a Regional and Provincial perspective to assist the Town in considering this application.

### **Regional and Provincial Policies**

The subject lands are located in part within a Settlement Area (designated growth area) and primarily within the Prime Agricultural Area as per the Provincial Policy Statement (PPS). The Regional Official Plan (ROP) designates the northerly portion of the subject lands as within the Urban Area (built-up area) and the majority of the subject lands as Good General Agricultural Area. Staff note that only a small portion of the subject land is located in the Urban Area (frontage and part of the driveway). Provincial and Regional policies recognize that agricultural land is a valuable asset that must be properly managed and protected. Permitted uses include agricultural uses, agricultural-related uses and on-farm diversified uses. Therefore, while Region does not object to the proposed exemption to allow the use on the subject lands, the Region does support the Town's efforts to review its policies and regulations related to the use.

It is the Region's position that the growing, processing and distribution of cannabis is considered an agricultural use according to the ROP. In Urban Areas, these facilities may be considered industrial uses and permitted on employment lands. The use may be more closely regulated through local Official Plans and Zoning By-laws.

The following additional comments are provided for information in advance of any other Planning Act applications related to development on the lands.

### **Core Natural Heritage System (CNHS)**

Core Natural Heritage (CNHS) mapping identifies portions of an Environmental Protection Area (EPA) associated with the Upper Coyle Creek Provincially Significant Wetland (PSW) complex located on and adjacent to the southernmost portion of the property, as well as Environmental Conservation Area (ECA) associated with Significant Woodland. In addition, the creek located approximately 30 metres (m) west of the property and adjacent to the PSW onsite is mapped as Important (Type 2) Fish Habitat (see attached map). These same features are also identified by the Growth Plan for the Great Golden Horseshoe (Growth Plan) as part of the Provincial Natural Heritage System (NHS) and are considered Key Natural Heritage and Hydrologic Features respectively. The property is also identified as a Groundwater Protection Area (Highly Vulnerable Aquifer).

Regional Official Plan policies require the completion of an Environmental Impact Study (EIS) prior to development or site alteration within 120 m of a PSW, within 50 m of Significant Woodland, and within 30 m of Fish Habitat. The purpose of the EIS is to demonstrate there will be no negative impact on the features or their ecological function over the long term. However, the Region's EIS Guidelines permit waiving of the EIS requirement provided other criteria are met. In this case, provided the redevelopment is considered small or medium-scale, the requirements for an EIS could be waived if the proposed redevelopment maintains a 30 m setback from these key features. Alternatively, the EIS requirement can also be waived if the proposal is for redevelopment contained within the existing footprint, or if redevelopment includes an addition which extends away from the feature. At the Site Plan stage, the buildout plans should be revised to confirm these setback requirements are met.

In addition, staff advise that the Growth Plan includes policies applicable to a new Provincial NHS, portions of which include the undeveloped areas of the property. The applicant should be advised that currently, according to Section 4.2.4 of the Growth Plan, a minimum 30 m vegetation protection zone (buffer) is required to protect the functions of the adjacent key features. Therefore, prior to any future plans for development or site alteration that trigger *Planning Act* approvals, a natural heritage evaluation would be requested to address the Growth Plan policies and identify both a suitable buffer and any additional restrictions (mitigation measures) that may be required to protect the adjacent natural heritage features and functions. If requested, Regional Environmental Planning staff will provide further explanation at the Site Plan stage.

### **Servicing**

Policy 5.C.5 of the ROP states that development outside of the urban boundary will not be provided with municipal sewer services but instead will be expected to depend on private sewage disposal and private water supply. Regional Staff have received the submitted Civil Servicing Report and Leviathan Presentation for the Zoning By-Law Amendment for Leviathan Cannabis Group Inc. In recent correspondence from the Town, the intent of the owner is to connect to the municipal system.

Regional staff have not reviewed the Civil Servicing Report as the design provided was a septic design. The following information will be required to ensure the current Regional Infrastructure can accommodate the development.

#### Municipal Servicing Option

The subject land is within the Foss Road Sewage Pumping Station (SPS) and Forcemain. The Region's Master Servicing Plan has indicated an upgrade to the Foss Road SPS and Forcemain, scheduled for 2022-2031. Currently, the Region has scheduled a Forcemain replacement project for

2025 (Design) and 2027 (Construction). The current flows to the Foss Road SPS are on average between 3.5 and 5.5 L/s during dry days and up to 17 L/s during wet weather, the current capacity of the station is 27 L/sec.

- The Region will require that the applicant provide a letter from an engineer detailing the existing flows and proposed flows from the site to see if there will be any additional flows to the Foss Road SPS and provide the timing of the expected flow to the Foss Road SPS to determine when the Foss Road SPS upgrade is required.
- The letter should provide information on what the plan is for the process water
- The service will require a manhole at the property line in accordance with the Regional Sewer Use By-law
- We have attached the link to the Region's Sewer Use By-law so the applicant can ensure the sewage composition is in accordance with our requirements for treatment:  
<https://www.niagararegion.ca/living/sewage/sewage-bylaw.aspx>

If for some reason the applicant decides to proceed with an on-site septic system our preliminary comments are as follows (detailed calculations were not reviewed by Regional Staff):

#### Private Servicing Option

If the property is proposing to privately service the subject lands, Regional Staff provide the following comments:

The proposed location of the septic system does not appear to meet with Building Code minimum setback requirements (pond, structures).

- The indicated size of the septic system may not be sufficient for the sewage flows generated from the new development. A detailed septic system design using OBC Table 8.2.1.3.B. is required to confirm the flow rate calculations.
- If the property is proposing the service the subject lands, Regional staff will review the detailed flow rate calculations and provide further comments during the Site Plan stage.

#### **Conclusion**

Regional Development Services staff has no objection to the ICBL exemption request from a Provincial or Regional perspective, however does support the Town's efforts to review its policies and regulations regarding cannabis-related uses. Regional Staff will provide further comments when circulated on any future Planning Act applications.

If you have any questions, please contact me at extension 3518 or Aaron Butler, Senior Planner at ext. 3264.

Please send a copy of the staff report and notice of the Town's decisions on these applications.

Sincerely,



Alexsandria Pasquini  
Development Planner

cc: Aaron Butler, Senior Development Planner, Niagara Region  
Jennifer Whittard, Manager of Environmental Planning, Niagara Region  
Susan Dunsmore, Manager Infrastructure Planning, Niagara Region



### Legend

#### MNR Evaluated Wetlands

- Non-Provincially Significant Wetland
- Provincially Significant Wetland

Wetland Allowance

CNH - Fish Habitat

ECA: Significant Woodlands

Ownership Parcels

Provincial Natural Heritage Sites

254.0 0 127.00 254.0 Meters

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### Notes





For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending DCC Titles 9, 18, and 22 to  
Refine Standards for the Regulation and Enforcement  
of Marijuana Production on Rural Lands and  
Declaring an Emergency.

\*  
\*  
\*  
\*

ORDINANCE NO. 2018-012

WHEREAS, the Board of County Commissioners directed the Deschutes County Community Development Department staff to initiate amendments (Planning Division File No. 247-18-000540-TA) to Deschutes County Code (DCC) Title 9, Chapter 9.12, Right to Farm; Title 18, Chapter 18.24, Redmond Urban Reserve Area Combining Zone; Chapter 18.116, Supplementary Provisions; Chapter 18.124, Site Plan Approval Criteria; Title 22, Chapter 22.24, Land Use Action Hearings; and Chapter 22.32, Appeals, refining standards for the regulation and enforcement of marijuana production on rural lands; and

WHEREAS, the Board of County Commissioners considered this matter after a duly noticed public hearing on August 28, 2018 and concluded that the public will benefit from the changes to the Deschutes County Code; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS  
as follows:

Section 1. AMENDMENT. DCC 9.12, Right to Farm, is amended to read as described in Exhibit "A," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. AMENDMENT. DCC 18.24, Redmond Urban Reserve Area Combining Zone, is amended to read as described in Exhibit "B," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 3. AMENDMENT. DCC 18.116, Supplementary Provisions, is amended to read as described in Exhibit "C," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 4. AMENDMENT. DCC 18.124, Site Plan Review, is amended to read as described in Exhibit "D," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 5. AMENDMENT. DCC 22.24, Land Use Action Hearings, is amended to read as described in Exhibit "E," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

///

Section 6. AMENDMENT. DCC 22.32, Appeals, is amended to read as described in Exhibit "F," attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strike through~~.


Section 7. FINDINGS. The Board adopts as its findings Exhibit "G," attached and incorporated by reference herein.

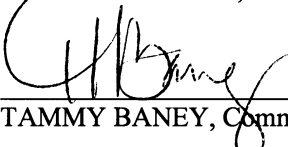
Section 8. EMERGENCY. This Ordinance being necessary for the public peace, health, safety and welfare, an emergency is declared to exist, and this Ordinance becomes effective 30 days from adoption.

Dated this 24 of October, 2018

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
ANTHONY DeBONE Chair

  
PHIL HENDERSON, Vice Chair

  
TAMMY BANEY, Commissioner

ATTEST:  
  
Recording Secretary

Date of 1<sup>st</sup> Reading: 24 day of October, 2018.

Date of 2<sup>nd</sup> Reading: 24 day of October, 2018.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	<u>X</u>	—	—	—
Phil Henderson	<u>X</u>	—	—	—
Tammy Baney	<u>X</u>	—	—	—

Effective date: 23 day of November, 2018.

## Chapter 9.12. RIGHT TO FARM

### 9.12.020. Purpose and Scope.

\* \* \*

### 9.12.020. Purpose and Scope.

- A. It is the purpose of DCC 9.12 to protect farm and forest-based economically productive activities of Deschutes County in order to assure the continued health, safety and prosperity of its residents. Farm and forest uses sometimes offend, annoy, interfere with or otherwise affect others located on or near farm and forest lands. Deschutes County has concluded in conformance with ORS chapter 30 that persons located on or near farm and forest lands must accept resource uses and management practices.
- B. DCC 9.12 is intended to limit the availability of remedies based on nuisance or trespass, rights of action and claims for relief and issuance of citations for violations over which Deschutes County has jurisdiction, when they otherwise would either have an adverse impact on farm and forest uses that Deschutes County seeks to protect, or would impair full use of the farm and forest resource base within Deschutes County.
- B-C. Scope. DCC Chapter 9.12 (The Deschutes County Right To Farm Ordinance) applies to all crops. ~~does not apply to marijuana production operations whether permitted by Deschutes County, Oregon Liquor Control Commission, Oregon Health Authority, or otherwise~~ However, subject to ORS 475B, Cannabis regulation, the governing body of a county may adopt ordinances that impose reasonable regulations on marijuana production, processing, wholesaling and retailing.  
(Ord. 2018-012 §1, 2018; Ord. 2003-021 §21, 2003; Ord. 95-024 §2, 1995)



**Chapter 18.24 REDMOND URBAN RESERVE AREA COMBINING ZONE**

**18.24.030. Conditional Uses Permitted; Prohibition.**

\* \* \*

**18.24.030. Conditional Uses Permitted; Prohibition.**

- A. Subject to the prohibitions provided for in DCC 18.24.030(B), uses permitted conditionally in the RURA-Redmond Urban Reserve Area Combining Zone shall be those identified as conditional uses in the underlying zoning districts. Conditional uses shall be subject to all conditions of those zones as well as the requirements of this chapter.
  - B. The following uses are prohibited and not permitted in the RURAedmond Urban Reserve Area Combining Zone:
    - 1. Marijuana production; and
    - 2. Marijuana processing.
- (Ord. 2018-012 §2, 2018)

## **Chapter 18.116. SUPPLEMENTARY PROVISIONS**

### **18.116.330 Marijuana Production, Processing, and Retailing**

### **18.116.340 Marijuana Production Registered by the Oregon Health Authority (OHA)**

\* \* \*

### **18.116.330. Marijuana Production, Processing, and Retailing**

#### **A. Applicability. Section 18.116.330 applies to:**

1. Marijuana Production in the EFU, ~~MUA-10~~, and RI zones.
2. Marijuana Processing in the EFU, ~~MUA-10~~, TeC, TeCR, TuC, TuI, RI, and SUBP zones
3. Marijuana Retailing in the RSC, TeC, TeCR, TuC, TuI, RC, RI, SUC, SUTC, and SUBP zones.
4. Marijuana Wholesaling in the RSC, TeC, TeCR, TuC, RC, SUC, and SUBP zones.

#### **B. Marijuana production and marijuana processing. Marijuana production and marijuana processing shall be subject to the following standards and criteria:**

1. Minimum Lot Area.
  - a. In the EFU and ~~MUA-10~~ zones, the subject legal lot of record shall have a minimum lot area of five (5) acres.
2. Indoor Production and Processing.

~~In the MUA-10 zone, marijuana production and processing shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.~~

  - a. In the EFU zone, marijuana production and processing shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
  - b. In all zones, marijuana production and processing are prohibited in any outdoor area.
3. Maximum Mature Plant Canopy Size. In the EFU zone, the maximum canopy area for mature marijuana plants shall apply as follows:
  - a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.
  - b. Parcels equal to or greater than 10 acres to less than 20 acres in lot area: 5,000 square feet. The maximum canopy area for mature marijuana plants may be increased to 10,000 square feet upon demonstration by the applicant to the County that:
    - i. The marijuana production operation was lawfully established prior to January 1, 2015; and
    - ii. The increased mature marijuana plant canopy area will not generate adverse impact of visual, odor, noise, lighting, privacy or access greater than the impacts associated with a 5,000 square foot canopy area operation.
  - c. Parcels equal to or greater than 20 acres to less than 40 acres in lot area: 10,000 square feet.
  - d. Parcels equal to or greater than 40 acres to less than 60 acres in lot area: 20,000 square feet.
  - e. Parcels equal to or greater than 60 acres in lot area: 40,000 square feet.
4. ~~Maximum Building Floor Area. In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana production and processing on the subject property shall be:~~
  - a. ~~Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.~~
  - b. ~~Parcels equal to or greater than 10 acres: 5,000 square feet.~~
54. Limitation on License/Grow Site per Parcel. No more than one (1) Oregon Liquor Control Commission (OLCC) licensed marijuana production or Oregon Health Authority (OHA)

- registered medical marijuana grow site shall be allowed per legal parcel or lot.
65. Setbacks. The following setbacks shall apply to all marijuana production and processing areas and buildings:
- a. Minimum Yard Setback/Distance from Lot Lines: 2100~~150~~ feet.
  - b. Setback from an off-site dwelling: ~~5300~~400 feet.
  - c. Setback from Federal public lands: 300 feet.
  - b. ~~For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.~~
  - d. Exception: Any reduction to these setback requirements may be granted by the Planning Director or Hearings Body provided the applicant demonstrates the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.
6. Separation Distances. Minimum separation distances shall apply as follows:
- a. ~~The use applicant property line~~ shall be located a minimum of ~~1000~~1,320 feet from:
    - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
    - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
    - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed child care which occurs at or in residential structures;
    - iv. A youth activity center; ~~and~~
    - v. State, local, and municipal parks, including land owned by a parks district;
    - vi. ~~Public lands; and~~
    - vi. Redmond Urban Reserve Area;
    - vii. The boundary of any local jurisdiction that has opted out of Oregon's recreational marijuana program; and
    - viii. Any other lot or parcel approved by Deschutes County for- marijuana production.
  - b. For purposes of DCC 18.116.330(B)(~~76~~), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.330(B)(~~76~~)(a) to the closest point of the ~~buildings and land area~~applicant's property line of land occupied by the marijuana producer or marijuana processor.
  - c. A change in use of another property to those identified in DCC 18.116.330(B)(~~76~~) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(~~76~~) if the use is:
    - i. Pending a local land use decision;
    - ii. Licensed or registered by the State of Oregon; or
    - iii. Lawfully established.
87. Access. Marijuana production ~~over 5,000 square feet of canopy area for mature marijuana plants sites~~ shall comply with the following standards.
- a. Have frontage on and legal direct access from a constructed public, county, or state road; or
  - b. Have access from a private road or easement serving only the subject property.
  - c. If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private

road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:

- i. Be on a form provided by the County and shall contain the following information;
- ii. Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;
- iii. Include a description of the proposed marijuana production or marijuana processing operation; and
- iv. Include a legal description of the private road or easement.

98. Lighting. Lighting shall be regulated as follows:

- a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from ~~sundown~~~~sunset to sunup~~~~sunrise~~ 7:00 p.m. to 7:00 a.m. on the following day.
- b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
- c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

109. Odor. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property. As used in DCC 18.116.330(B)(9), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing. Odor produced by marijuana production and processing shall comply with the following:

~~Standard. To prevent unreasonable interference of neighbors' use and enjoyment of their property, no adverse or noxious odors shall be detectable beyond the property line.~~

- a. Odor control plan. To ensure that the standard stated in DCC 18.116.330(B)(9) is continuously met, the applicant shall submit an odor control plan prepared and stamped by a mechanical engineer licensed in the State of Oregon that includes the following:
  - i. The mechanical engineer's qualifications and experience with system design and operational audits of effective odor control and mitigation systems;
  - ii. A detailed analysis of the methodology, including verified operational effectiveness, that will be relied upon to effectively control odor on the subject property;
  - iii. A detailed description of any odor control systems that will be utilized, including operational schedules and maintenance intervals;
  - iv. Contingence measures if any aspect of the odor control plan fails or is not followed, or if it is otherwise shown that the standard stated in DCC 18.116.330(B)(9) is not met;
  - v. Testing protocols and intervals; and
  - vi. Identification of the responsible parties tasked with implementing each aspect of the odor control plan.

~~Compliance. On going compliance with the odor control plan is mandatory and shall be ensured with a permit condition of approval, but compliance with the odor control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(9). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.~~

- b. Modifications. Significant Mmodifications to the odor control plan, including but not limited to replacement of one system for another or a change in odor control methodology shall be approved in the same manner as a modification to a land use action pursuant to DCC 22.36.040.

- c. The system shall at all times be maintained in working order and shall be in use.
  - a. ~~The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.~~
    - b. ~~An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating system design and operational audit of effectively , operationalC is authorizedsystem will effectively and continuously control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.~~
  - e. ~~Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.~~
  - d. ~~The odor control system shall:~~
    - i. ~~Consist of one or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM; or~~
    - ii. ~~Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by (i) above.~~
  - e. ~~The system shall at all times be maintained in working order and shall be in use.~~
1110. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:
- a. ~~Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day~~
  - b. ~~Sustained noise from marijuana production is exempt from protections of DCC 9.12 and ORS 30.395, Right to Farm. Intermittent noise for accepted farming practices is permitted.~~
  - a. Standard. To prevent unreasonable interference of neighbors' use and enjoyment of their property, sustained noise including ambient noise levels shall not be detectable beyond the applicant's property line above 3045 dB(A) in total between 10:00 pm and 7:00 am the following day.
    - i. For purposes of DCC 18.116.330(B)(10), "sustained noise" shall mean noise lasting more than ~~twofive~~ continuous minutes or ~~twofive~~ total minutes in a one hour period from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions associated with marijuana production and processing.
  - b. Noise control plan. To ensure that the standard stated in DCC 18.116.330(B)(10) is continuously met, the applicant shall submit a noise control plan prepared and stamped by a mechanical engineer licensed in the State of Oregon that includes the following:
    - i. The mechanical engineer's qualifications and experience with system design and operational audit of effective noise control and mitigation systems;
    - ii. A detailed analysis of the methodology that will be relied upon to effectively control noise on the subject property;
    - iii. A detailed description of any noise control systems that will be utilized, including operational schedules and maintenance intervals;
    - iv. Contingence measures if any aspect of the noise control plan fails or is not followed, or if it is otherwise shown that the standard stated in DCC 18.116.330(B)(10) is not met;
    - v. Testing protocols and intervals; and
    - vi. Identification of the responsible parties tasked with implementing each aspect of the noise control plan.

~~Compliance. On-going compliance with the noise control plan is mandatory and shall be ensured with a permit condition of approval, but compliance with the noise control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(1). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.~~

- c. ~~Modifications. Significant modifications to the noise control plan, including but not limited to replacement of one system for another or a change in noise control methodology shall be approved in the same manner as a modification to a land use action pursuant to DCC 22.36.040. Modifications to the noise control plan shall be approved in the same manner as a modification to a land use action pursuant to DCC 22.36.040.~~

1211. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:

- a. All marijuana uses, buildings, structures, fences, and storage and parking areas, whether a building permit is required or not, in the Landscape Management Combining Zone, shall comply with and require Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
- b. Fencing and screening shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
- c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
- d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.

1312. Water. Applicant shall state the anticipated amount of water to be used, as stated on the water right, certificate, permit, or other water use authorization, on an annual basis. Water use from any source for marijuana production shall comply with all applicable state statutes and regulations. The applicant shall provide:

- a. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or An Oregon Water Resources Department (OWRD) Certificate(s), permit, or other water use authorization proving necessary water supply of proper classification will be available for intended use during required seasons, regardless of source; or
- b. A will serve statement that water is supplied from a public or private water provider, along with a will haul statement, including the name and contact information of the water provider/hauler; or A source water provider Will Serve statement referencing valid Water Right to be utilized, if any, as well as a Will Haul statement, including the name and contact information of the water hauler; or
- c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right. In the alternative to (a) and (b) above, proof from Oregon Water Resources Department that the water supply to be used does not require a Water Right for the specific application use classification, volume, and season of use (i.e., roof-collected water).
- d. For production sites with 5,000 square feet or more of mature canopy, a dedicated water meter for the marijuana production facility shall be required. If the applicant is proposing a year-round production facility, the water right, certificate, permit, or other

water use authorization must address all permitted sources of water for when surface water is unavailable.

- e. In the event that the water source for the facility changes from the use of an OWRD certificate, permit, or other water use authorization to the use of a water hauler, or from the use of a water hauler to another source, a modification to a land use action pursuant to DCC 22.36.040 notification to the Community Development Department is required.

- d. If multiple sources of water are being proposed during the year, the applicant shall provide proof from the controlling entity that the water can be applied to marijuana production.

1413. Fire protection for processing of cannabinoid extracts. Processing of cannabinoid extracts shall only be permitted on properties located within the boundaries of or under contract with a fire protection district.

1514. Utility Verification. Utility statements identifying the proposed operation, or operational characteristics such as required electrical load and timing of such electrical loads and Aa statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided. The utility shall state that it has reviewed the new service or additional load request and determined if existing capacity can serve the load or if a system upgrade is required. Any new service request or additional load request requiring an upgrade shall be performed per the serving utility's stated policy.

1615. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.

1716. Secure Waste Disposal.

- a. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).
- b. A statement is also required describing how any water runoff is being addressed. Wastewater generated during marijuana production and/or processing shall be disposed of in compliance with applicable federal, state, and local laws and regulations.

18. Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:

- a. An owner of the subject property;
- b. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; or
- e. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.

1917. Nonconformance. All medical marijuana grow sites lawfully established prior to June 8, 2016 by the Oregon Health Authority shall comply with Ordinance 2016-015 and with the provisions of DCC 18.116.330(B)(9) by September 8, 2016 and with the provisions of DCC 18.116.330(B)(10-12, 16, 17) by December 8, 2016.

2018. Prohibited Uses.

- a. In the EFU zone, the following uses are prohibited:
  - i. A new dwelling used in conjunction with a marijuana crop;
  - ii. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
  - iii. A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and



- iv. ~~Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.~~
- b. ~~In the MUA-10 Zone, the following uses are prohibited:~~
  - i. ~~Commercial activities in conjunction with farm use when carried on in conjunction with a marijuana crop.~~
- eb. In the EFU, MUA-10, and Rural Industrial zones, the following uses are prohibited on the same property as marijuana production:
  - i. Guest Lodge.
  - ii. Guest Ranch.
  - iii. Dude Ranch.
  - iv. Destination Resort.
  - v. Public Parks.
  - vi. Private Parks.
  - vii. Events, Mass Gatherings and Outdoor Mass Gatherings.
  - viii. Bed and Breakfast.
  - ix. Room and Board Arrangements.

19. Compliance.

- a. Odor. On-going compliance with the odor control plan is mandatory and shall be ensured with a permit condition of approval. The odor control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(9). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.
  - b. Noise. On-going compliance with the noise control plan is mandatory and shall be ensured with a permit condition of approval. The noise control plan does not supersede required compliance with the standard set forth in DCC 18.116.330(B)(10). If provided in applicable state statutes, private actions alleging nuisance or trespass associated with odor impacts are authorized.
- C. Marijuana Retailing. Marijuana retailing, including recreational and medical marijuana sales, shall be subject to the following standards and criteria:
1. Hours. Hours of operation shall be no earlier than 9:00 a.m. and no later than 7:00 p.m. on the same day.
  2. Odor. The building, or portion thereof, used for marijuana retailing shall be designed or equipped to prevent detection of marijuana plant odor off premise by a person of normal sensitivity.
  3. Window Service. The use shall not have a walk-up or drive-thru window service.
  4. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
  5. Minors. No person under the age of 21 shall be permitted to be present in the building, or portion thereof, occupied by the marijuana retailer, except as allowed by state law.
  6. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot or parcel or within the same building with any marijuana social club or marijuana smoking club.
  7. Separation Distances. Minimum separation distances shall apply as follows:
    - a. The use shall be located a minimum of 1,000 feet from:
      - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
      - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;

- iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed family child care which occurs at or in residential structures;
    - iv. A youth activity center;
    - v. National monuments and state parks; and
    - vi. Any other marijuana retail facility licensed by the OLCC or marijuana dispensary registered with the OHA.
  - b. For purposes of DCC 18.116.330(CB)(7), distance shall be measured from the lot line of the affected property to the closest point of the building space occupied by the marijuana retailer. For purposes of DCC 18.116.330(CB)(7)(a)(vi), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.
  - c. A change in use to another property to a use identified in DCC 18.116.330(CB)(7), after a marijuana retailer has been licensed by or registered with the State of Oregon shall not result in the marijuana retailer being in violation of DCC 18.116.330(CB)(7).
- D. Inspections and Annual Reporting.
  - 1. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:
    - a. Documentation demonstrating compliance with the:
      - i. Land use decision and permits.
      - ii. Fire, health, safety, waste water, and building codes and laws.
      - iii. State of Oregon licensing requirements.
    - b. An optional statement of annual water use.
    - b. ~~Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(DC)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.~~
    - c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
    - d. As a condition of approval, the applicant must consent in writing to allow Deschutes County to, randomly and without prior notice, inspect the premises and ascertain the extent and effectiveness of the odor control system(s), compliance with the Deschutes County Code, and applicable conditions of approval. Inspections may be conducted by the County up to fourthree (43) times per calendar year, including one inspection prior to the initiation of use. ~~for inspecting the premises and to ascertain the extent and effectiveness of odor control system(s).~~ Marijuana Control Plan to be established and maintained by the Community Development Department.
    - e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
    - e.f. Documentation that System Development Charges have been paid.
    - g. This information shall be public record subject to ORS 192.502(17).
    - h. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(D)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed

use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.

(Ord. 2018-012 §3, 2018; Ord. 2016-015 §10, 2016)

**18.116.340. Marijuana Production Registered by the Oregon Health Authority (OHA)**

**A. Applicability.** Section 18.116.340 applies to:

1. All marijuana production registered by OHA prior to June 1, 2016; and
2. All marijuana production registered by OHA on or after June 1 2016 until the effective date of Ordinances 2016-015, 2016-16, 2016-17, and 2016-18, at which time Ordinances 2016-015 through Ordinance 2016-018 shall apply.

**B. All marijuana production registered by OHA prior to June 1, 2016 shall comply with the following standards by September 15, 2016:**

1. **Lighting.** Lighting shall be regulated as follows:
  - a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from ~~7:00 p.m. to 7:00 a.m.~~ sunset to sunrise on the following day.
  - b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
  - c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

**C. All marijuana production registered by OHA prior to June 1, 2016 shall comply with the following standards by December 15, 2016:**

1. **Odor.** As used in DCC 18.116.3430(~~CB~~)(10), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.
  - a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
  - b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
  - c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
  - d. The odor control system shall:
    - i. Consist of one or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM; or
    - ii. Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by i. above.
  - e. The system shall be maintained in working order and shall be in use.
2. **Noise.** Noise produced by marijuana production and marijuana processing shall comply with the following:
  - a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
  - b. Sustained noise from marijuana production is not subject to the Right to Farm protections in DCC 9.12 and ORS 30.395. Intermittent noise for accepted farming

- practices is however permitted.
3. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:
    - a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
    - b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
    - c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
    - d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.
  4. Water. The applicant shall provide:
    - a. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or
    - b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
    - c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.
  5. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.
  6. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).
  7. Inspections and Annual Reporting. All marijuana production registered by OHA prior to June 1, 2016 shall comply with DCC 18.116.340(D)(8) when site locations are identified or otherwise disclosed by the State of Oregon.
- D. All new marijuana production registered by OHA on or after June 1, 2016 shall comply with DCC 18.116.340330(A-, B, and DC), and the following standards:
- ~~1. Shall only be located in the following zones~~
    - ~~a. EFU;~~
    - ~~b. MUA 10; or~~
    - ~~c. Rural Industrial in the vicinity of Deschutes Junction.~~
  - ~~2. Minimum Lot Area.~~
    - ~~a. In the EFU and MUA 10 zones, the subject property shall have a minimum lot area of five (5) acres.~~
  - ~~3. Maximum Building Floor Area. In the MUA 10 zone, the maximum building floor area used for all activities associated with medical marijuana production on the subject property shall be:~~
    - ~~a. Parcels from 5 acres to less than 10 acres in area: 2,500 square feet.~~
    - ~~b. Parcels equal to or greater than 10 acres: 5,000 square feet.~~
  - ~~4. Setbacks. The following setbacks shall apply to all marijuana production areas and buildings:~~
    - ~~a. Minimum Yard Setback/Distance from Lot Lines: 1200 feet.~~
    - ~~b. Setback from an off site dwelling: 5300 feet.~~

For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.

- c. ~~Exception: Reductions to these setback requirements may be granted at the discretion of the Planning Director or Hearings Body provided the applicant demonstrates that the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.~~

5. ~~Indoor Production and Processing.~~

- a. ~~In the MUA 10 zone, marijuana production shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.~~
- a. ~~In the EFU zone, marijuana production shall only be located in buildings, including greenhouses, hoop houses, and similar structures.~~
- b. ~~In all zones, marijuana production is prohibited in any outdoor area.~~

6. ~~Maximum Mature Plant Canopy Size. In the EFU zone, the maximum canopy area for mature marijuana plants shall apply as follows:~~

- a. ~~Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.~~
- b. ~~Parcels equal to or greater than 10 acres to less than 20 acres in lot area: 5,000 square feet. The maximum canopy area for mature marijuana plants may be increased to 10,000 square feet upon demonstration by the applicant to the County that:~~
  - i. ~~The marijuana production operation was lawfully established prior to January 1, 2015; and~~
  - ii. ~~The increased mature marijuana plant canopy area will not generate adverse impact of visual, odor, noise, lighting, privacy or access greater than the impacts associated with a 5,000 square foot canopy area operation.~~
- c. ~~Parcels equal to or greater than 20 acres to less than 40 acres in lot area: 10,000 square feet.~~
- d. ~~Parcels equal to or greater than 40 acres to less than 60 acres in lot area: 20,000 square feet.~~
- e. ~~Parcels equal to or greater than 60 acres in lot area: 40,000 square feet.~~

7. ~~Separation Distances. Minimum separation distances shall apply as follows:~~

- a. ~~The use shall be located a minimum of 1000 feet from:~~
  - i. ~~A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;~~
  - ii. ~~A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;~~
  - iii. ~~A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed child care which occurs at or in residential structures;~~
  - iv. ~~A youth activity center; and~~
  - v. ~~National monuments and state parks;~~
  - vi. ~~Public lands; and~~
  - vii. ~~Redmond Urban Reserve Area~~
  - viii.

- ix. ~~approved by Deschutes County for b. For purposes of DCC 18.116.3430(DB)(7), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.3430(DB)(7)(a) to the closest point of the buildings~~

- and land area occupied by the marijuana producer or marijuana processor.
- c. ~~A change in use of another property to those identified in DCC 18.116.3430(DB)(7) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(7) if the use is:~~
    - i. ~~Pending a local land use decision;~~
    - ii. ~~Registered by the State of Oregon; or~~
    - iii. ~~Lawfully established.~~
8. ~~Access. Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.~~
- a. ~~Have frontage on and legal direct access from a constructed public, county, or state road; or~~
  - b. ~~Have access from a private road or easement serving only the subject property.~~
  - c. ~~If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:~~
    - i. ~~Be on a form provided by the County and shall contain the following information;~~
    - ii. ~~Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;~~
    - iii. ~~Include a description of the proposed marijuana production or marijuana processing operation; and~~
    - iv. ~~Include a legal description of the private road or easement.~~
9. ~~Residency. In the MUA 10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:~~
- a. ~~An owner of the subject property; or~~
  - b. ~~A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.~~
10. ~~Inspections and Annual Reporting. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, of marijuana production registered by OHA, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:~~
- a. ~~Documentation demonstrating compliance with the:~~
    - i. ~~Land use decision and permits.~~
    - ii. ~~Fire, health, safety, waste water, and building codes and laws.~~
    - iii. ~~State of Oregon licensing requirements.~~
  - b. ~~Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.3430(C)(8) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.~~
- ~~Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.d. — Marijuana Control Plan to be established and maintained by the Community Development Department. As a condition of approval, the applicant must consent in writing to allow Deschutes County to randomly and without prior notice, up to four (4) times per calendar year, inspect the premises to ascertain the extent and effectiveness of for odor control.~~

~~Conditions of Approval Agreement to be established and maintained by the Community Development Department.~~

~~Documentation that System Development have been paid.~~

~~This information shall be public record subject to ORS 192.502(17). 11. Prohibited Uses.~~

- ~~a. In the EFU zone, the following uses are prohibited:
  - ~~i. A new dwelling used in conjunction with a marijuana crop;~~
  - ~~ii. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;~~
  - ~~iii. A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and~~
  - ~~iv. Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.~~~~
- ~~b. In the MUA 10 Zone, the following uses are prohibited:
  - ~~i. Commercial activities in conjunction with farm use when carried on in conjunction with a marijuana crop.~~~~
- ~~c. In the EFU, MUA 10, and Rural Industrial zones, the following uses are prohibited on the same property as marijuana production:
  - ~~Guest Lodge.~~
  - ~~i. Guest Ranch.~~
  - ~~ii. Dude Ranch.~~
  - ~~iii. Destination Resort.~~
  - ~~iv. Public Parks.~~
  - ~~v. Private Parks.~~
  - ~~vi. Events, Mass Gatherings and Outdoor Mass Gatherings.~~
  - ~~vii. Bed and Breakfast.~~
  - ~~viii. Room and Board Arrangements.~~~~

~~(Ord. 2018-012 §3, 2018; Ord. 2016-019 §1, 2016)~~



## **Chapter 18.124. SITE PLAN REVIEW**

### **18.124.060. Approval Criteria.**

\* \* \*

### **18.124.060. Approval Criteria.**

Approval of a site plan shall be based on the following criteria:

- A. The proposed development shall relate harmoniously to the natural and man-made environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.
- B. The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.
- C. The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.
- D. When appropriate, the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs and Braille signs.
- E. The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.
- F. Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality.
- G. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.
- H. All above-ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.
- I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.).
- J. All exterior lighting shall be shielded so that direct light does not project off-site.
- K. Transportation access to the site shall be adequate for the use.
  - 1. Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.
  - 2. Mitigation for transportation-related impacts shall be required.
  - 3. Mitigation shall meet applicable County standards in DCC 17.16 and DCC 17.48, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.

(Ord. 2018-012 §4, 2018; Ord. 2010-018 §2, 2010, Ord. 93-043 §§21, 22 and 22A, 1993; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991)

## **Chapter 22.24. LAND USE ACTION HEARINGS**

### **22.24.030. Notice of Hearing or Administrative Action.**

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### **22.24.030. Notice of Hearing or Administrative Action.**

#### **A. Individual Mailed Notice.**

1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:
  - a. The applicant.
  - b. Owners of record of property as shown on the most recent property tax assessment roll of property located:
    1. Within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;
    2. Within 250 feet of the property that is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height; or
    3. Within 750 feet of the property that is the subject of the notice where the subject property is within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height.
    4. Within 1000 feet of the property that is subject of a marijuana production or processing notice where the subject property is within a farm zone.
  - c. For a solar access or solar shade exception application, only those owners of record identified in the application as being burdened by the approval of such an application.
  - d. The owner of a public use airport if the airport is located within 10,000 feet of the subject property.
  - e. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park.
  - f. The Planning Commission.
  - g. Any neighborhood or community organization formally recognized by the board under criteria established by the Board whose boundaries include the site.
  - h. At the discretion of the applicant, the County also shall provide notice to the Department of Land Conservation and Development.
2. Notwithstanding DCC 22.24.030(A)(1) (b)(1), all owners of property within 250 feet of property that is the subject of a plan amendment application or zone change application shall receive notice.
3. The failure of a property owner to receive mailed notice shall not invalidate any land use approval if the Planning Division can show by affidavit that such notice was given.
4. For structures proposed to exceed 30 feet in height that are located outside of an urban growth boundary, the area for describing persons entitled to notice under DCC 22.24.030(A)(1)(b) shall expand outward by a distance equal to the distance of the initial notice area boundary for every 30 foot height increment or portion thereof.

#### **B. Posted Notice.**

1. Notice of a land use action application for which prior notice procedures are chosen shall be posted on the subject property for at least 10 continuous days prior to any date set for receipt of comments. Such notice shall, where practicable, be visible from any adjacent public way.

2. Posted notice of an application for a utility facility line approval shall be by posting the proposed route at intervals of not less than one-half mile. The notice shall be posted as close as practicable to, and be visible from, any public way in the vicinity of the proposed route.
  3. Notice of a solar access application shall be posted as near as practicable to each lot identified in the application.
- C. Published Notice. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the County at least 20 days prior to the hearing.
- D. Media Notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.
- (Ord. 2018-012 §5, 2018; Ord. 99-031 §6, 1999; Ord. 96-071 §1D, 1996; Ord. 95-071 §1, 1995; Ord. 95-045 §12, 1995; Ord. 91-013 §7-8, 1991; Ord. 90-007 §1, 1990)

## **Chapter 22.32. APPEALS**

### **22.32.015. Filing Appeals.**

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### **22.32.015. Filing appeals.**

- A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Division and an appeal fee.
- B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the Deschutes County Community Development Department no later than 5:00 PM on the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 5:00 PM on the twelfth day following mailing of the decision as modified. Notices of Appeals may not be received by facsimile machine.
- C. Unless a request for reconsideration has been filed for a marijuana production or processing administrative decision, the notice of appeal and appeal fee must be received at the offices of the Deschutes County Community Development Department no later than 5:00 PM on the fifteenth day following mailing of the decision.
- ~~C~~D. If the Board of County Commissioners is the Hearings Body and the Board declines review, a portion of the appeal fee may be refunded. The amount of any refund will depend upon the actual costs incurred by the County in reviewing the appeal. When the Board declines review and the decision is subsequently appealed to LUBA, the appeal fee may be applied toward the cost of preparing a transcript of the lower Hearings Body's decision.
- ~~D~~E. The appeal fee shall be paid by method that is acceptable to Deschutes County.  
(Ord. 2018-012 §6, 2018; Ord. 2015-017 §3, 2015; Ord. 99-031 §15, 1999; Ord. 98-019 §2, 1998; Ord. 96-071 §1G, 1996; Ord. 95-045 §32, 1995; Ord. 94-042 §2, 1994; Ord. 91-013 §11, 1991; Ord 90-007 §1, 1990)

## **FINDINGS**

### **I. BACKGROUND**

#### **A. Deschutes County Process**

Following the passage of Ballot Measure 91 (2014), legalizing the sale and recreational use of marijuana, and HB 3400 (2015), refining the implementation of marijuana legalization, the Deschutes County Board of Commissioners adopted marijuana regulations in June 2016 (Ordinance Nos. 2016-013, 2016-014, 2016-015, 2016-017, 2016-018, and 2016-019). Throughout the adoption process, the Board committed to evaluating the regulations after they had been in place for a year to determine if they were working as intended. The Board reiterated this commitment to the 2017 Legislature. Since the release of the Marijuana Regulatory Assessment on April 2, 2018, the Board conducted eight work sessions to discuss changes to the regulation and enforcement of marijuana production on rural lands.

Based on the issues discussed during the work sessions, the Planning Commission and the Board of Commissioners considered substantive changes to certain sections of Deschutes County Code (DCC), specific to marijuana production. The proposed amendments are more restrictive than Deschutes County's existing marijuana regulations.

#### **B. Deschutes County Distinguishing Land Use Characteristics**

As summarized in the findings to the 2016 ordinances listed above, agricultural land in Deschutes County has a history of challenges unique to the area, owing to its low rainfall, high elevation, relatively poor soil quality, short growing season, and distance to major markets. As a result, Deschutes County utilizes smaller lot size requirements for agricultural land than the general State requirement; this unique set of farm sub-zones has been acknowledged by the Land Conservation and Development Commission (DLCD). Nevertheless, the inherent difficulties of commercial farming in Deschutes County combined with rapid population growth make for considerable pressure to convert agricultural land to residential or other uses when possible.

The introduction of marijuana production into these agricultural lands—particularly those areas of smaller lotting patterns—highlights the compatibility concerns expressed by both farm and nonfarm property owners. The unique conditions and development patterns present in Deschutes County only amplify the challenge of balancing the mitigation of potential impacts with the “reasonable time, place, and manner” regulation of marijuana production.

### **II. PROPOSAL**

This is a legislative text amendment to Deschutes County Code (DCC), Title 9, Public Peace and Welfare, Title 18, County Zoning, and Title 22, Development Procedures. The proposal clarifies the regulation and enforcement of marijuana production in Deschutes County based on work sessions with the Board of County Commissioners.

The proposed amendments are to:

- DCC Chapter 9.12, Right to Farm;
- DCC Chapters 18.24, Redmond Urban Reserve Area Combining Zone, 18.116, Supplementary Provisions, and 18.124, Site Plan Review;
- DCC Chapters 22.24, Land Use Action Hearings, and 22.32, Appeals.

Substantive elements of the proposal:

- Excludes marijuana production and processing in the Multiple Use Agricultural Zone.
- Increases minimum separation distances to one-quarter mile from state, local, and municipal parks, local governments that opted out of regulating marijuana, Redmond Urban Reserve Area, and other approved marijuana production sites.
- Increases requirements for odor and noise mitigation.
- Increases requirements for documentation of water usage.

**List of Preliminary Modified Amendments**

The following list summarizes amendments to Deschutes County Code (DCC) Chapter 9.12, Right to Farm, DCC Chapter 18.24, Redmond Urban Reserve Area Combining Zone, DCC Chapter 18.116, Supplementary Provisions, DCC Chapter 18.124, Site Plan Review, DCC Chapter 22.24, Land Use Action Hearings, and DCC Chapter 22.32, Appeals. The full text amendments will be available in their entirety at [www.deschutes.org/marijuana](http://www.deschutes.org/marijuana).

**DCC Chapter 9.12, Right to Farm**

DCC 9.12.020 - Clarified the scope of the Right to Farm Ordinance does not apply to marijuana production operations per ORS 475B.

**DCC Chapter 18.24, Redmond Urban Reserve Area Combining Zone**

DCC 18.24.030 – Prohibited marijuana production and processing in the Redmond Urban Reserve Area Combining Zone.

**DCC 18.116.330. Marijuana Production, Processing, and Retailing**

DCC 18.116.330(A)(1) and (2) – Removed MUA-10 zone from zones permitting marijuana production and processing.

DCC 18.116.330(B)(1) – Removed MUA-10 zone from marijuana production and processing standards.

DCC 18.116.330(B)(2) – Removed MUA-10 zone from indoor production and processing standards.

DCC 18.116.330(B)(4) – Removed Maximum Building Floor Area standards for MUA-10 zone.

DCC 18.116.330(B)(5)(a) - Increased setback distances from lot lines for marijuana production and processing from 100 feet to 150 feet.

DCC 18.116.330(B)(5)(b) - Increased setback distances from an off-site dwelling for marijuana production and processing from 300 feet to 400 feet.

DCC 18.116.330(B)(5)(d) - Added setback distance of 400 feet from Federal public land.

DCC 18.116.330(B)(6)(a) - Applied a 1/4 mile separation distance from Redmond Urban Reserve Area, state, local, and municipal parks, including land owned by a parks district, local governments that have opted out of regulating marijuana and approved marijuana production sites. Separation distances are to be measured from the applicant's property line.

DCC 18.116.330(B)(7) – Removed 5,000-foot canopy size threshold for access requirement standards.

DCC 18.116.330(B)(8)(a) - Clarified indoor lighting shall not be visible outside a building from sunset to sunrise.

DCC 18.116.330(B)(9) - Strengthened odor control measures, requiring odor control methodology to show verified operational effectiveness.

DCC 18.116.330(B)(10) - Strengthened noise control measures.

DCC 18.116.330(B)(11)(a) – Clarified all marijuana uses, buildings, structures, fences, and storage and parking areas, whether a building permit is required or not, in the Landscape Management Combining Zone, shall comply with and require Landscape Management Combining Zone approval.

DCC 18.116.330(B)(12) - Strengthened water use requirements.

DCC 18.116.330(B)(14) - Strengthened utility requirements.

DCC 18.116.330(B)(16) – Added a requirement to Secure Waste Disposal for wastewater to be disposed of in compliance with applicable federal, state, and local laws.

DCC 18.116.330(B)(18) – Removed subsection outlining residency requirements for MUA-10 zone.

DCC 18.116.330(B)(18)(b) and (c) – Removed references to MUA-10 in Prohibited Uses.

DCC 18.116.330(D) – Added Inspections to Annual Reporting.

DCC 18.116.330(D)(1)(b) – Added statement of annual water use measured at the facility to requirements for annual reporting.

DCC 18.116.330(D)(1)(d) – Added condition of approval that an applicant must consent in writing to allow Deschutes County to randomly and without prior notice, up to three (3) times per calendar year, inspect the premises to ascertain the extent and effectiveness of odor control and compliance with applicable conditions of approval. One of the three allowable inspections must be prior to initiation of use.

DCC 18.116.330(D)(f) – Added documentation that System Development Charges have been paid.

#### **DCC 18.116.340. Marijuana Production Registered by OHA**

DCC 18.116.340(B)(a) – Clarified indoor lighting shall not be visible outside a building from sunset to sunrise.

DCC 18.116.340(C)(7) – Added condition to clarify that properties licensed before June 1, 2016 are subject to the annual inspection regulations from 18.116.330(D)(8).

DCC 18.116.340(D) – Refers new marijuana production registered by OHA on or after June 1, 2016 to the requirements of DCC 18.116.330(A, B, and D), and deleted remainder of section for clarity.

#### **DCC Chapter 18.124. Site Plan Review**

DCC 18.124.060 – Added a provision that proposed development shall relate harmoniously to the natural and man-made environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.

#### **DCC Chapter 22.24. Land Use Action Hearings**

DCC 22.24.030(A)(1)(b)(4) – Added required notice to property owners within 1,000 feet of marijuana production or processing.

#### **DCC Chapter 22.32. Appeals**

DCC 22.32.015(C) – Added provision allowing 15 days for an appeal of a marijuana production or processing decision.

### III. REVIEW CRITERIA

Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative plan amendment. Nonetheless, since Deschutes County is initiating one, the County bears the responsibility for justifying that the amendments are consistent with Statewide Planning Goals and its existing Comprehensive Plan.

#### A. HB 3400 and ORS 475B

Following the 2014 adoption of Measure 91, legalizing the production, possession, distribution, and use of recreational marijuana in certain amounts, in 2015 the Oregon State Legislature passed HB 3400, which allows local governments to adopt reasonable regulations on the production, processing, and wholesale and retail sale of marijuana. Subsequently, this bill, along with several others, have been codified into ORS 475B and OAR 845-025-2000 to 845-025-2080.

In 2016, the Legislature clarified that marijuana is a farm crop, which allows marijuana to be grown on land zoned for exclusive farm use (EFU), subject to local time place and manner restrictions.<sup>1</sup> ORS 475B.340 (since renumbered to ORS 475B.486) specifies that cities or counties may impose restrictions on elements such as hours of operation, location, public access, and manner of operation. The OLCC (Oregon Liquor Control Commission), which controls the licensing of recreational marijuana, does place some limited restrictions on the location of recreational production sites—for example, on federal property or at the same address as a liquor license. Ultimately, however, the source of authority to operate a marijuana production business derives from state law; local code—and the proposed text amendments—is the mechanism by which the county may impose reasonable restrictions and conditions on the operator.

#### B. Local Restrictions

The Deschutes County Board of Commissioners adopted marijuana regulations in June 2016. Throughout the adoption process, the Board committed to evaluating the regulations after they had been in place for a year to determine if they were working as intended. The Board reiterated this commitment to the 2017 Legislature. Based on its experience with the ensuing proposals, applications, and hearings, the Board concluded that further refinements to the regulation and enforcement of marijuana production were needed. The proposed amendments acknowledge that marijuana production is authorized, but additional restrictions are necessary to maintain compatibility with neighboring land uses. Therefore, Deschutes County seeks to regulate the impacts of recreational marijuana, which by law, it is permitted to do in a “reasonable time, place, and manner.”

Contributing factors include:

**Parcel Size.** As noted above, the unique conditions of Deschutes County’s rural agricultural land have resulted in smaller than average parcels zoned for Exclusive Farm Use. As such, landowners have the potential to be exposed to the effects of neighboring uses more than they would if minimum lot sizes were larger. Light, noise, and odor all have the potential to be more noticeable at closer distances. The proposed amendments address this in two ways: by strengthening and clarifying the light, noise, and odor mitigation requirements, as well as increasing setbacks and separation distances from certain types of uses.

**Oversaturation of Market.** As with any newly emerging industry, the marijuana market has not always been predictable. The market has shifted since regulations were first introduced, and it has become oversaturated, resulting in lower prices and in some cases, difficulty for smaller growers to survive. This could be attributed to a number of factors: the complexities of the ever-changing state and local laws; the manner in which lawmakers first structured the program, allowing businesses to apply for multiple licenses, with low fees and no caps on

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<sup>1</sup> <https://www.orcities.org/Portals/17/Library/2016LocalRegulationofMarijuanAinOregon12-09-16.pdf>



licenses;<sup>2</sup> the ability of jurisdictions to opt out of the program entirely, thereby concentrating the industry into certain areas; and the inability to move or distribute marijuana across state lines all are contributors to an oversaturation of the marijuana production market in Oregon.<sup>3</sup> With the oversaturation of product comes the potential of the surplus being sold into the illegal market (for instance, to out-of-state sales channels), thereby exacerbating the problems that the creation of a legal market was intended to avoid.

**Medical Marijuana.** According to the Oregon Health Authority's (OHA) Medical Marijuana Statistical Snapshot from July 2018, Deschutes County currently contains 791 medical marijuana grow sites.<sup>4</sup> By current law, these are all sites that are not subject to local land use regulations, nor can a list of grow site locations be provided to local law enforcement, as discussed in correspondence between OHA and the Deschutes County Sheriff's Office, dated April 19, 2018 (see Attachment A). In correspondence dated June 12, 2018 (see Attachment B), the Oregon Health Authority has acknowledged that of the 18,000 medical grow sites across the state, approximately 6,000 of these are registered for two or more patients; OHA is in the process of determining the priority of compliance inspections. For sites serving fewer than two patients, inspections are complaint-based only. The County recognizes that locations of medical marijuana grow sites may only be revealed to the County via individual complaints; however, it is necessary to ensure that adequate regulations are utilized to mitigate the potential impacts of these sites—which greatly outnumber recreational production sites in Deschutes County—in the event that their locations have been disclosed, as well as those of recreational production sites.

### C. Statewide Planning Goals and Guidelines

**Goal 1: Citizen Involvement:** The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments were provided to the *Bulletin* for the Board public hearing. Since the release of the Marijuana Regulatory Assessment on April 2, 2018, the Board conducted seven work sessions open to the public to discuss programmatic changes to the regulation and enforcement of marijuana production on rural lands.

In addition, In the November 1998 general election, Oregon voters approved Ballot Measure 56 (BM 56). The measure requires cities and counties to provide affected property owners with notice of a change in zoning classification; adoption or amendment of a comprehensive plan; or adoption or change of an ordinance in a manner that limits or prohibits previously allowed uses. Amendments to Deschutes County's marijuana regulations triggered BM 56 notice to approximately 5,000 property owners with properties larger than five acres in the Exclusive Farm Use and Multiple Use Agricultural zones. A notice was sent to those property owners on August 8, 2018. To supplement the information provided in the Measure 56 notice, a dedicated website and phone line were created to provide opportunities for the County to answer questions or issue clarifications to the public concerning the regulations.

**Goal 2: Land Use Planning:** This goal is met because ORS 197.610 allows local governments to initiate post acknowledgments plan amendments (PAPA). An Oregon Land Conservation and Development Department 35-day notice was initiated on July 24, 2018. The Board of County Commissioners will hold a public hearing on August 28, 2018. The Findings document provides the adequate factual basis for the amendments.

**Goal 3: Agricultural Lands:** House Bill 3400 specifies that marijuana is a crop for purposes of the definition of farm use in ORS 215.203 and clearly permits the production and small-scale processing of marijuana in Exclusive Farm Use zones. House Bill 3400 also prohibits marijuana-related farm dwellings, farm stands and commercial activities in conjunction with farm use. The proposed amendments to the County Code are consistent with these provisions of state law and are therefore consistent with Goal 3.

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<sup>2</sup> <https://www.denverpost.com/2018/05/31/easy-entry-into-oregons-legal-pot-market-means-huge-surplus/>

<sup>3</sup> <https://oregoneconomicanalysis.com/2018/02/08/marijuana-falling-prices-and-retailer-saturation/>

<sup>4</sup> [https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/MEDICALMARIJUANAPROGRAM/Documents/O MMP-Statistic-Snapshot-07-2018\\_Final.pdf](https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/MEDICALMARIJUANAPROGRAM/Documents/O MMP-Statistic-Snapshot-07-2018_Final.pdf)

Goal 4: Forest Lands: House Bill 3400 specifies that marijuana is a crop for purposes of the definition of farm use in ORS 215.203 and explicitly provides for marijuana production on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones. The proposal prohibits marijuana related uses in the forest use zones (F-1, F-2).

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources: Complies because the text amendment does not propose to change the County's Plan policies or implementing regulations for Goal 5 open spaces, scenic and historic areas, and natural resources.

Goal 6: Air, Water and Land Resources Quality: The proposed text amendments do not propose to change the County's Plan policies or implementing regulations for compliance with Goal 6, and therefore are in compliance. In addition, the proposed amendments serve to strengthen criteria regarding reporting of water usage as well as water runoff as they relate to marijuana production on rural lands.

Goal 7: Areas Subject to Natural Disasters and Hazards: The proposed text amendments do not propose to change the County's Plan or implementing regulations regarding natural disasters and hazards; therefore, they are in compliance.

Goal 8: Recreational Needs: Complies because the text amendment does not propose to change the County's Plan or implementing regulations regarding recreational needs.

Goal 9: Economy of the State: Goal 9 and its implementing regulations focus on economic analysis and economic development planning required in urban Comprehensive Plans. The proposed amendments apply to rural lands but do not propose to amend the Comprehensive Plan. Goal 9 does identify land use controls and ordinances as one of a suite of economic development tools. The proposed text amendments continue to allow marijuana production in certain rural zones; however, these uses are already permitted in these zones as part of other more general use categories (e.g., farming). Therefore, the text amendments comply with Goal 9.

Goal 10: Housing: This goal is not applicable because, unlike municipalities, unincorporated areas are not obligated to fulfill certain housing requirements.

Goal 11: Public Facilities and Services: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding public facilities and services.

Goal 12: Transportation: Goal 12 is implemented by Oregon Administrative Rules Chapter 660, Division 12. Local governments are required to adopt a Transportation System Plan and land use regulations to implement the TSP. This proposal does not include amendments to the County's TSP or transportation-related land use regulations. However, Plan and land use regulation amendments must be evaluated under OAR 660-012-0060. The proposal includes allowing specified marijuana related uses in certain zones; however, these uses are already permitted in these zones as part of other more general use categories (e.g., growing of crops). There is no greater impact to the transportation system by more specifically identifying these uses in the zones where they are permitted. The text amendments do not propose any changes to the functional classifications, performance standards, or access management standards of any County roads or State highways. The text amendments are consistent with Goal 12.

Goal 13: Energy Conservation: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding energy conservation.

Goal 14: Urbanization: Complies because the text amendments do not propose to change the County's Plan or implementing regulations regarding urbanization.

Goals 15 through 19 are not applicable to the proposed text amendments because the County does not contain these types of lands.

## **D. Deschutes County Comprehensive Plan**

Chapter 1, Comprehensive Planning: This chapter sets the Goals and Policies of how the County will involve the community and conduct land use planning. As described above, the proposed regulations were discussed at several work sessions with the Board of County Commissioners, as well as presented to the Planning Commission, which is the County's official committee for public involvement. The Board of County Commissioners will receive oral and written testimony. County staff also created and updated a webpage specifically for the proposed marijuana text amendments. As part of the required Measure 56 notice, described above, County staff created and mailed a flyer summarizing the proposed amendments as well as the public process to all landowners within the affected districts. All of these actions demonstrate compliance with Section 1.2, Community Involvement. Goal 1 of this section, Community Involvement, is to maintain an active open community involvement program and are consistent specifically with Policies 1.2.3 through 1.2.5.

These actions also satisfy the Goals and relevant Policies of Section 1.3, Land Use Planning Policies. Goal 1 of this section is to "maintain an open and public land use process in which decisions are based on the objective evaluation of facts." Staff, the Planning Commission, and the Board reviewed state rules and regulations as well as those of other local governments when refining the County's reasonable regulations for time, manner, and place of marijuana production. The above work sessions, staff reports, and public hearings comply with Section 1.3, Goal 1, but also its policies, specifically 1.3.1-1.3.4, and 1.3.6.

Chapter 2, Resource Management: This chapter sets the Goals and Policies of how the County will protect resource lands, including but not limited to, Agriculture and Forest as well as Water Resources and Environmental Quality.

Section 2.2, Agricultural Lands Policies, states that Goal 1 is to "preserve and maintain agricultural lands and the agricultural industry." Marijuana is considered an agricultural crop, grown on land zoned for farm use. The proposed amendments strive to achieve balance between maintaining agricultural lands—by allowing marijuana production—and mitigating any negative impacts, such as odor and noise.

Goal 2 promotes a diversified, sustainable, revenue-generating agricultural sector. Policy 2.2.10 calls for the promotion of economically viable opportunities and practices while Policy 2.2.11 encourages small farming enterprises including but not limited to, niche markets and organic farming and valued-added projects. The proposed text amendments continue to diversify agriculture in the County by adding a revenue-generating crop. By definition, the marijuana grown for recreational uses is a niche market.

Goal 3 specifies the Exclusive Farm Use (EFU) policies, classifications, and codes are consistent with local and emerging agricultural conditions and markets. The regulation of time, place, and manner of growing marijuana are consistent with this goal. The County has spent extensive staff time, reviewed testimony of experts in the industry and concerned citizens, irrigation districts, and State agencies to arrive at reasonable regulations to ensure the viability of this emerging agricultural crop while mitigating potential land use conflicts.

Section 2.3 addresses Forest Land, which includes the F-1 and F-2 zones, neither of which are proposed as possible locations for any marijuana-related land use activities. In terms of resource-zoned lands, the marijuana-related land uses are only permitted in the EFU zone. Therefore, the Goals and Policies of this section are inapplicable.

Section 2.4 addresses Goal 5 (Natural Resources, Scenic and Historic Areas, Open Spaces, and Aggregate, i.e., surface mining) resources. Goal 1 of this section of the Comprehensive Plan is to protect Goal 5 resources. The County has an acknowledged list of significant and protected Goal 5 properties and sites. The proposed amendments would not repeal those protections or Goal 5 listings, therefore the text amendment is consistent with this portion of the Comprehensive Plan.

Section 2.5 concerns Water Resources; Goal 1 is to develop regional, comprehensive water management policies while balancing the diverse needs of water users and recognize Oregon water law. Policy 2.5.1 calls for working

cooperatively with stakeholders. Goal 6 of this section calls for coordinating land use and water policies. Oregon Water Resources Department (OWRD) will be invited to share its perspective on the proposed amendments to DCC 18.116.330 and DCC 18.116.340, which addresses the reporting of annual water usage as well as the source of the water to be utilized. Furthermore, applicants will continue to be required to demonstrate that they have a legal source of water under State law. Thus, the proposed regulations comply with the relevant Comprehensive Plan policies.

Section 2.6 addresses Wildlife goals and policies. The proposed regulations will not modify the County's Goal 5 inventory, its various wildlife area combining zones, nor its seasonal travel restrictions. Thus, the proposed amendments are consistent with the goals and policies of this section.

Section 2.7 focuses on Open Spaces, Scenic Views, and Sites. The proposed regulations will not modify the Goal 5 inventory nor lands zoned for Open Space and Conservation (OSC). Any property used for marijuana production must conform to the setback, screening, lighting, and allowable colors of building and fencing materials requirements. In many cases, the proposed amendments increase the setback distances from the previous iteration of the code. Thus, the proposed amendments are consistent with the relevant goals and policies of this section.

Section 2.8 devotes its energy to Energy Policies. Goal 1 is to promote energy conservation and applicable Policies 2.8.2 and 2.8.4 look at reducing energy demand through efficiency and conservation, respectively. Goal 2 promotes affordable, efficient, reliable, and environmentally sound energy systems for individual home and business consumers. In terms of growing operations, the combination of Central Oregon's numerous sunny days, greenhouses, and modern building technologies make for highly energy efficient operations. Utilities serving the county's recreational production sites will be invited to share their perspective on the proposed amendments, which requires that a statement from each utility company proposed to serve the operation be provided, stating that each such company is able and willing to serve the operation, and noting if upgrades to the system will be necessary to serve the proposed use. Taken together, the marijuana regulations thus comply with these goals and their relevant policies.

Section 2.9 consists of Environmental Quality Policies. Goal 1 is to maintain and improve the quality of air, water, and land with Policy 2.9.2 to maintain County noise and outdoor lighting codes and revise as needed. The marijuana amendments will not repeal the County's applicable ordinances regarding noise and lighting. Goal 2 promotes sustainable building practices and Goal 3 encourages recycling. Marijuana waste continues to be required to be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site. Additionally, modern greenhouses are energy efficient and thus sustainable and the unused portions of marijuana can be recycled under a secured system. Finally, the proposed amendments require applicants to document the manner in which water runoff will be addressed. Taken together, the proposed amendments comply with the applicable goals and policies.

Section 2.10 regards Surface Mining Policies. As the regulations will not change the Goal 5 inventory of surface mining sites and the County code requires properties with a quarter-mile of an SM zone to sign a waiver of non-remonstrance, the regulations are consistent with the applicable goals and policies of this section.

Section 2.11 focuses on cultural and historic resources. The proposed regulations will not modify the County's Goal 5 inventory for cultural and historic resources. Thus, the proposed amendments are consistent with the relevant goals and policies of this section.

**Chapter 3, Rural Growth Management:** This chapter sets the goals and policies on who the County will manage the development of the lands outside of urban unincorporated communities such as Terrebonne and Tumalo.

Section 3.3 consists of Rural Housing Policies. Given the regulations are for non-residential uses, the goals and policies of this section are not applicable.

Section 3.5 is Natural Hazards with Goal 1 being to protect people, property, infrastructure, the economy and the environment from natural hazards. The goals and policies are not directly applicable with the possible exception of Policy 3.5.3, which requires coordination with emergency service providers when new development is proposed. When a property is proposed to develop, the County sends a transmittal notice to the fire agency that would respond in an emergency. As the marijuana land uses cannot occur in F-1 or F-2 zoned lands, wildfire is not an issue. The County code does not allow development in the 100-year floodplain, which is consistent with Policy 3.5.10. The amendments comply with the applicable goal and policies of this section.

Section 3.6 addresses Public Facilities and Services; Goal 1 is to support the orderly, efficient, and cost-effective siting of rural public facilities and services. As these proposed regulations are for private development, the goal and policies of this section do not apply.

Section 3.7 is Transportation and is covered under the findings for Goal 12.

Section 3.8 is Rural Recreational Policies, which deal with access to public lands, planning for public parks and recreation, trail design, etc. The goal and policies are not applicable.

Section 3.9 is Destination Resort Policies and is not applicable as the regulations will not amend the County's Destination Resort Overlay map nor change the criteria for siting a Goal 8 destination resort.

Section 3.10 Area Specific Policies describe the following geographic areas: South Deschutes County (which was completed and ultimately became the following Section 3.11), Oregon Military Site south of the fairgrounds, Crooked River Ranch, and Deschutes Junction. The underlying zoning in these areas remains unchanged and these proposed amendments will not change the zoning.

Section 3.11 Newberry Country: A Plan for Southern Deschutes County. The vast majority of this area is zoned either F-1, F-2, RR-10, or Flood Plain, which are not being amended by this proposal.

Chapter 4, Urban Growth Management: These policies deal with urban, rural and resort unincorporated communities of Sunriver, Terrebonne, and Tumalo, Black Butte Ranch and Inn of the 7<sup>th</sup> Mountain/Widgi Creek, and various Rural Service Centers, which are not being amended by this proposal.

Section 4.3, Unincorporated Communities, has no goals or objectives, with the exception of Tumalo and Terrebonne, which are discussed in Sections 4.5 and 4.6 below. The proposed text amendments comply with OAR 660-022, which identifies and lists the types of unincorporated communities in the State, including those in Deschutes County, and the uses allowed in each type. The proposed regulations are consistent with OAR 660-022.

# Appendix - F

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## Cannabis Odor Control

### Supplemental Odor Control Technology Research Summary

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## **Supplemental Odor Control Technology Research**

### **Introduction and Overview**

Effective technologies exist to suppress cannabis malodors. Activated carbon filtration systems have been proven to be effective for indoor cannabis facilities by Denver's Department of Environmental Health. Vapor-phase systems have been proven to be effective for outdoor odor mitigation by the City of San Diego's Department of Environmental Services, Air Pollution Control District, and Solid Waste Local Enforcement Agency, as well as greenhouse cultivation by established greenhouse growers in Carpinteria. These technologies could be implemented to effectively reduce cannabis malodors in Santa Barbara County.

Additionally, counties have implemented agriculture buffer requirements which serve in part to reduce land use conflicts which arise from odors. Buffer requirements may be a useful strategy for cannabis odor mitigation within the County where neighboring land uses are far apart. Anecdotal evidence suggests that strong cannabis odors can still be detected large distances away from the source. Thus, buffers may be utilized but are likely to be more effective remote areas of the County where larger buffer distances could be implemented. In more urban areas, odor mitigation technologies would be more appropriate as they would significantly reduce odors over a shorter distance.

### **Activated Carbon Filtration**

#### **Ventilation System**

In this system, odor causing agents are adsorbed and filtered through activated carbon (Pennsylvania State University 2002). Odorous gas from the operation facility is collected via a ventilation system. Blowers then direct the gasses to the distribution system which uniformly delivers the gas to the filter. The filter sorbs and degrades the odors resulting in relatively odor-free exhaust.

#### ***Supporting Information and Current Usage***

The City of Denver's Department of Environmental Health regulates nuisance odors under Denver Revised Municipal Code, Chapter 4 – Air Pollution Control, Section 4-10. Under this rule, an odor control plan must be submitted 1) describing any odors anticipated to originate from the premises of marijuana growing, processing, and manufacturing facilities and 2) describing control technologies that will be used to prevent odors from leaving the premises (City and County of Denver 2017). The Department of Environmental Health states the, "rule recognizes carbon filtration as the current best control technology for marijuana cultivation and marijuana infused product facilities" (Denver Department of Environmental Health 2017). However, other odor control technologies are permitted so long as it can be demonstrated that the technology can effectively mitigate odors.

The Director of the Environmental Quality Division of Denver's Department of Environmental Health (Denver Director) was contacted by phone on November 30, 2017 to discuss how effective carbon filtration is, where it has been applied, and if it had the potential to impact product quality. The Denver Director stated that approximately 60 percent of indoor grow operations in Denver had installed odor mitigation control prior to the rule, and that 98 percent of those who installed odor mitigation had utilized carbon filtration. In creating the rule, input from indoor grow operators and HVAC control technicians was included to ensure the regulations would reflect technical and economic feasibility.



City officials toured the cultivation facilities to determine the effectiveness of the carbon filtration technology. City officials determined that carbon filtration was effective in removing odors. However, the Denver Director stated that carbon filtration is only effective for processing facilities and indoor grows, which was the only type of cultivation facility in Denver at the time of the ruling. The Denver Director noted that the initial cost of investment for a carbon filtration system is \$10,000-\$15,000 for a medium-sized 10,000 square foot indoor facility with an additional \$2,000-\$3,000 per year in operation and management costs. The Denver Director also stated that the carbon filtration technology would not impact the quality of the cannabis. Finally, the Denver Director stated that the quality of cannabis would only be impacted if the HVAC system, not the carbon filtration system, malfunctioned and humidity was not properly controlled.

A grower in Carpinteria was contacted by phone on November 19, 2017. The grower utilizes vapor-phase technology (discussed below) to mitigate cannabis odors from his greenhouse in Carpinteria. He had considered carbon filtration, but stated that he did not use it because he would not have been able to control the internal environment of his greenhouse. The grower noted that carbon filtration would be appropriate for manufacturing, indoor grows, drying rooms, and packaging.

A Code Compliance Officer for the Portland Cannabis Program (Portland Officer), stated that there is no specific odor requirement for the City of Portland. If odor complaints are made, then an action plan is required to reduce odors. Portland's Zoning Code Section 33.262.070 simply states that "continuous, frequent, or repetitive odors may not be produced" (City of Portland 2017a). Portland's code guide for cannabis businesses states that "all exhaust and relief air should be filtered or scrubbed" in order to comply with the zoning code (Portland Bureau of Development Services 2017). The Portland Officer stated that retailers, wholesalers, and processors use countertop carbon systems in order to mitigate odors. Large ventilation systems with activated carbon filters are used for indoor cultivation. These systems are scaled proportionately to the size of the facility. However, Portland does not currently have any greenhouses and the Portland Officer does not know of any odor mitigation strategies for greenhouses.

### Canisters

Activated carbon ventilation systems which are supported by activated carbon gas canisters.

#### *Supporting Information and Current Usage*

The Director of the Planning and Development Department of the City/County of Pueblo, Colorado (Pueblo Director), was contacted by phone on December 1, 2017. The Pueblo Director stated that Pueblo only regulates odor for cannabis in industrial zones and that agricultural zones is exempt from cannabis odor mitigation. Pueblo County Code Title 17 Chapter 17.120.190 requires that all cannabis establishments in the central business zoning district (B-4) have odor mitigation. "The building (term includes buildings, greenhouses, and hoop houses) shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernable by a reasonable person..." (County of Pueblo 2017).

The Pueblo Director stated that mitigate odors in greenhouses, some growers are using canisters with activated carbon inside to filter the air. This works similarly to the ventilation activated carbon systems used in indoor grows but can be used for greenhouses. The Pueblo Director and officials from the Department of Public Health and Environment plan to use an olfactometer to test the effectiveness of this technology in greenhouses on December 21<sup>st</sup>.

## Vapor-Phase System

A manufacturer of this technology as it specifically applies to cannabis was contacted. As described, a deodorizing liquid comprised of essential oils in the citrus and pine family are placed inside a vaporizing mechanism. The vapor travels through a distribution pipe that is suspended high up in the greenhouse and runs along its entire perimeter. The vapor escapes from holes in the distribution pipe and a curtain a vapor along the perimeter is produced. The vapor interacts with and changes the chemistry of cannabis malodors. Because of this chemistry change, the olfactory receptors in the human nose no longer interprets the smell as a malodor. The result is an odor-neutralizing, not an odor-masking technology. The interviewed manufacturer had a third-party consultant perform a public health and safety assessment for their specific cannabis deodorizer. Acute inhalation studies were performed and the product was evaluated against health criteria developed by regulatory agencies such as the USEPA. This particular manufacturer's cannabis deodorizer met all applicable health criteria thresholds (CPF Associates, Inc. 2017).

In Pueblo Colorado, some growers are using this technology to mitigate the cannabis odor emitted from greenhouse fan exhaust. The Pueblo Director and officials from the Department of Public Health and Environment plan to use an olfactometer to test the effectiveness of this technology in neutralizing the odors from greenhouse fan exhaust on December 21<sup>st</sup>.

The Landfill Operations Program Manager for the City of San Diego's Department of Environmental Services (San Diego Manager), was contacted by phone on November 30, 2017. The San Diego Manager stated that the City of San Diego uses the technology produced by the interviewed manufacturer, but uses a different blend of the same essential oils that is specific to the malodors resulting from landfills. The San Diego Manger, along with the San Diego Air Pollution Control District (APCD) and the Solid Waste Local Enforcement Agency (LEA), performed a pilot study of the technology's effectiveness at the Miramar landfill. The San Diego Manger noted that he, along with the officials from APCD and LEA, could not smell the landfill within 25-30 feet of the device and that the technology was effective in reducing odor in nearby communities. These communities are the nearest sensitive receptor and are located one mile away from the landfill on the other side of a highway. The San Diego Manager stated that the odor mitigation technology is only effective when the device was downwind of the source of the malodors and between the source of the malodor and sensitive receptors. Because wind direction changes during the day, the landfill uses other odor mitigation strategies (e.g., covers) in addition to the vapor-phase technology. The San Diego Manager mentioned that the technology would be more effective in an enclosed area (e.g., greenhouse), because wind direction would not have to be considered and the vapor would be closer to the odor source, and therefore, would have a greater likelihood of interacting with and neutralizing the malodors. Like the grower in Carpinteria, the San Diego Manager stated that the vapor had a pine scent, but that this scent was only noticeable when too much vapor is being produced. He stated that reducing the amount of vapor leaving the system was effective in reducing the pine scent.

A grower in Carpinteria was contacted by phone on November 29, 2017, and stated that the scent of cannabis is no longer noticeable at a distance of 50 feet from the greenhouse when this technology is used. However, the grower stated that the liquid and resulting vapor has a pine/citrus scent, which can be noticeable if too much vapor is being produced. If this occurs, it was stated that the amount of vapor produced by the system can be reduced.

## Buffer Zones

Odors dissipate with increasing distance away from the odor source. Therefore, buffer zones are sometimes utilized as a strategy to mitigate odors. Other jurisdictions have implemented buffer zones for cannabis. The State of Washington has buffer requirements that apply to all cannabis businesses and protect sensitive receptors. Such buffer requirements could be applied to protect residential areas in the County of Santa Barbara. The State of Washington requires a 1,000-foot buffer zone between any type of cannabis business and sensitive uses such as an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or game arcade (Washington State Liquor and Cannabis Board 2017). However, recent legislation allows local governments, like the City of Seattle, to reduce the buffer to 100 feet, except for elementary and secondary schools and public playgrounds (Washington State Liquor and Cannabis Board 2017).

The City of Seattle has buffer requirements for both retail and non-retail cannabis businesses such as cannabis cultivators. The City of Seattle requires a buffer zone of 1,000 feet from sensitive receptors such as elementary schools, secondary schools, and playgrounds for all cannabis businesses (Seattle City Council 2016). A 500-foot buffer from child care centers, game arcades, libraries, public parks, public transit centers, or recreation centers or facilities is required for cannabis retail businesses while a 250-foot buffer is required for non-retail cannabis businesses. Additionally, a 350-foot buffer must be maintained between cannabis retail businesses. Meanwhile, the City of Portland only requires buffers for cannabis retailers and retail couriers, which does not include cannabis cultivators (City of Portland 2017b). For cannabis retailers, a 1,000-foot buffer is required from schools, retailers, and dispensaries. For cannabis retail couriers, a 1,000-foot buffer is required from schools.

Like the State of Washington, the State of California also requires buffer zones for both retail and non-retail businesses such as cannabis cultivators. California state law requires cannabis businesses, including cannabis cultivators, to not be located within a 600-foot radius of any school providing instruction for kindergarten or any grades 1-12, day care center, or youth center. However, an exception may be made if the cannabis businesses has a valid license or permit from a local jurisdiction, is compliant with local ordinances and regulations, and the cannabis business is not located such that people must pass through a business that sells alcohol or tobacco to access the cannabis business. Other cities within California, such as the City of Oakland, have followed the state's direction. In the City of Oakland, cannabis businesses, including cannabis cultivators, are required to have a 600-foot buffer for schools (City of Oakland 2017).

In addition to meeting state requirements, Santa Barbara County may consider proximity to sensitive areas, local climatic conditions, and local topography and barriers when establishing buffers (Pennsylvania State University 2002). Odor impact assessments used to establish robust buffer requirements for odors in general rely on complex mathematical models that involve 1) odor flow from the source 2) odor dilution in the atmosphere 3) peak concentrations that mimic odor detection by the human nose and 4) the probability that the odor exceeds an odor impact threshold at various distances from the odor source (Schauburger, G. and Piringier, M. 2012). However, such information is not available for the County of Santa Barbara.

In the absence of such detailed information, established buffer zones within the County of Santa Barbara and County of San Luis Obispo for similar land uses may serve as an example of effective buffer distances. Similarly to cannabis, agricultural crops are grown outdoors and in greenhouses and some have been noted for their disagreeable odor (e.g., garlic, cauliflower, broccoli). In the County of San Luis Obispo, buffer distance for agricultural uses depends on the type of crop and proximity to

dwellings (County of San Luis Obispo 2010). The buffer distance ranges from 100 feet to 300 feet for greenhouses, 100 feet to 400 feet for irrigated forage and field crops, 100 feet to 500 feet for wholesale nurseries outdoors, and 200 feet to 600 feet for irrigated vegetables and berries. For Santa Barbara County's 2013 Agricultural Buffer Ordinance was established to "minimize potential conflicts between agricultural and adjacent land uses that result from noise, dust, light, and odor incidental to normal agricultural operations as well as potential conflicts originating from residential and other non-agricultural uses" (County of Santa Barbara 2013). In commercial and industrial zones, the minimum buffer width is 100 feet and maximum buffer width is 300 feet. In residential not located on a small lot located within an urban area, the minimum is 200 feet and maximum 300 feet. In residential located on a small lot located within an urban area, the minimum is 100 feet and maximum 200 feet. For sensitive non-agricultural uses, the minimum is 300 feet and maximum 400 feet.

These agricultural buffers are not specific to cannabis. Anecdotal evidence suggests that strong cannabis odors can still be detected at least 600 feet away, though it has also been stated that the odor can be noticed from one to two miles away from the source. Thus, buffers may be utilized but are likely to be more effective remote areas of the County where larger buffer distances could be implemented. In more urban areas, odor mitigation technologies may be more appropriate as they would significantly reduce odors over a shorter distance (e.g., 50 feet for vapor-phase technologies).

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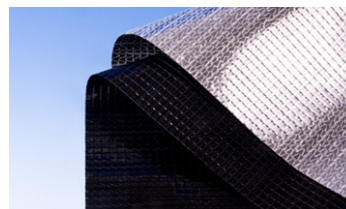
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### Data Acquisition Contact List

Netherlands - Office of Medicinal Cannabis  
UC Vegetable Research & Information Center  
Penn State University & PA Department of Agriculture  
City and County of Denver, Department of Environmental Health  
Denver Department of Environmental Health  
City of Denver  
Marijuana Business Daily  
International Code Council  
City of Boulder  
City of Boulder Planning and Development Services  
City of Denver  
CBS News  
Cannabis Practice Group  
President of Byers Scientific and Manufacturing Company  
Byers Scientific & Manufacturing  
Director of Environmental Quality Division, Denver Department of Environmental Health  
City/County of Pueblo Colorado Environmental Health and Emergency Preparedness Division  
City/County of Pueblo Planning and Development Department

City/County of Pueblo Director of Planning and Development Department  
City of San Diego Department of Environmental Services  
City of San Diego Waste Management Company  
Landfill Operations Program Manager, City of San Diego, Environmental Services Department  
Oregon Health Authority, Oregon Medical Marijuana Program  
San Diego Air Pollution Control District  
City of Portland Cannabis Program  
City of Boulder Finance Department Licensing Division  
County of Boulder Marijuana & Liquor Licensing  
SCS Engineers consulting firm, President of SCS Tracer Environmental and SCS Engineers  
Puget Sound Air Agency  
Portland Bureau of Development Services  
Portland Zoning Code Helpdesk  
County of Santa Barbara  
State of Washington Liquor and Cannabis Board  
City of Portland  
City of Seattle  
City of Oakland  
California Bureau of Cannabis Control





## OBSCURA 10075 FR AB+B

### Product information

Main Function	From light restriction to total blackout
System	Sliding, Hanging
Flame retardant	Yes
Warranty	Warranty five (5) years under all types of greenhouse covering, see Svensson's limited warranty for all terms, conditions, and exclusions in writing.

Properties	Value	Unit	Test methods
Weight	244	g/m <sup>2</sup>	
Shading level in direct light, PAR**	99.9	%	Integrated sphere
Shading level in diffused light, PAR**	99.9	%	Integrated sphere
Energy saving	75	%	Svensson method

\* Width 50 mm

\*\* PAR = 400 - 700 nm, accuracy +/- 1%

\*\*\* UV-light = 300 - 400 nm

This product image is for illustrative purposes only and may vary in appearance and design from the delivered product. Although the information in this data sheet has been composed with care, Svensson does not accept any liability in respect of its accuracy. Further information concerning the product and its installation may be obtained from Svensson and its authorized distributors. Svensson's products and name are protected by patent and other intellectual property rights. Products marked FR are flame retardant. No other products delivered by Svensson are flame retardant. AB Ludvig Svensson is an ISO 14001/90001 certified company.





Color: Bronze

Weight: 32.2 lbs

**Project:**

**Type:**

**Prepared By:**

**Date:**

#### Driver Info

Type	Constant Current
120V	1.12A
208V	0.70A
240V	0.61A
277V	0.52A
Input Watts	134.8W

#### LED Info

Watts	125W
Color Temp	5000K (Cool)
Color Accuracy	70 CRI
L70 Lifespan	100,000
Lumens	16,328
Efficacy	121.1 LPW

## Technical Specifications

### Listings

#### UL Listing:

Suitable for wet locations

#### DLC Listed:

This product is on the Design Lights Consortium (DLC) Qualified Products List and is eligible for rebates from DLC Member Utilities.

DLC Product Code: P0000177P

#### IESNA LM-79 & LM-80 Testing:

RAB LED luminaires and LED components have been tested by an independent laboratory in accordance with IESNA LM-79 and LM-80.

#### Dark Sky Conformance:

Conforms to (allows for conformance to) the IDA's fully shielding requirement, emitting no light above 90 degrees (with the exclusion of incidental light reflecting from fixture housing, mounts, and pole).

### LED Characteristics

#### Lifespan:

100,000-hour LED lifespan based on IES LM-80 results and TM-21 calculations

#### LEDs:

Multi-chip, high-output, long-life LEDs

#### Color Stability:

LED color temperature is warrantied to shift no more than 200K in CCT over a 5-year period

#### Color Uniformity:

RAB's range of CCT (Correlated Color Temperature) follows the guidelines of the American National Standard for Specifications for the Chromaticity of Solid State Lighting (SSL) Products, ANSI C78.377-2017.

### Construction

#### IES Classification:

The Type IV distribution (also known as a Forward Throw) is especially suited for mounting on the sides of buildings and walls, and for illuminating the perimeter of parking areas. It produces a semiCircular distribution with essentially the same candlepower at lateral angles from 90° to 270°.

#### Effective Projected Area:

EPA = 0.75

#### Maximum Ambient Temperature:

Suitable for use in 40°C (104°F)

#### Cold Weather Starting:

Minimum starting temperature is -40°C (-40°F)

#### Thermal Management:

Superior thermal management with external "Air-Flow" fins

#### Lens:

Tempered glass lens

#### Housing:

Die-cast aluminum housing, lens frame and mounting arm

#### Mounting:

Universal mounting arm compatible for hole spacing patterns from 1" to 5 1/2" center to center. Round Pole Adaptor plate included as a standard. Easy slide and lock to mount fixture with ease. Round pole diameter must be >4" to mount fixtures at 90° orientation.

#### Reflector:

Specular vacuum-metallized polycarbonate

#### Gaskets:

High-temperature silicone gaskets

#### IP Rating:

Ingress Protection rating of IP66 for dust and water

## Technical Specifications (continued)

### Construction

#### Finish:

Formulated for high durability and long-lasting color

#### Green Technology:

Mercury and UV free. RoHS-compliant components.

### Electrical

#### Surge Protection:

4kV

#### Driver:

One Driver, Constant Current, Class 2, 1800mA 100-277V, 50-60Hz, Power Factor 99%

#### THD:

5.3% at 120V, 15.4% at 277V

#### Power Factor:

99.4% at 120V, 92.1% at 277V

### Optical

#### BUG Rating:

B1 U0 G2

#### Other

#### BAA Compliance:

Click [www.rablighting.com/product/ALED4T125](http://www.rablighting.com/product/ALED4T125) USA for BAA compliance.

#### Warranty:

RAB warrants that our LED products will be free from defects in materials and workmanship for a period of five (5) years from the date of delivery to the end user, including coverage of light output, color stability, driver performance and fixture finish. RAB's warranty is subject to all terms and conditions found at [www.rablighting.com/legal#warranty](http://www.rablighting.com/legal#warranty)

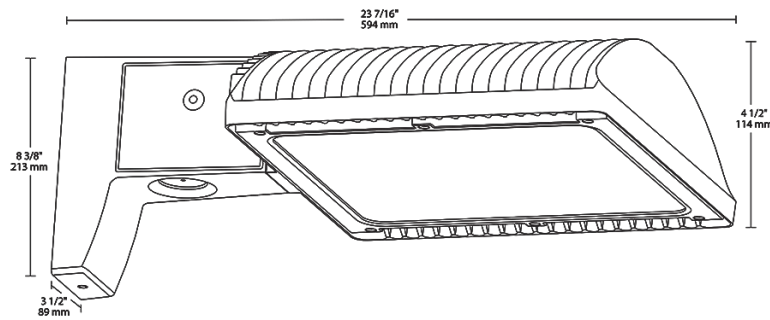
#### Equivalency:

Replaces 350W Metal Halide

#### Buy American Act Compliance:

RAB values USA manufacturing! Upon request, RAB may be able to manufacture this product to be compliant with the Buy American Act (BAA). Please contact customer service to request a quote for the product to be made BAA compliant.

## Dimensions



## Features

- 66% energy cost savings vs. HID
- 100,000-hour LED lifespan
- 5-year warranty

## Ordering Matrix

Family	Optics	Wattage	Mounting	Color Temp	Finish	Driver Options	Options	Other Options
ALED	4T	125						
	4T = Type IV	50 = 50W 78 = 78W	Blank = Pole mount SF = Slipfitter	Blank = 5000K (Cool) N = 4000K (Neutral) Y = 3000K (Warm)	Blank = Bronze RG = Roadway Gray W = White K = Black	Blank = 120-277V /480 = 480V /BL = Bi-Level /D10 = 0-10V Dimming	Blank = No Option /LC = Lightcloud® Controller /PCS = 120V Swivel Photocell /PCS2 = 277V Swivel Photocell /PCT = 120-277V Twistlock Photocell /PCS4 = 480V Swivel Photocell /PCT4 = 480V Twistlock Photocell /WS2 = Multi-Level Motion Sensor 20 ft. /WS4 = Multi-Level Motion Sensor 40 ft.	Blank = Standard USA = BAA Compliant
	3T = Type III	105 = 105W						
	2T = Type II	125 = 125W 150 = 150W						

## SEWAGE DEMAND: WATER FIXTURE BEFORE AND AFTER COMPARISON

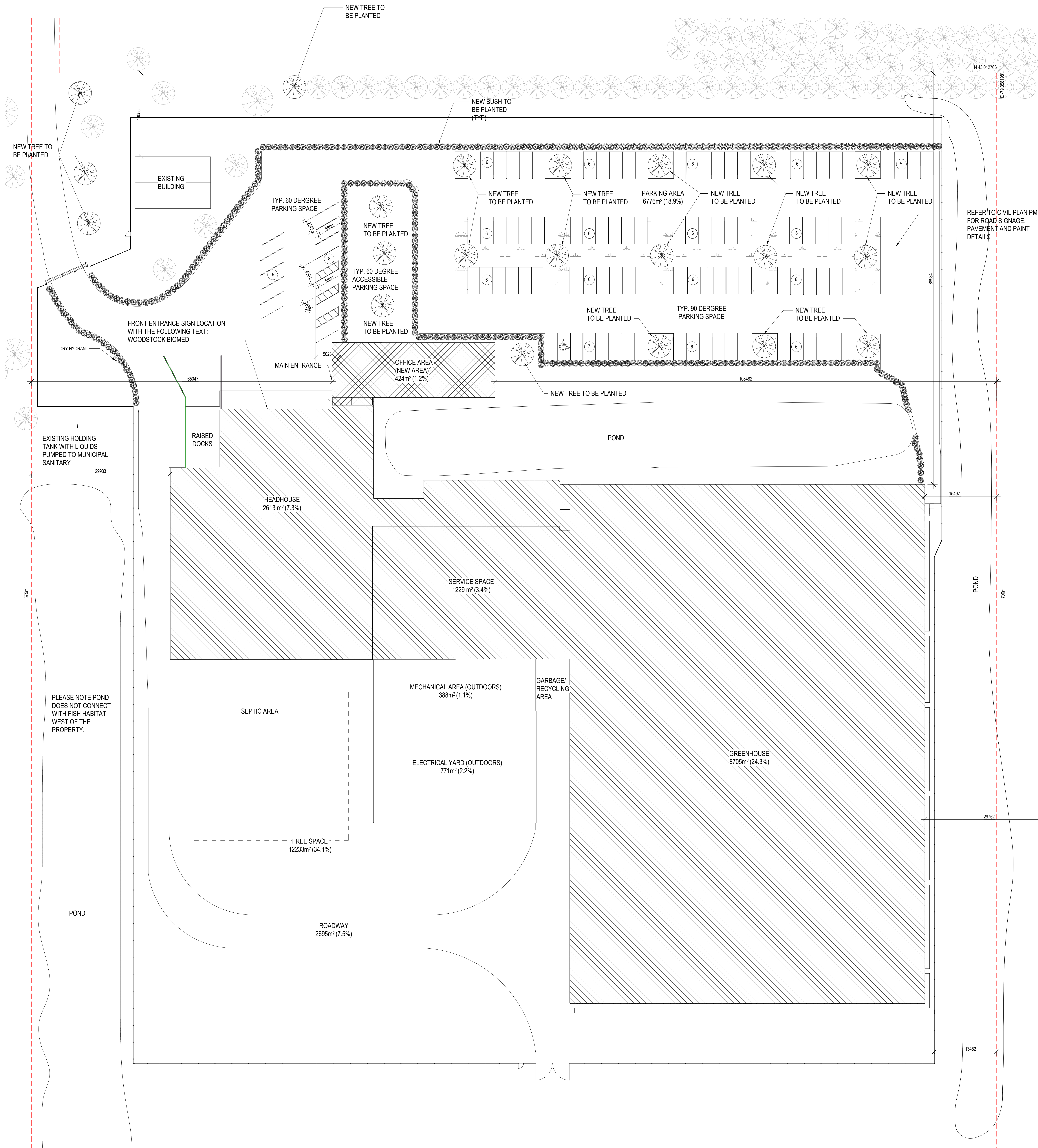
### PRIOR TO RETROFIT OF FACILITY

	TOILETTE	URINAL	SHOWER	KITCHEN/CAFETERIA (SINK)
RESIDENCE	1	0	1	1
TRAILER 1	2	0	2	1
TRAILER 2 (RENTED)	2	0	2	1
HEADHOUSE	0	0	0	1
CORRIDOR TO HEADHOUSE	2	1	0	0
TOTAL FIXTURES	7	1	5	4

### AFTER RETROFIT OF FACILITY

	TOILETTE	URINAL	SHOWER	KITCHEN/CAFETERIA (SINK)
RESIDENCE	1	0	1	1
TRAILER 1 -TO BE DISCONNECTED	0	0	0	0
TRAILER 2 (RENTED) -REMOVED	0	0	0	0
HEADHOUSE	5	2	4	0
CORRIDOR TO HEADHOUSE -DEMOLISH	0	0	0	0
OFFICE	2	0	0	1
TOTAL FIXTURES	8	2	5	2

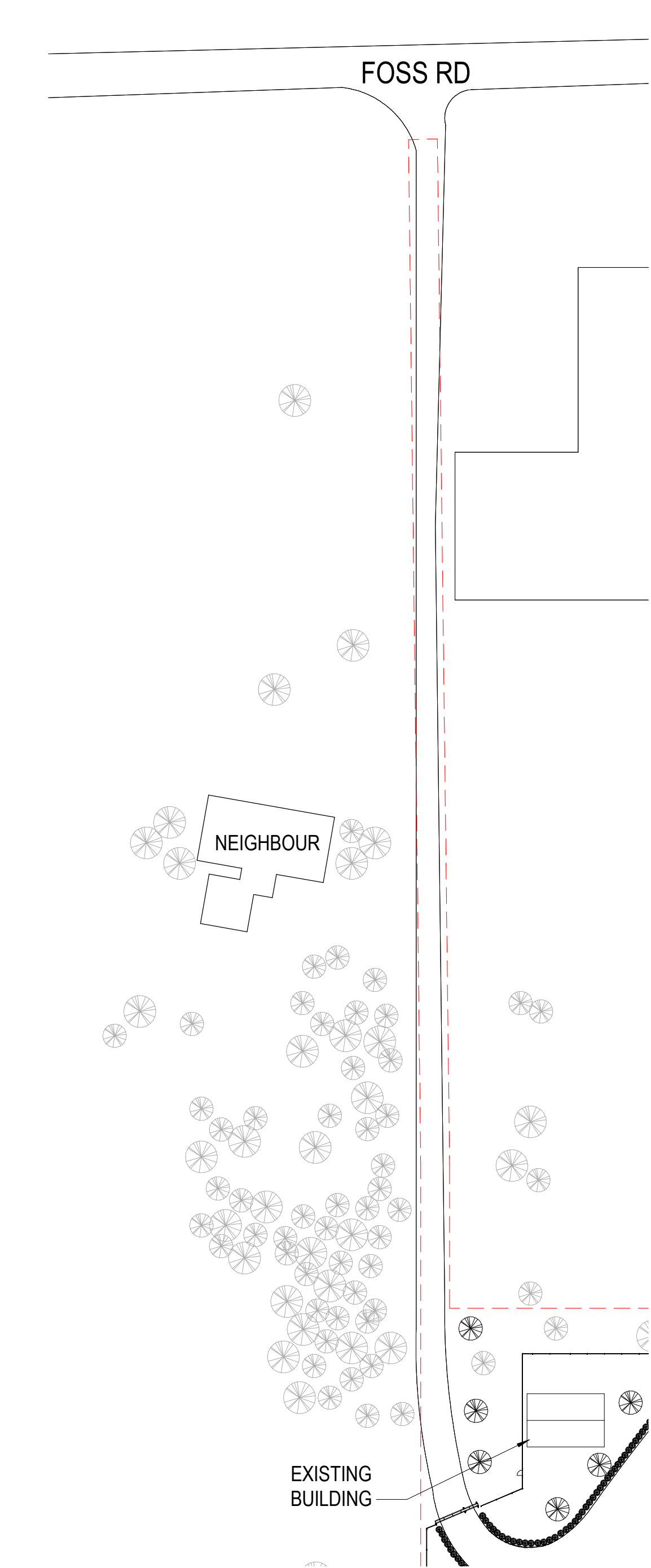




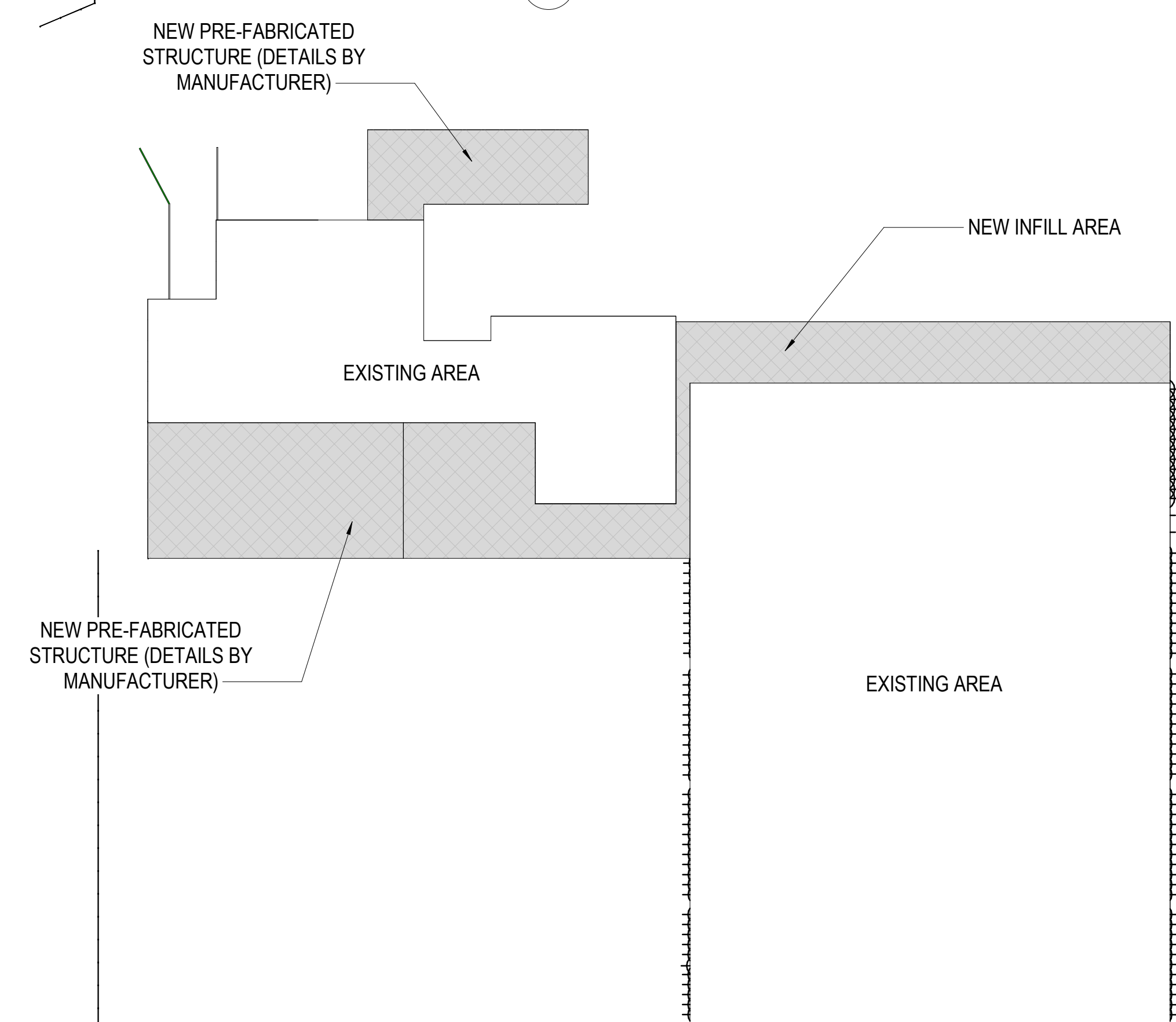
1 SITE PLAN.  
SCALE: 1 : 300

LEGEND		
- - - - - PROPERTY LINE		

COVERAGE TABLE (FENCED AREA ONLY)		
NAME	AREA, M <sup>2</sup>	PART, %
GREENHOUSE	8705	24.3
HEADHOUSE	2613	7.3
SERVICE SPACE	1229	3.4
ELECTRICAL YARD	771	2.2
OFFICE AREA	424	1.2
MECHANICAL AREA	388	1.1
PARKING AREA	6776	18.9
ROADWAY	2695	7.5
FREE SPACE	12233	34.1



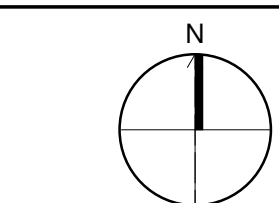
4 SITE PLAN - DETAIL 4  
SCALE: N.T.S.



2 EXISTING AND NEW AREAS  
SCALE: N.T.S.

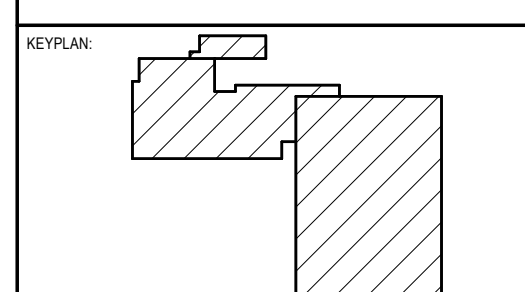
ISSUED		
NO	DATE	DESCRIPTION
1	02-AUG-2018	ISSUED FOR PROGRESS REVIEW
2	21-NOV-2018	ISSUED FOR COORDINATION
3	13-DEC-2018	ISSUED FOR REVIEW
4	20-DEC-2018	ISSUED FOR ARCHITECT'S REVIEW
5	21-DEC-2018	ISSUED FOR PERMIT
6	29-MAR-2019	ISSUED FOR FINAL REVIEW
		</

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PRELIMINARY &  
CONFIDENTIAL

NOT FOR  
CONSTRUCTION



PROJECT NAME: LOCATION  
**WOODSTOCK BIOMED**  
770 Foss Rd., Fenwick, On

DRAWING TITLE  
**SITE PLAN**

DRAWN BY: YS PROJECT NO.: 18216  
CHECKED BY: EA SCALE: As Indicated  
SHEET NO.: ARCH E DATE: 10/25/18  
DRAWING NO.:







- A. THE NOTES ON THIS SHEET APPLY TO ALL WORKS UNDER THIS CONTRACT UNLESS OTHERWISE NOTED ON THE SPECIFIC DETAIL DWGS.
- B. THE STANDARD DRAWINGS OF THE TOWN OF PELHAM, ONTARIO PROVINCIAL STANDARDS AND SPECIFICATIONS (OPSS) AND THE ONTARIO PROVINCIAL STANDARD DRAWINGS (OPSD) CONSTITUTE PART OF THE PLANS OF THIS CONTRACT.
- C. ORDER OF PRECEDENCE OF STANDARD DRAWINGS IS FIRSTLY THE TOWN OF PELHAM AND SECONDLY ONTARIO PROVINCIAL STANDARD DRAWINGS.
- D. THE STANDARD DRAWINGS INCLUDED WITH THESE PLANS ARE PROVIDED FOR CONVENIENCE ONLY AND ARE NOT TO BE CONSTRUED TO BE A COMPLETE SET FOR THE PURPOSE OF THE CONTRACT. IT IS THE CONTRACTOR'S RESPONSIBILITY TO OBTAIN ALL RELEVANT STANDARD DRAWINGS AND SPECIFICATIONS AS REQUIRED FOR THIS CONTRACT.

A. ALL DIMENSIONS ARE IN METRES, EXCEPT PIPE DIAMETERS, WHICH ARE IN MILLIMETRES, UNLESS SPECIFIED OTHERWISE.

B. ALL DIMENSIONS SHALL BE CHECKED AND VERIFIED IN THE FIELD BY THE CONTRACTOR PRIOR TO ANY CONSTRUCTION, AND ANY DISCREPANCIES SHALL BE REPORTED IMMEDIATELY TO THE ENGINEER.

- A. EXISTING SERVICES AND UTILITIES SHOWN ON THESE CONTRACT DRAWINGS ARE BASED ON THE BEST INFORMATION AVAILABLE AND THEIR LOCATIONS ARE NOT GUARANTEED. THE CONTRACTOR SHALL INTERFERE WITH THIS INFORMATION AT HIS OWN RISK WITHOUT THE UNDERSTANDING THAT THE OWNER DISCLAIMS ALL RESPONSIBILITY FOR ITS ACCURACY AND/OR SUFFICIENCY. THE CONTRACTOR IS REQUIRED TO NOTIFY THE VARIOUS UTILITY COMPANIES 48 HOURS PRIOR TO THE COMMENCEMENT OF ANY WORK.
- B. NATIVE MATERIAL, SUITABLE FOR BACKFILL, SHALL BE COMPACTED TO 95% STANDARD PROCTOR MAXIMUM DRY DENSITY.
- C. GRANULAR MATERIAL, USED FOR BACKFILL, SHALL BE PLACED IN LAYERS 150mm IN DEPTH MAXIMUM AND COMPACTED TO 100% STANDARD PROCTOR MAXIMUM DRY DENSITY.
- D. ALL DISTURBED AREAS ARE TO BE REINSTITATED TO THEIR ORIGINAL CONDITION OR BETTER, AS DETERMINED BY THE ENGINEER. ALL GRASS AND VEGETATION REMOVED SHALL BE RESTORED BY PLACING 200mm OF APPROVED TOPSOIL AND NURSERY SO2 UNLESS NOTED OTHERWISE.

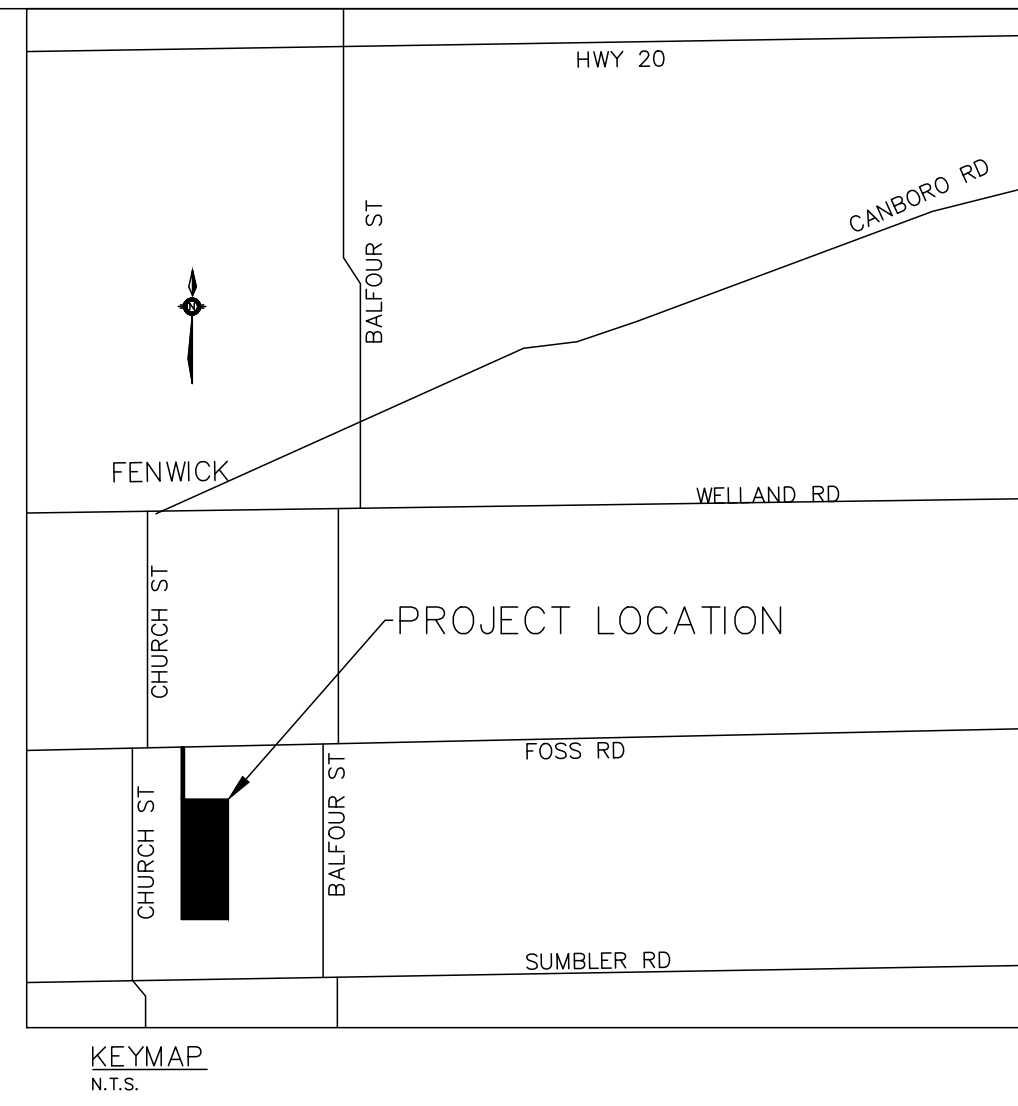
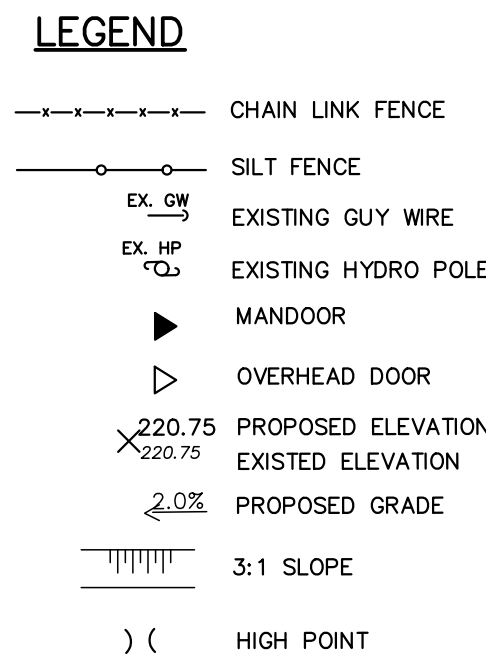
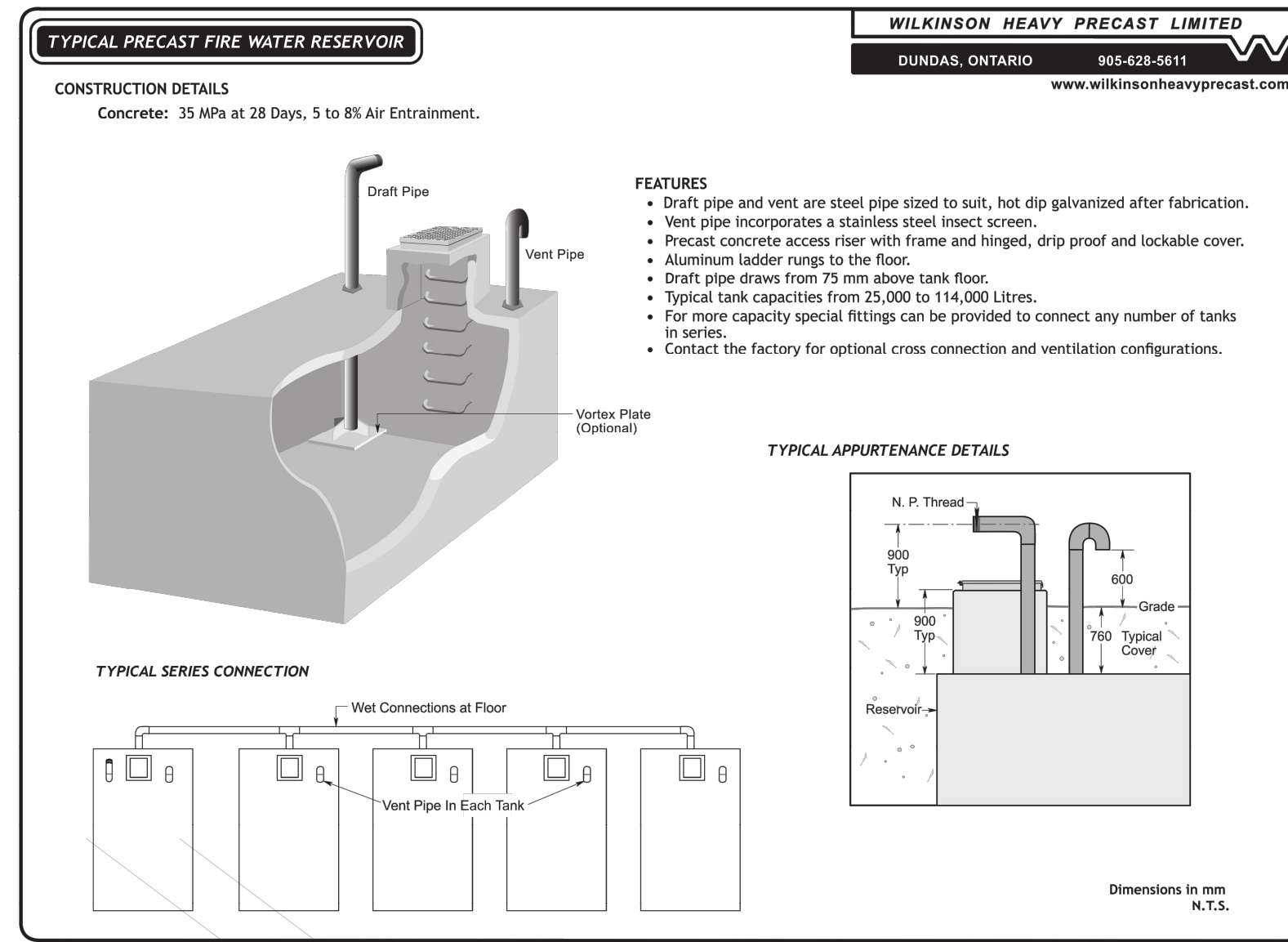
A. THE PARKING LOT PAVEMENT STRUCTURE SHALL BE DETERMINED BY A GEOTECHNICAL ENGINEER.

B. DRIVEWAY ENTRANCE PAVEMENT STRUCTURE SHALL BE CONSTRUCTED AS PER THE TOWN OF PELHAM ENGINEERING DESIGN MANUAL (NOVEMBER, 2017):

COMMERCIAL	INDUSTRIAL
- 40mm HL8 ASPHALT	- 70mm HL8 ASPHALT
- 50mm HL8 ASPHALT	- 70mm HL8 ASPHALT
- 375mm GRANULAR 'A'	- 450mm GRANULAR 'A'

C. NATIVE SUBGRADE TO BE COMPACTED TO MINIMUM 98% STANDARD PROCTOR MAXIMUM DRY DENSITY.

D. PAVEMENT STRUCTURE TO BE CONFIRMED BY GEOTECHNICAL ENGINEER PRIOR TO START OF CONSTRUCTION



**GERRITS ENGINEERING**  
LIMITED

222 Maplevue Drive West, Suite 300, Barrie, ON, L4N 9E7 Canada  
T. 705.737.3303, F. 705.737.1772  
mail@gerritg.com  
www.gerritg.com

Handwritten or manual revisions to the drawing are only valid when accompanied by the design engineer's initials.

Do not scale drawings.  
Check and verify all dimensions and information on the drawings and report all errors or omissions to the Consultant before proceeding with the work.  
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this drawing, and all design concepts it contains, are an instrument of professional service and remain the property of Gerrits Engineering.

This drawing may have been reduced.

0 5 10 20 30 40 50mm

0" 1/4" 1/2" 1" 1 1/2" 2"

No.	Issuance Description	YY/MM/DD
1.	BUILDING PERMIT	18/12/21
2.	ISSUED FOR PELHAM REVIEW	19/03/20

Issued For:

**BUILDING PERMIT**

Client  **Ehvert**

Project

LEVIATHAN  
RENOVATION

770 FOSS RD, FENWICK, ON

# SITE GRADING & SERVICING PLAN

Project No.	498-006-18	Designed by: SAS	Checked by: RCC
Scale:	1:750	Drawn by: SAS	Approved by: JDM
Orientation	Stamp		

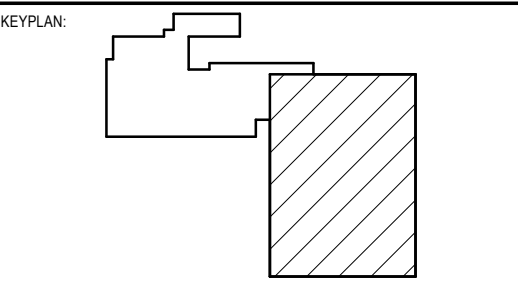
SG-1



[illegible]

A circle with a vertical line segment from the center to the top edge, labeled 'N'.

NOT FOR  
CONSTRUCTION



PROJECT NAME / LOCATION

**WOODSTOCK  
BIOMED**

770 Foss Rd., Fenwick, On

**M-302**



**IBI GROUP**  
7th Floor – 55 St. Clair Avenue West  
Toronto ON M4V 2Y7 Canada  
tel 416 596 1930 fax 416 596 0644  
[ibigroup.com](http://ibigroup.com)

March 20, 2019

Woodstock Biomed  
c/o Leviathan Cannabis  
250 The Esplanade  
Toronto, ON M5A 4J6

**TRANSPORTATION BRIEF FOR PROPOSED REDEVELOPMENT - LEVIATHAN CANNABIS GREENHOUSE, 770 FOSS ROAD, PELHAM, ON**

IBI Group is working on behalf of the owners (Leviathan Cannabis) of the property municipally known as 770 Foss Road, in the Town of Pelham. This property is situated in the southeast area of the Foss Road / Church Street intersection.

It is our understanding that three of the four existing cucumber greenhouses will be removed, with the remaining one to be retrofitted and expanded to grow cannabis. The purpose of this brief is to provide a traffic operations assessment of the retrofitted greenhouse.

The proposed net decrease in total greenhouse area is 17,936 sq. m. (193,061 sq. ft), which is a 68% reduction, resulting in a remaining grow area is 7,490 sq. m. (80,640 sq. ft). A staff size of 70 employees will operate the greenhouse over three shifts (two primary for 90% of staff, and one smaller for 10% of staff) year-round. A parking lot with a 108 space capacity is proposed on the site of the northernmost removed greenhouse.

Leviathan Cannabis will schedule work shifts to avoid school pick-up and drop-off times, with the morning shift (i.e. 32 staff) tentatively set from 6:30 AM to 3:00 PM, and the evening shift (i.e. 31 staff) set for 3:00 pm to 11:30 PM. The third smaller shift (day time, 9:00 AM to 5:00 PM) will be fulfilled by 10% of the total greenhouse staff size (i.e. 7 staff).

Site servicing truck traffic volumes are also expected to be low, with up to 5 trips daily. Based on the planned staff size, staff shift schedule, and servicing truck traffic, site traffic is expected to cause minimal traffic impacts to Foss Road during the road's morning and afternoon peak traffic activity hours.

The hour where the primary shift change occurs will result in up to 63 automobile trips (32 outbound and 31 inbound), based on the conservative assumption that every worker will individually drive themselves. This trip volume is regarded to be minor (i.e. under 100 trips during the peak hour).

Therefore, traffic impacts to Foss Road caused by the property is expected to be minimal during the weekday peak traffic hours, based on the proposed staff size and shift scheduling

Yours truly,

Hugo Chan, P.Eng.  
IBI Group



THE CORPORATION OF THE  
T O W N O F P E L H A M

BY-LAW NO. (2019)

**BEING A BY-LAW to amend By-law No. 1118 (1987) to require site plan control for greenhouses within the Town of Pelham.**

---

**WHEREAS** under the provisions of Section 41 of the Planning Act, authority is granted to Councils of municipalities to designate a site plan control area, where an Official Plan is in effect;

**AND WHEREAS** the Town of Pelham Official Plan (2012) received final approval from the Ontario Municipal Board on July 18, 2014;

**AND WHEREAS** the Council of the Town of Pelham approved by-law 1118 (1987) on March 16, 1987 designating the Town of Pelham as a Site Plan Control Area;

**AND WHEREAS** the Council of the Town of Pelham is now desirous to amend By-law 1118 (1987) to require site plan control for greenhouses;

**NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:**

1. **THAT** subsection 2(ii) of By-law no. 1118 (1987) is hereby deleted and replaced with the following:
  - (ii) Agricultural uses but this shall not include greenhouses, farm related commercial or industrial uses.
2. **THAT** this By-law shall come into effect and force from and after the date of passing thereof.

ENACTED, SIGNED AND SEALED THIS

6th DAY OF MAY, 2019 A.D.

---

MAYOR MARVIN JUNKIN

---

CLERK NANCY J. BOZZATO

## **Concept: How Might We Update Council on the Funding Available for the Pelham Street North Reconstruction Project**

### **Background:**

The Pelham Street North project RD 08-19 was approved by Council as part of the 2019 Capital Budget; however, it was red circled based on funding availability through the Ontario Community Infrastructure Funding Grant. The approved budget is \$2,436,055 with \$1,186,689 required from reserves and \$1,249,366 required through grant funding.

Due to the critical state of repair of the water main on this section of Road a separate project was initiated and approved by Council as part of the 2019 Capital Budget (WTR 03-19). The approved budget for the replacement of the water main is \$250,000.

The total budget for the Pelham Street North Reconstruction project including both projects is \$2,686,055.

Based on the condition of the existing infrastructure and concerns regarding safety and drainage issues Public Works has re-assessed the need for the project which is detailed below.

### **Assessment of Need**

This project originated from flooding concerns in the area of Pelham St and Hurricane. Budget was approved in 2015 to design and construct storm infrastructure to collect storm water along Pelham Street, replace existing storm sewer on Shorthill Place, and extend storm sewer on Hurricane Road. Design included the urbanization of Pelham Street to include curb, gutter and sidewalks. The purpose of the project was to resolve localized flooding approximately 30 metres east of Pelham Street.

The root cause of the flooding issues in the local area is the lack of a suitable road drainage system within the road allowance.

As designs were being engineered, aging cast iron watermain, suitable storm outlet and traffic calming issues arose, and were subsequently addressed in the project scope.

The proposed design recommended for construction, includes the installation of storm sewer along Pelham St. and Hurricane Rd., replacement of storm sewer along Shorthill Pl, upgrading of the storm outlet on Shorthill Pl, replacement of cast iron water main on Pelham Street, and urbanization of Pelham St including curb and sidewalks. This recommendation is based on the following considerations:

- While the design phase was underway, staff implemented a short-term solution for localized flooding by installing an asphalt swale. This resulted in the reduction of flooding at that site. This is a temporary measure, not a suitable permanent solution, since there is still no proper system to carry water away from the road bed. Without proper drainage, the useful asset life of the road is reduced.
- During reconstruction of Pelham Street at Highway 20 in 2010, a short segment of storm sewer was installed, with no proper outlet. As required under the Environmental Protection Act, a temporary Environmental Compliance Approval was obtained for the short storm segment, and the permit included the condition to build the rest of the downstream storm sewers on Pelham Street, this proposed project, within 5 years. The 5 year deadline has expired, putting the Town in violation of the EPA for not meeting its permit conditions related to this storm segment. New development is tied into this small storm segment.
- In preparation for construction, in accordance with project plans, Environmental Compliance Approvals were obtained for the new storm sewer and for the modifications to the storm water management facility (pond) on Shorthill Place. Like the approvals above, these two permits have conditions – both must be constructed within 5 years of issue date. ECAs for the storm sewer and pond require construction by February 2021 and January 2022 respectively. Should the deadline pass, re-application would be required, and it is unlikely that the storm water management facility application would be re-considered as proposed (likely a large pond footprint, thus purchase of land, would be required).
- The cast iron water main is known to be past its useful asset life, and is at risk for breakage. Due to the public health risk associated with deteriorated cast iron water main and services, especially with sensitive and high density properties in the area, it is recommended for replacement now.
- Connectivity for active transportation networks is identified in the Active Transportation Master Plan, approved in 2016. Installation of sidewalks proposed to be installed on the east side of Pelham Street will increase sidewalk connectivity to Shorthill Place.

- Several traffic calming requests have been received related to speeding on Pelham Street. Continuing with construction as proposed may allow the proposed narrowed lanes, lay-by parking and curb bump-outs to reduce speeding in the area.
- The condition of the asphalt road is currently considered poor and recommended for replacement.
- A drawing from the geotechnical study is attached to this agenda report, showing the location of the project in general, and the location of the boreholes investigated. Geotechnical investigations are typically performed by geotechnical engineers to obtain information on the physical properties of soil and rock around a site, to ensure civil designs can be constructed, supported and maintained.

Figure 1 – looking north at Pelham Street and Hurricane Road



### **Budgetary Considerations**

The 2019 Capital Budget red-circled this project pending the receipt of Ontario Community Infrastructure Fund (OCIF) Top-Up funding of \$1,249,366, with the balance of \$1,186,689 funded from the Roads Reserve. Every year the Town receives an annual OCIF funding allocation, but this application was in addition to the regular funding. Subsequent to the preparation of the Capital Budget, there were three key announcements that will increase grant funding to the Town.

1. The Provincial government announced a one-time payment to the Town of \$725,000 to help the Town become more efficient and reduce expenditure growth in the long-term.
2. The Town received its 2019 annual OCIF allocation notice, which is approximately \$162,000 higher than expected.
3. The Federal government's 2019 budget proposes a top-up of the Federal Gas Tax Fund which would double municipal Gas Tax funding in 2019. The Town's allocation of Federal Gas Tax for 2019 was expected to be \$519,053. Under the budget, this would double to \$1,038,106.

The Federal Gas Tax Fund is a permanent source of funding provided up front, twice-a-year, to provinces and territories, who in turn flow this funding to their municipalities to support local infrastructure priorities. This project is an eligible improvement project for Gas Tax funding. The Town also has \$335,298 in Federal Gas Tax funding carried forward from 2018 due to project deferrals. In total, the amount of Gas Tax funding that is expected to be available to the Town is \$1,373,404. This exceeds the grant funding that caused the project to be red-circled.

The Town can use the \$725,000 in provincial grant funding toward other capital projects and there will be no negative budget impact to applying the full amount of Federal Gas Tax to this project. In addition, with grant funding of \$1,373,404 instead of the original budget of \$1,249,366, this will reduce the amount that will be funded from the roads reserve for this project by \$124,038.

Should Council give the approval for this project to move forward, future maintenance costs that would require an increase in operating budget – contracted services would be required for stormceptor maintenance (required for the storm outlet under regulatory approval), and sidewalk snow clearing. All other maintenance costs (for water main, storm, sanitary, roads, lay-by parking, sidewalks) are assumed to be managed under the existing operating budgets.

The Challenge:

How might we replace aging infrastructure and install new storm infrastructure, new water main, traffic calming and safety measures and complete the urbanization including new curb and gutter and sidewalks in the local neighborhood of Pelham Rd and Hurricane Rd?

Our Recommended Solution:

**THAT COMMITTEE receive the Report entitled Pelham Street North Reconstruction Update; and THAT Committee recommend that Council *approve the project to be completed as part of the 2019 Capital Budget.***

Rationale:

Completion of the construction ensures public health concerning water main integrity continues to be protected, aging road surface is replaced, storm water flooding issues are reduced.

Measure of Success:

Successful completion of the construction project, the supply of safe clean drinking water, effective road drainage and minimized local flooding on private property.

Milestones:

Tendering of the project to occur in the spring/summer of 2019 with project completion anticipated in the fall of 2020.

---

Prepared by:  
Jason Marr, P. Eng.  
Director, Public Works & Utilities

---

Recommended by:  
Teresa Quinlin  
Interim Chief Administrative Officer, Treasurer, Director of Corporate Services

*This report was prepared in consultation with Derek Young, Manager of Engineering, and Charlotte Tunikaitis, Deputy Treasurer.*

## **Concept: How Might We create new Health and Safety Policies to meet the recommendations of our Health and Safety Audit.**

### **Background:**

In 2017 the Town hired a third party to audit our existing Health and Safety program and make recommendations on how we may improve our program and meet the requirements of the OH and S Act and Regulations.

### **The Challenge:**

The audit has identified the following new policies as a deficiency from our program and recommends the development of such policies. The policies were developed by the Health and Safety coordinator and the Human Resource coordinator, then submitted to the members of the Health and Safety committee for comment. The final draft has been submitted to SMT for their comments. The attached drafts have been accepted by all groups and are being submitted to Council for their review and consideration of approval.

First Aid Policy Statement

Individual Responsibilities and Duties Policy Statement

Preventative Maintenance Policy Statement

### **Our Recommended Solution:**

THAT the Policy and Priorities Committee receive the report New Health and Safety Policies; and

THAT Committee recommend that the Health and Safety Policies (First Aid, Individual Responsibilities and Duties Preventative Maintenance) be submitted to Council for approval at their next regular meeting scheduled for May 6, 2019

### **Rationale:**

The new Policies were identified thru our audit as deficiencies and were recommended for development.





Town of Pelham  
Solutions Manual:  
Health and Safety Policy

Solution Title:	First Aid Policy Statement	
Council Approved:		\$ ____ - ____

**HOW MIGHT WE:**

**How Might the Town of Pelham** provide direction and orientation to all Town of Pelham employees with regards to First Aid procedures and applicable Workplace Safety and Insurance Act Regulation 1101 and to ensure that any person injured or suffering an illness in the workplace will be provided the utmost care; prompt and proper first aid treatment will be administered by a competent certified first aid attendant. To ensure that they provide properly stocked first aid kits and a record of all first aid treatment provided or advice given is documented and analyzed to improve overall the safety environment.

**KEY FACTS:**

The Town of Pelham will comply with all First Aid Requirements as outlined in the Workplace Safety and Insurance Act Regulation 1101.

**SOLUTION STATEMENT:**

The Town of Pelham will ensure the following:

- (1) there are two blankets, and a first aid box containing:
  - (a) a current edition of a standard St. John Ambulance First Aid Manual;
  - (b) 24 safety pins;
  - (c) 1 basin, preferably stainless steel; and
  - (d) dressings consisting of,
    - (i) 48 adhesive dressings, individually wrapped,
    - (ii) 2 rolls of adhesive tape, 1 inch wide,
    - (iii) 12 rolls of 1-inch gauze bandage,
    - (iv) 48 sterile gauze pads, 3 inches square,
    - (v) 8 rolls of 2-inch gauze bandage,
    - (vi) 8 rolls of 4-inch gauze bandage,



Town of Pelham  
Solutions Manual:  
Health and Safety Policy

Solution Title: First Aid Policy Statement		
Council Approved:		\$ ____ - ____

(vii) 6 sterile surgical pads suitable for pressure dressings, individually wrapped,

(viii) 12 triangular bandages,

(ix) splints of assorted sizes, and

(x) 2 rolls of splint padding

(2) The first aid station is at all times in the charge of a worker who is the holder of a valid St. John Ambulance Standard First Aid Certificate or its equivalent; and works in the immediate vicinity of the box. To ensure that there is a valid first aid responder working in the immediate vicinity of first aid in the MCC; the town of Pelham will ensure at a minimum there are two first aid kits one on each floor that meets the requirements for 15 to 200 employees per Regulation 1101.

(3) The Town of Pelham will ensure that each work vehicle contains a first aid kit.

### Training:

The Town of Pelham will offer all employees the opportunity to receive first aid training twice a year.

The standard applies to all Joint Health and Safety committee representatives, managers, supervisors and employees for all locations within the Town of Pelham.

The Town of Pelham First Aid Directive will outline the first aid standard and procedures.

The First Aid Directive will outline the roles and responsibilities of each workplace party, training to be provided and continual evaluation and monitoring of the program.

All workplace parties shall follow and comply with the First Aid Directive located in the Health and Safety binder and at each workplace location.

Solution Title:	Individual Responsibilities & Duties Policy Statement	
Council Approved:		S_____ - ____

#### HOW MIGHT WE:

***How Might the Town of Pelham*** define, educate, and communicate to all workplace parties their responsibilities with regard to health and safety in the workplace?

#### KEY FACTS:

Occupational Health & Safety Act:

The Town will comply with the Occupational Health & Safety Act of Ontario and the prescribed roles and responsibilities for all workplace parties (including Section 25-28).

Through defining responsibilities of each party in the workplace the policy will help to provide framework which will allow for the coordination and communication of safe work practices and competency of employees.

#### SOLUTION STATEMENT:

The Town of Pelham's commitment to health, safety and the environment is the overriding principle of our health and safety system. The roles and responsibilities of all workplace parties will be discussed during orientation with each new staff member.

All individuals in the workforce, at all levels and functions, are responsible for understanding and carrying out the responsibilities and duties as outlined in the Individual Responsibilities and Duties Directive.



Town of Pelham  
Solutions Manual:  
Health and Safety Policy

Solution Title: Preventative Maintenance Policy Statement		
Council Approved:		\$ ____ - ____

#### HOW MIGHT WE:

**How Might the Town of Pelham** provide direction and orientation to all employees with regards to the legislative requirements and standard for Preventative Maintenance for all owned and/or rented equipment at all locations.

#### KEY FACTS:

There are a number of various prescribed Occupational Health and Safety acts and regulations which outline the requirements for Preventative Maintenance including:

#### Occupational Health & Safety Act Section 25 Employer Duties:

- (1) An employer shall ensure that,
- (a) the equipment, materials and protective devices as prescribed are provided;
  - (b) the equipment, materials and protective devices provided by the employer are maintained in good condition;
  - (c) the measures and procedures prescribed are carried out in the workplace;
  - (d) the equipment, materials and protective devices provided by the employer are used as prescribed; and
  - (e) a building, structure, or any part thereof, or any other part of a workplace, whether temporary or permanent, is capable of supporting any loads that may be applied to it,

#### Industrial Establishments Regulation 851 Maintenance and Repairs:

72. (1) Where a structure is damaged to the extent that a collapse of the structure or any part of the structure is likely to occur and cause injury to a worker,

- (a) the structure shall be braced and shored to prevent the collapse of the structure; or
- (b) effective safeguards shall be provided to prevent access to the area. R.R.O. 1990, Reg. 851, s. 72 (1).

(2) The bracing and shoring or other safeguards prescribed by subsection (1) shall be installed progressively to ensure that a worker installing the bracing and shoring or other safeguards is not in danger. R.R.O. 1990, Reg. 851, s. 72 (2).

73. A portable ladder shall,

Solution Title:	Preventative Maintenance Policy Statement	
Council Approved:		S ____ - ____

- (a) be free from broken or loose members or other faults;
- (b) have non-slip feet;
- (c) be placed on a firm footing;
- (d) where it,
  - (i) exceeds six metres in length and is not securely fastened, or
  - (ii) is likely to be endangered by traffic,
 be held in place by one or more workers while being used; and
- (e) when not securely fastened, be inclined so that the horizontal distance from the top support to the foot of the ladder is not less than 1/4 and not more than 1/3 of the length of the ladder. R.R.O. 1990, Reg. 851, s. 73.

74. Machinery, equipment or material that is temporarily elevated and under which a worker may pass or work shall be securely and solidly blocked to prevent the machinery, equipment or material from falling or moving.

#### Mobile Equipment:

every powered lift truck in the workplace, the employer shall establish procedures to meet the requirements of clause 25(1)(b) of the OHSA and subsection 51(1) of Regulation 851. These procedures must include a periodic inspection to determine the safety of the equipment [clause 51(1)(a)] and its capability of handling its maximum rated load [clause 51(1)(b)]. All examinations are to be carried out by persons qualified as competent, who should have the qualifications outlined in Section 4 of this Guideline. The employer should ensure that the examinations are performed in accordance with the manufacturer's specifications for the safe operation of the vehicle

#### **SOLUTION STATEMENT:**

The Town of Pelham shall establish a list of all equipment rented or owned at all sites.

The Town of Pelham shall ensure that ongoing maintenance is provided for all equipment at a minimum based on the specific manufacturer's guidelines and timelines.

The Town of Pelham shall ensure that training regarding operation and maintenance is provided to employees in compliance with Legislation and manufacturer's guidelines.



Town of Pelham  
Solutions Manual:  
Health and Safety Policy

Solution Title: Preventative Maintenance Policy Statement		
Council Approved:		\$_____ - _____

The Town of Pelham will outline these requirements and other prescribed guidelines in the Preventative Maintenance Directive.

The Preventative Maintenance Directive will outline roles and responsibilities of employees, communication of standards, training requirements, and maintenance standards to be complied with by all Town of Pelham employees.

The Preventative Maintenance Directive will be reviewed to ensure it meets legislative requirements, operational parameters and to identify areas of improvement on an annual basis.

## **Concept: How Might We update our existing Workplace Violence and Harassment Policy to ensure the protection of all employee's.**

### **Background:**

In 2017 the Town hired a third party consultant to audit the Town's Health and Safety program. One of the recommendations from the audit was to update existing policies which were outdated. The Policy on Workplace Violence and Harassment was identified as being outdated.

### **The Challenge:**

The policy has been reviewed and updated as required to meet the requirements of the OH and S Act and Regulations. The policy was reviewed and revised by the Health and Safety coordinator and the Human Resource coordinator, then submitted to the members of the Health and Safety committee for comment. The final draft has been submitted to SMT for their comments.

The attached draft has been accepted by all groups and is being submitted to Council for their review and consideration of approval.

### **Our Recommended Solution:**

THAT the Policy and Priorities Committee receive the Workplace Violence and Harassment Policy; and

THAT Committee recommend that the Workplace Violence and Harassment policy be submitted to Council for approval at their next regular meeting scheduled for May 6, 2019

### **Rationale:**

The old Policy was identified thru our audit that it was outdated and required to be updated.



<b>Solution Title:</b>	Workplace Violence and Harassment Policy Statement	
<b>Last Updated:</b>	May 4 2015	S 301-101

## HOW MIGHT WE:

**How Might the Town of Pelham** take every reasonable precaution to prevent and ensure that its workplace is free from all forms of harassment and violence?

## KEY FACTS:

### Occupational Health and Safety Act:

The Town of Pelham will comply with all legislation relating to *Workplace Violence and Harassment* as outlined in the *Occupational Health and Safety Act (OHSA), Bill 132 amendment*.

*The Occupational Health and Safety Act* states employers must prepare policies with respect to workplace violence and workplace harassment, develop and maintain programs to implement their policies, and provide information and instruction to workers on the contents of these policies and programs.

### Workplace Violence:

- The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker
- An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker
- A statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

### Workplace Harassment:

Engaging in a course of vexatious comment or conduct, which causes irritation or annoyance that is known or ought to reasonably have been known as unwelcome. Examples of harassment include but are not limited to:

- Using profane or abusive language
- Using language that is intended to demean or humiliate a person
- Calling someone names that are degrading
- Making insulting gestures or playing practical jokes that may cause a person to feel awkward or embarrassed
- Circulating or posting pictures or other materials that may be perceived as offensive

<b>Solution Title:</b>	Workplace Violence and Harassment Policy Statement	
<b>Last Updated:</b>	May 4 2015	S 301-101

### **Sexual Harassment:**

Unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the intended recipient of the conduct. Examples of sexual harassment include but are not limited to:

- Unnecessary touching, including bumping or rubbing
- Making unwelcome remarks about a person's body, sex or clothing
- Leering or whistling
- Displaying pornographic or sexually suggestive materials in the workplace
- Playing practical jokes of a sexual nature that may cause a person to feel awkward or embarrassed
- Outright demands for sexual favours

### **Domestic Violence**

All precautionary measures will be taken to ensure the safety of the employees, while on premises. If you are, or fear, being subjected to domestic violence and are concerned for your safety at work, please notify the supervisor, manager or department head who can assist you by providing you with information to get the help you need and to ensure you are safe while at work.

### **Disclosure of Potentially Violent Individuals**

The Town of Pelham will take every reasonable precaution to protect all employees from being exposed to potentially violent individuals. If the Town is made aware of a potentially violent individual, the person's identity will be disclosed and preventative measures will be in place. If you become aware of a potentially violent individual, please notify supervisor, manager or department head immediately.

### **SOLUTION STATEMENT:**

#### **Employer's Responsibility:**

The purpose of this policy is to ensure that:

- Individuals are aware of and understand that acts of workplace violence are considered a serious offence for which necessary action up to immediate suspension and/or termination of the perpetrator will be imposed;
- Those subjected to acts of workplace violence are encouraged to access assistance through the complaint procedure (below);
- Individuals are advised of available recourse if they are subjected to, or become aware of situations involving workplace violence.

The Town of Pelham shall ensure that no employee is subjected to violence or harassment whether it is from a supervisor, co-worker, or non-employee such as

<b>Solution Title:</b>	Workplace Violence and Harassment Policy Statement	
<b>Last Updated:</b>	May 4 2015	S 301-101

volunteer, trainee or visitor. This policy is also in full force and effect for all work related functions and in all forms of communication including cyber communications.

If an employee fears their safety is at risk because of workplace violence, there is a process to exercise the "Right To Refuse" unsafe work. First, you should always try to tell the offender to stop being offensive. If it continues, notify the supervisor, manager or department head of your concerns and a positive resolution will be made for the employee's best interest.

#### **Employee's Responsibility:**

The Town of Pelham's staff will not engage in any behaviour that is contrary to this policy. They will report all incidents of workplace violence and harassment promptly to supervisor, manager or department head. As well, they will commit to a zero tolerance of violence and harassment in the workplace.

#### **Complaint Procedure:**

Employees who experience harassment or violence are encouraged to make it known to the offender immediately that the behaviour is offensive. If addressing the issue with the individual(s) directly is not possible, or if after doing so, the harassment or violent behaviour continues, the supervisor, manager or department head should be notified.

The manager/department head will conduct an investigation of the complaint to assess the facts and suggest appropriate action(s), if any, that are to be taken. If the complaint is a result of the action of the manager/department head, a Third Party Investigator will conduct the investigation.

In addition to the above-noted internal procedures, there are other options available to employees. Employees may make a formal complaint to the Human Rights Commission; or to the police under the Criminal Code.

Consistent with procedures under the Ontario Human Rights Code, all complaints filed under this policy must be initiated within the time frame outlined in the Ontario Human Rights Code.

#### **Disciplinary Measures:**

If it is determined that any employee has been involved in harassing or violent behaviours toward another employee, immediate disciplinary action will be taken. Such disciplinary action will involve, at a minimum, a formal warning and may result in immediate dismissal without further notice.

It is important to realize that unfounded allegations of sexual harassment may cause both the accused and the Town of Pelham significant damage.

If it is determined by the Town of Pelham that any employee has knowingly made false



Town of Pelham  
Solutions Manual:  
Health and Safety Policy

Solution Title:	Workplace Violence and Harassment Policy Statement	
Last Updated:	May 4 2015	S 301-101

statements regarding an allegation of harassment, immediate disciplinary action will be taken. As with any case of dishonesty, disciplinary action may include immediate termination of employment.

**Confidentiality:**

All parties involved in any investigation or resolution of a harassment incident are expected to maintain confidentiality throughout the process.

**Non-Retaliation**

All persons involved in the processing of a complaint will ensure that the alleged victim and witnesses will not be penalized nor subjected to prejudicial treatment as a result of making a complaint. Disciplinary action will be taken against any person who takes any reprisal against a person who reports workplace violence.

<b>Solution Title:</b>	<b>COUNCIL CORRESPONDENCE</b>	
Council	<del>May 4, 2015</del> —Amended May 6, 2019	S201-19
Approved:		

## HOW MIGHT WE:

***How Might the Town of Pelham ensure that Council is provided with Council correspondence communications in an appropriate, consistent, respectful and expedient manner?***

## KEY FACTS:

To ensure that correspondence directed to Council is provided in an appropriate, consistent, respectful and expedient manner, the following provisions shall apply:

1. Where the subject matter of a communication is properly within the jurisdiction of the Council or Council Committee, and if it is the intent of the author to have correspondence included on a Council Agenda, the following provisions shall apply:
  - 1.1. Correspondence shall be addressed to the Mayor and Council, to the attention of the Town Clerk;
  - 1.2. Correspondence received through Canada Post and addressed to Members of Council at the Pelham Municipal Office address will be opened, date stamped and distributed through the Council mail bins. Members who do not wish this mail to be opened shall advise the Clerk in writing, wherein mail will be date stamped on the unopened envelope only and placed in the Council mail bin(s). Envelopes marked "private" or "confidential" shall not be opened, but will be date stamped on the envelope and placed in the Council mail bin(s);
  - 1.3. Correspondence, including petitions, intended for inclusion in a Council agenda or to be otherwise considered by Council, shall be typewritten or legibly printed, addressed to the Mayor and Council, and shall include the name and signature of at least one person or agency, and may include the address, telephone numbers, and email addresses, and shall specifically state that the correspondence is intended to be placed on a Council agenda. Petitions shall be in the prescribed form, Appendix "A" appended hereto;
  - 1.4. Correspondence of this nature shall not contain any defamatory statements, allegations, inferences, impertinent, disrespectful or improper matter and where infractions are found, shall be either redacted by the Clerk in consultation with the Mayor and CAO, or returned to the author (see also Item 9);

Solution Title: COUNCIL CORRESPONDENCE		
Council	<b>May 4, 2015—Amended May 6, 2019</b>	S201-19
Approved:		

- 1.5. Correspondence not in compliance with Item 1.3 or 1.4, as deemed by the Clerk and in consultation with the Mayor and CAO where applicable, will be returned to the sender (if known) with an explanation as to why the material cannot be included in the Council agenda, and the correspondence will be withheld from inclusion on the agenda, with a copy maintained by the Clerk;
  - 1.6. Names and addresses contained within the correspondence will be included in the agenda package which is published to the Town's website; whereas telephone numbers and email addresses will be redacted so as not to appear on the published agenda, either on the written paper agenda, or on the internet publication, save and except on a petition wherein all information will be include on the public Council agenda;
  - 1.7. Correspondence intended for inclusion on a Council agenda shall be received in the Office of the Clerk in accordance with the Town's Procedural By-law, prior to noon on the Wednesday prior to the regular Meeting of Council;
  - 1.8. Communications received after 12:00 p.m. on the Wednesday preceding the day of a Council meeting the deadline as specified in the Procedural By-law shall be held over for consideration by Council at the next subsequent regular meeting;
  - 1.9. Council meeting agendas, minutes and all information presented at an open meeting, including correspondence or delegation materials, are public documents and are published on the Town of Pelham website as part of a Council agenda package, as well as in paper form upon request;
2. Correspondence provided to Council through the Council agenda package will be classified in one of the following sub-categories:
    - 2.1. Information Correspondence – included on the consent agenda;
    - 2.2. Correspondence to be received and referred to staff for action or report;
    - 2.3. Correspondence for Council direction.
  3. Resolutions from Other Municipalities regarding matters not yet considered by Pelham Council will be included on the next available Council consent agenda for information, and may be lifted by any Member of Council for separate consideration, support or endorsement;



Solution Title: COUNCIL CORRESPONDENCE		
Council	<del>May 4, 2015</del> —Amended May 6, 2019	S201-19
Approved:		

4. Resolutions from Other Municipalities that relate to matters which have already been considered by Council will be forwarded to Members of Council electronically, **or placed in the Council mail bins**, for information;
5. Communications from **members of the public** directed to Council through the Clerk, received by electronic mail, shall be forwarded to Members of Council electronically and shall not be placed on a Council agenda, unless specifically requested to do so by the author or subsequently by a Member of Council, and if the correspondence is in compliance with Items 1.3 **and 1.4** of this Policy;
6. Communications received in response to a Public Notice under the Planning Act, or any Act that requires a Public Meeting, addressed to the Mayor and Council, or to the Town Clerk, shall be placed on the pertinent Public Meeting agenda to be considered as part of the submissions relating to the application under consideration, and shall be received by resolution. Communications relating to a development application that are not specifically addressed to the Mayor and Council, or to the Clerk, shall not be included on the Public Meeting Agenda, i.e. correspondence between an individual and a member of staff relating to the development. Correspondence relating to a development application included on the agenda becomes part of a public record. Item 1.5 applies in relation to release of personal information.
7. Petitions addressed to Council shall be processed in accordance with the Town of Pelham Procedural By-law. Petitions shall be legibly written or printed and shall not contain any obscene or improper material or language, and shall be signed by at least one (1) person, and filed with the Clerk. Petitions will be included on a public agenda including any personal, identifiable information. Individual responses to persons included on a petition will not be issued unless specifically directed by Council. **To avoid any perception of bias, Members of Council should avoid signing any petition addressed to Pelham Council. The form of petition shall be in accordance with Appendix "A";**
8. All decisions of Council with respect to correspondence included in an agenda will be communicated to the author, generally in the same manner in which it was received, save and except individuals listed on a petition as noted in Item 7 **wherein individual responses will not be provided;**





Solution Title: COUNCIL CORRESPONDENCE		
Council	<del>May 4, 2015</del> —Amended May 6, 2019	S201-19
Approved:		

9. Correspondence submitted in the form of a letter, memorandum, report, notice, electronic mail, fax, petition, etc. submitted anonymously or containing profanity, defamatory statements, allegations, inferences or disrespectful comments, as deemed by the Clerk and where necessary in consultation with the Chief Administrative Officer and/or the Mayor, will be returned to the author, with a copy filed, and will not be circulated;
10. Correspondence, including e-mail correspondence, intended for Council and/or committee is generally received as public information subject to the Municipal Freedom of Information and Protection of Privacy Act. The Clerk shall be advised of any confidential items, the general nature thereof, and will determine if the item meets identified criteria for confidential correspondence as to whether it will be included within the public agenda, circulated under separate cover, or included on a closed session agenda;
11. Questions relating to this Policy should be directed to the Town Clerk.

#### **SOLUTION STATEMENT:**

Council of the Town of Pelham will receive correspondence in various formats. To ensure that all correspondence is dealt with expediently, and in an appropriate manner, the "Council Correspondence" Policy will provide a guide to ensure that the opinions of the people of the community of Pelham are relayed to the Council, while ensuring that such correspondence is presented in a consistent and respectful manner.

This policy shall be administered by the Town Clerk.



Solution Title: COUNCIL CORRESPONDENCE		
Council Approved:	<del>May 4, 2015</del> —Amended May 6, 2019	S201-19

## APPENDIX 'A'

### PRESCRIBED FORM OF PETITION

TO: The Mayor and Council, Town of Pelham  
c/o Town Clerk  
20 Pelham Town Square, PO Box 400  
Fonthill, ON L0S 1E0

I/We the undersigned, petition the council of the Town of Pelham as follows:

PETITION TEXT: Enter a brief description of the matter being brought forward here, and include this text on every page of the petition.

PRINTED NAME	PRINTED ADDRESS	SIGNATURE

By signing this petition, I hereby acknowledge that this petition will become a record belonging to the Town of Pelham and that all information contained in this petition, including personal information (name/address) will be available for viewing by the public and may be reproduced in a future Council Agenda, available to the public through the municipal website.

## Update to Lottery Licensing Policy

April 15, 2019

### **Concept: How Might We Update the Lottery Licensing Policy to ensure compliance with the Alcohol and Gaming Commission of Ontario rules and regulations?**

#### Background:

The Town of Pelham policy for Lottery Licensing dates back to 1996 (copy attached, Appendix 1) and although all licensing is conducted in accordance with applicable and current Alcohol and Gaming Commission of Ontario rules, regulations and requirements,

Clerk's office staff rely on legislation, but also recognize the relevance of an updated Policy.

#### The Challenge:

The Clerks Department staff consistently reviews changing legislation as it relates to lottery licensing and works toward supporting local charitable groups with their fundraising efforts in a fair, consistent and efficient manner. This requires consistent review of legislative updates, attending training sessions as they are offered by the AGCO and keeping abreast of new lottery scheme trends.

To encourage compliance and provide concise and user-friendly guidance to our lottery groups, a user guide (Appendix 2) and a guide for the Catch the Ace (Appendix 3) lottery scheme have been developed, attached for information.

Close monitoring for reporting requirements and compliance is conducted, and consistent dialogue with the various licensee representatives is ongoing.

#### Our Recommended Solution:

**THAT Committee recommend that Council approve the Lottery Licensing Policy, S203-05, and that Policy CLERK/R05 be repealed and replaced.**

Solution Title: Lottery Licensing		
Council	April 15, 1996	\$203-05
Approved:		

## HOW MIGHT WE:

**How Might the Town of Pelham** licence charitable and religious organizations to conduct lottery schemes in accordance with the regulations set out by Alcohol and Gaming Commission of Ontario?

## PURPOSE

This policy is to ensure that all lottery licence applications, lottery operations and lottery financial reporting be carried out in a fair, equitable and consistent manner.

## KEY FACTS:

### 1. Legislative and Policy Support

- 1.1 In partnership with the Alcohol and Gaming Commission of Ontario (AGCO), Municipalities have the authority to issue lottery licences under Order-in-Council 1413/08, as amended.
- 1.2 The Criminal Code of Canada, Order in Council 1413/08, as amended and the Lottery Licensing Policy Manual issued by AGCO provide a charity gaming regulatory framework.

### 2. General Provisions

- 2.2 The Town Clerk/Deputy Clerk are appointed Lottery Licensing Officers and may issue licences authorizing any organization deemed charitable through the eligibility process to conduct and manage a bingo lottery, a break-open ticket (Nevada) lottery, a raffle lottery or a lottery scheme held at a bazaar.
- 2.3 The AGCO Lottery Licensing Manual is used to determine eligibility for a lottery licence and for the use of proceeds.
- 2.4 In addition to the material provided by the AGCO, the Town of Pelham has created guides made available to each organization to ease the administrative burden, being:
  1. A User's Guide to Charitable Gaming and Lottery Licensing

Solution Title: Lottery Licensing		
Council Approved:	April 15, 1996	\$203-05

## 2. A User's Guide to Catch the Ace

- 2.5 Lottery licensing fees are detailed in the Town of Pelham Fees and Charges Schedule.
- 2.6 No licence shall be issued until a licence fee has been paid.
- 2.7 Excluding a break-open licence, no additional licence will be issued until the previous report has been submitted and approved.
- 2.8 No organization will be issued two concurrent lottery licences with the exception of a break-open licence.
- 2.9 Application for an organization's first licence should be submitted to the Lottery Licensing Officers no later than 15 days prior to the date of the lottery.
- 2.10 Subsequent licences may be submitted at least 3 days prior to the date of the lottery.
- 2.11 The Town Clerk/Deputy Clerk may use their discretion during the issuance of a lottery licence.

## 3. Administrative Policy Management

- 3.1 Staff are authorized and directed to take the necessary action to give effect to this policy.
- 3.2 The Town Clerk/Deputy Clerk are delegated the authority to make administrative changes to this policy that may be required from time to time due to legislative changes or if, in the opinion of both of them, the amendments do not change the intent of the policy.

## 4. Compliance

- 4.1 If the Lottery Licensing Officer has reason to believe that during the conduct of a lottery, there exists a breach of any of the provisions outlined in the Criminal Code of Canada, Order in Council 1413/08, as amended or the Lottery

Solution Title: Lottery Licensing		
Council Approved:	April 15, 1996	\$203-05

Licensing Policy Manual, he/she may order the licensee to cease from further conducting the lottery.

- 4.2 If deemed necessary, the Lottery Licensing Officer shall inform the Niagara Regional Police and the AGCO of any illegal gaming.

#### **SOLUTION STATEMENT:**

The Town of Pelham recognizes that charitable gaming revenues are a source of funding for a large number of organizations and undertakings. As a licensing authority, the Town is committed to making fair and consistent decisions in respect to the issuance of lottery licences while in adherence with the regulations prescribed by the AGCO.



# TOWN OF PELHAM POLICY MANUAL

CLERK/R05

Department	Name of Policy
CLERK	Lottery Licensing

Page 1 of 1

APPROVAL DATE: April 15th., 1996

=====

POLICY STATEMENT: Lottery Licensing

The terms and conditions of these licenses are contained in the applicable by-laws and may be amended by the Ministry of Consumer and Commercial Relations from time to time.

The Clerk and/or Deputy Clerk are appointed lottery licensing officers and they may issue licenses authorizing any charitable, religious or educational organization to conduct and manage a bingo lottery, a break-open ticket (Nevada) lottery, a raffle lottery, or a lottery scheme held at a bazaar. All lottery licence applications will be presented to Council for approval.

Purpose:

This policy is to ensure that all lottery licensing applications, lottery operations and financial reporting be carried out in a fair, equitable and consistent manner.

Rules and Regulations:

Lottery Licence Fees – Shall be as established by Council from time to time.

No fee shall be charged for lottery licences issued to Town based groups when the proceeds of the lottery scheme are to be used entirely for municipal purposes.



# A User's Guide To Charitable Gaming and Lottery Licensing



## Town of Pelham

Nancy J. Bozzato, Town Clerk  
20 Pelham Town Square, PO Box 400  
Fonthill, ON L0S 1E0  
(905) 892-2607 ext. 315  
[njbozzato@pelham.ca](mailto:njbozzato@pelham.ca)  
[www.pelham.ca](http://www.pelham.ca)

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## GENERAL GUIDELINES FOR CHARITABLE GAMING

### A SUMMARY

Municipalities have the authority to issue licences for most lottery events conducted in their communities, including:

- Bingo events with prize boards up to \$5,500;
- Raffles with prizes up to \$50,000;
- Break Open Ticket events not conducted with another event and where tickets are sold within the municipality;
- Bazaar gaming events; and
- Media Bingo.

With this authority comes certain responsibility:

- Report any information required by Alcohol and Gaming Commission of Ontario (AGCO) Registrar, including number and type of licences issued and fees collected;
- Enforce licensing policies;
- Ensure licensees comply with terms and conditions of licences;
- Investigate any breaches of such terms and conditions;
- Refuse, suspend or cancel licences for non-compliance.

Municipalities have the authority to:

- Investigate suspected contraventions or any financial and/or management improprieties of licensed organizations and persons;
- Conduct audits of licensed organizations;
- Attach terms and conditions to any licence(s) issued.

## DID YOU KNOW?

### ELIGIBILITY AND USE OF PROCEEDS



To be eligible to receive a lottery licence, an organization must first have charitable purposes and objects that fall within one of the four classifications of charity:

1. Relief of Poverty;
2. Advancement of Education;
3. Advancement of Religion;
4. Other Charitable Purposes Beneficial to the Community.

To summarize:

1. Relief of Poverty: organizations that assist the economically disadvantaged by directly providing goods, social services, programs or facilities to alleviate the effects of living in poverty.
2. Advancement of Education: significant training or instruction; development of mental faculties; or improvement of a branch of human knowledge resulting in a public benefit. Instruction must be available to a wide section of the public and not be restricted.
3. Advancement of Religion: promotion of a religious group's spiritual teachings and maintenance of doctrines and spiritual observances upon which those teachings are based. The group's activities must include an element of public instruction and promotion of spiritual teachings, serving religious purpose for the public good. Beliefs and practices cannot include anything the courts consider subversive, immoral or illegal.
4. Other Charitable Purposes Beneficial to Community: includes activities that benefit the whole community, without discrimination, so that the purposes have a truly public character and may include:
  - promotion of arts and cultural activities;
  - cultural ethnic, native, historic or heritage pursuits;
  - improvement of the quality of health through medical research;
  - treatment programs and preventative programs;
  - youth sporting activities;
  - community projects undertaken by service organizations.

## ELIGIBLE USE OF PROCEEDS: AN OVERVIEW:

The licensing official (appropriate Town staff) must examine the intended use of lottery proceeds as listed on the licence application, by considering the following factors:

- Which classification does the organization fall under?
- What is the mandate of the organization?
- The type of organization;
- The organization's structure.



Eligible proceeds must be:

- In themselves charitable and advance the charitable purposes/objects of the organization;
- Used for direct delivery of the charitable purposes/objects of the organization;
- Directed toward specific segments of the community with a common need.

Several restrictions are in place for use of proceeds and will be determined following a review of the application. A few examples of ineligible use of proceeds include:

- provision of personal benefit or gain for members of the applicant organization;
- supporting tourism or other purely economic benefits;
- advancing a particular political issue;
- enhancing lands and buildings owned and/or operated by a government;
- is a responsibility traditionally fulfilled by a government;
- or it funds activities that do not fall within one of the four charitable classifications.

Further, the Clerk must be satisfied that:

- ✓ The proposed uses of proceeds are consistent with the organization's purposes and objects, and the eligible uses of proceeds for the class and type of organization; and
- ✓ The proposed uses of proceeds are related to the direct delivery of programs and services to the eligible beneficiaries.

If the answer to both components is "yes", the applicant's lottery application and proposed use of proceeds may be eligible for lottery licensing. Please be clear and specific when completing your application form to ensure compliance.

"IF IN DOUBT ... CHECK IT OUT!"

[WWW.AGCO.ON.CA](http://WWW.AGCO.ON.CA)

## ELIGIBLE USE OF PROCEEDS: TELL ME MORE!

\*examples are not all-inclusive\*



### Relief of Poverty – Examples of Eligible Uses of Proceeds:

- ✓ Temporary shelter/subsidized rental accommodation;
- ✓ Food, supplies, clothing;
- ✓ Client life skills training, instruction & support to alleviate effects of living in poverty;
- ✓ Transportation costs for clients to attend programs/access services;
- ✓ Non-profit day care services where funds are used;
- ✓ For programs not historically funded;
- ✓ For the purpose of allowing access to persons who could not otherwise afford the service;
- ✓ Out-of-pocket expenses for staff and volunteers (i.e. staff or volunteers required to use personal vehicle to deliver the service).

### Advancement of Education – Examples of Eligible Uses of Proceeds:

Funds from lotteries cannot fund core programs or services. Lottery proceeds cannot be used for purchase, construction or renovation of facilities or buildings, or purchase of capital assets such as school buses. Proceeds must be used for overall benefit of school; e.g. lottery proceeds raised for athletic programs must be used to support all representative sports teams within the school, not just selected teams. The licensing authority may approve the use of proceeds for the following purposes, as long as they are not historically provided by the organization or mandated by the Provincial government:

- ✓ Non-profit student publications (e.g. newsletters and yearbooks provided at nominal or no cost);
- ✓ Educational student conferences and field trips within Ontario;
- ✓ Student organizations such as arts/drama clubs and student councils/unions;
- ✓ Academic competitions;
- ✓ Student athletics programs: uniforms, sports equipment, safety equipment, fees for qualified officials where necessary, and facility rental fees;
- ✓ Scholarships and bursaries open to Ontario residents; and
- ✓ Travel provided it complies with prescribed criteria.

### Advancement of Religion – Examples of Eligible Uses of Proceeds:

- ✓ Development and enhancement of religious programs for parishes, missions, synagogues, temples or other religious assemblies in Ontario;
- ✓ Religious training, education, instruction;
- ✓ Relief of poverty provided it is within mandate of organization;
- ✓ Publication and distribution of religious literature and educational materials;
- ✓ Administrative costs including wages & salaries;
- ✓ Rent or mortgage payments and utilities for buildings used for religious purposes;
- ✓ Direct travel costs within Ontario (for religious purposes);
- ✓ Maintenance and repair of buildings used for religious purposes;
- ✓ Capital projects including purchase or construction of facilities to be used for religious purposes and property improvements/renovations on buildings used for religious purposes.

For the category “Other Charitable Purposes Beneficial To Community”:  
See Licensing Authority re Eligible Use of Proceeds.

## CONSTITUTING DOCUMENTS: WHAT WE NEED

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Applicant organizations must have a document that establishes the organization, setting out the members' common purpose and detailing how the organization will operate in order to achieve that purpose. Formal documents include Letters Patent, a constitution, and a memorandum of association. Informal associations that have not adopted formal written constituting documents are not eligible for lottery licensing.

The following items must be included in constituting documents:

- Organization name;
- Organization purpose or object;
- Description of how one becomes and retains membership;
- A clause stating members will not derive any gain from the organization and that any profits will be used solely to promote the organization's objectives;
- Description of the organizational structure (e.g. president or chair, secretary, treasurer, etc.);
- Description of how organization elects directors;
- Signature of officers who adopted incorporating documents;
- Signature of at least three of the organization's current directing officers, certifying that the incorporating documents are current and still in effect;
- Effective date of the instrument;
- General dissolution clause addressing winding up of the organization;
- Further clause providing for distribution of assets.

PLEASE PROVIDE THE TOWN OF PELHAM WITH ANNUAL UPDATES REGARDING YOUR DIRECTING OFFICERS AND FINANCIAL PARTICULARS AS OUTLINED ON PAGE 8 OF THIS INFORMATION PACKAGE.



EACH YEAR, THE TOWN OF PELHAM SHOULD RECEIVE THE FOLLOWING INFORMATION ABOUT YOUR ORGANIZATION:


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- ☐ A copy of the applicant's Articles of Incorporation and/or constitution as well as any by-laws, if applicable (if there has been a change in the past year).
- ☐ A copy of a letter from Canada Revenue Agency recognizing the charitable status under the Income Tax Act (if there has been any change since this information was previously submitted.)
- ☐ A copy of the most recent filing with Canada Revenue Agency.
- ☐ A list containing the names, business addresses and business telephone numbers of all bona fide members, and a list of the current Executive, including names of those persons having signing authority for your organization.
- ☐ A copy of the applicant's complete budget, covering the current twelve month fiscal or calendar year, detailing how resources will be acquired and disbursed during this period.
- ☐ A copy of your previous year's financial statement.
- ☐ Detailed program of services provided.
- ☐ Annual updates regarding your directing officers and financial particulars.

*You may wish to provide this information package to subsequent Boards of Directors!*

## CONFLICT OF INTEREST: GUIDELINES



Conflict of Interest guidelines have been established by the AGCO to give the public confidence in the integrity of charitable organizations conducting lottery events. As this can be a sensitive issue, licensees must be vigilant in preventing any possibility of a potential or perceived conflict of interest!

### Guidelines:

- No member, principal officer or paid staff of an applicant organization may be involved, in any way, in the approval of a licence application and/or the management and conduct of a licensed event.
- No person assisting in the conduct and management of a lottery event may have any monetary interest in any card, ticket or bet, or have a chance to win a lottery prize in any way.
- No designated member responsible for the conduct of the licensed lottery, or volunteers assisting with the lottery, may have any direct or indirect personal financial interest in the funds raised.

### Some examples:

- Designated members-in-charge, prize donors, and other persons or companies involved in the conduct of the raffle must not purchase tickets;
- Prizes must not be purchased from a business controlled by any of the designated members-in-charge of the licensed lottery event;
- A neutral third party should draw the winning ticket (i.e. a person who has not purchased a ticket);
- No one involved in the sale of Break Open Tickets may purchase tickets or participate in gaming events held in conjunction with the BOT gaming event;
- Owners and employees of registered BOT seller locations may not purchase Break Open Tickets sold at that location;
- Executive members of Hall Charities Associations may not purchase BOT's in their hall;
- Licensees may not permit their bona fide members or persons acting as runners, cashiers or other capacities to play bingo while they are conducting the bingo;
- Members of a licensee's board of directors may not personally benefit or profit in any way from a lottery event conducted and managed by the licensee or play bingo at that hall at any time.

## A LITTLE ABOUT: RAFFLES

*A raffle is a lottery scheme where tickets are sold for a chance to win a prize in a draw.*



The Alcohol and Gaming Commission of Ontario Policy Manual states that groups and organizations may only be licensed for one raffle event at a time, except for "calendar draws" or under a "blanket licence".

Permitted raffle lottery events are: Stub Draws; Elimination Draws; Calendar Draws; Sports Raffles; Rubber Duck Races; 50/50 Draws; Blanket Raffle Licences; Meat Spins & Turkey Rolls; "Name the Raffle" lotteries; Bossy Bingo and Cow Patty Bingo.

Prize values cannot exceed \$50,000 or the licence is issued by the Province of Ontario (AGCO) directly. Retail market value of prizes must not be less than 20% of the total value of the tickets. So, if your total printed ticket sales value is \$2500, the total values of prizes cannot be under 20% or \$500.

Fixed prizes must be awarded in raffle draws, except 50/50 draws. You must know what your prizes are and the values prior to making application for a licence.

Raffle tickets must not be sold to anyone under the age of eighteen (18) and must not be offered, ordered or sold through the Internet, a web page or any other computer generated communications medium.

Only new and unused merchandise purchased from a reputed vendor may be offered as prizes. Livestock must not be awarded as prizes.

If the prize value exceeds \$10,000, financial guarantees will be required to be submitted to the Town Clerk. The licence application must state the number of tickets to be printed.

The licensee's name and licence number must appear on both the main ticket and the ticket stub, and any advertising.

A sample application is included in this information package. Lottery Report must be submitted within 30 days of the holding of the lottery.

## SPECIAL INFORMATION REGARDING 50/50 DRAWS

A 50/50 Draw is a raffle lottery where the prize is one half of the value of all tickets sold. The licensee may only award prizes based on a 50/50 split of the gross proceeds (you cannot deduct half of the administrative fees such as ticket printing or licence fee from the prize to be issued).

In some instances, groups may wish to conduct a series of 50/50 draws over a specified time period; i.e. a hockey association may wish to hold 50/50 draws during the second intermission of hockey games on the 1st and 15th of each month. Whenever a licence is issued for a series of 50/50 draws, the licensee must use different tickets for each draw throughout the course of the licence (two-part roll tickets can be used).

# SAMPLE RAFFLE LICENCE APPLICATION



Alcohol and Gaming  
Commission of Ontario

Gaming Registration and  
Lotteries  
90 Sheppard Ave. E., Suite 200  
Toronto ON M2N 0A4

Commission des alcools  
et des jeux de l'Ontario

Inscription pour les jeux  
de loteries  
90, av. Sheppard Est, bureau 200  
Toronto ON M2N 0A4

Group Identification Number (GIN)  
Numéro d'identification d'organisme (N/O)

--	--	--	--	--	--	--	--

Application to Manage and  
Conduct a Raffle Lottery  
Demande de permis pour administrer  
et conduire une tombola (tirage)

We, the undersigned, as two principal officers of record (organization)  
Names of two officers with  
signing authority.

Address  
Address for organization's mail.

apply for a licence to manage and conduct a Raffle Lottery from the  
premises municipally known as

where is the draw to take place?  
and situated in the Municipality of

Town of Pelham  
between the dates specified, and for the charitable or religious objects  
and purposes, and in the manner described herein.

1. The Charitable or religious objects or purposes to which proceeds  
are to be donated are described as  
"SPECIFIC USE OF PROCEEDS" - a detailed  
description of how proceeds will be used.

2. The total value of all prizes to be awarded in the Raffle Lottery for  
which this application is made will be \$ TOTAL VALUE cash  
value, or merchandise or articles at equivalent market retail value.  
Merchandise prizes are described as

list prizes; use separate sheet if needed.  
3. Closing date for the sale of the tickets will be last day to sell  
and the draw for a winner or winners will be made at (address)  
where is the draw to take place?

on (date) date of draw at (time) time of draw  
If a series of draws, beginning date  
ending date  
Number of draws

4. A winner or winners will be determined by (describe)  
i.e. draw of ticket  
and the name(s) and address(es) of the winner or winners will be  
published (describe)  
i.e. local newspaper, etc.

5. The total number of tickets to be printed will be i.e. 500  
and all tickets will be numbered consecutively from 001  
to 500 Price per ticket \$ 20

Les soussignés, qui sont deux principaux dirigeants de  
(organisme)

Adresse

font une demande de permis pour administrer et conduire une  
tombola (tirage) dans les locaux connus dans la municipalité sous  
le nom de

et situés dans la municipalité de

entre les dates indiquées, à l'intention des œuvres religieuses ou de  
bienfaisance spécifiées et de la manière décrite dans les présentes.  
Les profits seront répartis aux œuvres religieuses ou de  
bienfaisance suivantes.

1. Les profits seront répartis aux œuvres religieuses ou de  
bienfaisance suivantes.  
Note: Retail market value of prizes must  
not be less than 20% of the total value of tickets

2. La valeur totale de tous les prix qui seront attribués dans le cadre  
de la tombola (tirage) pour laquelle cette demande est faite sera  
de \$ en espèces, ou une valeur équivalente  
au détail.  
Les prix de valeur au détail consisteront en

3. La date finale pour la vente de billets sera le  
et le tirage du ou des gagnant(s) sera fait au (adresse)

le (date) à (heure)  
S'il y a plusieurs tirages, première date  
dernière date Nombre de tirages

4. Le ou les gagnants seront déterminés (préciser)  
et le nom et l'adresse du ou des gagnant(s) seront connus par  
(préciser)

5. Le nombre total des billets qui seront imprimés sera de  
et tous les billets porteront des numéros consécutifs allant de  
à Prix du billet \$

## Certificate / Attestation

We (name)/Nous soussignés(nom) Print names of officers signing this form.  
of (organization) /de organisme) Your organization name  
of (municipality)/de (municipalité) Town of Pelham of the county of/ du comté de Regional Niagara  
jointly and severally, hereby certify that/attestons collectivement et individuellement que:

- 1) We have read, and have in our possession, and agree to comply  
with, the provisions of Schedule A-Terms and Conditions under  
which the Lottery Licence is issued.
- 2) We have read over this application.
- 3) All facts stated and information furnished herein are true and  
correct.
- 4) We are the holders of the offices with descriptive title as set out  
and appearing under our respective signatures below.
- 5) If a licence is granted, we undertake to comply with all the terms  
and conditions of such licence.

- 1) Nous avons lu les dispositions de l'annexe A- modalités inhérentes  
à la délivrance d'un permis de tombola (tirage), que nous les avons  
en notre possession et que nous acceptons de nous y conformer,
- 2) Nous avons lu la présente formule.
- 3) Tous les faits indiqués et les renseignements fournis dans les  
présentes sont véridiques et exacts.
- 4) Nous assumons les fonctions correspondant aux titres spécifiés  
sous nos signatures respectives ci-dessous.
- 5) Si un permis est délivré, nous engageons à en observer les  
modalités.

Signed/Signature	<u>Sign here please</u>	<u>Sign here please</u>
Print Name/Nom en lettres moulées	<u>Print Name of Officer</u>	<u>Print Name of Officer</u>
Title/Titre	<u>President</u>	<u>Treasurer</u>
Bus. Telephone No. N°. de tél. d'aff.	<u>(905) 123-4567</u>	<u>(905) 890-1234</u>
Date/Date	<u>January 26, 2009</u>	<u>January 26, 2009</u>
Witness (sign) Témoin (signature)	<u>Witness - can be town staff if necessary.</u>	

6004 B (09/05)

# SAMPLE RAFFLE REPORT



**Alcohol and Gaming  
Commission of Ontario**  
Gaming Registration and Lotteries  
90 Sheppard Avenue East  
Suite 200  
Toronto ON M2N 6A4  
(416) 326-8700 1 800 522-2876 toll free in Ontario/sans frais en Ontario

**Commission des alcools  
et des jeux de l'Ontario**  
Inscription pour les jeux et loteries  
90 avenue Sheppard Est  
Bureau 200  
Toronto ON M2N 6A4  
(416) 326-8700 1 800 522-2876 sans frais en Ontario

## Lottery Report/Rapport de loterie

Group Identification Number (GIN)  
Numéro d'identification d'organisme (N.I.O.)

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Note: This report must be filed with the Lottery Licensing Officer within 30 days of the holding of the lottery in accordance with the terms and conditions under which the lottery licence was issued.  
Remarque: Il faut soumettre ce rapport à l'agent(e) de délivrance des licences de loterie dans les trente jours qui suivent la loterie conformément aux modalités en vertu desquelles la licence de loterie a été délivrée.

1. Organization Name - Address/Nom et adresse de l'organisme  <i>Name of organization and full mailing address.</i>	Lottery Licence No./N° de licence de loterie <b>M 555555</b> Type of Lottery/Genre de loterie <input checked="" type="checkbox"/> Raffle/Tombola (tirage) <input type="checkbox"/> Bazaar/Vente de charité Lottery Date/Date de la loterie <i>date lottery (draw) took place</i>
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2. Total number of tickets or cards / Nombre total de billets ou de cartes	Price per Ticket/Prix du billet
Printed/Imprimés <b>500</b>	Sold/Vendus <b>490</b>
Unsold/Non vendus <b>10</b>	<b>\$20-</b>

Note: In the case of a Raffle, a list of all prize winners must accompany the return of this report.  
Remarque: S'il s'agit d'une tombola (tirage), la liste des gagnants des prix doit accompagner le présent rapport.

3. Total Gross Receipts derived from lottery/Total des recettes brutes tirées de la loterie	\$ <b>9800.00</b>
Application of Funds/Affectation des fonds	
(a) Total value of prizes awarded/Valeur totale des prix attribués	\$ <b>2000</b>
(b) Total administrative costs incurred/Total des frais d'administration engagés (attach itemized list/jointure une liste détaillée)	\$ <b>100</b>
Net proceeds derived/Recettes nettes obtenues	\$ <b>7700.00 *</b>

4. Details of Donations/Renseignements sur les dons (For proceeds actually donated/Recettes réellement données)		
Name of Payee/Nom du bénéficiaire	Address of Payee/Adresse du bénéficiaire	Amount Donated/Montant donné
<i>this information should coincide with question 1 on the application</i>		
Total value of proceeds actually donated for charitable or religious purposes/ Valeur totale des profits réellement donnés à des œuvres religieuses ou de bienfaisance		\$ <b>7700.00 *</b>

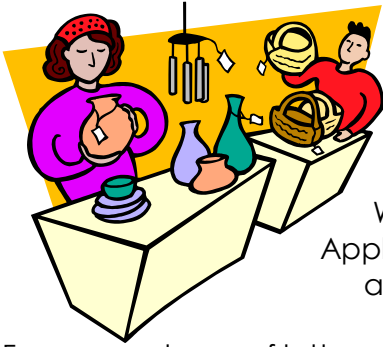
5. Chartered Bank, Loan or trust company or Province of Ontario Savings Office in which the Lottery Trust Account is kept/Banque à charte, compagnie de prêt ou de fiducie ou caisse d'épargne de la province de l'Ontario où se trouve le compte de loterie en fiducie.

Name of Bank/Nom de la banque	Branch Address/Adresse de la succursale	Account Number/Numéro de compte
<b>NAME OF FINANCIAL INSTITUTION; ADDRESS.</b>		<b>LOTTERY TRUST ACCOUNT #</b>
Balance of proceeds retained in Lottery Trust Account/Solde des profits conservé dans le compte de loterie en fiducie		\$ <b>Funds in Account</b>

We, the undersigned, as two Principal Officers of the above organization, certify that the above report is a correct statement of the lottery funds herein.  
Nous, soussignés, à titre de dirigeants principaux de l'organisme mentionné ci-dessus, attestons que le rapport qui précède décrit correctement l'état des fonds de loterie en question.

Principal Officer/Dirigeant principal	Principal Officer/Dirigeant principal
<i>Signing Authority</i>	<i>Signing authority</i>
Signature	Signature
Name in full/Nom au complet	Name in full/Nom au complet
Title/Titre	Title/Titre
Bus. Telephone/Téléphone d'aff.	Bus. Telephone/Téléphone d'aff.
Date	Date

06347 B (05/05)



## A LITTLE ABOUT: BAZAAR LICENCES

A Bazaar is defined as “a sale of goods held to raise money for a charity.”

When raffles or penny sales are held ancillary to a Bazaar, an Application to Manage and Conduct a Lottery Type Scheme at a Bazaar is needed.

Four types of lottery events are permitted at bazaars, in any combination:

1. Wheels of Fortune
2. Bingo
3. Raffles
4. Penny Auction (Penny Sale) Raffles

### Wheels of Fortune:

A game where players wager chips, tokens or cash on the spin of a wheel in order to win a prize. Wagers are set and the wheel is spun – it must complete at least three full revolutions and come to a full stop for prizes to be awarded (example – Crown & Anchor). Maximum of three wheels of fortune; maximum bets of \$2.00.

### Bingo:

Under a Bazaar licence, a bingo lottery may be conducted with a maximum of \$500 in prizes. Bingo cards may be sold for cash only, and only on the day of the event. General Bingo Licensing Policies apply.

### Raffles:

A raffle lottery may be conducted under a bazaar licence with a maximum of \$500 in prizes. Cash transactions for ticket sales only are permitted. Tickets must be consecutively numbered (i.e. you can use roll tickets).

When raffle tickets are sold at a single premises and tickets are drawn the same day (i.e. at the bazaar) the licensee is exempt from general raffle policies requiring printing of complete raffle information on the ticket and retaining unsold tickets for one year.

### Penny Auction Raffles:

Total prize value has a maximum \$500 cap. Participants purchase tickets which are detachable from stub portion and are used to “bid” on a variety of “auction items” (the prizes) by depositing a ticket into a container assigned to that prize. The prize is awarded to the person whose ticket is drawn, at random, from the container.

**IMPORTANT NOTE: AGCO REQUIRES THAT THE APPLICATION INCLUDE A COMPLETE LIST OF THE PRIZES TO BE AWARDED FOR EACH GAME EXCEPT FOR PENNY SALES.**

# SAMPLE BAZAAR LICENCE APPLICATION



**Alcohol and Gaming  
Commission of Ontario**  
Gaming Registration and Lotteries  
90 Sheppard Ave. East, Suite 200  
Toronto ON M2N 6A4  
(416) 326-8700 1-800-522-2876 toll free in Ontario

## Application to Manage and Conduct a Lottery Type Scheme at a Bazaar

### 1. Organization information (Please print or type)

Name of Organization

*e.g. Church Women's Group*

Address of Organization

*Church address*

City / Town

Province

Phone No.

Postal Code

GIN #

Fax No.

For Office Use Only

### 2. Type of lottery scheme(s) you will be operating

Type of Wheel of Fortune	Number

Type of Raffle	Number & Times of Draws	Total Prize Value
<i>Penny Sale/Auction</i>		<i>\$ 500.00</i>
Type of Bingo	Number & Times of Games	Total Prizes / Game

### 3. For what purposes will the money raised from this event be used? (attach a separate sheet if necessary)

a) <i>Sunday School Programs</i>	c)
b) <i>Large Print Prayer Books</i>	d)

### 4. Where will your lottery be conducted?

Name of Premises

*i.e. Church Name*

Address of Premises

*i.e. Church Address*

City / Town of Premises

*Fonthill*

Municipality of Premises

*PELHAM*

From  
Year Month Day  
*2009 11 10*

To  
Year Month Day  
*2009 11 10*

Starting Time

*10:00 a.m.*

Ending Time

*2:00 p.m.*

### 5. Certificate

We, *self explanatory* (Name of Committee Chairperson) and \_\_\_\_\_ (Name of Committee Secretary/Treasurer),  
\_\_\_\_\_ (Name of organization) of *Pelham* (Name of municipality)

jointly and severally, hereby certify that:

- 1) We have read, have in our possession, and agree to comply with the provisions of the Bazaar Licence Terms and Conditions under which the Lottery Licence is issued,
- 2) We have read over this application,
- 3) All facts stated, and information furnished herein, are true and correct,
- 4) We are the holders of the offices with descriptive title as set out appearing under our respective signatures below,
- 5) If a licence is granted, we undertake to comply with all the Terms and Conditions of such licence,
- 6) We, the undersigned, as two principal officers of the above-named organization, apply for a licence to manage and conduct a Lottery Type Scheme at a Bazaar to be conducted and managed by us on behalf of the organization.

#### Committee Chairperson

Name in Full (please print)
Title <i>self explanatory</i>
Phone Numbers: Business ( ) Fax ( )
Date
Signature

#### Committee Secretary Treasurer

Name in Full (please print)
Title <i>self explanatory</i>
Phone Numbers: Business ( ) Fax ( )
Date
Signature

8005 E (06/05)



# SAMPLE BAZAAR LICENCE REPORT



Alcohol and Gaming  
Commission of Ontario  
Gaming Registration and Lotteries  
90 Sheppard Avenue East  
Suite 200  
Toronto ON M2N 6A4  
(416) 326-8700 1 800 522-2876 toll free in Ontario/sans frais en Ontario

Commission des alcools  
et des jeux de l'Ontario  
Inscription pour les jeux et loteries  
90 avenue Sheppard Est  
Bureau 200  
Toronto ON M2N 6A4

## Lottery Report/Rapport de loterie

Group Identification Number (GIN)  
Numéro d'identification d'organisme (N.I.O.)

--	--	--	--	--	--	--	--

Note: This report must be filed with the Lottery Licensing Officer within 30 days of the holding of the lottery in accordance with the terms and conditions under which the lottery licence was issued.  
Remarque: Il faut soumettre ce rapport à l'agent(e) de délivrance des licences de loterie dans les trente jours qui suivent la loterie conformément aux modalités en vertu desquelles la licence de loterie a été délivrée.

1. Organization Name - Address/Nom et adresse de l'organisme  i.e. Church Women's Group - as detailed on Application	Lottery Licence No./N° de licence de loterie M 123456 Type of Lottery/Genre de loterie <input type="checkbox"/> Raffle/Tombola (tirage) <input checked="" type="checkbox"/> Bazaar/Vente de charité Lottery Date/Date de la loterie November 10, 2009
--	--

2. Total number of tickets or cards / Nombre total de billets ou de cartes			Price per Ticket/Prix du billet
Printed/Imprimés (Purchased) 1,000	Sold/Vendus 870	Unsold/Non vendus 130	\$1.00

Note: in the case of a Raffle, a list of all prize winners must accompany the return of this report.  
Remarque: S'il s'agit d'une tombola (tirage), la liste des gagnants des prix doit accompagner le présent rapport.

3. Total Gross Receipts derived from lottery/Total des recettes brutes tirées de la loterie	\$ 870.00
Application of Funds/Affectation des fonds	
(a) Total value of prizes awarded/Valeur totale des prix attribués	\$ donated.
(b) Total administrative costs incurred/Total des frais d'administration engagés (attach itemized list/jointure une liste détaillée)	\$1512 fee \$20 tickets - 65-
Net proceeds derived/Recettes nettes obtenues	\$ 805.00

4. Details of Donations/Renseignements sur les dons (For proceeds actually donated/Recettes réellement données)		
Name of Payee/Nom du bénéficiaire	Address of Payee/Adresse du bénéficiaire	Amount Donated/Montant donné
Church Sunday School	church address	500.00
i.e. Church large print supplier		300.00
Total value of proceeds actually donated for charitable or religious purposes/ Valeur totale des profits réellement donnés à des oeuvres religieuses ou de bienfaisance		\$ 800.00

5. Chartered Bank, Loan or trust company or Province of Ontario Savings Office in which the Lottery Trust Account is kept/Banque à charte, compagnie de prêt ou de fiducie ou caisse d'épargne de la province de l'Ontario où se trouve le compte de loterie en fiducie.

Name of Bank/Nom de la banque	Branch Address/Adresse de la succursale	Account Number/Numéro de compte
Name of Your Organization's Bank & Address		give Acc. Number.
Balance of proceeds retained in Lottery Trust Account/Solde des profits conservé dans le compte de loterie en fiducie		\$5.00

We, the undersigned, as two Principal Officers of the above organization, certify that the above report is a correct statement of the lottery funds herein.  
Nous, soussignés, à titre de dirigeants principaux de l'organisme mentionné ci-dessus, attestons que le rapport qui précède décrit correctement l'état des fonds de loterie en question.

Principal Officer/Dirigeant principal	Principal Officer/Dirigeant principal
Signature	Signature
Name in full/Nom au complet	Name in full/Nom au complet
Title/Titre	Title/Titre
Bus. Telephone/Téléphone d'aff.	Bus. Telephone/Téléphone d'aff.
Date	Date

05347 B (05/05)

## A LITTLE ABOUT BINGO LICENCES

***BINGO !***

A GAME OF CHANCE WHERE  
PLAYERS ARE AWARDED A PRIZE FOR BEING THE FIRST TO COMPLETE  
A SPECIFIED ARRANGEMENT OF NUMBERS ON BINGO PAPER, BASED  
ON NUMBERS SELECTED AT RANDOM.



The Town of Pelham is authorized to issue licences for the following types of Bingo events:

- |                       |                       |
|-----------------------|-----------------------|
| (a) Regular Bingo     | (d) Decision Bingo    |
| (b) Merchandise Bingo | (e) Table Board Bingo |
| (c) Loonie Pot Bingo  | (f) Media Bingo       |

Regular bingo events may be licensed by a municipality allowing eligible charitable organizations to conduct Regular Bingo events with prize boards that do not exceed \$5,500. Game schedules may include any combination of fixed prize and variable prize payouts for each game on the schedule. If all games are variable prize, maximum prizes to be awarded cannot exceed 60% of gross sales for each game; total prizes paid out can never exceed the licensed prize board.

Merchandise bingo is where prize board consists of items of merchandise. Licences can be for regular bingo events or at a “black tie event” where participants play by invitation only.

Loonie Pot Bingo is a special, variable prize game within a Regular Bingo game schedule. Bingo cards are stamped (for a fee) and before the game begins a number is selected, announced and replaced in the machine. If a player with a stamped bingo paper calls “Bingo!”, and their winning number arrangement contains the pre-selected number, they also win the Loonie Pot Bingo prize.

Decision Bingo is where players use chips to purchase bingo paper and during each game, players have an option of ending play or continuing by an ante.

Table Board Bingo is played on a mechanical table board bingo device which contains permanent bingo cards and shutters.

Media Bingo licences may be issued where prize boards do not exceed \$5,500. Media Bingo is operated through the public media including radio, newspaper or television. Cards sold must have clearly visible, consecutively numbered serial numbers for tracking purposes.

FOR MORE INFORMATION CONTACT TOWN CLERK, OR SEE [WWW.AGCO.ON.CA](http://WWW.AGCO.ON.CA)

# SAMPLE BINGO LICENCE APPLICATION



**Alcohol and Gaming  
Commission of Ontario**  
**Gaming Registration  
and Lotteries**  
90 Sheppard Avenue East  
Suite 200  
Toronto ON M2N 0A4  
416 326-6700 or/ou 1 800 522-2876 toll free in Ontario /sans frais en Ontario  
Website/site Web : www.agco.on.ca

**Commission des alcools  
et des jeux de l'Ontario**  
**Inscription pour les jeux  
et loteries**  
90, av. Sheppard Est  
Bureau 200  
Toronto ON M2N 0A4

## Application to Manage and Conduct a Bingo Lottery Demande de licence pour mettre sur pied et administrer un bingo

Group Identification Number (GIN)  
Numéro d'identification d'organisme (NIO)

1 2 3 4 5 6 7

We, the undersigned, as two principal officers of record of (organization)  
Nous soussignés, qui sommes deux principaux dirigeants de (organisme)

YOUR OFFICIAL ORGANIZATION NAME

(address) ADDRESS FOR ORGANIZATION'S MAIL  
(adresse)

apply for a licence to manage and conduct a Bingo lottery on the dates and times, and for the charitable or religious object or purpose,  
and in the manner described herein.  
présentons une demande de licence pour mettre sur pied et administrer un bingo aux dates et aux heures indiquées, aux fins religieuses  
ou de bienfaisance spécifiées et de la manière décrite dans les présentes.

### 1. Check one/Cocher une case

- ☐ A single Bingo lottery to be held on (date) \_\_\_\_\_  
Un seul bingo qui aura lieu le (date)  
starting at (time) \_\_\_\_\_ finishing at (time) \_\_\_\_\_  
de heures à \_\_\_\_\_ heures
- ☒ A series of Bingo lotteries to be held in the period from (date) JANUARY 1, 2009  
Une série de Bingos qui auront lieu pendant le période allant du (date)  
to (date) JUNE 30, 2009, each lottery starting at (time) 7:00 P.M.  
au (date) \_\_\_\_\_, chaque Bingo commencera à heures  
finishing at (time) 9:00 P.M. and at the rate of once every week or once every (specify)  
et finira à \_\_\_\_\_ heures à la fréquence d'une fois par semaine ou d'une fois tous les (spécifier)
- Total number of events 24  
Nombre total de bingos
- To be held on ☐ Monday ☒ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday ☐ Saturday ☐ Sunday  
Le bingo aura lieu le lundi mardi mercredi jeudi vendredi samedi dimanche

### 2. The charitable or religious objects or purposes to which proceeds are to be devoted are described as Les œuvres de bienfaisance ou religieuses auxquelles le produit sera accordé consistent en

Provide a detailed description demonstrating how proceeds will be  
distributed; must be eligible to receive proceeds

### 3. Is Applicant incorporated as a non-profit Organization in the Province of Ontario? ☐ Yes/Oui ☐ No/Non L'auteur de la demande est-il constitué en Ontario en tant qu'organisme sans but lucratif?

### 4. Is the Organization registered with Revenue Canada as a charitable organization? L'organisme est-il enregistré auprès de Revenu Canada en tant qu'organisme de bienfaisance?

If yes, give Registration Number (this is your GIN - if you have one).  
Dans l'affirmative, donner son numéro d'enregistrement

5. How long has the Organization been in existence? \_\_\_\_\_  
Depuis combien de temps l'organisme existe-t-il? \_\_\_\_\_

6. How many members does the Organization have? \_\_\_\_\_  
Combien de membres l'organisme compte-t-il? \_\_\_\_\_

7. The total value of all prizes to be awarded within the operation of each Bingo lottery for which this application is made is not to exceed  
La valeur totale de tous les prix qui seront décernés à l'occasion de chaque bingo pour lequel la présente demande est soumise ne dépassera pas  
\$ \_\_\_\_\_ cash value or merchandise or articles at equivalent market retail value  
en espèces, ou une valeur au détail équivalente en nature

8. Indicate Premises where Bingo games will be conducted  
Indiquer dans quels locaux le bingo aura lieu

Name

Nom

Location

Lieu

Street/Rue

Municipality/Municipalité

Capacity of Premises for Public Assembly Purposes

Capacité des locaux pour les réunions publiques

9. Other games being conducted in conjunction with special bingo: \_\_\_\_\_  
Autres parties mises sur pied conjointement avec un bingo de circonstance.

Note: If provincial bingo games licensed by the Registrar are being conducted in conjunction with a **special (monster) bingo**, the Bingo Sponsors' Association **MUST** obtain signed consent below.

Nota: Si des parties de bingo provinciales pour lesquelles le registrateur a délivré des licences sont mises sur pied conjointement avec un **bingo de circonstance (monstre)**, l'association de commanditaires **DOIT** obtenir le consentement signé ci-dessous.

Print name (Authorized Signing Official for Special (Monster) Bingo Licensees)

Nom en lettres moulées (agent signataire autorisé du titulaire de licence pour un bingo de circonstance (monstre)).

Signature

Date

YY/AA

MM

DD/JJ

#### 10. Designated Member in Charge/Membre désigné responsable

I, as an active, bona fide member of \_\_\_\_\_

Organization/Organisme

Je soussigné, membre véritable de \_\_\_\_\_

hereby certify that as the designated member in charge of the Bingo lottery for which this application is made, I will be responsible for the management and conduct of the Bingo lottery in accordance with the terms and conditions under which the Bingo lottery licence is issued.

atteste qu'en tant que membre désigné responsable du bingo pour lequel la présente demande est soumise, je veillerai à ce que la mise sur pied et l'administration du bingo soient conformes aux modalités en vertu desquelles la licence de bingo est délivrée.

(To be completed by second designated member where applicable)/(Si un deuxième membre est désigné, il doit remplir cette partie)

<i>President or other signing authority</i>	Signature	<i>designated member in charge or Treasurer of organization</i>
	Print name in full Nom complet en lettres moulées	
	Title Titre	
	Business telephone number N° de téléphone au bureau	
	Date of signing Date de signature	

11. Proposed Administrative expenses for each event (on an amortized basis if necessary)  
Frais d'administration proposés pour chaque bingo (compte tenu de l'amortissement au besoin)

Item/Poste	Name and Address of Payee/Nom et adresse du bénéficiaire	Cost/Cost \$
Hall Rent Loyer de la salle		
Supplies Fournitures	<i>do you purchase bingo cards?</i>	
Advertising Publicité		
Honorariums Honoraires		
Equipment Équipement		
Security Sécurité		
Licence Fee Droits de licence	<i>break down of license fees - per event</i>	
Other (List) Autres (spécifier)		
	<i>mss</i> TOTAL	\$

12. Which equipment and services are included in the rent? (check where applicable) *Quels services et quel équipement sont inclus dans le loyer? (cocher les cases appropriées)*

<input type="checkbox"/> Security/Sécurité	<input type="checkbox"/> Tables/Tables	<input type="checkbox"/> Blower (or cage)/Soufflerie (ou cage)
<input type="checkbox"/> Clean-up/Nettoyage	<input type="checkbox"/> Chairs/Sièges	<input type="checkbox"/> Bingo Cards/Cartes de bingo
<input type="checkbox"/> Parking/Stacionnement	<input type="checkbox"/> Air Conditioning/Climatisation	<input type="checkbox"/> Lighted Board/Affichage lumineux
<input type="checkbox"/> P.A. System/Système de sonorisation	<input type="checkbox"/> Closed Circuit TV/ Télévision en circuit fermé	

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Security/Sécurité                   | <input type="checkbox"/> Tables/Tables                                  | <input type="checkbox"/> Blower (or cage)/Soufflerie (ou cage) |
| <input type="checkbox"/> Clean-up/Nettoyage                  | <input type="checkbox"/> Chairs/Sièges                                  | <input type="checkbox"/> Bingo Cards/Cartes de bingo           |
| <input type="checkbox"/> Parking/Stacionnement               | <input type="checkbox"/> Air Conditioning/Climatisation                 | <input type="checkbox"/> Lighted Board/Affichage lumineux      |
| <input type="checkbox"/> P.A. System/Système de sonorisation | <input type="checkbox"/> Closed Circuit TV/ Télévision en circuit fermé |  |

13. Games to be played at the Bingo/Parties de bingo jouées  
(Enclose on a separate sheet, a listing of all games to be played, the value of the prize to be awarded for each game, the particular arrangement of numbers required to win the game, the prices of cards to be sold for each game.)  
(Sur une feuille séparée, dresser la liste de toutes les parties qui seront jouées, la valeur du prix accordé pour chaque partie, la combinaison particulière de numéros voulue pour gagner une partie et le prix des cartes vendues pour chaque partie.)

## 14. Designated Member in Charge/Membre désigné responsable

We have read, and have in our possession, and agree to comply with, a statement of the Terms and Conditions under which the Bingo lottery licence is issued.

Nous avons lu les modalités régissant la délivrance d'une licence de bingo, nous avons ces modalités entre les mains et nous acceptons de nous y conformer.

Signed \_\_\_\_\_ Signed \_\_\_\_\_  
Signature Signature

# **CERTIFICATE ATTESTATION**

We (name) \_\_\_\_\_ and (name) \_\_\_\_\_  
 Nous, soussignés (nom) \_\_\_\_\_ et (nom) \_\_\_\_\_

of (organization) \_\_\_\_\_  
 de (organisme) \_\_\_\_\_

of (municipality) \_\_\_\_\_ of the County of \_\_\_\_\_  
 de (municipalité) \_\_\_\_\_ du comté de \_\_\_\_\_







jointly and severally hereby certify that  
 attestons conjointement et individuellement que

- (1) We have knowledge of the matters herein set out.  
 Nous avons pris connaissance des points spécifiés dans les présentes.
- (2) We have read over this application,  
 Nous avons relu attentivement cette demande de licence
- (3) All facts stated and information furnished herein are true and correct.  
 Tous les faits indiqués et les renseignements fournis dans les présentes sont véridiques et exacts.
- (4) We are the holders of the offices with descriptive title as set out and appearing under our respective signatures below.  
 Nous assumons les fonctions correspondant aux titres spécifiés sous nos signatures respectives ci-dessous.
- (5) If a licence is granted, we undertake to comply with all the terms and conditions of such licence.  
 Si une licence est délivrée, nous nous engageons à en observer les modalités.

	Signature	
<i>President or other signing authority</i>	Print name in full Nom complet en lettres moulées	<i>Treasurer, signing authority or Bingo Chairperson.</i>
	Title Titre	
(       )	Business telephone number N° de téléphone au bureau	(       )
	Date	

REMARQUE : Tous les masculins et féminins se rapportent également aux hommes et aux femmes

## SAMPLE LISTING OF BINGO GAMES

	<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> <p>GAME #1      \$10.00 LETTER "X"</p> </div>
<p>GAME #2 - 1<sup>st</sup> LINE \$5.00 "SHARE THE WEALTH" 50/50 - FULL CARD</p>	
	<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> <p>GAME #3      \$10.00 POSTAGE STAMP: ANY CORNER</p> </div>
<p>GAME #4 - 1<sup>st</sup> LINE \$5.00 "SHARE THE WEALTH" 50/50 - FULL CARD</p>	
	<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> <p>GAME #5      LETTER "T"      \$10.00 (UPSIDE DOWN OR RIGHTSIDE UP!)</p> </div>
<p>GAME #6 - 1<sup>st</sup> LINE \$5.00 "SHARE THE WEALTH" 50/50 - FULL CARD</p>	
	<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> <p>GAME #7      \$10.00 "THE CROSS"</p> </div>
<p>GAME #8 - 1<sup>st</sup> LINE \$5.00 "SHARE THE WEALTH" 50/50 - FULL CARD</p>	
	<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> <p>GAME #9      \$10.00 "AROUND THE FREE"</p> </div>
<p>GAME #10 - 1<sup>st</sup> LINE \$5.00 "SHARE THE WEALTH" 50/50 - FULL CARD</p>	
	<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> <p>GAME #11      \$10.00 "RAILWAY TRACKS"</p> </div>
<p>JACKPOT: GAME #12 - 1<sup>st</sup> LINE \$5.00 "SHARE THE WEALTH" 50/50 - FULL CARD FULL CARD WITHIN CRITICAL NUMBER IS \$100. FIRST WEEK CRITICAL NUMBER IS 55 AND GOES UP EACH WEEK UNTIL WON. THE FOLLOWING WEEK, CRITICAL NUMBER RETURNS AGAIN TO 55.</p>	



# SAMPLE BINGO REPORT



Alcohol and Gaming  
Commission of Ontario  
Gaming Registration and  
Lotteries  
80 Sheppard Avenue E., Suite 200  
Toronto, ON M2N 5A4  
416-326-6700 1-800-522-2678 toll free in Ontario / sans frais en Ontario

Commission des alcools  
et des jeux de l'Ontario  
Inscription pour les jeux  
et loteries  
90, avenue Sheppard Est, bureau 200  
Toronto, ON M2N 5A4

## BINGO LOTTERY REPORT RAPPORT DE BINGO

Group Identification Number (GIN)  
Numéro d'identification d'organisme (NIO)

This report must be filed with the Lottery Licensing Officer not later than 15 days after the holding of each licensed bingo in accordance with the Terms and Conditions under which the Bingo Lottery license is issued.  
Ce rapport doit être soumis à l'agent de délivrance des permis de loterie dans les 15 jours qui suivent chaque ras bingé autorisé, conformément aux modalités de délivrance de la licence de bingo.

Name of organization / Nom de l'organisme

Address / Adresse

Previous Address /  
Ancienne adresse

Half Address / Adresse des locaux

City / Town  
Ville

Postal Code  
Code postal

Licence No.  
N° de licence de loterie

Total Prize / Licence  
Total des prix autorisés

Licence Period / Période autorisée  
Période

Date of Bingo  
Date du bingo

Time / Event / Licence  
Heure / Événement / Licence

Time / Event / Licence  
Heure / Événement / Licence

No. of players attending  
Nombre de joueurs présents

026

Designated member in charge  
Membre responsable des jeux

Person responsible

Home Phone Number  
Tél. à domicile

Bus Phone  
Tél. d'aff.

### 1. Details of Gross Receipts and Prizes Awarded / Détails des recettes brutes et des prix attribués

	Canadian Funds / Dollars canadiens				U.S. Funds / Dollars américains			
	No. of cards sold N° de cartes vendues	Price per card Prix de la carte	Receipts Recettes	Prizes Prix attribués	No. of cards sold N° de cartes vendues	Price per card Prix de la carte	Receipts Recettes	Prizes Prix attribués
Regular Games & Extra Parties régulières et supplémentaires	234	25¢	58.50	62.50				
(1) Early Birds (Total) Inscriptions hâtives (total)								
(2) Special No. 1 Partie spéciale n° 1	104	50¢	52.00	29.00				
(3) Special No. 2 Partie spéciale n° 2	98	50¢	49.00	27.00				
(4) Special No. 3 Partie spéciale n° 3	98	50¢	49.00	27.00				
(5) Special No. 4 Partie spéciale n° 4	98	50¢	49.00	27.00				
(6) Special No. 5 Partie spéciale n° 5	99	50¢	49.50	27.50				
(7) Special No. 6 Partie spéciale n° 6	132	50¢	66.00	55.00				
(8) Night Owls (Total) Parties pour oiseaux de nuit (total)								
(9) Other Autres								
(10) Other Autres								
Total	862		373.00	253.00				

Gross Receipts Détails des recettes et des prix attribués	A Total Receipts in Canadian Dollars Total des recettes en dollars canadiens	\$ 373.00	D Total Prizes in Canadian Dollars Total des prix en dollars canadiens	\$ 253.00
	B Total Receipts in U.S. Dollars Total des recettes en dollars américains	\$	E Total Prizes in U.S. Dollars Total des prix en dollars américains	\$ 0
	C + State Premium on U.S. Dollar(s) + Indiquer le taux de change	\$	F + State Premium on U.S. Dollar(s) + Indiquer le taux de change	\$ 0
	Total Gross Receipts (A + B + C) Total des recettes brutes (A + B + C)	\$ 373.00	Total Prizes Awarded (D + E + F) Total des prix attribués (D + E + F)	\$ 253.00

### 2. Details of Administrative Expenses / Détails des frais d'administration engagés

Item / Poste	Name of Payee / Nom du bénéficiaire	Cost / Coût en \$
Hall Rent Location de la salle		
Supplies Fournitures		
Advertising Publicité		
Paid Staff Rémunération des employés		
Personal Bingo Verifiers Vérificateurs personnels		
Security Sécurité		
Licence Fee Droits de licence	one-time licence fee	
Bona Fide Member Expenses Les honoraires des membres véritables		
Other (List) Autres (préciser)		\$

Total Administrative Expenses to be paid in Canadian Funds only / Total des frais d'administration à acquitter en dollars canadiens seulement

3. Total Net Proceeds derived from this event  
Produit net de ce bingo \$ 120.00

(Total Net Proceeds = Total Gross Proceeds - Total Prizes - Total Administrative Expenses) / (Produit net = total des recettes brutes - total des prix - total des frais d'administration)

6348 B (06/05)

Page 1 of 2





## A LITTLE ABOUT: BREAK OPEN TICKETS "B.O.T.'s"

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Break Open Tickets are instant win lottery tickets, commonly known as "pull tab" or "Nevada" tickets. They are:

- Made of cardboard;
- Have one or more perforated cover window tabs which conceal winning and losing numbers or symbols;
- Are played by tearing off the cover tabs; and
- Also include seal cards and bingo event tickets.

In order to be approved for sale in Ontario, all B.O.T.'s must comply with the Registrar's requirements and standards, including the Standards for Suppliers of Goods and Services: Break Open Tickets. Schedules of such approved B.O.T.'s are available from the Registrar and can also be found on the AGCO website.

In addition to general conflict of interest guidelines, licensees must comply with the following guidelines for B.O.T. lottery events:

1. No one involved in the sale of B.O.T.'s may purchase tickets or participate in gaming events held in conjunction with the licensed B.O.T. gaming event;
2. The owner and employees of a registered B.O.T. seller location may not purchase tickets sold at that location;
3. Executive members of Hall Charities Associations may not purchase Break Open Tickets in their hall.

### Important Points:

- The period for a B.O.T. licence cannot exceed five years, including any amendments;
- A ticket dispenser or container must not contain tickets sold under more than one licence;
- A deal of tickets must not be split between dispensers or containers;
- If all tickets are sold before the licence expiry date, the licence will be deemed to have expired;
- The licensing authority may grant an amendment extending the licence period provided that:
  - ✓ All tickets authorized by the licence have been imprinted with the licence number and name of licensee, but not sold;
  - ✓ The licensee makes the request for extension in writing before the current licence expires; and
  - ✓ Total licence period does not exceed 5 years including any extensions

# SAMPLE BREAK OPEN TICKET LICENCE APPLICATION



**Alcohol and Gaming  
Commission of Ontario**  
Gaming Registration & Lotteries  
90 Sheppard Ave. E., Suite 200  
Toronto ON M2N 0A4  
(416) 328-8700 or/ou 1-800-522-2876 toll free in Ontario/sans frais en Ontario

**Commission des alcools  
et des jeux de l'Ontario**  
Inscription pour les jeux et loteries  
90, av. Sheppard Est, bureau 200  
Toronto ON M2N 0A4

## Break Open Ticket Licence Application Demande de licence de billets à fenêtres

Please print or type / Dactylographier ou écrire l'information en lettres moulées

<b>1. Previous charitable gaming licence / Licence antérieure d'activité de jeu à des fins de bienfaisance</b> Has your organization ever applied for a charitable gaming event licence? / Votre organisme a-t-il déjà présenté une demande de licence d'activité de jeu à des fins de bienfaisance?		<b>FOR OFFICE USE ONLY / RÉSERVÉ À L'USAGE INTERNE :</b>	
<input type="checkbox"/> No / Non	If Yes / Si oui :	What is the most recent licence number issued by : / Quel est le numéro de licence le plus récent qui vous a été émis et par qui :	AGCO / CAJO : <b>P</b>  Municipality / Municipalité : <b>M #</b>
Have you had gaming event licences cancelled or suspended in any jurisdiction in the last 2 years? / Avez-vous eu des licences d'activité de jeu qui ont été annulées ou suspendues au cours des 2 dernières années et ce, dans n'importe quel ressort de compétence?		<input type="checkbox"/> Yes / Oui	<input type="checkbox"/> No / Non
<b>2. Information on organization / Renseignements sur l'organisme</b>			
a) Incorporated or legal name / Dénomination sociale			
Street address of organization / Adresse de l'organisme		City / Ville	Province
Postal Code / Code postal	Telephone no. / N° de téléphone	Fax no. / N° de télécopieur	
Mailing address (if different) / Adresse postale (si différente)		Postal Code / Code postal	
b) Is your organization incorporated? / Votre organisme est-il constitué en société?			
<input type="checkbox"/> No / Non	If Yes / Si oui :	Incorporation number / Numéro de corporation	Jurisdiction of incorporation / Ressort de constitution
c) Is your organization registered as a Charitable Organization with the Canada Customs and Revenue Agency? / Votre organisme est-il inscrit en tant qu'organisme de bienfaisance auprès de l'Agence canadienne des douanes et du revenu?			
<input type="checkbox"/> No / Non	If Yes / Si oui :	Canada Customs and Revenue Agency Registration number / N° d'inscription de l'Agence canadienne des douanes et du revenu	
d) How long has your organization existed? / Depuis combien de temps votre organisme existe-t-il?		What is the financial year end of your organization? / Quelle est la date de clôture de votre exercice financier?	
Years / Années		MM/MM CC/CC	
<b>3. Affiliates/Affiliations</b>			
a) Is your organization a bingo sponsors' association? / Votre organisme est-il une association de commanditaires?		<input type="checkbox"/> Yes / Oui <input type="checkbox"/> No / Non	
b) Is your organization affiliated with any corporations or organizations? / Votre organisme est-il affilié à d'autres sociétés ou organismes?		<input type="checkbox"/> No / Non <input type="checkbox"/> If Yes: List the legal names / Si oui : Donnez-en la dénomination sociale	
i)	ii)		
<b>4. Use of net proceeds / Utilisation des produits nets</b>			
What will the money raised from this event be used for? / À quoi serviront les fonds générés par cette activité de jeu?		(Attach separate sheet if necessary / Utilisez au besoin une feuille séparée.)	
a) Please be as specific as possible;			
b) i.e. Specific programs, articles, etc.			
c)			
d)			

**5. Location of break open ticket sales / Endroit où les billets à fenêtres seront vendus**  
 Name of break open ticket sales location / Nom de l'endroit où les billets seront vendus: must be a pre-approved facility Street address / Adresse: \_\_\_\_\_

City / Ville: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code / Code postal: \_\_\_\_\_ Telephone number / N° de téléphone: \_\_\_\_\_

Is the location registered under the Gaming Control Act, 1992 as a Break Open Ticket Seller or Bingo Hall? / Cet endroit est-il inscrit en vertu de la Loi de 1992 sur la réglementation des jeux en tant que vendeur de billets à fenêtres ou de salle de bingo? ☐ Yes / Oui ☐ If No: / Si non: \_\_\_\_\_

GCA Registration number / Numéro d'inscription en vertu de la Loi: \_\_\_\_\_ Expiry date / Date d'expiration: YY/AA MM/MM DD/JJ \_\_\_\_\_

Bingo Hall registration type / Genre d'inscription de salle de bingo: ☐ A ☐ B ☐ C

Provide reason why location is not registered / Indiquer la raison pour laquelle l'endroit n'est pas inscrit: \_\_\_\_\_

Will break open tickets be sold at a Fair or Exhibition? / Les billets à fenêtres seront-ils vendus lors d'une foire ou d'une exposition? ☐ If Yes: / Si oui: \_\_\_\_\_ ☐ No / Non

Name of Fair/Exhibition / Nom de la foire ou de l'exposition: \_\_\_\_\_ Start date / Date du début: YY/AA MM/MM DD/JJ \_\_\_\_\_ End date / Date de la fin: YY/AA MM/MM DD/JJ \_\_\_\_\_

**6. Details of event & Licence fee (Single BOT Licence: Bingo Sponsors' Association (B.S.A.) Applicants ► go to 6b)**  
 Détails sur l'activité et les droits de licence (Association de commanditaires demandant une licence de billets à fenêtres unique ► passer à 6 b)

a) Ticket Type / Genre de billets: i.e. Nevada B.O. SP1 Cost/deal / Coût/tranche: \$ 57- Sales currency / Devises pour les ventes: ☒ Canadian \$ / \$CAN ☐ American \$ / \$US

Total prizes/deal / Prix totaux/tranche: \$930.00 x Total number of deals / Nombre total de tranches: 6 x 3 % Licence fee / droits de licence: \$167.40 Amount due / Montant exigible: \_\_\_\_\_

b) Single BOT Licence Applicants (B.S.A. Only) / Auteurs d'une demande de licence de billets à fenêtres unique (Association de commanditaires seulement)

The licence fee calculation is: Total prizes \$ \_\_\_\_\_ x 3 % Licence fee / droits de licence: \_\_\_\_\_ = \$ \_\_\_\_\_ Amount due / Montant exigible: \_\_\_\_\_

Calcul des droits de licence: Prix totaux \$ \_\_\_\_\_ x 3 % Licence fee / droits de licence: \_\_\_\_\_ = \$ \_\_\_\_\_

Start date / Date du début: YY/AA MM/MM DD/JJ \_\_\_\_\_ End date / Date de la fin: YY/AA MM/MM DD/JJ \_\_\_\_\_

Will break open tickets be sold in conjunction with another gaming event? / Les billets à fenêtres seront-ils vendus conjointement avec une autre activité de jeu? ☐ No / Non ☐ If Yes: / Si oui: \_\_\_\_\_

Name of Gaming event / Nom de l'activité de jeu: \_\_\_\_\_

**7. Gaming Supplier**

Name of Break Open Ticket Manufacturer / Nom du fabricant des billets à fenêtres: Specialty Prints GCA Registration number / Numéro d'inscription en vertu de la Loi: 0100005613

Will your break open tickets be supplied by an Equipment Supplier? / Obtenez-vous vos billets à fenêtres d'un fournisseur de matériel relatif au jeu? ☐ No / Non ☐ If Yes: / Si oui: \_\_\_\_\_

Name of Gaming Equipment Supplier / Nom du fournisseur: Nevadaman GCA Registration number / Numéro d'inscription en vertu de la Loi: 0100005616

Will you be using bingo hall services and employees to assist with the break open tickets? / Aurez-vous recours aux services offerts par la salle de bingo ainsi qu'aux employés de la salle pour la vente des billets à fenêtres? ☐ Yes / Oui ☒ No / Non

Will you be using other services from outside your organization to assist with the break open tickets? / Aurez-vous recours à d'autres services offerts à l'extérieur de votre organisme pour la vente des billets à fenêtres? ☒ No / Non ☐ If Yes: / Si oui: \_\_\_\_\_

Name of Gaming Services Supplier / Nom du fournisseur de services relatifs au jeu: \_\_\_\_\_ GCA Registration number / Numéro d'inscription en vertu de la Loi: \_\_\_\_\_

**8. Break open ticket dispenser / Dispensateur de billets à fenêtres**

Will you be selling break open tickets from more than 1 transparent container/break open ticket dispenser? / Vendrez-vous des billets à fenêtres à partir de plus d'un contenant transparent/dispensateur de billets à fenêtres? ☐ Yes / Oui ☒ No / Non

Will you be using an electrical or mechanical break open ticket dispenser(s)? / Utiliserez-vous un (des) dispensateur(s) de billets à fenêtres électrique(s) ou mécanique(s)? ☒ No / Non ☐ If Yes: / Si oui: \_\_\_\_\_

Name of Gaming Equipment Manufacturer / Nom du fabricant de matériel relatif au jeu: \_\_\_\_\_ GCA Registration number / Numéro d'inscription en vertu de la Loi: \_\_\_\_\_



Name of Financial Institution where lottery funds are held/Nom de l'établissement financier où se trouve l'argent	Account number / Numéro de compte
---	-----------------------------------

Please provide name & address of

Lottery Trust #	
-----------------	--

Address/Adresse

Your bank/financial institution

| City/ Ville

## 10. Declaration / Déclaration

**We, the undersigned, declare that:**

- We are **Bona Fide Members** of this organization;
- We have no conflict of interest with the gaming event and are **NOT** receiving remuneration directly or indirectly from the event;
- We have been authorized to make this licence application on behalf of the organization;
- We have read, understand and agree to comply with all **Break Open Ticket Licence Terms and Conditions**;
- We agree to be responsible for the conduct and management of the Break Open Ticket Lottery including services provided by Gaming Suppliers;
- All answers provided in this **Licence Application**, as well as all the information contained in the documents and materials submitted with it, are true and complete;
- We agree to be responsible for ensuring that there are no contraventions of the law, including the **Criminal Code of Canada, the Gaming Control Act, 1992 and Regulations and Ontario Order In Council 2688/93**;
- We understand that failure to fulfill these responsibilities is cause for denial of applications, cancellation or suspension of licences and may result in civil liability for and criminal prosecution of the Principal Officer, Designated Member In Charge and organization.

**Nous soussignés, déclarons ce qui suit :**

- Nous sommes des membres véritables de cet organisme.
- Nous ne sommes pas en situation de conflit d'intérêt en rapport à cette activité et nous **NE SOMMES PAS** rémunérés de façon directe ou indirecte pour cette activité.
- Nous avons obtenu l'autorisation de présenter cette demande de licence au nom de l'organisme.
- Nous avons lu et comprenons bien les **Modalités régissant la licence de billets à fenêtres** et nous acceptons de les respecter.
- Nous convenons d'assumer la responsabilité de la mise en œuvre et de l'administration de la loterie de billets à fenêtres, y compris les services dispensés par les fournisseurs.
- Toutes les réponses données dans cette demande de licence, ainsi que les renseignements indiqués dans les documents et le matériel ci-joints sont exacts et complets.
- Nous convenons de veiller à ce qu'il n'y ait pas d'infraction à la loi, y compris le **Code criminel du Canada, la Loi de 1992 sur la réglementation des jeux** et ses règlements ainsi que le **décret de l'Ontario 2688/93**.
- Nous comprenons qu'un manquement à ces responsabilités risque d'entraîner le refus des demandes, l'annulation ou la suspension des licences et peut donner lieu à des poursuites en responsabilité civile et des poursuites criminelles envers la dirigeante ou le dirigeant principal, le membre désigné responsable et l'organisme.

**We have read and understand the entire Declaration above /**  
**Nous avons lu et comprenons bien toute cette déclaration.**

<b>Principal Officer / Dirigeant(e) principal</b>		<b>Designated Member In Charge / Membre désigné responsable</b>
	Signature	
	Print name in full Nom au complet en lettres moulées	
i.e. President	Title / Titre	i.e. "Nevada Clerk"
(           )	Individual's telephone number N° de téléphone	(           )
	Date of signing Date de signature	

# SAMPLE BREAK OPEN TICKET LOTTERY REPORT



Alcohol and Gaming Commission of Ontario  
Gaming Registration and Lotteries  
90 Sheppard Avenue East, Suite 200  
Toronto, Ontario M2N 0A4  
Tel: (416) 326-8700 or toll free in Ontario 1-800-522-2878

## Break Open Ticket Lottery Report

This report must be filed with the Lottery Licensing Officer in accordance with the Terms and Conditions under which the Break Open Ticket Licence is issued.

Your  
Group  
INFO

Name of Organization		GIN #
Address	Fiscal Year End	Licence # M #
Print the name, position and telephone number of the designated member in charge to be contacted in reference to this report.		
Last name	First name	Middle name(s)
Position	Telephone Number(s)	Bus: ( )
	Res: ( )	Fax: ( )

### 1. PERIOD (CHECK ONE) FOR WHICH THIS REPORT IS MADE (FOR TICKETS PURCHASED AND SOLD)

☐ **Quarterly Report** (every 3 months)  
(Applies to Provincial Nevada and Single BOT Bingo Sponsors' Association (B.S.A.) Licences only)

From: YY MM DD To: YY MM DD

☒ **Final Report** (for duration of licence)  
(Discrepancy report; if applicable as per the Terms and Conditions must be included)

From: YY MM DD To: YY MM DD

Same as licence

### 2. TYPE OF TICKETS SOLD (BY CHARITY AND/BINGO SPONSORS' ASSOCIATION)

Ticket Type	No. of Complete Deals	No. of Individual Tickets (if applicable)	Price per ticket	Gross Receipts Derived	Cash Prizes Awarded	No. of Tickets per Deal
BO SP1	6	16380	50¢	\$ 8,190.00	\$ 5,455.00	2.130
Total			N/A	\$ 8,190.00	\$ 5,455.00	N/A

### 3. DETAILS OF TICKET INVENTORY (FOR REPORT PERIOD)

PRINT TICKET TYPE	Break Open						
a) Total number of Deals purchased per type	6						
b) Number of complete Deals on hand from previous Report (if applicable)	0						
c) Number of complete Deals sold this period	6						
d) Number of Complete Deals on hand	0						
e) Number of individual tickets in container(s)/dispenser(s) (if applicable)	0						

### 4. RECEIPTS DERIVED FROM DEALS SOLD (CANADIAN OR AMERICAN CURRENCY)

Total Gross Receipts derived (from complete and partial deals sold) - as per section 2	\$ 8,190.00
Less Total Cash Prizes awarded (from complete and partial deals sold) - as per section 2	\$ 5,455.00
<b>Net Receipts</b>	<b>\$ 2,735.00</b>
Enter the Total Deposits for this Report period \$ 2,735.00 Attach explanation for any cash shortage between Total Deposits and Net Receipts.	
Is the licence for American currency? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> If YES, please list amounts below in American currency.	
<b>THIS SECTION TO BE COMPLETED FOR LICENCES IN AMERICAN CURRENCY ONLY.</b>	
<b>CANADIAN CURRENCY BOT LICENCES GO TO SECTION 6.</b>	
<b>5. ADMINISTRATIVE EXPENSES INCURRED IN AMERICAN CURRENCY:</b>	
Bingo Hall Rental (Commission)	\$
Net Receipts (in American currency)	\$
<b>CONVERSION TO CANADIAN CURRENCY:</b>	
Bank exchange rate: %	\$
Net Receipts (in Canadian currency)	\$

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(Over)



**THIS SECTION IS TO BE COMPLETED BY ALL LICENSEES WHERE APPLICABLE.**

**6. ADMINISTRATIVE COSTS INCURRED IN CANADIAN CURRENCY:**

Tickets (cost for # Deals sold during this Report period)	\$ 795.96
Gaming Services Supplier Commission	\$ --
Break Open Ticket Seller Commission	\$ --
Bingo Hall Rental (Commission)	\$ --
Container(s) / Dispenser(s)	\$ --
Out-of-pocket Expenses (See: Information Bulletin No. 18 & Addendum)	\$ --
Adjustments (attach written explanation)	\$ --
Other (please list):	\$ --
<b>Total of above Administrative Costs</b>	<b>\$ 795.96</b>
<b>FEES:</b>	
Licence Fee: 3% X Prizes X # Deals purchased during this Report period	167.40
BSA Licence Fee: 3% of prizes to be awarded during this Report period (Note: this blanket licence fee applies only to Bingo Sponsors' Association licences issued by AGCO)	--
Provincial Fee: 5% X Gross Selling Price X # Deals purchased during this Report period	--
<b>Total Administrative Costs and Fees</b>	<b>\$ 963.36</b>
(Net Receipts minus Total Administrative Costs & Fees) <b>Net Proceeds Derived</b>	<b>\$ 1,771.64</b>

**7. PAYMENTS MADE FROM LOTTERY TRUST ACCOUNT DURING REPORT PERIOD (USE SEPARATE SHEET IF INSUFFICIENT SPACE)**  
Please provide (where applicable): (1) Details of all gaming and program expenses; (2) List of charitable disbursements

Cheque Date	Cheque No.	Name of Payee	Explain in Full the Nature of Expenses	Amount
		attach a spreadsheet if necessary showing all necessary information - gaming expenses and charitable		
<b>Total Expenses</b>				<b>\$ disbursements</b>

**8. DETAILS OF BREAK OPEN TICKET LOTTERY TRUST ACCOUNT (ATTACH COPIES OF BANK STATEMENTS FOR REPORT PERIOD)**

Name of Bank, Loan/Trust Company or Province of Ontario Savings Office	Lottery Trust Account No.
Address	Bank statement date YY MM DD
Balance as per bank statement \$	

**Certificate**

We, the undersigned, as two Principal Officers of the above organization certify that the above report is a correct statement of the Lottery Funds referred to herein.

Principal Officer	Signature	Principal Officer
	Print Name in Full	
	Title	
	Individual's Business Telephone Number	
	Date of Signing	

**INSTRUCTIONS TO LICENSEES**

- The BOT Quarterly Report for Provincial Nevada and Single BOT (B.S.A.) Licences must be filed every 3-months and is due no later than the 30<sup>th</sup> day of the following month. You must also submit a BOT report within 30 calendar days of the expiry of the licence. See **Break Open Ticket Licence Terms and Conditions, (10.3) Reporting Requirements and (11.3) Provincial Break Open Ticket**.
- If you can reasonably determine that the sale of all tickets purchased will not be concluded prior to the expiry date of a Licence, you must apply for an amendment at least 15 days prior to the expiry date of your current licence. You must submit a municipal letter of approval (if applicable) and a Quarterly Report along with the request for amendment. **Note:** Amended licences cannot exceed one (1) year from the original date of issue.

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## BLANKET LICENSING: WE'VE GOTCHA COVERED

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If your group wishes to conduct more than one type of raffle event within a fixed time period, from one location, with the capped prize amount not exceeding \$5,000, then do we have a licence for you!

With a view to reduce the number of times you need to apply for a licence, AGCO has developed a Blanket Raffle Lottery application. The types of raffle events that may be conducted under a blanket licence include:

Stub Draws;  
Elimination Draws;  
50/50 Draws;  
Meat Spins/Turkey Rolls;  
"Name the Raffle"

Applications may be submitted to conduct any number of these raffle events for up to a maximum six-month period, for a total prize board not exceeding \$5,000.

Blanket licence applications must include, in addition to the basic application requirements, the following information:

- ✓ Types of raffle lottery events to be conducted during the period;
- ✓ The number of raffle events to be held;
- ✓ The total number of tickets to be printed for each individual raffle, and the total value of all tickets printed for each event;
- ✓ The cost per ticket for each event;
- ✓ Location where events will take place;
- ✓ Scheduled dates for each raffle event to be held;
- ✓ Detailed explanation of the rules for each type of raffle event;
- ✓ Description of all prizes to be awarded and the approximate total retail value of all prizes to be awarded for each raffle event;
- ✓ Total value of all prizes to be awarded for the period; and
- ✓ The licence fee.

We have developed a sample "events schedule" that may be of assistance. It is important for you to note that separate ledgers must be kept for each raffle event, outlining the financial details including: proceeds derived, expenses paid, and a list of how the proceeds have been disbursed.

Each deposit slip must identify the date of the raffle event for each deposit made into the designated lottery trust account, and specify the total proceeds deposited for each individual event.

Sample of Table That Could Be Used for Blanket Licence:

Month:						
Draw Date						
Type of Event						
Total Tickets						
Cost per Ticket						
Prize Board						
Licence Fee						

## FREQUENTLY ASKED QUESTIONS:

### **Why do I need a licence to raise money for a good cause?**

A lottery is an event where a fee is paid for a chance to win a prize. Typically these may include bingos, raffles, break open (Nevada) tickets and charity casino events. All lotteries require a licence issued by a municipality or by the Province of Ontario.

### **What happens if our Break Open Ticket (B.O.T.) licence expires before we have sold all of the tickets?**

You may apply to the Town for an amendment to your licence to extend the time period of the licence. However, the total period for one licence, including amendments, must not exceed five years. If you have not sold all B.O.T.'s within the five years, the licence is not valid and tickets must not be sold.

### **If I am a member of the Board of Directors or lottery/ fundraising committee, can I purchase a lottery ticket on that lottery event?**

No. In accordance with the AGCO rules and regulations, this constitutes a Conflict of Interest and is not permitted. See the conflict of interest guidelines contained in this information kit. Note - anyone who has purchased a ticket cannot pull the winning ticket.

### **How soon can I pick up the licence once the application has been submitted?**

Municipal staff must carefully review all applications and ensure that the organization's file is complete. Please allow at least five business days for processing your licence application.

### **Can my licence application be suspended, cancelled or refused?**

Yes. A licence may be suspended, cancelled or refused where there has been a breach of any term or condition; if there are reasonable grounds to believe the licensee will not conduct and manage the lottery scheme in accordance with the law; it is in the public interest to do so; or if a licensee fails to submit the financial reports relating to the conduct of any lottery event.

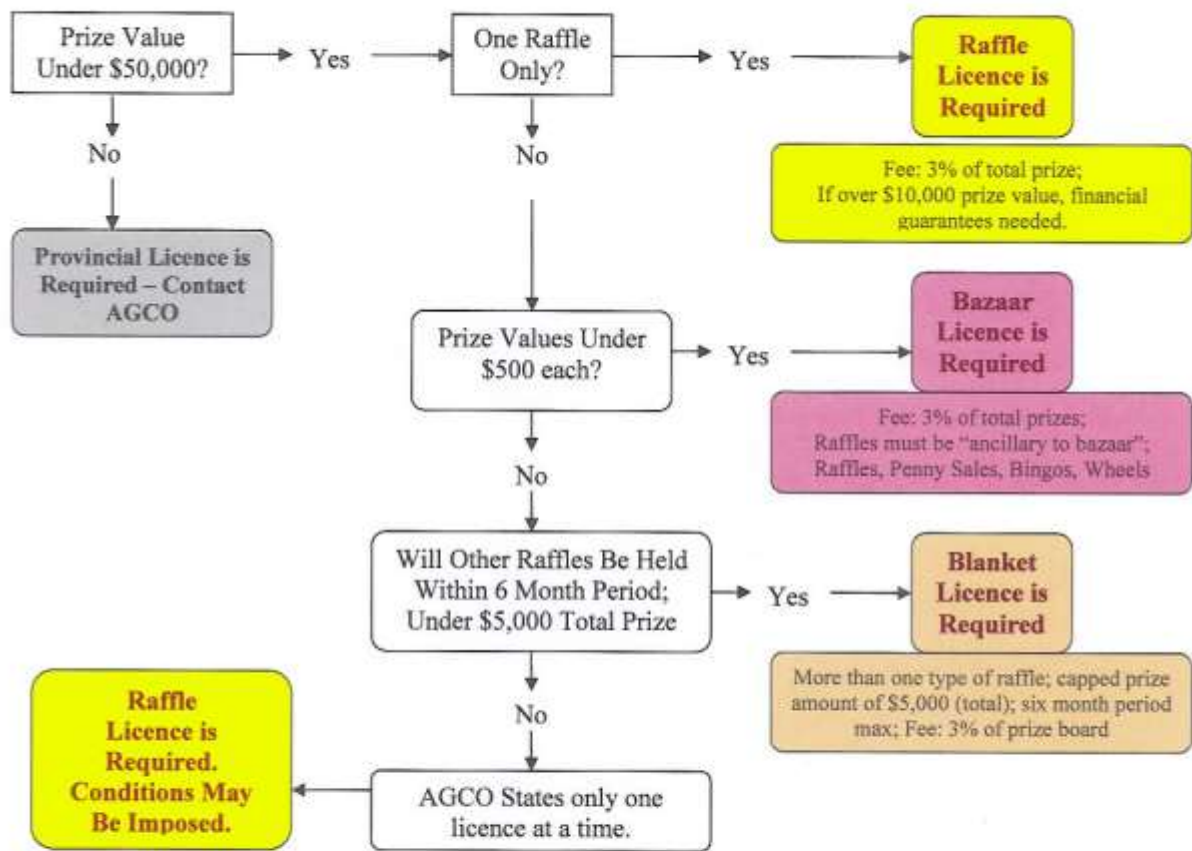
### **Must lottery revenues be held in a separate bank account?**

Yes. A licensed organization must open and maintain a separate lottery trust account, designated as a trust account by the branch of a recognized financial institution.

### **What if I have more questions?**

There is a great deal of useful information available on the AGCO website, [www.agco.on.ca](http://www.agco.on.ca). However, if you need further information, please contact the Town Clerk at (905) 892-2607, ext. 315, the Deputy Clerk at ext. 320 or the Administrative Assistant to the Clerk at ext. 322.

## WHAT KIND OF LICENCE DO I NEED?



This simple flow chart has been developed to assist you in determining what type of application your group will need for your fundraising event. Please do not hesitate to contact the municipal Clerks Department if you need additional assistance!

## WHAT KIND OF LICENCE DO I NEED? SYNOPSIS TABLE

Type of Event	Prize Board Limit	When issued/ Description	Fee Payable	Type of Application
<b>Raffle Lottery</b> Chapter 5	Total prizes of \$50,000 and Under,  Retail market value of prizes must not be less than 20% of total value of tickets;	<b>Only one raffle event at a time:</b> except calendar draw or blanket licence. Must award fixed prizes except for 50/50 draws. Stub/Elimination/Calendar Draws; Raffles; Meat Spins/Turkey Rolls; 50/50; Blanket Raffle Licence; Cow Patty Bingo. Special provisions for vehicles (includes motorcycles) – See 5.6.1. Over \$10,000, need financial guarantees. Sale of goods held to raise money for a charity.  Eligible organizations may conduct lottery events <b>ancillary to bazaar.</b>	3% of total prizes to be awarded;  For 50/50, 3% of max. prize board	RAFFLE
<b>Bazaar</b> Chapter 4	Ancillary to Bazaar – any combination of: Wheels of Fortune – max. bet of \$2.00; Raffles under \$500 and Penny Sale under \$500; Bingo up to \$500		\$10 max per wheel; 3% of prizes for raffle, penny sale or bingo	BAZAAR
<b>Blanket Licence</b> Chapter 5	Capped prize amount of <b>\$5,000</b>	One licence for <b>more than one type of raffle event</b> within fixed time period and from one location; capped prize amount not to exceed <b>\$5,000 and six months;</b>  Stub draws; elimination draws; 50/50 draws; meat spins/turkey rolls; Name the Raffle.	3% of total prize board	BLANKET
<b>Break Open Nevada</b> Chapter 7		Cannot exceed Five years including amendments (extensions);  One organization per address (i.e. Avondale); If tickets sold before licence expiry date, licence is deemed to have expired; amendments to extend are permitted, see 7-10;  If term is less than one year and tickets remain unsold, group may apply for amendment (extension) but cannot exceed Five years total;  Must have agreement to lease the dispenser and valid registration for location of sales.	Maximum 3% of total prizes to be awarded;  2.25% for organizations using home base only to sell tickets.	BREAK OPEN TICKET LICENCE
<b>Bingo</b> Chapter 9	Up to \$5,500	Bingo events including table board bingo	3% of licensed prize board max.	BINGO





# A user's guide to **CATCH THE ACE**

NANCY J. BOZZATO, TOWN CLERK  
20 PELHAM TOWN SQUARE, PO BOX 400  
FONTHILL, ON L0S 1E0  
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njbozzato@pelham.ca  
www.pelham.ca



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## CATCH THE ACE: A SUMMARY

What is a Catch the Ace progressive raffle?

- A progressive, multiple-draw raffle lottery in which participants purchase tickets for a chance to win:
  1. A percentage of the proceeds from the sale of tickets from one draw; and
  2. The draw winner also gets a chance to win a progressive (cumulative) jackpot by selecting a card from a standard deck of 52 playing cards.

How is Catch the Ace played?

- The person who holds the winning ticket selected in each draw automatically wins 20% of the money that has been raised. The winning-ticket holder is invited to draw a card from a standard 52-card deck. If the Ace of Spades is selected, in addition to winning a percentage of the proceeds from the draw, the person will win the progressive jackpot;
- If the card selected is not the Ace of Spades, the selected card is removed from the deck and the progressive prize portion of the ticket sales for that draw is rolled over into the progressive jackpot for the next scheduled draw;
- The lottery continues until such time as the Ace of Spades has been selected and the progressive jackpot has been awarded. At that point, the event and licence is concluded. If the licensee wishes to conduct another Catch the Ace event, a new licence must be obtained;
- Immediately prior to the draw, the ticket sales for the draw, the draw prize and the current progressive jackpot amount will be announced;
  - Prizes will be awarded by CHEQUE ONLY



## CATCH THE ACE: FREQUENTLY ASKED QUESTIONS

How is the prize split?

- 20% of event ticket sales – awarded to the winning ticket of each draw
- 30% of even ticket sales – allocated to the progressive jackpot
- 50% of event ticket sales – retained by licensee and from which all allowable expenses will be paid

Is this type of raffle licensed by the province only or can the municipality license them? And if so, how does the municipality license it if they don't know if the progressive amount will be over \$50,000?:

- Both the province and the municipality can license this type of raffle. In order to receive a licence for Catch the Ace from a municipality, charities must ensure that the overall prize board will not exceed \$50,000. This will be achieved by providing a schedule of events, which outlines gross sales per draw.

Does the winner have to be present to collect their prize and pick a card from the deck, regardless of whether they use stub tickets or roll tickets?

- The bearer of the ticket must be present for draws when using **roll tickets**, also known as double-numbered tickets. The licensee must outline the amount of time the winner has to claim their prize in the rules of play. **Roll tickets** must be sold only the day of the event;
- If **stub tickets** are used, the licensee shall require purchasers to provide their name and contact information and to indicate in a designated area on the stub, the envelope number selected by the purchaser in the event that his or her ticket is drawn. The licensee must also set out a procedure to be followed in the event that the envelope number indicated on the ticket has already been chosen and is no longer available. **Stub tickets** may be sold in advance;
- By purchasing the ticket, winners agree to the use of their name and likeness for publicity purposes.

As this is a progressive game, do the tickets purchased each night stay in for the draw the following week?

- No, tickets are sold for a single draw. After the draw is completed, the non-winning tickets are removed from the container, kept for the prescribed time and then destroyed.

What materials are needed to run a catch the ace?

- One deck of cards;
- 52 identical sealable opaque envelopes;
- Poster board to displayed all 52 envelopes on;
- Cash boxes with lock and key (envelopes and cash must be locked when not in use);
- Video camera with sound.

How should I prepare for the draw?

- A standard deck of 52 playing cards will be shuffled face-down, then placed in identical, opaque envelopes;
- The sealed envelopes will then be shuffled and randomly numbered from one (1) to fifty two (52);
- The entire procedure will be videotaped and the recording will be posted on the organization's website and/or their social media account and retained for 6 months;
- The envelopes will be on display in a secure display case for every draw.

Can I run a Catch the Ace event while hosting another lottery scheme?

- Only blanket raffles are allowed to run in conjunction with Catch the Ace;
- No other lottery sales are permitted at the place of draw (ex. A charity cannot sell meat raffle tickets the same night the Catch the Ace draw is taking place).

How should I announce Catch the Ace winners on my website or social media?

- Please refer to the Goderich Lions webpage as a great example. The link can be found here: <http://www.goderichlions.ca/catch-the-ace/>

What if we have more questions?

- There is a great deal of useful information available on the AGCO website, [www.agco.on.ca](http://www.agco.on.ca). However, if you need further information, please contact the Town Clerk at (905) 892-2607, ext. 315, or the Administrative Assistant to the Clerk at ext. 322.

### HOW DO I ENSURE THAT A \$50,000 PRIZE VALUE IS NOT EXCEEDED?

The organization must ensure that a prize value of \$50,000 is not exceeded prior to a licence being issued. Calculations must reflect the potential of a full, 52 draw raffle.

#### SELLING TICKETS FOR \$2.00

- At \$2.00 per ticket, a maximum of 960 tickets may be sold per week. Calculation illustrated below:

<b>Ticket Cost</b>	<b># of Tickets</b>	<b>Total Payout</b>
\$ 2.00	960	\$ 1,920.00
50%	20%	30%
\$ 960.00	\$ 384.00	\$ 576.00
	52	
\$ 19,968.00	\$ 29,952.00	
	\$ 49,920.00	

#### SELLING TICKETS FOR \$5.00

- At \$5.00 per ticket, a maximum of 384 tickets may be sold per week. Calculation illustrated below:

<b>Ticket Cost</b>	<b># of Tickets</b>	<b>Total Payout</b>
\$ 5.00	384	\$ 1,920.00
50%	20%	30%
\$ 960.00	\$ 384.00	\$ 576.00
	52	
\$ 19,968.00	\$ 29,952.00	
	\$ 49,920.00	

#### SELLING TICKETS FOR \$10.00

- At \$10.00 per ticket, a maximum of 192 tickets may be sold per week. Calculation illustrated below:

<b>Ticket Cost</b>	<b># of Tickets</b>	<b>Total Payout</b>
\$ 10.00	192	\$ 1,920.00
50%	20%	30%
\$ 960.00	\$ 384.00	\$ 576.00
	52	
\$ 19,968.00	\$ 29,952.00	
	\$ 49,920.00	

## CATCH THE ACE RAFFLE DOCUMENTS TO BE SUBMITTED AT APPLICATION

Application for a Catch the Ace lottery will be submitted using the standard AGCO raffle lottery application form. Supporting documentation will include:

- Confirmation of unique ticket serialization (documented process showing how the licensee will ensure there are not duplicate tickets for all draws)
- Ontario Problem Gaming Helpline name and phone number (1-888-230-3505) to be included in Rules of Play, in all print advertising and on all stub tickets
- Proposed Draw schedule and sales plan
- Sample ticket
- Use of net proceeds (please identify specific project, not your organization's mandate or purpose)
- Rules of play to include but not limited to:
  - Advertisement that all raffle draws will be video recorded in order to ensure raffle integrity
  - Tickets may be purchased by cash only
  - Ontario Problem Gaming Helpline name and phone number (1-888-230-3505)
  - Exit strategy to ensure playing card security
  - Severe weather policy
  - Conflict of interest guidelines
  - Draw procedures
  - Maximum ticket sales per person
- Recorded process for preparing and storing the numbered envelopes
- Letter of credit when prize value reaches \$10,000
- Your organization's intended draw procedure

## CATCH THE ACE RAFFLE APPLICATION

- Application for a Catch the Ace will be submitted using the Application to Manage and Conduct a Raffle Lottery;
- A blank copy of this application can be obtained through the Clerk's department or found on the Town of Pelham Website;
- Please indicate on the application that it is a Catch the Ace event.

<p><b>Alcohol and Gaming Commission of Ontario</b>  <b>Gaming Registration and Lotteries</b>          90 Sheppard Ave. E., Suite 200          Toronto, ON M2N 0A4          416-325-0700 1-800-622-0976 toll free in Ontario / sans frais en Ontario</p>	<p><b>Commission des alcools et des jeux de l'Ontario</b>  <b>Inscription pour les jeux et loteries</b>          90, av. Sheppard Est, bureau 200          Toronto, ON M2N 0A4</p>	<p><b>Group Identification Number (GIN)</b>  <b>Numéro d'identification d'organisme (NIO)</b></p> <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px;"></div>
<p><b>* Catch the Ace *</b></p>		
<p>We, the undersigned, as two principal officers of record (organization)</p> <p><b>#1</b> _____</p> <p><b>#2</b> _____</p> <p>Address _____</p> <p><u>Address of organization</u></p> <p>apply for a licence to manage and conduct a Raffle Lottery from the premises municipally known as _____</p> <p><u>Location of Catch the Ace event.</u></p> <p>and situated in the Municipality of _____</p> <p><u>Town of Pelham</u></p> <p>between the dates specified, and for the charitable or religious objects and purposes, and in the manner described herein.</p> <p>1. The Charitable or religious objects or purposes to which proceeds are to be donated are described as _____</p> <p><u>List of specific organizations and objectives</u></p> <p><u>in accordance with AGCO Regulations.</u></p> <p>2. The total value of all prizes to be awarded in the Raffle Lottery for which this application is made will be \$ <u>150</u> cash value, or merchandise or articles at equivalent market retail value. Merchandise prizes are described as _____</p> <p><u>Canadian funds paid by cheque</u></p> <p>3. Closing date for the sale of the tickets will be <u>determinant</u> and the draw for a winner or winners will be made at (address) _____</p> <p><u>Location of Catch the Ace</u></p> <p>on (date) <u>date</u> at (time) <u>time</u></p> <p>If a series of draws, beginning date <u>date</u> ending date <u>unknown</u> Number of draws <u>ex. 1/week</u></p> <p>4. A winner or winners will be determined by (describe) _____</p> <p><u>i.e. Draw of ticket</u></p> <p>and the name(s) and address(es) of the winner or winners will be published (describe) _____</p> <p><u>i.e. webpage, social media, local newspaper</u></p> <p>5. The total number of tickets to be printed will be <u>ex. 500</u> and all tickets will be numbered consecutively from <u>001</u> to <u>0500</u> Price per ticket \$ <u>5.00</u></p>	<p>Les soussignés, qui sont deux principaux dirigeants de (organisme) _____</p> <p>Adresse _____</p> <p>font une demande de permis pour administrer et conduire une tombola (tirage) dans les locaux connus dans la municipalité sous le nom de _____</p> <p>et situés dans la municipalité de <u>1</u></p> <p>entre les dates indiquées, à l'intention des œuvres religieuses ou de bienfaisance spécifiées et de la manière décrite dans les présentes.</p> <p>1. Les profits seront répartis aux œuvres religieuses ou de bienfaisance suivantes. _____</p> <p>2. La valeur totale de tous les prix qui seront attribués dans le cadre de la tombola (tirage) pour laquelle cette demande est faite sera de _____ \$ en espèces, ou une valeur équivalente au détail. Les prix de valeur au détail consisteront en _____</p> <p>3. La date finale pour la vente de billets sera le _____ et le tirage du ou des gagnant(s) sera fait au (adresse) _____</p> <p>le (date) _____ à (heure) _____</p> <p>S'il y a plusieurs tirages, première date _____ dernière date _____ Nombre de tirages _____</p> <p>4. Le ou les gagnants seront déterminés (préciser) _____</p> <p>et le nom et l'adresse du ou des gagnant(s) seront connus par (préciser) _____</p> <p>5. Le nombre total des billets qui seront imprimés sera de _____ et tous les billets porteront des numéros consécutifs allant de _____ à _____ Prix du billet _____ \$.</p>	
<p><b>Certificate / Attestation</b></p>		
<p>We (name)/Nous soussignés(nom) <u>Two (2) signing officers</u></p> <p>of (organization) /de organisme) <u>Organization</u></p> <p>of (municipality)/de (municipalité) <u>Town of Pelham</u> of the county/du comté de <u>Regional Niagara</u></p> <p>jointly and severally, hereby certify that/attestons collectivement et individuellement que:</p>		
<p>1) We have read, and have in our possession, and agree to comply with, the provisions of Schedule A-Terms and Conditions under which the Lottery Licence is issued.</p> <p>2) We have read over this application.</p> <p>3) All facts stated and information furnished herein are true and correct.</p> <p>4) We are the holders of the offices with descriptive title as set out and appearing under our respective signatures below.</p> <p>5) If a licence is granted, we undertake to comply with all the terms and conditions of such licence.</p>	<p>1) Nous avons lu les dispositions de l'annexe A- modalités inhérentes à la délivrance d'un permis de tombola (tirage), que nous les avons en notre possession et que nous acceptons de nous y conformer,</p> <p>2) Nous avons lu la présente formule,</p> <p>3) Tous les faits indiqués et les renseignements fournis dans les présentes sont véridiques et exacts,</p> <p>4) Nous assumons les fonctions correspondant aux titres spécifiés sous nos signatures respectives ci-dessous,</p> <p>5) Si un permis est délivré, nous engageons à en observer les modalités.</p>	
<p>Signed/Signature _____</p> <p>Print Name/Nom en lettres moulées _____</p> <p>Title/Titre <u>President of organization</u></p> <p>Bus. Telephone No. N°. de tél. d'aff. _____</p> <p>Date/Date _____</p> <p>Witness (sign) Témoin (signature) _____</p> <p>6504 B (06/05)</p>	<p>Secretary of organization _____</p>	



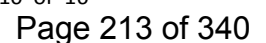
## CATCH THE ACE RAFFLE DOCUMENTS TO BE SUBMITTED FOR REPORTING

TO BE INCLUDED WITH REPORT (within seven calendar days from every fourth draw, and the last draw)

- Video recording of each draw
- Deposit slips
- Cheque stubs
- Bank statements (as soon as available)
- Copy of the winning tickets
- Catch the ace logs
- Destruction log for all cards to include draw date, complete card details , destruction process and verification by the bona fide member who destroyed the card and another bona fide member in charge of the lottery licence
- Use of proceeds (if any)
- Record of all draws recording the sequence numbers and other characteristics for all tickets in play



- The following report will be used after every fourth draw and/or the final draw;
- A blank copy of this report can be obtained through the Clerk's department or found on the Town of Pelham website;
- The following example illustrates the first report of a Catch the Ace event where an Ace of Spades has been selected in the fourth draw.



### 3. Details of Prizes Paid Out

Canadian Dollars				
Total Number of Tickets Sold	Total Receipts	Total Draw Prizes	Total Progressive prizes accumulated	Progressive Prize Accumulated Since Last Report
970	\$ 4850.00	\$ 970.00	\$ 1455.00	\$ 1455.00

Note: Attach a list of all prize winners and winning tickets (labelled Question 3).

$$970 \text{ tickets} \times \$5.00 = 4850.00$$

### 4. Details of Administrative Expenses

Item	Name and Address of Payee	Cost
Premises Rent		\$
Operational Plan (security, police, armoured car, etc.)		\$
Licence Fee	Determined once lottery has concluded	\$ 3% of prize value
Other (specify)	Supplies	\$
Total Administrative Expenses:		\$
Net Proceeds Derived:		\$
Progressive Carry-Over to Next Draw:		\$

Note: Attach a list of Use of Net Proceeds Derived (labelled Question 4).

### 5. Details of Lottery Trust Account Deposit

Name of Financial institution in which the Trust Funds are deposited	
Branch Name	Branch Number (if applicable)

#### Branch Address

Street Number	Street Name	Street Type	Direction
Suite, Floor, Apt.	Lot, Concession, Rural Route	City, Town, Municipality	Postal Code

#### Canadian Funds

Date (YY/MM/DD)	Balances	Amount (\$ CAN)
	Opening Balance:	\$
	Balance as of last Report:	\$
	Balance as of this Report:	\$



## Declaration

We, the undersigned, as two Principal Officers of the \_\_\_\_\_  
\_\_\_\_\_ Charitable Organization certify that this report is a  
correct statement of the lottery funds referred to herein.

	Charitable Organization Chairperson	Charitable Organization Secretary/ Treasurer
Signature	# 1	# 2
Print Name in Full		
Title	President of the organization	Secretary of the organization
Address		
Business Telephone	(      )	(      )
Date of Signing		

**NOTE :** All winning tickets for the full progressive prize including the name, address and telephone number of the winner must be submitted with this report.

## DETERMINING YOUR RULES OF PLAY

Your rules of play govern how you will run your lottery. You must submit these with your licence application package.

### EXAMPLE OF 'RULES OF PLAY'

THE RULES OF PLAY MUST BE POSTED AT THE LOCATION OF THE DRAW AND BE READILY AVAILABLE TO THE PUBLIC.

For example:

#### <Organization name> CATCH THE ACE RULES OF PLAY

- Ticket purchasers must be 18 years of age or older and be in Ontario at the time of purchase;
- Total of <#> of tickets printed;
- Only <#> tickets have been printed for each round of draws. Unsold tickets from previous rounds will be carried over to subsequent draws;
- Sales shall not exceed the set limit for each week plus the carry over count;
- As soon as the round sells out – it will be announced on <location>;
- The Maximum prize total to be awarded is CDN\$50,000;
- Ticket price is <price>;
- reserve the right to limit the number of tickets sold per person;
- <Organization name> reserve the right to limit the number of tickets sold per person. The limit will be <#>;
- Weekly draws will be held <day> nights at <time> at <location in full>;
- Ticket sales will not be sold after <time>;
- All draws will take place at the <location>, at <time>. Occupancy load for the locations is <amount> persons;
- All prizes will be paid by cheque in Canadian Funds;
- (If using roll tickets) The winner has <amount of time ex. 10 minutes> to claim their prize;
- (If using stub tickets) Winners have up to <time line ex. 1 year> after the date of the draw to claim their prize;
- One deck of 52 playing cards will be placed in individual envelopes and randomly numbered 1 to 52 inclusive and will be on a display board at the weekly draw location;
- Storage for the board will be placed in a locked area at the <location>. <names of persons> will be responsible for the removal and care of the board;
- Purchaser must complete the ticket including name, telephone number, email address and envelope number from the list of available numbers on the Available Numbers Control Sheet;
- The ticket purchaser is responsible for ensuring the ticket is filled out completely;
- The weekly winner shall be selected by drawing one ticket from a drum containing all of the tickets sold that week;

- The person conducting the draw will then open the envelope corresponding to the number noted on the selected ticket. If the envelope does not contain the Ace of Spades the envelope and the card will be destroyed. The weekly winner will receive 20% of the weeks ticket sales. If the envelope contains the Ace of Spades the winner will receive the value of the Ace of Spades pool and 20% of the weeks ticket sales. Once the Ace of Spades is selected the lottery ends;
- In the event the ticket purchaser failed to enter an envelope number on the ticket, the person conducting the draw will select the lowest even number envelope. In the event there is no even number envelope then the lowest uneven numbered envelope shall be selected;
- In the event the envelope number listed on the ticket has already been selected in a previous draw, the next highest number will be selected;
- Tickets are only valid for the draw they were purchased for;
- Once the draw is complete, the non-winning tickets are removed from the draw container and a new series of tickets will be sold for the next draw date;
- The ticket sequence used that week and the winning ticket number will be entered into the "Ticket Log". Subsequently, the stubs will be removed from the drum, placed into sealed containers and retained in a secured area for a minimum of 30 days. Winning tickets will be retained until 30 days after the conclusion of the licence;
- The winning name, ticket number, envelope and card selected will be posted on the following:
  - <Social media page name>
  - <website url>
  - <physical location>
- All draws will be video recorded to guarantee the integrity of the draw;
- The Ontario Problem Gambling telephone number is: 1-888-230-3505;
- In the event of storms, power outages or other catastrophic event(s) which cause a cancelation, the raffle will continue as usual on the following regularly scheduled draw day.



## CONTROL PROCEDURES

### TICKETS

- Tickets are sold for a single draw;
- Tickets must be unique from draw to draw;
- There must be no duplicate ticket numbers for all draws under a licence. There must be a documented process in place showing how the licensee will ensure there are no duplicate tickets for all draws;
- Tickets are only eligible for the draw for which they are purchased ;
- After the draw is completed, the non-winning tickets are removed from the container, kept for 30 days and destroyed;
- The licensee will keep a record or log of all draws recording the sequence number and other characteristics for all tickets in play;

### DRAW PROCESS

- Immediately prior to the draw, the ticket sales for the draw, the draw prize and the current progressive jackpot amount must be announced;
- In the event that the ace of spades is not drawn, the licensee will immediately destroy the card selected by the winner of the draw. The licensee must maintain a log to record the destruction of all cards. The log must include:
  - The draw date
  - Complete card details
  - Verification by the bona fide member who destroyed the card and by another bona fide member in charge of the lottery licence
- All draws will be recorded by the licensee;
- Video will capture the ticket draw and selection of the card;
- Participants will be advised in the Rules of Play that all raffle draws will be video recorded in order to ensure raffle integrity;
- Video recordings must be secured by the licensee and made available to the licensing authority upon request. All video recordings must be maintained for at least 30 calendar days after the draw date, after which they may be deleted or destroyed;
- The video recording shall be in high definition (minimum resolution - 720p) in a well-lit environment, have an unobstructed view of all raffle activities and show:
  - Selection of the winning draw ticket;
  - Selection of the envelope by the bearer of the winning draw ticket;
  - Reveal of playing card within selected envelope; and
  - Destruction of playing card



#### PRIZE BOARDS UP TO \$50,000:

- Municipal licensing authorities may issue licenses for Catch the Ace events with a prize board up to \$50,000. As part of the application process, applicants will submit a proposed draw schedule and sales plan outlining the maximum sales and prizes per draw to ensure the cumulative prizes do not exceed \$50,000 for the licence period. Municipalities may charge up to 3% of prizes for the licence fee;
- Prize boards over \$50,000 will be referred to the AGCO to obtain a licence.

#### LICENCE FEE

- Licence fee is 3% of the total prize value – due after the final draw;
- This is payable to the Town of Pelham from the organization's designated lottery account.

## Concept: How Might We Adopt a Policy to Govern Council/Staff Relationships?

### Background:

The Municipal Act, 2001, as revised by Bill 68, requires Council to adopt and maintain a policy with respect to the relationship between Members of Council and the officers and employees of the corporation. This Council-Staff Relations Policy identifies legislation, policy, procedures and practices to promote a respectful relationship between Members of Council and the officers and employees of the Town of Pelham.

### The Challenge:

Council is required to adopt a policy to set out guidelines for council/staff relationships. This policy will augment existing policies presently in place such as: Council Code of Conduct; Respectful Workplace Policy; Code of Ethics; Council Rules for Procedure; Human Resources Philosophy; and Accountability and Transparency.

A review of various Council-Staff Relations policies has been conducted, taking into consideration policies from across Ontario falling under the Municipal Act legislative requirements, and finding the right balance for the Town of Pelham. The policy presented is staff's recommendation of a policy that is clear and concise, while incorporating the various nuances appropriate for this municipality.

Council, as the policy-making body of the Corporation, may amend the proposed policy.

### Our Recommended Solution:

**THAT the Policy and Priorities Committee receive the Council-Staff Relationships Policy Report; and THAT Committee recommend that the Policy be submitted to Council for approval at their next regular meeting scheduled for May 6, 2019.**



Solution Title: Council-Staff Relations		
Council Approved:	May 6, 2019	\$201-

## HOW MIGHT WE:

*How Might the Town of Pelham set a high standard to regulate relations between Town Council and town employees, in order to provide good governance, maintain public confidence and ensure a respectful workplace atmosphere.*

## KEY FACTS:

### 1. Definitions

**"Chief Administrative Officer"** or **"CAO"** means the head of town staff, as the only employee of Council, and who is responsible for the management of the day-to-day operations of town staff, as legislatively required and as may be directed by Council.

**"Council"** refers to the Mayor and all Members of Council for the Town of Pelham

**"Employee"** includes any person who performs work for The Corporation for wages

**"Member of Council"** means the Mayor or a Councillor

**"Officer"** includes the Chief Administrative Officer, the Treasurer and the Clerk of the Corporation

**"Staff"** includes Officers and Employees of the Corporation

### 2. Roles and Responsibilities

Successful relationships are achieved through a mutual understanding of roles and responsibilities, open communication, clarity in reporting relationships and clear council directions to staff.

Council's role is to govern while the role of staff is to advise, implement and manage delivery of services to the public. The roles are interdependent, yet distinct and work in harmony to fulfill the Town's mandate.

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The Council-Staff Relations Policy provides guidance to ensure a respectful, tolerant and harassment-free workplace, and to foster a positive relationship between Council and Staff.

The Town Clerk is responsible for receiving complaints and/or concerns related to this policy. Upon receipt of a complaint and/or concern, the Clerk shall notify:

1. In the case of an officer or employee of the corporation, the Chief Administrative Officer and the Human Resources specialist; or
2. In the case of Council, the Integrity Commissioner.

In the event of a discrepancy between the Council-Staff Relations Policy and the Code of Conduct for Members of Council, or any Policy, the language of the Code of Conduct for Members of Council shall prevail.

### 3. Purpose

The Council/Staff Relations policy is required under the Municipal Act, 2001, Section 270.

### 4. Legislative and Policy Support

The Municipal Act, 2001, as revised by Bill 68, requires Council to adopt and maintain a policy with respect to the relationship between Members of Council and the officers and employees of the Corporation. This Council-Staff Relations Policy identifies legislation, policy, procedures and practices in place to promote a respectful relationship between Members of Council and the officers and employees of the Town of Pelham, and augments those documents accordingly.

In addition to compliance with this Policy, Members of Council, Officers and Employees of the Corporation are required to adhere to related governing provisions, including, but not limited to:

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- Code of Conduct for Members of Council
- Respectful Workplace Policy
- Code of Ethics
- Council Rules of Procedure
- Human Resources Philosophy
- Accountability & Transparency

## 5. Joint Role of Council and Staff:

This Policy, in accordance with Section 270 of the Municipal Act, 2001, as amended, applies to all Members of Council, Officers and Employees of the Corporation of the Town of Pelham.

It is recognized that the relationship between Council and Staff is interconnected, while respecting and recognizing the separate and distinct roles each party plays. It is important for Council Members and Staff to respect one another's roles, which results in benefits to the community through provision of infrastructure and services in an efficient and effective way.

In general terms, Council's governance has a stewardship role and monitors the implementation of approved policies and programs while Staff have the responsibility for implementation and administration of policy and programs through the day-to-day operations of the Corporation.

Members and Employees shall:

- Demonstrate to one another and to the general public a commitment to accountability, transparency, trust, and integrity and to relate to one another in a courteous, respectful and professional manner;
- Act in a manner that enhances public confidence in local government through sound decision-making based on knowledge, expert advice and sound judgement;
- Operate in a working partnership to produce the best results and outcomes for the town, and for the collective public interests of the town;

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- d) Understand and appreciate each other's respective roles and responsibilities; and
- e) Maintain formal working relationships in order to promote quality and discourage favouritism;
- f) Refrain from disparaging criticism of Council Members and of Staff;
- g) Uphold decisions of Council, regardless of personal opinion or belief, and commit to the implementation of those decisions.

## 6. Respecting Time Priorities

- a) To ensure that all participants are suitably prepared for meetings, timelines shall be respected by all Members and Staff in order to prioritize appropriately and in accordance with direction given by Council or the CAO;
- b) Staff will focus on significant projects only once direction is given by Council to do so, or as required by legislation;
- c) Meetings between Staff and Members shall be by appointment where possible to ensure all parties are available and properly prepared for the discussion;
- d) It is recognized that employees are not expected to provide information or take action outside of regular administrative business hours, except in extenuating or emergency circumstances.

## 7. Council Principles:

- 7.1 The role of Council as a whole and which is expressed collectively, encompasses three components:
  - 1. Representative: represent constituents in dealing with issues, being mindful of the greater good of all constituents.
  - 2. Policy: make policy and establish principles to guide future actions and decisions.
  - 3. Stewardship: ensure financial and administrative resources are efficiently used and consistent with policy, legislation and Council objectives.



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7.2 In order to ensure positive and effective relations with Staff, and with a view toward respect for priorities and timelines, Members of Council will:

- a) Act in a way that enhances public confidence in local government;
- b) Set strategic objectives and goals for the organization in collaboration with the Senior Management Team;
- c) Comply with the Town's Council Code of Conduct and the Oath of Office sworn at the Inaugural Meeting of Council;
- d) Refrain from making comments, formally and informally, that disparage or harm the professional or ethical reputation of the Corporation or of Staff;
- e) Appropriately prepare for Council and Committee meetings through a review of the agenda materials and consultation with Staff;
- f) Govern the management of the organization by directing questions or concerns relating to the administration or management of the town primarily to the CAO or designate, and where appropriate meet with Departmental Directors by appointment, or to a Director with copy to CAO;
- g) Give direction to employees only through Council as a whole, or through the CAO who shall have the responsibility to direct matters as required;
- h) Understand that employees will undertake significant projects only once directed to do so by Council as a whole and/or through the CAO, or as required by legislation;
- i) Advise the CAO or Town Clerk of questions or concerns that may arise prior to Council meetings whenever possible, to ensure employees have appropriate time to formulate an informed and helpful response for consideration by Council;
- j) Recognize that certain employees are statutory officers and as such, have specific statutory authorities, duties, powers and responsibilities that cannot be interfered with;
- k) Understand that as individual Members, they have no greater right to request or receive access to records or information held by the town than any member of the public, and they cannot access records or information otherwise protected from disclosure;

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- l) Refrain from behaviour that could constitute an act of disorder or misbehaviour, or an abuse of power.

## 8. Staff Principles:

8.1 The role of Town Staff is to provide advice, support and recommendations to Council collectively, and to Council Members individually. Further, it is the role of Staff to implement Council decisions in keeping with legislation, policy and procedures in accordance with three components:

1. Representative: represent the organization and act with integrity and professionalism.
2. Policy: implement policy and establish.
3. Stewardship: manage the financial and administrative.

8.2 In order to ensure positive and effective relations with Members of Council, Staff will:

- a) Implement Council decisions in an impartial manner, ensuring that administrative practices and procedures are appropriately established;
- b) Serve Council as a whole rather than any individual Member;
- c) Provide a timely, professional response to Council, based on professional expertise, research and good judgement to assist Council with respect to decision-making authority;
- d) Carry out their duties based on political neutrality and objectivity, free from undue influence from any individual Member(s);
- e) Respond in a timely way to inquiries from Council and provide appropriate follow-up to keep Members informed, and responses will be provided to all Council Members for consistency;
- f) Refrain from criticism of Corporate policy, giving consideration on how making public comments impact the perception of the Corporation and of Council;
- g) Refrain from making public comments that harm or disparage the reputation of the Corporation or the Council, or any Member of Council;

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- h) Refrain from public comment on behalf of Council on matters related to Council decisions, without authorization to do so;
- i) Immediately advise Council, through the office of the Chief Administrative Officer, of any unintended or unexpected impact of policy decisions;
- j) Inform Council of legislative changes and/or program changes;
- k) Provide advice on policy, including recommended actions and options where applicable, and including financial and human implications where pertinent;
- l) Facilitate Council's decision-making role through timely information and analysis in reporting;
- m) Provide well-organized, timely agendas with all supporting materials;
- n) Treat Council with respect and courtesy.

#### **SOLUTION STATEMENT:**

**It is the Policy of the Corporation of the Town of Pelham to promote and maintain a positive and respectful workplace environment by ensuring that interactions, communications and dealings amongst all individuals in the workplace community are polite, supportive, civil, constructive and respectful.**

## Concept: How Might We Facilitate Updates to the Council Procedural By-law

### Background:

The Municipal Act, 2001, c.25 as amended, Section 238(2) (The Act) requires that every municipality pass a procedure by-law governing the calling, place and proceedings of meetings. The most recent Council Procedural By-law was adopted on October 21, 2013. Since that time, there have been some key updates made to The Act that should be incorporated into the by-law. In addition, in order to address concerns expressed by some Members of Council relating to agenda review periods, a change to the agenda publication dates is being recommended.

To accommodate an earlier agenda release timing, it is also proposed to convene the Policy and Priorities Committee meetings on the first Monday of each month, and the Committee of the Whole meetings on the third Monday. This will allow for a full month to have passed enabling reporting on departmental statistics and information to be provided in a more fulsome manner.

### The Challenge:

Members of Council, under the general principles of fundamental parliamentary rights, are entitled to receive information to support their decision-making role. Historically, Council and Committee agenda packages have been released to Council ninety-six hours (4 days) prior to the scheduled meeting. This has presented challenges for Members of Council, particularly when agendas can exceed three hundred pages including reports and supporting documentation.

Staff is responsible to review by-laws, policies and procedures to ensure compliance with applicable legislation. This legislative review incorporates some of the amendments being recommended.

### Our Recommended Solution:

**THAT Committee the report, Update to Town of Pelham Procedural By-law – Proposed Amendments, be received; and**

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Update to Town of Pelham Procedural By-law – Proposed Amendments  
April 15, 2019

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**THAT Committee recommend that the proposed by-law amendments be presented to Council for First and Second Reading at their next regular meeting; and  
THAT the Clerk be directed to provide Notice in accordance with the Town's Notice Policy prior to presentation of the By-law for Third Reading and Adoption.**

Rationale:

Staff is proposing to release the agenda packages to meeting participants five business days prior to the meeting, i.e. on the Monday one week prior to a regular Monday Council or Committee meeting. It is believed that this will enable a more comprehensive review of the reports and supporting documentation by Members of Council thus enabling a fully informed decision-making process.

Additional amendments to the by-law being proposed are enabling the Committee of the Whole schedule and the Policy and Priorities Committee schedule to be reversed so that COW meets on the third Monday of the month. This will allow the monthly update reports to include information from the full month previous.

Changes to the closed meeting provisions in the Municipal Act, 2001 are also incorporated in the proposed amendments as well as setting out electronic participation more fully.

In accordance with Council Policy, notice must be posted 10 days prior to adoption, while no separate formal public meeting is mandated.

Measure of Success:

Council will have in place an updated procedural by-law that enables an extended agenda review period.

Milestones:

First and Second Reading; Public Notice; Third Reading and Adoption

Alternatives:

Council may give direction for additional by-law amendments.

**THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW NO. ~~#####~~ ~~(2012)~~ (2019)**

**Being a by-law to govern the proceedings of the Town of Pelham Council, its Committees, the conduct of its members and the calling of meetings.**

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**THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW NO. ~~####~~ ~~(2012)~~ (2019)**

**Being a by-law to govern the proceedings of the Town of Pelham Council and Committees, the conduct of its members, and the calling of meetings, and to repeal and replace By-law #3293(2012).**

WHEREAS pursuant to Section 238(2) of the Municipal Act, S.O. 2001, Chapter 25, as amended, (the "Act") every municipality and local board shall adopt a procedure by-law to govern the calling, place and proceedings of meetings;

AND WHEREAS the Council of the Corporation of the Town of Pelham deems it necessary to set rules and regulations with regard to Council proceedings;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

**1) DEFINITIONS:**

In this By-law:

- i. "Act" means the Municipal Act, 2001, S.O. 2001, c. 25, as amended from time to time;
- ii. "Acting Mayor" means the Member who is appointed by Council to act from time to time in the place and stead of the Mayor or Deputy Mayor, and who shall exercise all of the rights, powers and authority of the Mayor while so acting;
- iii. "Ad Hoc Committee" means any committee established by Council, other than a Standing Committee, which has at least one (1) Member appointed from Council and has been established by Council to consider a specific matter and which is dissolved automatically upon submitting its final report to Council, unless otherwise directed by Council. The member(s) appointed by Council to an Ad Hoc Committee may be Member(s), staff of the Town, and/or residents of the Town;
- iv. "Agenda" means a list of all items to be considered by the Council, or Committee of the Whole, or a Standing Committee at the Meeting for which the agenda was published;
- iv-v. "Business Day" means every official working day of the week when the Town of Pelham municipal office is open for business, Monday to Friday and does not include public holidays or weekends.
- v-vi. "Chief Administrative Officer" means the acting Chief Administrative Officer of the Corporation of the Town of Pelham;
- v-vii. "Chair" means the person presiding at a Meeting of Council or a Committee of Council, and the person presiding at a meeting of an Ad Hoc Committee where less than fifty percent (50%) of the members of the Ad Hoc Committee are Members or members of a Local Board;



- ~~vii-viii.~~ "Clerk" means the acting Clerk of the Corporation of the Town, including the Deputy Clerk and any other employee of the Town to whom the Clerk has delegated any of the Clerk's powers and duties under the Act, to the extent that they are authorized to perform any of the duties of the Clerk under this by-law;
- ~~viii-ix.~~ "Closed Session" means a Meeting of the Council, or a Committee of Council held under the provisions of the Act, whereby such Meeting is closed to the public and municipal staff, save and except the Clerk, unless such other staff have been authorized by Council to attend;
- ~~ix-x.~~ "Consent Agenda" means a list of items on the Agenda containing recommendations from the Clerk as to their disposition, all of which may be adopted by one motion of Council, but any of which may be transferred to the regular Agenda for consideration upon the request of a Member;
- ~~x-xi.~~ "Committee of Council" means Committee of the Whole, Policies and Priorities Committee, and all Standing Committees, and any Ad Hoc Committee where at least fifty percent (50%) of the members of the Ad Hoc Committee are Members or members of a Local Board;
- ~~xi-xii.~~ "Committee of the Whole" means a Standing Committee composed of all the Members of Council;
- ~~xii-xiii.~~ "Council" means council of the Town;
- ~~xiii-xiv.~~ "Delegation" means a person or group of persons represented by a spokesperson or agent, who address Council, Committee of the Whole, or a Standing Committee for the purpose of making a presentation. Delegation does not include presentations, such as consultant reports or deputations, made at the request of Council;
- ~~xiv-xv.~~ "Deputy Mayor" means the Member who has been appointed by by-law as Deputy Mayor ~~at the inaugural Council Meeting~~ and who acts from time to time in place and stead of the Mayor when the Mayor is absent or refuses to act, and who shall exercise all of the rights, powers and authority of the Mayor while so acting;
- ~~xv-xvi.~~ "Holiday" means those dates listed as holidays in the Legislation Act, 2006, S.O. 2006, c. 21, Sc. F , as amended; and any day as set out in a Town by-law to be a Holiday;
- ~~xvi-xvii.~~ "Local Board" shall be in accordance with local boards as described in The Act;
- ~~xvii-xviii.~~ "Mayor" means the Mayor of the Town;
- ~~xviii-xix.~~ "Mayor-Elect" means the successful candidate for the office of Mayor following an election, who has not yet been formally installed or invested with his or her office.
- ~~xix-xx.~~ "Meeting" means any regular, special or emergency meeting of Council, or Committee of Council, or other meeting of Council or a Committee of Council, for which proper notice was provided in accordance with the requirements of the Act, and/or any pertinent by-laws or policies of the Town, where Quorum is present and Members discuss or otherwise deal with any matters within their jurisdiction so as to materially advance the business or decision-making of Council. For greater certainty, "meeting" means a Meeting and a meeting of an Ad Hoc Committee where less than fifty percent (50%) of the members of the Ad Hoc Committee are Members or members of a Local Board;
- ~~xx-xxi.~~ "Member" means a member of Council and includes the Mayor, Deputy Mayor and Acting Mayor. For greater certainty, "member" means a member of a Committee of

Council or Ad Hoc Committee where less than fifty percent (50%) of the members of the Ad Hoc Committee are Members or members of a Local Board;

~~xxi-xxii.~~ "Municipal Offices" means Town Hall, located at 20 Pelham Town Square, Fonthill, Ontario, L0S 1E0;

~~xxii-xxiii.~~ "New Business" means any matter either not listed on the Agenda, which shall be introduced by motion, with or without notice, when the Chair calls for the adoption of the Agenda and shall be in accordance with the Rules of Procedure, or any matter listed on the Agenda at the request of a Member to the Clerk.

~~xxiii-xxiv.~~ "Pecuniary Interest" means a direct or indirect pecuniary interest of a Member as defined in the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, as amended;

~~xxiv-xxv.~~ "Policy and Priorities Committee" means a Standing Committee composed of all of the Members of Council which reviews and determines the policies and priorities of the Town;

~~xxv-xxvi.~~ "Quorum" means the majority of the Members of Council for Meetings of Council, Committee of the Whole and Standing Committees, and a majority of the members for Ad Hoc Committees ;

~~xxvi-xxvii.~~ "Recorded Vote" means the recording of the name and vote of every Member on a motion during a Meeting;

~~xxvii-xxviii.~~ "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 Committees of Council;

~~xxviii-xxix.~~ "Special Meeting" means a Meeting other than a regularly scheduled Meeting, called pursuant to the Act or the provision of this by-law;

~~xxix-xxx.~~ "Standing Committee" means a committee established by Council, composed entirely of Members, to carry out duties on an ongoing basis, as specified by Council, and includes Committee of the Whole and Policies and Priorities Committee;

~~xxx-xxxi.~~ "Town" means the Corporation of the Town of Pelham;

~~xxxi-xxxii.~~ "Unfinished Business" means matters listed on an Agenda which have not been dealt with by curfew or the adjournment of the Meeting, or a matter that has been deferred for further consideration.

**2) GENERAL**

- i. In all proceedings of Council and Committees of Council unless otherwise provided for in a separate by-law, the Rules of Procedure contained in this by-law shall apply and be observed and shall be the rules and regulations for the order and dispatch of business.
- ii. If any section or part of this by-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and to be enacted as such.
- iii. This by-law is to be read with all changes in number or gender as required by context.
- iv. In all matters and under all circumstances the Members shall be guided by and shall have regard to the Municipal Conflict of Interest Act, as amended;
- v. Following a regular or new municipal election, the Clerk shall provide each Member with a copy of this by-law, including amendments thereto.
- vi. Except as provided by law, a person who is not a Member shall not be allowed to address Council except upon approval of Council through the adoption of a resolution

to suspend the rules. Any person desiring to be heard at a Meeting of Council shall submit a request in writing to the Clerk in accordance with section 17. A person who is not a Member or a member shall not be allowed to address a Committee of Council unless invited to do so by the Committee of Council.

**3) ROLE OF COUNCIL AND RELATED PROVISIONS**

- i. It is the Role of Council:
  - a) to represent the public and to consider the well-being and interests of the Town;
  - b) to develop and evaluate the policies and programs of the Town;
  - c) to determine which services the Town provides;
  - d) to ensure that administrative policies, practices and procedures, and controllership policies, practices and procedures are in place to implement the decisions of Council;
  - e) to ensure the accountability and transparency of the operations of the Town, including the activities of the senior management of the Town;
  - f) to maintain the financial integrity of the Town; and
  - g) to carry out the duties of Council under the Act or any other applicable Act.
- ii. It is the Role of the Mayor,
  - a) to act as chief executive officer of the Town, as defined in the Act;
  - b) to preside over Council Meetings so that its business can be carried out efficiently and effectively;
  - c) to provide leadership to Council;
  - d) without limiting clause (3)(ii)(c), to provide information and recommendations to Council with respect to the role of Council as described in subsections 3(i)(d) and (e) of this by-law;
  - e) to represent the Town at official functions; and
  - f) to carry out the duties of the head of council under the Act or any other Act.
- iii. As chief executive officer of the Town, the Mayor shall:
  - a) uphold and promote the purposes of the Town;
  - b) promote public involvement in Town activities;
  - c) act as the representative of the Town both within and outside the Town, and promote the Town locally, nationally and internationally; and
  - d) participate in and foster activities that enhance the economic, social and environmental well-being of the Town and its residents.

**4) SUSPEND THE RULES**

In the absence of any statutory obligations, the Rules of Procedure may be temporarily suspended at such times and upon such conditions as may be deemed appropriate by Council, by an affirmative two-thirds (2/3) vote of the Members present.

**5) PARLIAMENTARY AUTHORITY**

~~±~~ All matters, points of order or questions of procedure arising and not provided for in this by-law with respect to the proceedings of Council, Committees of Council, and Ad Hoc Committees shall be determined, as near as may be, in accordance with "MEETING PROCEDURES, Parliamentary Law and Rules of Order for the 21<sup>st</sup> Century", by James Lochrie, and in such cases the decision of the Mayor, shall be final and accepted without debate.

## 6) AMENDMENT TO THIS BY-LAW

No amendment, alteration or addition to this by-law shall be made unless due notice thereof, in writing, setting forth the proposed amendment(s), alteration(s) or addition(s), shall have been given at a previous Council Meeting to that Council Meeting at which the same comes up for consideration and a majority of all Members present at the latter Meeting vote therefor, in accordance with the Town's Notice Policy, as may be amended from time to time.

## 7) INAUGURAL MEETING OF COUNCIL

- i. The inaugural Meeting of Council after a regular election, shall be held at ~~6:00~~6:30 p.m. on the first Monday of the term for which Council is elected, except that when the first Monday is a Holiday, the new Council shall meet on the same hour on the first day thereafter that is not a Holiday, at a place to be decided by the Mayor-Elect and Clerk.
- ii. The Mayor-Elect and the Clerk shall determine the location, content and format of the Agenda and programme for the inaugural Meeting and for all arrangements for the inaugural proceedings, including any reception following the inaugural procedure which will be open to the public in attendance.

## 8) REGULAR MEETINGS OF COUNCIL

- i. Regular Meetings of Council shall be held in the Council Chambers at the Municipal Offices on the first and third Monday of each month at ~~6:00~~6:30 p.m. unless Council, by resolution, directs otherwise, in which case a notice shall be posted in the Municipal Offices, and on the Town's website, advising of the time and place.
- ii. When the day for a regular Meeting of Council is a Holiday, Council shall, unless Council decides otherwise, meet at the same hour on the next following day which is not a Holiday, or as otherwise determined by Council, by resolution.
- iii. In the case of the absence of the Mayor and Deputy Mayor through illness, refusal to act, or because the office is otherwise vacant, an Acting Mayor shall be appointed, by resolution, to act from time to time in the place of the Mayor and such Member has and may exercise all the rights, powers, and authority of the Mayor while so acting.
- ~~iv.~~ iv. The Clerk shall prepare and mail, deliver personally or by electronic notification, or make available at the Municipal Offices or on the Town's website, to each Member an Agenda, along with supporting material, at least ~~ninety-six (96) hours~~ five (5) business days prior to the Meeting at which the same is to be considered provided always, however, that this by-law may be suspended in special cases by an affirmative vote of two-thirds (2/3) of the Members in attendance. The Agenda, together with supporting material, exclusive of matters to be considered in Closed Session ~~Committee of the Whole~~, shall also be made available at the Municipal Offices and ~~on~~at the Town's website to:
  - a) All Town department heads
  - b) Media representatives
  - c) Other persons so designated by Council

- d) Any committee or Local Board having an interest in an Agenda item
- e) The public.
- v. Any Member, at any time prior to 4:30 p.m. ~~on the Wednesday~~ eight (8) regular business days preceding a regular Meeting of Council-, may file, in writing, an item for inclusion on the Agenda under New Business.
- vi. The business of the Council shall in all cases be taken up in the order in which it stands upon the Agenda, unless otherwise directed by Council.
- vii. An item of business not listed on the Council Agenda cannot be introduced at a Meeting of Council without the approval of Council expressed by motion to amend the Agenda.
- viii. A draft schedule for the Meetings of Council shall be published by December 1<sup>st</sup> in each year for the following year and shall include the summer schedule, pursuant to section 36.
- ix. Members are encouraged to be present in the Council Chambers a minimum of fifteen (15) minutes prior to the time set for the commencement of the Meeting.
- x. No Meeting of Council, Committee of the Whole, Policy and Priorities Committee, or Public Meeting Under the Planning Act shall be held in the absence of the Clerk or his/her designate, including Closed Session meetings, in accordance with the requirements of the Act, as amended.

#### 9) COMMITTEE OF THE WHOLE MEETINGS

- i. Meetings of Committee of the Whole may be held in the Council Chambers at the Municipal Offices on the ~~first-third~~ Monday of each month after the regular Council Meeting, unless Council, by resolution, directs otherwise, in which case a notice shall be posted in the Municipal Offices, and on the Town's website, advising of the time and place of any Committee of the Whole meeting.
- ii. When the day for a regular Meeting of Council is a Holiday, Committee of the Whole shall, unless Council decides otherwise, meet after the regular Council Meeting as rescheduled pursuant to subsection 8(ii).
- iii. After adjournment of a regular Council Meeting, Council may, by resolution, reconvene as Committee of the Whole and the Mayor shall sit as Chair, but may appoint a Chair for the Committee of the Whole from among the Members present and shall immediately leave the Chair if another Chair has been appointed. The Chair shall preside at the Meeting and shall maintain order during the Meeting. ~~÷~~
- iv. The Rules of Procedure contained in this by-law shall be observed in the Committee of the Whole, except that:
  - a) discussion may take place in absence of a motion;
  - b) permission for a Member to speak is not required, but the Member should be recognized by the Chair;
  - c) the number of times a Member may speak on any question shall not be limited, provided that any second and subsequent statements are responsive to issues raised by other Members or contain new information not contained in the Member's original statement;
  - d) there shall be no time limit with respect to the speeches of Members;
  - e) a motion to close debate is not permitted;

- f) the Chair is permitted to participate in debate and discussion; there shall be no call for a recorded vote;
  - g) no Motion shall be required to be in writing or seconded;
  - h) Committee of the Whole shall only recommend items for approval to a Council Meeting; and
  - i) Committee of the Whole may, by majority vote, provide direction to staff, such direction stated so as to clearly define the actions required of staff and a date for completion wherever practical.
- v. The report of the Committee of the Whole shall be treated in the same manner as a report of a Committee of Council when being considered by Council.

#### 10) POLICY AND PRIORITIES COMMITTEE MEETINGS

- i. Meetings of the Policy and Priorities Committee may be held in the Council Chambers at the Municipal Offices on the ~~third-first~~ Monday of each month after the regular Council Meeting, unless Council, by resolution, directs otherwise, in which case a notice shall be posted in the Municipal Offices, and on the Town's website, advising of the time and place of any Policy and Priorities Committee meeting.
- ii. When the day for a regular Meeting of Council is a Holiday, Policy and Priorities Committee shall, unless Council decides otherwise, meet after the regular Council Meeting as rescheduled pursuant to subsection 8(ii).
- iii. After adjournment of a regular Council Meeting, Council may, by resolution, reconvene as the Policy and Priorities Committee and the Deputy Mayor shall sit as Chair, but may appoint a Chair for the Policy and Priorities Committee from among the Members present and shall immediately leave the Chair if another Chair has been appointed. The Chair shall preside at the Meeting and shall maintain order during the Meeting.
- iv. The Rules of Procedure contained in this by-law shall be observed in the Policy and Priorities Committee, except that:
  - a) discussion may take place in absence of a motion;
  - b) permission for a Member to speak is not required, but the Member should be recognized by the Chair;
  - c) the number of times a Member may speak on any question shall not be limited, provided that any second and subsequent statements are responsive to issues raised by other Members or contain new information not contained in the Member's original statement;
  - d) there shall be no time limit with respect to the speeches of Members;
  - e) a motion to close debate is not permitted;
  - f) the Chair is permitted to participate in debate and discussion; there shall be no call for a recorded vote;
  - g) no Motion shall be required to be in writing or seconded;
  - h) the Policy and Priorities Committee shall only recommend items for approval to a Council Meeting; and
  - i) the Policy and Priorities Committee may, by majority vote, provide direction to staff, such direction stated so as to clearly define the actions required of staff and a date for completion wherever practical.

- v. The report of the Policy and Priorities Committee shall be treated in the same manner as a report of a Committee of Council when being considered by Council.

#### **11) SPECIAL OR EMERGENCY MEETINGS**

- i. The Mayor may at any time summon a Special Meeting of Council on forty-eight (48) hours' notice to the Members, or upon receipt of a petition of the majority of the Members, the Clerk shall summon a Special Meeting for the purpose and at the time mentioned in the petition. Forty-eight (48) hours' notice, in writing, of all Special Meetings of Council shall be given to all Members through the Clerk's Office by personal delivery, facsimile, e-mail or other electronic means, or by contacting the Member by telephone. Council waives the requirement of written notice for a Special Meeting.
- ii. The only business to be dealt with at a Special Meeting is that which is listed in the notice of the Meeting, and there can be no exceptions.
- iii. In addition to Special Meetings, the Mayor may, at any time, summon an emergency meeting of Council without the required forty-eight (48) hour notice where the Mayor is satisfied an extraordinary situation exists that poses an immediate danger to the health or safety of any person or property or that the matter is of a sufficiently urgent nature that it is not advisable to delay, provided that an attempt has been made by the Clerk to notify Members about the Meeting as soon as possible, and in the most expedient manner available.
- iv. The only business that shall be dealt with at an emergency meeting shall be the business dealing directly with the emergency or extraordinary situation.
- v. The lack of receipt of a notice of, or an Agenda for, a Special Meeting or emergency meeting by any Member shall not affect the validity of the Special Meeting or emergency meeting or any action taken thereat, provided that an attempt has been made by the Clerk to notify Members about the Meeting as soon as possible and in the most expedient manner available.

#### **12) CALLING OF MEETING TO ORDER**

As soon after the hour fixed for the holding of a Meeting of Council or a Committee of Council as a Quorum is present, the Mayor, or Deputy Mayor, as the case may be, shall take the Chair, declare that a Quorum is present, and call the Meeting to order.

#### **13) QUORUM AND REMEDY**

- i. A Quorum of Council, a Committee of Council, or an Ad Hoc Committee must be present in order that legal business be conducted. It is the duty of the Chair and the obligation of each Member, member, and/or the Clerk to bring to the attention of the Chair any loss of a Quorum, other than as permitted in the Municipal Conflict of Interest Act, as amended.
- ii. If no Quorum is present one half (1/2) hour after the time appointed for a meeting of Council, Committee of Council, or Ad Hoc Committee, the Clerk or his/her designate shall record the names of the Members and members present and the meeting shall stand adjourned until the date of the next regular meeting or until rescheduled.



- iii. Should loss of Quorum occur during a meeting, the meeting may recess for a period of fifteen (15) minutes to restore the Quorum, or the Clerk or his/her designate shall record the names of Members and members present and the meeting shall stand adjourned.
- iv. Where the number of Members and members who, by reason of the provisions of the Municipal Conflict of Interest Act, as amended, are disabled from participating in the meeting, is such that at the meeting the remaining Members and members are not of sufficient number to constitute a Quorum, then the remaining number of Members and members shall be deemed to constitute a Quorum, provided such number is not less than two (2).
- v. If the majority of the Members present in person at a Meeting of Council or a Committee of Council consent thereto for a specified time period or in respect of a particular Meeting, a Member may participate in any such Meeting by means of a communications facility, including Skype and other internet based video conferencing, provided the communications facility permits all Members participating in the Meeting to hear the Member participating through a communications facility, and a Member participating in such a Meeting by such means is deemed to be present at the Meeting.
- vi. Attendance through such communications facility shall not be considered so as to constitute a quorum and shall not be permitted during a meeting held in closed session.
- vii. A request to attend a meeting by means of a communications facility shall be made to the Clerk, in writing, no fewer than five (5) business days prior to the meeting date, and shall be made in the prescribed form.
- viii. A maximum of one (1) Member may attend a meeting by means of a communications facility.

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#### **14) —ABSENCE OF THE MAYOR**

- i. In case the Mayor does not attend within fifteen (15) minutes after the time appointed for a Meeting of Council or Committee of the Whole, or in the absence of the Mayor from the Town or if he/she is absent through illness, or if he/she refuses to act or if the office is otherwise vacant, the Deputy Mayor for the purposes of this by-law shall act in the place and stead of the Mayor and shall have all the rights, powers and authority of the Mayor, while so acting.
- ii. In the event the Deputy Mayor is unable, for any reason, to act in the place and stead of the Mayor, the Clerk shall call the Members to order and an Acting Mayor shall be appointed, by resolution from among the Members present and shall preside until the arrival of the Mayor, and while so presiding the Acting Mayor appointed shall have all the powers of the Mayor while so acting.

#### **15) CURFEW**

No item of business may be dealt with at a Meeting of Council, a Committee of Council, or an Ad Hoc Committee after ten (10:00) p.m. unless approved by a two-thirds (2/3) majority of Members or members, as the case may be, present. Curfew shall only be extended by ½ an hour to deal only with the matter currently under discussion, or to complete the agenda or

part thereof, at the discretion of Council or Committee by the 2/3 vote. When Council, a Committee of Council, or an Ad Hoc Committee is adjourned at curfew before the Agenda is completed, a time and date shall be established for a continued Meeting, or meeting, as the case may be, for consideration of the balance of the Agenda.

#### **16) THE CONDUCT OF PROCEEDINGS AT A MEETINGS**

- i. It shall be the duty of the Chair:
  - a) to open the meeting by taking the Chair, declaring that a Quorum is present, and calling the Members and members, to order,
  - b) to announce the business before Council, a Committee of Council, or an Ad Hoc Committee, in the order in which it is to be acted upon,
  - c) to receive and submit, in the proper manner, all motions presented by the Members, or members,
  - d) to put to vote all questions which are regularly moved and seconded, or necessarily arise in the course of proceedings, and to announce the result,
  - e) to decline to put to vote motions which infringe the Rules of Procedure or which are beyond the jurisdiction of Council, a Committee of Council, or an Ad Hoc Committee,
  - f) to restrain the Members, or members, within the Rules of Procedure, when engaged in debate,
  - g) to enforce on all occasions the observance of order and decorum among the Members, or members, employees and the public.
  - h) to call by name any Member or member persisting in breach of the Rules of Procedure at a Meeting of Council, a Committee of Council, or Ad Hoc Committee thereby ordering him/her to vacate the Council Chambers, or other designated Meeting place, in accordance with subsection 30(iii),
  - i) to receive all messages and other communications and announce them to Council, a Committee of Council, or an Ad Hoc Committee,
  - j) to authenticate, by signature when necessary, all by-laws, resolutions and minutes of Council,
  - k) to inform Council, a Committee of Council, or an Ad Hoc Committee, when necessary or when referred to for the purpose, in a point of order or usage,
  - l) to enforce all time limits set out in this by-law unless a time extension in accordance with this by-law is approved by a two-thirds (2/3) majority of Members and members present,
  - m) to represent and support Council, declaring its will, and implicitly obeying its decisions in all things,
  - n) to ensure that the decisions of Council, a Committee of Council, or an Ad Hoc Committee, are in conformity with the laws and by-laws governing the activities of the Council,
  - o) to adjourn the meeting when the business is concluded,
  - p) to adjourn the meeting, without question put, in the case of grave disorder arising in the Council Chambers, or other designated meeting place.
- ii. The Mayor or Chair may take part in any debate without leaving the Chair. If the Mayor or Chair desires to introduce a motion or by-law, the Mayor or Chair shall

- vacate the Chair for that purpose and shall call on another Member to fill his/her place until he/she resumes the Chair.
- iii. A motion to rise from a Committee of Council, or an Ad Hoc Committee, and report back to Council or a motion to rise without reporting may be made at any time and shall be put, forthwith, to the meeting by the Chair and decided without debate.
  - iv. A proposition, matter or question in a report on any by-law or amendment thereto, which requires by law a vote of a stated number of Members or a fraction thereof shall be included in the report only if and when carried by such vote.
  - v. Points of order arising in Policy and Priorities Committee shall be decided by the Chair, subject to an appeal to the ~~Mayor~~Assembly, in person, and in the event of any disorder arising in Policy and Priorities Committee, the Mayor shall assume the Chair without any motion being put forward.
  - vi. After the report of Committee of the Whole has been received by Council, any by-law considered shall be open to debate and amendment before it is ordered to a second or third reading as the case may be.
  - vii. A motion to the Committee of the Whole or Policy and Priorities Committee to rise without report shall always be in order and shall take precedence over any other motion, and on such motion, a debate shall be allowed, and on an affirmative vote the subject referred to the Committee of the Whole or Policy and Priorities Committee shall be considered as disposed of in the negative.

## 17) AGENDA

~~17)~~

- i. **COUNCIL MEETINGS:** The Clerk shall have prepared and printed or made available electronically for the use of the Members at the regular Meetings of Council, an Agenda under the following headings:
  - a. Call to Order and Declaration of Quorum
  - ~~b. Invocation~~
  - ~~e.b.~~ Singing of National Anthem
  - ~~d.c.~~ Approval of the Agenda
  - ~~e.d.~~ Disclosure of Pecuniary Interest & General Nature Thereof
  - ~~f.e.~~ Hearing of Delegations and/or Presentations to Maximum of Three
  - ~~g.f.~~ Report of Regional Council ~~l~~or
  - ~~h.g.~~ Adoption of Minutes
  - ~~i.h.~~ Business Arising from the Minutes
  - ~~j.i.~~ Request(s) to Lift Consent Agenda Items for Separate Consideration
  - ~~k.j.~~ Consent Agenda Items to be Considered in Block
  - ~~l.k.~~ Item(s) Lifted for Separate Consideration, if any
  - ~~m. Correspondence Requiring Action~~
  - ~~n.l.~~ Members of Council Reports
  - ~~o.m.~~ Staff Reports Requiring Action
  - ~~p.n.~~ Unfinished Business
  - ~~q.o.~~ New Business
  - ~~r.p.~~ By-laws
  - ~~s.q.~~ Motions & Notices ~~s~~ of Motion

- ~~t-r.~~ Matters for Committee of the Whole or Policy and Priorities Committee
- ~~s.~~ Matters Arising out of Committee of the Whole or Policy and Priorities Committee
- ~~t.~~ Resolution to Move In Camera
- ~~u.~~ Rise from In Camera
- v. Confirming By-law
- w. Adjournment

ii. **COMMITTEE OF THE WHOLE MEETINGS:** The Clerk shall have prepared and printed or made available electronically for the use of the Members at Meetings of Committee of the Whole, an Agenda under the following headings:

- a. Call to Order and Declaration of Quorum
- ~~b.~~ Adoption of Agenda
- ~~b-c.~~ Disclosure of Pecuniary Interest
- ~~c-d.~~ Department Reports
  - ~~I.~~ Community Planning and Development
  - ~~II.~~ Corporate Services
  - ~~I-III.~~ Fire and By-law Services
  - ~~II-IV.~~ Community & Infrastructure ServicesPublic Works and Utilities
  - ~~III-V.~~ Planning and DevelopmentRecreation, Culture and Wellness
  - ~~IV.~~ Fire Services
  - ~~VI.~~ LibraryAdministration
  - ~~V.~~
- ~~d-e.~~ Unfinished Business
- ~~e-f.~~ New Business
- ~~f.~~ Next Meeting
- g. Adjournment

iii. **POLICY AND PRIORITIES COMMITTEE MEETINGS:** The Clerk shall have prepared and printed or made available electronically for the use of the Members at Meetings of the Policy and Priorities Committee, an Agenda under the following headings:

- a. Call to Order and Declaration of Quorum
- ~~b.~~ Adoption of Agenda
- ~~b-c.~~ Disclosure of Pecuniary Interest
- ~~c-d.~~ New Business
- ~~d-e.~~ Old Business
- ~~e.~~ Next Meeting
- f. Adjournment

iv. **PUBLIC MEETINGS AND PUBLIC HEARINGS:** The Clerk shall have prepared and printed or made available electronically for the use of the Members at a public Meeting or public hearing, an Agenda under the following headings:

- a. Call to Order
- ~~b.~~ Adoption of Agenda
- ~~b-c.~~ Disclosure of Pecuniary Interest
- ~~c-d.~~ Business of the public meeting or hearing;

~~e-e.~~ Proposed By-Law of Application:

- I. ~~Purpose of the public meeting or hearing~~ Planning Report and Presentation
- II. ~~Brief overview of proposed by law~~ Applicant's Presentation
- III. ~~Questions from Council~~ Public Input
- IV. ~~Anyone from the public to speak in favour of proposed by law~~ by law Committee Input
- V. ~~Anyone from the public to speak against proposed by law~~ by law
- VI. ~~Anyone has further questions for Council or Staff~~

~~e-f.~~ Adjournment

## 18) DELEGATIONS AND PRESENTATIONS

i. Any person, group of persons, or organizations wishing to address Council with respect to a matter already on Council's Agenda shall submit a written request to the Clerk no later than 12:00 noon, eight days ~~4:30 p.m. on the Wednesday the week~~ prior to the meeting of Council. Delegation requests to address a Council on matters not already on the Agenda of Council must be submitted at least fourteen (14) days before the date and time of the Meeting of Council. Delegations shall only be heard at regular Meetings of Council, unless specifically invited by Council to a Meeting of a Committee of Council.

~~+~~

ii. Delegations:

- a) May only address Council at a Meeting with respect to matters that are on the Agenda for that particular Meeting. On matters clearly beyond Council's jurisdiction Delegations will be directed by the Clerk to the most appropriate authority. Subsection 18(iv) shall apply regarding notice of a request to appear. Where there is no staff report dealing with the specific subject of the Delegation, the matter may be referred to a future Meeting of Council or a Standing Committee and a staff report may be requested for that meeting prior to having a position taken on the subject matter of the Delegation.
- b) In the event that in the Clerk's opinion the matter is urgent in nature and requires a decision prior to the next Council Meeting, clause 18(iii)(a) shall not apply and the Delegation may be heard at the conclusion of all items of business on the Agenda, with a ~~majority 2/3~~ vote of the Members present pursuant to a motion to suspend the rules.
- c) Delegations appearing before Council who have previously appeared on the same subject matter shall be limited to providing only new or requested information in their second and subsequent presentations. Failure to provide the new information in accordance with Subsection 18(i) will result in a denial of the request to appear by the Clerk, in consultation with the Mayor.
- d) The Clerk shall list on the Agenda, in the order in which they are received, a maximum of ~~four (4)~~ three (3) Delegations per Meeting. All other Delegations received will be held over until the next regular Meeting of Council.

iii. Before appearing before Council, notice must be given ~~before 4:30 p.m. of the preceding Wednesday, in accordance with section 18(i)~~ to the Clerk, or where notice

has not been given before the Meeting, Council must give its consent by motion, after receiving from the Delegation the requirements of subsection 18(iv).

- iv. The notice shall be legibly printed or typewritten on paper and signed by at least one representative of the Delegation, and shall provide the following information:
  - a) The topic to be discussed;
  - b) The identity of the spokesperson or agent who will make the presentation;
  - c) A copy of any written material to be presented by the Delegation. If in the opinion of the Mayor and Clerk sufficient detail has not been provided in the request, the matter shall not be placed on the Agenda until further written clarification has been provided, to the satisfaction of the Mayor and Clerk. Where more than one (1) person wishes to speak, the consent of the Chair must be obtained;
  - d) A clear statement of the action or outcome sought by the Delegation.
- v. A presentation by Delegations shall be for a maximum of ten (10) minutes per Delegation (whether the Delegation consists of an individual or a group) unless the Chair gives permission for a longer presentation.
- vi. Questions directed towards Council in the form of a presentation or by a Delegation shall be submitted in writing and any subsequent response by Council shall be in a time and manner as deemed appropriate by Council.
- vii. A written response to the Delegation shall be submitted by Council as soon as possible after full consideration of the Delegation.
- viii. Persons addressing Council shall confine their remarks to the business stated in their written request to be heard, and such shall be presented in a respectful and temperate manner, and their conduct shall be governed by the provisions set out in clauses 30(i), (ii) and (iii) of this by-law.
- ix. Except on matters of order, Members, other than the Mayor or Chair, shall not interrupt a Delegation while the Delegation is addressing Council.
- x. Members may ask Delegations only questions of clarification and shall not express an opinion or enter into debate with the Delegations.
- xi. The Clerk, in collaboration with the Mayor and/or Chief Administrative Officer, may refuse to schedule a Delegation if it is deemed that the topic of the Delegation is beyond the jurisdiction of the municipality, contrary to Town policies or contrary to the public interest, or if the matter has been previously considered and no new information is presented.

#### **19) PUBLIC ACCESS TO MEETINGS**

- i. The meetings of the Council, Committees of Council, and Ad Hoc Committees shall be open to the public except where the Members present determine that certain matters on the Agenda shall not be open to the public. No person shall be excluded from a public meeting except for improper conduct as determined by the Chair.
- ii. Only Members, other members of a Committee of Council or Ad Hoc Committee, the Clerk, municipal officials and others invited by Council shall attend Closed Session meetings.
- iii. Matters to be considered in Closed Session shall be dealt with only as provided in the Municipal Act, S.O. 2001, c. 25, as amended, more particularly defined in Subsection

~~239(2), 239(3) and/or 239(3.1).~~ The following matters shall be dealt with in Closed Session, in accordance with provisions of the Act, as amended:

- ~~a) the security of the property of the Town;~~
- ~~b) personal matters about an identifiable individual, including Town employees;~~
- ~~c) a proposed or pending acquisition or disposition of land by the Town ;~~
- ~~d) labour relations or employee negotiations;~~
- ~~e) litigation or potential litigation, including matters before administrative tribunals, affecting the Town;~~
- ~~f) advice that is subject to solicitor client privilege, including communications necessary for that purpose;~~
- ~~g) a matter in respect of which Council, a Committee of Council or other body may hold a Closed Session under another Act.~~

~~iv. A Meeting shall be closed to the public if the subject matter relates to the consideration of a request under the Municipal Freedom of Information & Protection of Privacy Act, as amended, if Council is designated as head of the institution for the purposes of that Act.~~

~~v. In addition, a Meeting of Council or a Committee of Council may be closed to the public if the following conditions are both satisfied:~~

- ~~a) The Meeting is held for the purpose of educating or training the Members of Council, or the members of a Committee of Council;~~
- ~~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 a Committee of Council.~~

~~vi-iv.~~ Before holding a Meeting or part of a Meeting that is to be closed to the public, there shall be a resolution stating:

- ~~a) the fact of the holding of the Closed Meeting and the general nature of the matter to be considered at the Closed Meeting; or~~
- ~~b) in the case of a meeting under subsection 19(v), the fact of the holding of the Closed Meeting, the general nature of its subject-matter and that it is to be closed under that subsection, and referencing any applicable file number.~~

~~vii-v.~~ Subject to subsection 19(iii), a Meeting shall not be closed to the public during the taking of a vote except as provided in the Municipal Act, Subsection 239(5) and (6) subsection 19(viii).

~~viii. A Meeting may be closed to the public during a vote if:~~

- ~~a) Subsections 19(iii), (iv) and (v) permit or require the Meeting to be closed to the public; and~~
- ~~b) The vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the Town or committee of either of them or persons retained by or under a contract with the Town.~~

~~ix-vi.~~ Council, Committees of Council, and other Ad Hoc Committees, shall record without note or comment all resolutions, decisions and other proceedings at a Meeting or meeting, whether it is closed to the public or not, and such record shall be made by the Clerk or his/her designate.

~~x-vii.~~ The Rules of Procedure shall be observed in ~~Committee of the Whole and Policyies and Priorities Committee sitting in~~ a Closed Session, except the rules respecting a Recorded Vote and the limit on the number of times of speaking. No motion for the



previous question, for an adjournment or to refer shall be received. No motion shall be required to be in writing or seconded.

~~†~~viii. A Member may at any time move that the Council, Committee of Council, or other Ad Hoc Committee rise to report progress, or to obtain the ruling of the Chair, with leave to sit again. A motion to rise and report shall be decided without debate.

## 20) MINUTES

- i. The minutes of a meeting shall record:
  - a) the place, date and time of the meeting;
  - b) the names of the Chair and record of the attendance of the members;
  - c) the reading, and if requested, correction and adoption of the minutes of prior meetings;
  - d) all other proceedings of the meeting without note or comment;
  - e) disclosure of any Pecuniary Interest and the general nature thereof.
- ii. It shall be the duty of the Clerk or his/her designate to ensure that the minutes of the last regular Meeting of Council and of Committees of Council held more than five (5) days prior to a regular Meeting of Council, together with the Agenda prepared in accordance with section 17, and any reports of a Committee of Council, or Ad Hoc Committee received, are mailed, delivered personally or electronically, or made available for pick up at the Municipal Offices to each Member not less than five (5) business days ~~ninety-six (96) hours~~ before the hour appointed for the holding of such regular Meeting of Council.
- iii. Such minutes as referred to in subsection 20(ii) may be adopted by Council without having been read at the Meeting considering the question of their adoption, and in other cases, the minutes shall be read prior to consideration of adoption.

## 21) PETITIONS AND COMMUNICATIONS

- i. Every communication, including a petition designed to be presented to Council, shall be legibly written or printed and shall not contain any obscene or improper material or language and shall be signed by at least one (1) person and filed with the Clerk.
- ii. Every petition or communication shall be delivered to the Clerk before 12:00 noon ~~4:30 p.m. on the Wednesday~~ no less than ten (10) business days prior to the regular Meeting of Council and shall be in the Form of Petition available from the Clerk.
- iii. The Clerk shall provide to Council and may read the substance thereof to Council but any Member may require the reading of part or all thereof.
- iv. All petitions or communications on any subject within the jurisdiction of a Committee of Council shall be formally received by resolution without debate, unless otherwise disposed of by Council, forthwith and be referred to the appropriate Committee of Council, or Town staff for subsequent report.

## 22) COMMITTEE REPORTS

Reports of Committees of Council shall not be received by Council unless received by the Members in accordance with subsection 20(ii) and may be recommitted.

### 23) UNFINISHED BUSINESS

The items listed in the order of the topics set out in the Agenda of prior Meetings which have not been disposed of by Council or a Committee of Council, and the date of their first appearance on the Agenda shall be noted and repeated on each subsequent Agenda until disposed of by Council or a Committee of Council, unless removed from the Agenda by leave of the Council.

### 24) READING OF BY-LAWS AND PROCEEDINGS THEREON

- i. No by-law except a by-law to confirm the proceedings of Council shall be presented to Council unless the subject matter thereof has been considered and approved by Council.
- ii. Every by-law shall be introduced upon motion by a Member, specifying the title of the by-law.
- iii. Every by-law, when introduced, shall be in typewritten form and shall contain no blanks except such as may be required to conform to accepted procedure or to comply with the provisions of any Act and shall be complete with the exception of the number and date thereof.
- iv. Every by-law shall have three (3) readings prior to it being passed and all such readings may or may not take place in the same Meeting of Council, except when requested otherwise by motion of the majority of the Members, provided the majority of Council, or otherwise as required by law, are in favour of the by-law.
- v. Should separate readings be required, tThe first reading of a by-law shall be decided without amendment or debate and such motion shall specify the title of the by-law or by-laws and the by-laws shall be dealt with collectively. A Member may request that any by-law be considered separately and upon the request of the Member, the by-law shall, without debate, be removed from the motion and dealt with separately.
- vi. If the Council determines that the by-law is to be referred and considered in Committee of the Whole, it shall be so considered prior to the third reading thereof.
- vii. In proceedings in Committee of the Whole where by-laws are to be considered, each section shall be considered in its proper order, inclusive of the title and recitals.
- viii. If Council so determines, a by-law may be taken as read.
- ix. The Clerk shall set out on all by-laws enacted by Council, the date of the several readings thereof.
- x. All amendments made in Committee of the Whole shall be reported to Council which shall receive the same forthwith and after the report has been received a by-law shall be open to debate and amendment before it is ordered for the third reading.
- xi. When a by-law is reported without amendment, it shall be forthwith ordered to be read the third time at such time as may be appointed by Council.
- xii. Every by-law enacted by Council shall be numbered and dated and shall be signed by the Clerk and the Mayor and sealed with the seal of the Town and shall be deposited by the Clerk in the Municipal Offices for safekeeping.
- xiii. The proceedings at every regular, Special Meeting or emergency Meeting of Council shall be confirmed by by-law so that every decision of Council at that Meeting and every resolution passed thereat shall have the same force and effect as if each and every one of them had been the subject matter of a separate by-law duly enacted. Confirming by-laws shall not be amendable or debatable.

- xiv. After the by-laws have been passed, the Clerk shall be responsible for their correctness should they be amended at the Council Meeting.
- xv. Pursuant to the provisions of the Act, as amended, the Clerk is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantic or descriptive nature or kind to the by-laws and schedules as may be necessary after the passage of the by-law.

## 25) MOTIONS

- i. Notices of Motion - Notice of all new motions except motions listed in subsections 25(xiii) and (xiv) shall be given, in writing, delivered to the Clerk at least eight (8) business days~~three (3) calendar days, excluding weekends and Holidays,~~ preceding the date of the meeting at which a motion is to be introduced and a motion shall be printed in full in the Agenda for that meeting and each succeeding meeting until the motion is considered or otherwise disposed of. The motion shall be submitted to the Clerk, in writing, over the signature of the mover and seconder and shall be complete and correct.
- ii. When a Member's, or member's, notice of motion has been called from the Chair at two (2) successive meetings and not proceeded with, it shall be dropped from the Agenda unless Council otherwise decides.
- iii. If at the third meeting such notice of motion is called from the Chair and not proceeded with, it shall be deemed to have been withdrawn.
- iv. Dispensing with Notice - Any motion may be introduced without notice if Council, a Committee of Council, or an Ad Hoc Committee, without debate, dispenses with notice, on the affirmative vote of a two-thirds (2/3) majority of the Members and members, present and voting and such motion must be presented in writing under the signature of the mover and seconder.
- v. Seconding - A motion must be formally seconded before the Chair can put the question or a motion be recorded in the minutes.
- vi. Presentation of Motion by the Chair - When a motion is presented to Council, a Committee of Council, or an Ad Hoc Committee in writing, it shall be read or, if it is a motion which may be presented orally, it shall be stated by the Chair before debate.
- vii. Ultra Vires - A motion in respect of a matter which is beyond the jurisdiction of the Council, a Committee of Council, or an Ad Hoc Committee shall not be in order.
- viii. Withdrawal - After a motion is read or stated by the Chair, it shall be deemed to be in possession of Council, a Committee of Council, or an Ad Hoc Committee, but may, with the permission of Council, a Committee of Council, or an Ad Hoc Committee, be withdrawn at any time before decision or amendment.
- ix. Priority of Disposition - A motion properly before Council, a Committee of Council, or an Ad Hoc Committee, for decision must receive disposition before any other motion can be received except motions in respect of matters listed in subsections 25(xii) or (xiii).
- x. Procedure Next Meeting - A motion called in the order in which it stands upon the Agenda of the routine of business of a meeting and which is not decided by Council, a Committee of Council, or an Ad Hoc Committee, shall be allowed to stand retaining its place upon the Agenda of the routine of business of the next regular meeting.

- xi. Reference to a Committee - A motion to refer a matter under discussion by the Council to a Committee of Council or an Ad Hoc Committee shall preclude all amendments of the main question until it is decided.
- xii. Amendments - A motion to amend:
  - a) shall be presented in writing;
  - b) shall receive disposition of Council, a Committee of Council, or an Ad Hoc Committee before a previous amendment or the question
  - c) shall not be further amended more than once provided that further amendment may be made to the main question;
  - d) shall be relevant to the question to be received;
  - ~~e) shall not be received proposing a direct negative to the question;~~
  - ~~f) shall not be received~~ if it would produce the same result as defeat of the main motion;
  - ~~g) may propose a separate and distinct disposition of a question; and~~
  - ~~h) shall be put in the reverse order to that in which it is moved~~
- xiii. The Previous Question - A motion for the previous question:
  - a) cannot be amended;
  - b) cannot be proposed when there is an amendment under consideration;
  - c) shall preclude all further amendments of the main question;
  - d) when resolved in the affirmative, the question is to be put forthwith, without debate or amendment;
  - e) can only be moved in the following words, "That the question be now put"; and
  - f) may be voted against by the mover and seconder.
- xiv. Motion to Adjourn - A motion to adjourn:
  - a) shall always be in order except as provided by the Rules of Procedure;
  - b) when resolved in the negative, cannot be made again until after some intermediate proceedings shall have been completed by Council, the Committee of Council, or the Ad Hoc Committee which considered the motion;
  - c) is not in order when a Member or member, is speaking or during the verification of a vote,
  - d) is not in order immediately following the affirmative resolution of a motion for the previous question.
- xv. Privilege - A motion on a matter of privilege shall receive disposition of Council, the Committee of Council, or the Ad Hoc Committee to which the motion was received forthwith upon receipt and, when settled, the question so interrupted shall be resumed from the point where it was suspended.
- xvi. Motion to Refer - A motion to refer back a question to a Committee of Council or Ad Hoc Committee with or without instructions may be amended but must receive disposition by Council before the question, or an amendment to the question, and when made prior thereto, before decision on a motion for the previous question or postponement.
- xvii. Motion to Divide - When the question under consideration contains more than one (1) distinct part, upon the request of any Member or member, to divide, such request being made prior to the calling of the vote each part or combination of parts contained in the motion, shall be considered and voted on separately.

## 26) RECONSIDERATION

- i. Any substantive motion may be reconsidered if, upon the putting of the substantive motion, the minority vote comprised not less than one-third (1/3) of the Members, and members, present and voting.
- ii. After a substantive motion has been decided, any Member or member who voted or is deemed to have voted thereon may at any time prior to adjournment of the Meeting at which such substantive motion was decided give notice, in writing, that he/she will move at the first meeting held thereafter for a reconsideration thereof.
- iii. Council, the Committee of Council, or the Ad Hoc Committee may immediately, upon such notice having been given, vote as to whether or not such notice or reconsideration be entertained.
- iv. After such notice has been given and accepted, no action shall be taken to carry into effect the main motion until after the motion to reconsider has been disposed of.
- v. If a motion to reconsider is decided in the affirmative, such reconsideration of the original motion shall become the next order of business, unless the motion for reconsideration calls for a future definite date. Debate on the motion to be reconsidered may proceed as though ~~the motion~~ had never previously been decided.
- vi. A motion to reconsider may be introduced by a notice of motion. Neither the mover nor seconder is required to have voted with the majority of Council. This notice of motion shall appear on the Agenda of a subsequent meeting or the meeting specified by the mover and seconder and shall be in writing under the signature of the mover and seconder.
- vii. Every motion for reconsideration considered at a subsequent meeting shall be declared lost, unless the majority of the Council, Committee of Council or Ad Hoc Committee votes therefore.
- viii. No discussion of the main question shall be allowed upon an accepted notice of reconsideration or upon the motion to reconsider unless and until Council, the Committee of Council or Ad Hoc Committee shall have voted to reconsider the same, but the Member or member, who gives the notice may have the privilege of stating the reasons for doing so.
- ix. No question upon which a notice of reconsideration has been accepted shall be considered more than once, nor shall a vote to reconsider be reconsidered.
- x. The words "the first Meeting held thereafter" in subsection 26 (ii) shall mean the first regular meeting of Council, a Committee of Council, or Ad Hoc Committee or a meeting of Council, a Committee of Council or Ad Hoc Committee called specially to consider the accepted motion of reconsideration of which notice has been given.

## 27) VOTING ON MOTIONS

- i. Declaration of Pecuniary Interest – Every Member or member present, when a question is put, shall vote therein unless he/she has any Pecuniary Interest, direct or indirect. When a Member or member, has a Pecuniary Interest in the question under debate, he/she shall so advise the Council, the Committee of Council, or Ad Hoc Committee, in accordance with the provisions of the Act and the Municipal Conflict of Interest Act, as amended. In instances where Council, or a Committee of Council is meeting in a Closed Session, the Member shall vacate his/her chair and the Meeting

until the question is decided and the Clerk shall duly record the circumstances in the minutes.

- ii. Every Member or member present at a meeting of Council, Committee of Council, or Ad Hoc Committee shall vote when a question is put forth, unless prohibited by statute. Members must clearly distinguish their vote when voting on any matter or question. If any Member or member present persists in refusing to vote except for reasons disclosed pursuant to the Municipal Conflict of Interest Act, or any other applicable Act, as amended, such Member or member shall be deemed to have voted in the negative on the question before Council, Committee of Council, or Ad Hoc Committee.
- iii. Questions Stated - Immediately preceding the taking of the vote, the Chair may state the question in the form introduced and shall do so if required by a Member or member except when a motion for the previous question has been resolved in the affirmative. He/she shall state the question in the precise form in which it will be recorded in the minutes.
- iv. No Interruption After Question - After a question is finally put by the Chair no Member or member shall speak to the question nor shall any other motion be made until after the vote is taken and the result has been declared.
- v. Division of Question - A separate vote shall be taken upon each proposal contained in a question divided in accordance with procedures contained in subsection 25(xvii) of this by-law.
- vi. Vote Not Allowed - A Member or member not present before the result of the division on a question is declared, shall not be entitled to vote on that question.
- vii. Unrecorded Vote - The manner of determining the decision on a motion shall be at the discretion of the Chair and may be by voice, show of hands, standing or otherwise.
- viii. Recorded Vote - the conduct of a Recorded Vote at a Meeting of Council or Committee of Council shall be as follows:
  - a) Where a vote is taken for any purpose and a Member or member requests, before or immediately after the vote, that there be a Recorded Vote, each Member or member present, except a Member or member disqualified from voting by any Act, shall, in alphabetical order by surname unless otherwise determined by the Mayor or Chair, announce their vote openly when called upon to do so by the Clerk. The Mayor or Chair, except where disqualified to vote, shall vote on all questions and when so doing, shall vote last.
  - b) When a Recorded Vote is requested by a Member or member, or is otherwise required, the Clerk shall record the name and vote of every Member or member on any matter or question.
  - c) Any Member or member at a Meeting of Council ~~or Committee of Council~~ when a question is put and a Recorded Vote taken, does not vote, shall be deemed as voting in the negative except where prohibited from voting by statute.
  - d) The Clerk shall record in the minutes the name of any Member or member who is not present in the Council chamber when such Recorded Vote is taken.
- ix. If a Member or member disagrees with the announcement of the Chair that any question is carried or lost he/she may, but only immediately after the declaration by the Chair, appeal the declaration and request that a Recorded Vote be taken.

- ~~f)~~ ~~x.~~ When the Chair calls for the vote on a question, each Member or member shall occupy a seat and shall remain in place until the result of the vote has been declared by the Chair, and during such time, no Member or member shall walk across the room to speak to any other Member or member, or make any noise or disturbance.
- ~~i-x-~~ ~~xi.~~ Secret Ballot –No vote shall be taken by ballot or any other method of secret voting and every vote so taken is of no effect, unless explicitly provided in legislation. The only voting that can take place during a Closed Meeting shall be that as provided in subsection 19(viii) of this by-law as provided for in the Act, as amended.
- ~~x-~~ ~~xii.~~ Tie Vote – In the event of a tie vote on any motion, it shall be deemed to have been decided in the negative, except where expressly provided in statute.

## **28) RULES OF DEBATE AT A MEETING OF COUNCIL**

- i. Every Member prior to speaking to any question or motion shall address the Chair. When two or more Members wish to speak, the Chair shall designate the Member who may speak first. Any Member may require the question or motion under discussion to be read at any time during the debate, but not so as to interrupt a Member while speaking. Every Member present at a Meeting of Council when a question is put, shall vote thereon unless prohibited by statute.
- ii. When a Member is speaking no other Member shall pass between him/her and the Chair or interrupt, except to raise a point of order.
- iii. Any Member may require the question or motion under discussion to be read at any time during the debate but not so as to interrupt a Member while speaking.
- iv. No Member shall speak more than once to the same question without leave of Council, except that a reply shall be allowed to be made only by a Member who has presented the motion to Council, but not by any Member who has moved an amendment or a procedural motion, at the discretion of the Chair.
- v. No Member, without leave of Council, shall speak to the same question, or in reply, for longer than five (5) minutes.
- vi. A Member may ask a question, through the Chair, only for the purpose of obtaining information relating to the matter under discussion and such question must be stated succinctly and asked only of the previous speaker, the mover of the motion, or an employee of the Town.
- vii. Notwithstanding subsection (vi), when a Member has been recognized as the next speaker, then immediately before speaking such Member may ask a question of the Chair or an employee of the Town on the matter under discussion but only for the purpose of obtaining information, following which the Member shall speak.
- viii. The following matters and motions with respect thereto may be introduced orally without written notice and without leave, except as otherwise provided in this by-law:
  - a) a point of order or personal privilege;
  - b) presentation of petitions;
  - c) to lay on the table (to defer temporarily);
  - d) to postpone for a period not to exceed the end of the third month following the Meeting date, or to a specific day; and
  - e) to move the previous question (immediate vote on the main motion).



- ix. The following motions may be introduced without notice and without leave, but such motions shall be in writing and signed:
  - a) to refer;
  - b) to adjourn;
  - c) to amend; and
  - d) to suspend the rules of procedure (two-thirds (2/3) vote required)
- x. Except as provided by subsection 28(viii) above, all motions shall be in writing and signed by the mover and seconder.
- xi. In all unprovided cases in the proceedings of Council, or a Committee of Council-, the matter shall be decided in accordance with section 5, and if still unprovided, by the Chair, subject to an appeal to Council upon a point of order.
- ~~xii.~~ It being recognized that the Municipal Conflict of Interest Act, as amended requires only that a Member leave the Meeting when involved in a Closed Session Meeting where the Member has a conflict, in order that there be no opportunity to influence the voting on the matter, whether before, during or after the Meeting, it shall be the practice that Members who have disclosed a Pecuniary Interest shall leave the Meeting room during the deliberations and voting on the matter regardless of the Meeting being held in open or Closed Session.

## 29) POINTS OF ORDER AND PRIVILEGE

- i. The Chair shall preserve order and decide questions of order.
- ii. When a Member speaks to a point of order he/she shall ask leave of the Chair to raise a point of order and after leave is granted, shall state the point of order to the Chair and shall wait until the Chair shall have stated and decided the point of order.
- iii. Thereafter, a Member shall only address the Chair for the purpose of appealing the Chair's decision to Council.
- iv. If no Member appeals, the decision of the Chair shall be final.
- v. Council, if appealed to, shall decide the question without debate and its decision shall be final.
- vi. Where a Member considers that his/her integrity or the integrity of Council as a whole has been impugned, he/she may, as a matter of personal privilege, speak at any time, with the consent of the Chair, for the purpose of drawing the attention of Council to the matter.
- vii. Where the Mayor or Chair considers that the integrity of any Town employee has been impugned or questioned, the Mayor or Chair may permit the Chief Administrative Officer or appropriate municipal employee to make a statement to Council.

## 30) CONDUCT OF MEMBERS OF COUNCIL AND/OR PERSONS ADDRESSING COUNCIL

- i. No Member or person addressing Council, a Committee of Council, or an Ad Hoc Committee, shall speak disrespectfully of the Reigning Sovereign, or of any of the Royal Family, or of the Governor-General, the Lieutenant-Governor of any province, or any Member of the Senate, the House of Commons of Canada or the Legislative Assembly of the Province of Ontario, or any person administering the Government of

Canada, Province of Ontario, Regional Municipality of Niagara or the Council of the Town or any member thereof, or any member of the Town's staff.

- ii. No Member or person addressing Council, a Committee of Council, or an Ad Hoc Committee shall:
  - a) use offensive words or unparliamentarily language in or against Council, a Committee of Council, or an Ad Hoc Committee, or against any Member or member;
  - b) speak on any subject other than the subject in debate;
  - c) criticize any decision of Council except for the purpose of moving that the question be reconsidered;
  - d) disobey the rules of Council or a decision of the Chair or of Council on questions of order or practice or upon the interpretation of the Rules of Procedure;
  - e) As provided in the Act, the Mayor or other Chair may expel any person for improper conduct at a Meeting.
- iii. In the event that a Member persists in a breach of the Rules of Procedure prescribed herein, after having been called to order by the Mayor or Chair, the Mayor or Chair shall name the Member and put the question "Shall the Member, (state first name/last name) be ordered to leave his/her seat for the duration of the meeting?" and such question is not debatable.
- iv. If Council decides the question set out in subsection 30(iii) in the affirmative by a majority vote of the Members present, the Mayor or Chair shall order the Member to leave his/her seat for the duration of the Meeting.
- v. If the Member named under subsection 30(iii) apologizes, the Mayor or Chair, with the approval of Council by general consent, may permit him/her to resume his/her seat.
- vi. During a Meeting of Council, Committee of the Whole, or the Policy and Priorities Committee, no person except Members and officers of Council shall be permitted to proceed beyond the area set aside for members of the public or press without permission of the Chair or the Council upon reference. During a meeting of any other Standing Committee or Ad Hoc Committee, no person, except a member of such committee and officers of Council shall be permitted to proceed beyond the area set aside for members of the public or press without permission of the Chair.
- vii. When the Chair is putting the question no Member or member, shall leave or make a disturbance.
- viii. Every Member shall keep confidential any information or documents received by reason of being such a Member. All information, documentation or deliberations received, reviewed or taken in a Closed Session is confidential and shall be returned to the Clerk upon request, prior to meeting adjournment.
- ix. No Member shall release or make public any information considered at a Closed Session or discuss the content of such a Meeting with persons other than Members or relevant staff Members without the authorization of Council.
- x. Any Member who contravenes subsection (ix) shall be deemed not to be acting in the interest of, on behalf of, or with the authority of Council of the Town, and may be subject to such disciplinary action as may be determined by Council.
- xi. Members of Council shall abide by the Code of Conduct for the Town of Pelham, as established by Town policy, which may be amended from time to time.

### 31) PECUNIARY INTEREST

- i. All Town of Pelham business shall be carried out by Member or Members under the terms and extent of the Municipal Conflict of Interest Act, and any amendments made thereto.
- ii. Members shall complete the required Written Statement of Disclosure of Pecuniary Interest which shall state the Member name, Council/Committee Date, Agenda Item Number and title, and state the general nature of the pecuniary interest. The Statement shall be dated and signed by the Member and submitted to the Clerk for retention in the public Conflicts Registry.
- iii. The Clerk, or designate, shall record the interest in the minutes of the meeting, through the electronic meeting management software, and shall make available publicly a register of pecuniary interests disclosed.
- iv. Wherein a Member must not influence the vote on a question where the Member has disclosed an interest, it shall be the practice of Members to vacate the meeting during deliberation and voting on the matter in which the Member has so disclosed.
- v. If a Member is absent from a meeting where a matter is considered for which the Member would have disclosed a pecuniary interest were the Member in attendance, the interest shall be disclosed in full at the next meeting at which the Member is present, and such disclosure shall be in the same manner as if the Member were present at the meeting.

### 32) COMMITTEES OF COUNCIL

- i. The Council may appoint such Standing Committees and Ad Hoc Committees, as deemed necessary, by resolution and by-law.
- ii. A Committee of Council, and such other Ad Hoc Committees shall meet in accordance with the schedule of Meetings as adopted by Council and shall be guided by the Rules of Procedure.
- iii. The Clerk or designate shall give notice of all Meetings of every Committee of Council, and such other Ad Hoc Committees, together with the Agenda and support materials of all matters, so far as known, that are to be brought before the Committee of Council or Ad Hoc Committee at such meeting, to every Member or member of the Committee of Council or Ad Hoc Committee so that the Member or member will receive the same at least ~~ninety-six (96) hours~~ five (5) business days prior to the meeting of such Committee of Council or Ad Hoc Committee (i.e. by end of regular workday on the Monday preceding the scheduled Monday meeting).
- iv. A majority of the members of a Committee of Council or Ad Hoc Committee shall be a quorum.
- v. Unless there is a quorum present within thirty (30) minutes after the time appointed for any Meeting of a Committee of Council or Ad Hoc Committee, or when a Committee of Council or Ad Hoc Committee adjourns for want of a quorum, the Clerk shall then record the names of the members present, the time of adjournment and the Committee of Council shall stand adjourned.
- vi. All recommendations of a Committee of Council or other Ad Hoc Committee shall be reported to Council, in writing, and shall be subject to the approval of Council.

### 33) PRESS RELEASES

No Member or municipal employee shall undertake to issue press releases or claim to speak on behalf of the Town without permission granted by motion in Council or municipal by-law. Communication with the media shall be in accordance with the Town's Communication Plan, as amended, and should be vetted through the Town's Public Relations and Marketing Specialist. Media interviews within the Council Chambers are prohibited during the formal portion of a Meeting. Any press release or media announcement scheduled solely for the purpose of informing the public of a particular matter shall not be deemed to fall within the definition of a "Meeting" as contained in this by-law, regardless if a majority of Members are present, and provided that deliberations on the subject matter will not take place.

### 34) TAPING AND/OR RECORDING OF MEETINGS

- i. Meetings of Council or Committees of Council, which are not held in Closed Session under the provisions of section 19 of this by-law, may be taped, televised or otherwise electronically or mechanically recorded by a cable television company, by any other licensed telecommunications company, or by any freelance person provided that such taping, television or recording is carried out within the designated area and in such a manner as to not interfere with the proceedings of the Meeting. The designated area means the area where the audience is seated or at the rear of the meeting place;
- ~~ii.~~ Meetings of Council or Committees of Council, which are not held in Closed Session under the provisions of section 19 of this by-law, may be taperecorded by Town of Pelham staff and posted to the municipal website for viewing by the general public;
- ~~iii.~~ Freelance individuals and/or representatives of companies wishing to tape, televise or record a Meeting of Council or Committees of Council are to advise Council or the Committee of Council, in writing, setting out the intended use of the tape, at the beginning of the Meeting if they have not so advised the Clerk prior to the Meeting, of their intention to record. Any telecommunications company wishing to tape a Meeting of Council or a Committee of Council is requested to advise the Clerk of its intention at least four (4) one business day hours prior to the commencement of the Meeting. The Clerk, in consultation with the Mayor and Chief Administrative Officer, has the authority to deny permission to any individual and/or representative the right to record the proceedings if it is determined that the use of the recording is inappropriate.
- ~~iii-iv.~~ If, in the opinion of the Chair, the use of such equipment or device is deemed to be disruptive to the conduct of the Meeting, or if prior notification was not provided in accordance with section 34(ii) of this by-law, the recording privileges will be withdrawn from any offending user. The ruling of the Chair shall be final unless a Member appeals the ruling to Council which shall then decide upon the question without debate.

### 35) USE OF CELLPHONES, PAGERS, RADIOS

All cell phones, pagers, radios, tablets, and other devices with a radio transmitter shall be switched "off" or set to non-audible or muted upon entry to the Council Chamber. Only communications facilities utilized by a Member pursuant to subsection 25(v) shall be permitted to be switched "on" and audible.

### 36) SUMMER MEETING SCHEDULE

During the months of July and August, subsection 8(i) shall not apply and regular Meetings of Council shall be held in the Council Chambers at the Municipal Offices on the third Monday of each month at ~~67:30~~ p.m. unless Council, by resolution, directs otherwise, in which case a notice shall be posted in the Municipal Offices advising of the time and place.

### 37) STAFF DIRECTIONS

Staff directions shall be through a resolution of Council, or a direction of Committee of the Whole or Policy and Priorities Committee and shall be put in writing to the Clerk prior to the adjournment of the Meeting at which the direction was made, and such resolution shall include a specific delineation of the staff/department responsible to undertake the direction and the expected date of receipt of a resolution report by Council, Committee of the Whole or Policy and Priorities Committee.

### 38) PUBLIC NOTICE OF MEETINGS

The Clerk shall provide public notice of all Meetings of Council, Committees of Council and Ad Hoc Committees, by posting a notice on the website of the Town which includes the place, date and time of the Meeting and the Meeting Agenda. Such published Agenda shall be considered as adequate notice of regular Meetings of Council and Committees of Council, except as otherwise provided for in this by-law. Posting to the website shall occur a minimum of three business days prior to the meeting.

### 39) PUBLIC MEETINGS – PLANNING ACT

- i. Public meetings held pursuant to the Planning Act, as amended, shall be held, whenever practical and in accordance with notice requirements, on the ~~fourth-second~~ (4<sup>th</sup> 2<sup>nd</sup>) Monday of each month at ~~67:30~~ p.m., at a location to be determined by the Director of Planning Services and Clerk.
- ii. Any Planning matter referred back to Council by the Local Appeals Planning Tribunal shall not be considered as a reconsideration motion.

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### 40) REPEAL

THAT By-law #~~3293(2012)2723-(2005)~~ be and the same is hereby repealed upon the effective date as set out below:

**41) EFFECTIVE DATE**

THAT this by-law shall become effective ~~upon the date of enactment~~October 1, 2012.

READ A FIRST TIME THIS  
6<sup>th</sup> DAY OF MAY, 2019 A.M.  
~~22<sup>ND</sup> DAY OF MAY, 2012 A.D.~~  
READ A SECOND TIME THIS  
~~4<sup>TH</sup> DAY OF SEPTEMBER, 2012-???, 2019, A.D.~~  
READ A FIRST TIME THIS  
22<sup>ND</sup> DAY OF MAY, 2012 A.D.

~~READ A SECOND TIME THIS~~  
~~13<sup>th</sup> DAY OF AUGUST, 2012 A.D.~~  
~~READ A THIRD TIME AND FINALLY PASSED~~  
~~THIS 17<sup>TH</sup> DAY OF SEPTEMBER, 2012??TH DAY OF ??, 2019 A.D.~~

MAYOR ~~DAVE AUGUSTYN~~MARVIN JUNKIN

TOWN CLERK, NANCY J. BOZZATO

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THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW NO. ##### ~~#####~~ (2012)(2019)

Being a by-law to govern the proceedings of the Town of Pelham Council, its Committees, the conduct of its members and the calling of meetings and to repeal and replace By-law #3293(2012).

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<del>40)</del>	<del>REPEAL</del>	<del>27</del>
<del>41)</del>	<del>EFFECTIVE DATE</del>	<del>27</del>

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**THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW NO. ~~####~~ ~~####~~ (2012)(2019)**

**Being a by-law to govern the proceedings of the Town of Pelham Council and Committees, the conduct of its members, and the calling of meetings, and to repeal and replace By-law #3293(2012).**

WHEREAS pursuant to Section 238(2) of the Municipal Act, S.O. 2001, Chapter 25, as amended, (the "Act") every municipality and local board shall adopt a procedure by-law to govern the calling, place and proceedings of meetings;

AND WHEREAS the Council of the Corporation of the Town of Pelham deems it necessary to set rules and regulations with regard to Council proceedings;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

**1) DEFINITIONS:**

In this By-law:

- i. "Act" means the Municipal Act, 2001, S.O. 2001, c. 25, as amended from time to time;
- ii. "Acting Mayor" means the Member who is appointed by Council to act from time to time in the place and stead of the Mayor or Deputy Mayor, and who shall exercise all of the rights, powers and authority of the Mayor while so acting;
- iii. "Ad Hoc Committee" means any committee established by Council, other than a Standing Committee, which has at least one (1) Member appointed from Council and has been established by Council to consider a specific matter and which is dissolved automatically upon submitting its final report to Council, unless otherwise directed by Council. The member(s) appointed by Council to an Ad Hoc Committee may be Member(s), staff of the Town, and/or residents of the Town;
- iv. "Agenda" means a list of all items to be considered by the Council, or Committee of the Whole, or a Standing Committee at the Meeting for which the agenda was published;
- iv-v. "Business Day" means every official working day of the week when the Town of Pelham municipal office is open for business, Monday to Friday and does not include public holidays or weekends.

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- ~~v~~vi. "Chief Administrative Officer" means the acting Chief Administrative Officer of the Corporation of the Town of Pelham;
- ~~vi~~vii. "Chair" means the person presiding at a Meeting of Council or a Committee of Council, and the person presiding at a meeting of an Ad Hoc Committee where less than fifty percent (50%) of the members of the Ad Hoc Committee are Members or members of a Local Board;
- ~~vii~~viii. "Clerk" means the acting Clerk of the Corporation of the Town, including the Deputy Clerk and any other employee of the Town to whom the Clerk has delegated any of the Clerk's powers and duties under the Act, to the extent that they are authorized to perform any of the duties of the Clerk under this by-law;
- ~~viii~~ix. "Closed Session" means a Meeting of the Council, or a Committee of Council held under the provisions of the Act, whereby such Meeting is closed to the public and municipal staff, save and except the Clerk, unless such other staff have been authorized by Council to attend;
- ~~ix~~x. "Consent Agenda" means a list of items on the Agenda containing recommendations from the Clerk as to their disposition, all of which may be adopted by one motion of Council, but any of which may be transferred to the regular Agenda for consideration upon the request of a Member;
- ~~x~~xi. "Committee of Council" means Committee of the Whole, Policies and Priorities Committee, and all Standing Committees, and any Ad Hoc Committee where at least fifty percent (50%) of the members of the Ad Hoc Committee are Members or members of a Local Board;
- ~~xi~~xii. "Committee of the Whole" means a Standing Committee composed of all the Members of Council;
- ~~xii~~xiii. "Council" means council of the Town;
- ~~xiii~~xiv. "Delegation" means a person or group of persons represented by a spokesperson or agent, who address Council, Committee of the Whole, or a Standing Committee for the purpose of making a presentation. Delegation does not include presentations, such as consultant reports or deputations, made at the request of Council;
- ~~xiv~~xv. "Deputy Mayor" means the Member who has been appointed by by-law as Deputy Mayor ~~at the inaugural Council Meeting~~ and who acts from time to time in place and stead of the Mayor when the Mayor is absent or refuses to act, and who shall exercise all of the rights, powers and authority of the Mayor while so acting;
- ~~xv~~xvi. "Holiday" means those dates listed as holidays in the Legislation Act, 2006, S.O. 2006, c. 21, Sc. F , as amended; and any day as set out in a Town by-law to be a Holiday;
- ~~xvi~~xvii. "Local Board" shall be in accordance with local boards as described in The Act;
- ~~xvii~~xviii. "Mayor" means the Mayor of the Town;

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- ~~xxix~~. "Mayor-Elect" means the successful candidate for the office of Mayor following an election, who has not yet been formally installed or invested with his or her office.
- ~~xx~~. "Meeting" means any regular, special or emergency meeting of Council, or Committee of Council, or other meeting of Council or a Committee of Council, for which proper notice was provided in accordance with the requirements of the Act, and/or any pertinent by-laws or policies of the Town, where Quorum is present and Members discuss or otherwise deal with any matters within their jurisdiction so as to materially advance the business or decisions-making of Council. For greater certainty, "meeting" means a Meeting and a meeting of an Ad Hoc Committee where less than fifty percent (50%) of the members of the Ad Hoc Committee are Members or members of a Local Board;
- ~~xxi~~. "Member" means a member of Council and includes the Mayor, Deputy Mayor and Acting Mayor. For greater certainty, "member" means a member of a Committee of Council or Ad Hoc Committee where less than fifty percent (50%) of the members of the Ad Hoc Committee are Members or members of a Local Board;
- ~~xxii~~. "Municipal Offices" means Town Hall, located at 20 Pelham Town Square, Fonthill, Ontario, L0S 1E0;
- ~~xxiii~~. "New Business" means any matter either not listed on the Agenda, which shall be introduced by motion, with or without notice, when the Chair calls for the adoption of the Agenda and shall be in accordance with the Rules of Procedure, or any matter listed on the Agenda at the request of a Member to the Clerk.
- ~~xxiv~~. "Pecuniary Interest" means a direct or indirect pecuniary interest of a Member as defined in the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, as amended;
- ~~xxv~~. "Policy and Priorities Committee" means a Standing Committee composed of all of the Members of Council which reviews and determines the policies and priorities of the Town;
- ~~xxvi~~. "Quorum" means the majority of the Members of Council for Meetings of Council, Committee of the Whole and Standing Committees, and a majority of the members for Ad Hoc Committees ;
- ~~xxvii~~. "Recorded Vote" means the recording of the name and vote of every Member on a motion during a Meeting;
- ~~xxviii~~. "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 Committees of Council;
- ~~xxix~~. "Special Meeting" means a Meeting other than a regularly scheduled Meeting, called pursuant to the Act or the provision of this by-law;
- ~~xxx~~. "Standing Committee" means a committee established by Council, composed entirely of Members, to carry out duties on an ongoing basis, as specified by

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Council, and includes Committee of the Whole and Policies and Priorities Committee;

~~xxx-xxx~~i. "Town" means the Corporation of the Town of Pelham;

~~xxx-xxx~~ii. "Unfinished Business" means matters listed on an Agenda which have not been dealt with by curfew or the adjournment of the Meeting, or a matter that has been deferred for further consideration.

## 2) GENERAL

- i. In all proceedings of Council and Committees of Council unless otherwise provided for in a separate by-law, the Rules of Procedure contained in this by-law shall apply and be observed and shall be the rules and regulations for the order and dispatch of business.
- ii. If any section or part of this by-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and to be enacted as such.
- iii. This by-law is to be read with all changes in number or gender as required by context.
- iv. In all matters and under all circumstances the Members shall be guided by and shall have regard to the Municipal Conflict of Interest Act, as amended;
- v. Following a regular or new municipal election, the Clerk shall provide each Member with a copy of this by-law, including amendments thereto.
- vi. Except as provided by law, a person who is not a Member shall not be allowed to address Council except upon approval of Council through the adoption of a resolution to suspend the rules. Any person desiring to be heard at a Meeting of Council shall submit a request in writing to the Clerk in accordance with section 17. A person who is not a Member or a member shall not be allowed to address a Committee of Council unless invited to do so by the Committee of Council.

## 3) ROLE OF COUNCIL AND RELATED PROVISIONS

- i. It is the Role of Council:
  - a) to represent the public and to consider the well-being and interests of the Town;
  - b) to develop and evaluate the policies and programs of the Town;
  - c) to determine which services the Town provides;
  - d) to ensure that administrative policies, practices and procedures, and controllership policies, practices and procedures are in place to implement the decisions of Council;
  - e) to ensure the accountability and transparency of the operations of the Town, including the activities of the senior management of the Town;

- f) to maintain the financial integrity of the Town; and
  - g) to carry out the duties of Council under the Act or any other applicable Act.
- ii. It is the Role of the Mayor,
  - a) to act as chief executive officer of the Town, as defined in the Act;
  - b) to preside over Council Meetings so that its business can be carried out efficiently and effectively;
  - c) to provide leadership to Council;
  - d) without limiting clause (3)(ii)(c), to provide information and recommendations to Council with respect to the role of Council as described in subsections 3(i)(d) and (e) of this by-law;
  - e) to represent the Town at official functions; and
  - f) to carry out the duties of the head of council under the Act or any other Act.
- iii. As chief executive officer of the Town, the Mayor shall:
  - a) uphold and promote the purposes of the Town;
  - b) promote public involvement in Town activities;
  - c) act as the representative of the Town both within and outside the Town, and promote the Town locally, nationally and internationally; and
  - d) participate in and foster activities that enhance the economic, social and environmental well-being of the Town and its residents.

4) SUSPEND THE RULES

In the absence of any statutory obligations, the Rules of Procedure may be temporarily suspended at such times and upon such conditions as may be deemed appropriate by Council, by an affirmative two-thirds (2/3) vote of the Members present.

5) PARLIAMENTARY AUTHORITY

All matters, points of order or questions of procedure arising and not provided this by-law with respect to the proceedings of Council, Committees of Council, and Ad Hoc Committees shall be determined, as near as may be, in accordance with "MEETING PROCEDURES, Parliamentary Law and Rules of Order for the 21<sup>st</sup> Century", by James Lochrie, and in such cases the decision of the Mayor, shall be final and accepted without debate.

6) AMENDMENT TO THIS BY-LAW

No amendment, alteration or addition to this by-law shall be made unless due notice thereof, in writing, setting forth the proposed amendment(s), alteration(s) or addition(s), shall have been given at a previous Council Meeting to that Council Meeting at which the same comes up for consideration and a majority of all Members

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present at the latter Meeting vote therefor, in accordance with the Town's Notice Policy, as may be amended from time to time.

## **7) INAUGURAL MEETING OF COUNCIL**

- i. The inaugural Meeting of Council after a regular election, shall be held at 6:00~~6:30~~ p.m. on the first Monday of the term for which Council is elected, except that when the first Monday is a Holiday, the new Council shall meet on the same hour on the first day thereafter that is not a Holiday, at a place to be decided by the Mayor-Elect and Clerk.
- ii. The Mayor-Elect and the Clerk shall determine the location, content and format of the Agenda and programme for the inaugural Meeting and for all arrangements for the inaugural proceedings, including any reception following the inaugural procedure which will be open to the public in attendance.

## **8) REGULAR MEETINGS OF COUNCIL**

- i. Regular Meetings of Council shall be held in the Council Chambers at the Municipal Offices on the first and third Monday of each month at 6:00~~6:30~~ p.m. unless Council, by resolution, directs otherwise, in which case a notice shall be posted in the Municipal Offices, and on the Town's website, advising of the time and place.
- ii. When the day for a regular Meeting of Council is a Holiday, Council shall, unless Council decides otherwise, meet at the same hour on the next following day which is not a Holiday, or as otherwise determined by Council, by resolution.
- iii. In the case of the absence of the Mayor and Deputy Mayor through illness, refusal to act, or because the office is otherwise vacant, an Acting Mayor shall be appointed, by resolution, to act from time to time in the place of the Mayor and such Member has and may exercise all the rights, powers, and authority of the Mayor while so acting.
- iv. The Clerk shall prepare and mail, deliver personally or by electronic notification, or make available at the Municipal Offices or on the Town's website, to each Member an Agenda, along with supporting material, at least ninety-six (96) hours five (5) business days prior to the Meeting at which the same is to be considered provided always, however, that this by-law may be suspended in special cases by an affirmative vote of two-thirds (2/3) of the Members in attendance. The Agenda, together with supporting material, exclusive of matters to be considered in Closed Session~~Committee of the Whole~~, shall also be made available at the Municipal Offices and on~~at~~ the Town's website to:

~~iv.~~

- a) All Town department heads



- b) Media representatives
- c) Other persons so designated by Council
- d) Any committee or Local Board having an interest in an Agenda item
- e) The public.
- v. Any Member, at any time prior to 4:30 p.m. ~~on the Wednesday~~ eight (8) regular business days preceding a regular Meeting of Council-, may file, in writing, an item for inclusion on the Agenda under New Business.
- vi. The business of the Council shall in all cases be taken up in the order in which it stands upon the Agenda, unless otherwise directed by Council.
- vii. An item of business not listed on the Council Agenda cannot be introduced at a Meeting of Council without the approval of Council expressed by motion to amend the Agenda.
- viii. A draft schedule for the Meetings of Council shall be published by December 1<sup>st</sup> in each year for the following year and shall include the summer schedule, pursuant to section 36.
- ix. Members are encouraged to be present in the Council Chambers a minimum of fifteen (15) minutes prior to the time set for the commencement of the Meeting.
- x. No Meeting of Council, Committee of the Whole, Policy and Priorities Committee, or Public Meeting Under the Planning Act shall be held in the absence of the Clerk or his/her designate, including Closed Session meetings, in accordance with the requirements of the Act, as amended.

## 9) COMMITTEE OF THE WHOLE MEETINGS

- i. Meetings of Committee of the Whole may be held in the Council Chambers at the Municipal Offices on the ~~first~~ third Monday of each month after the regular Council Meeting, unless Council, by resolution, directs otherwise, in which case a notice shall be posted in the Municipal Offices, and on the Town's website, advising of the time and place of any Committee of the Whole meeting.
- ii. When the day for a regular Meeting of Council is a Holiday, Committee of the Whole shall, unless Council decides otherwise, meet after the regular Council Meeting as rescheduled pursuant to subsection 8(ii).
- iii. After adjournment of a regular Council Meeting, Council may, by resolution, reconvene as Committee of the Whole and the Mayor shall sit as Chair, but may appoint a Chair for the Committee of the Whole from among the Members present and shall immediately leave the Chair if another Chair has been appointed. The Chair shall preside at the Meeting and shall maintain order during the Meeting. ~~±~~
- iv. The Rules of Procedure contained in this by-law shall be observed in the Committee of the Whole, except that:
  - a) discussion may take place in absence of a motion;

- b) permission for a Member to speak is not required, but the Member should be recognized by the Chair;
  - c) the number of times a Member may speak on any question shall not be limited, provided that any second and subsequent statements are responsive to issues raised by other Members or contain new information not contained in the Member's original statement;
  - d) there shall be no time limit with respect to the speeches of Members;
  - e) a motion to close debate is not permitted;
  - f) the Chair is permitted to participate in debate and discussion; there shall be no call for a recorded vote;
  - g) no Motion shall be required to be in writing or seconded;
  - h) Committee of the Whole shall only recommend items for approval to a Council Meeting; and
  - i) Committee of the Whole may, by majority vote, provide direction to staff, such direction stated so as to clearly define the actions required of staff and a date for completion wherever practical.
- v. The report of the Committee of the Whole shall be treated in the same manner as a report of a Committee of Council when being considered by Council.

#### 10) POLICY AND PRIORITIES COMMITTEE MEETINGS

- i. Meetings of the Policy and Priorities Committee may be held in the Council Chambers at the Municipal Offices on the ~~third-first~~ Monday of each month after the regular Council Meeting, unless Council, by resolution, directs otherwise, in which case a notice shall be posted in the Municipal Offices, and on the Town's website, advising of the time and place of any Policy and Priorities Committee meeting.
- ii. When the day for a regular Meeting of Council is a Holiday, Policy and Priorities Committee shall, unless Council decides otherwise, meet after the regular Council Meeting as rescheduled pursuant to subsection 8(ii).
- iii. After adjournment of a regular Council Meeting, Council may, by resolution, reconvene as the Policy and Priorities Committee and the Deputy Mayor shall sit as Chair, but may appoint a Chair for the Policy and Priorities Committee from among the Members present and shall immediately leave the Chair if another Chair has been appointed. The Chair shall preside at the Meeting and shall maintain order during the Meeting. ~~÷~~
- iv. The Rules of Procedure contained in this by-law shall be observed in the Policy and Priorities Committee, except that:
  - a) discussion may take place in absence of a motion;
  - b) permission for a Member to speak is not required, but the Member should be recognized by the Chair;
  - c) the number of times a Member may speak on any question shall not be limited, provided that any second and subsequent statements are

- responsive to issues raised by other Members or contain new information not contained in the Member's original statement;
- d) there shall be no time limit with respect to the speeches of Members;
- e) a motion to close debate is not permitted;
- f) the Chair is permitted to participate in debate and discussion; there shall be no call for a recorded vote;
- g) no Motion shall be required to be in writing or seconded;
- h) the Policy and Priorities Committee shall only recommend items for approval to a Council Meeting; and
- i) the Policy and Priorities Committee may, by majority vote, provide direction to staff, such direction stated so as to clearly define the actions required of staff and a date for completion wherever practical.
- v. The report of the Policy and Priorities Committee shall be treated in the same manner as a report of a Committee of Council when being considered by Council.

#### **11) SPECIAL OR EMERGENCY MEETINGS**

- i. The Mayor may at any time summon a Special Meeting of Council on forty-eight (48) hours' notice to the Members, or upon receipt of a petition of the majority of the Members, the Clerk shall summon a Special Meeting for the purpose and at the time mentioned in the petition. Forty-eight (48) hours' notice, in writing, of all Special Meetings of Council shall be given to all Members through the Clerk's Office by personal delivery, facsimile, e-mail or other electronic means, or by contacting the Member by telephone. Council waives the requirement of written notice for a Special Meeting.
- ii. The only business to be dealt with at a Special Meeting is that which is listed in the notice of the Meeting, and there can be no exceptions.
- iii. In addition to Special Meetings, the Mayor may, at any time, summon an emergency meeting of Council without the required forty-eight (48) hour notice where the Mayor is satisfied an extraordinary situation exists that poses an immediate danger to the health or safety of any person or property or that the matter is of a sufficiently urgent nature that it is not advisable to delay, provided that an attempt has been made by the Clerk to notify Members about the Meeting as soon as possible, and in the most expedient manner available.
- iv. The only business that shall be dealt with at an emergency meeting shall be the business dealing directly with the emergency or extraordinary situation.
- v. The lack of receipt of a notice of, or an Agenda for, a Special Meeting or emergency meeting by any Member shall not affect the validity of the Special Meeting or emergency meeting or any action taken thereat, provided that an attempt has been made by the Clerk to notify Members about the Meeting as soon as possible and in the most expedient manner available.

**12) CALLING OF MEETING TO ORDER**

As soon after the hour fixed for the holding of a Meeting of Council or a Committee of Council as a Quorum is present, the Mayor, or Deputy Mayor, as the case may be, shall take the Chair, declare that a Quorum is present, and call the Meeting to order.

**13) QUORUM AND REMEDY**

- i. A Quorum of Council, a Committee of Council, or an Ad Hoc Committee must be present in order that legal business be conducted. It is the duty of the Chair and the obligation of each Member, member, and/or the Clerk to bring to the attention of the Chair any loss of a Quorum, other than as permitted in the Municipal Conflict of Interest Act, as amended.
- ii. If no Quorum is present one half (1/2) hour after the time appointed for a meeting of Council, Committee of Council, or Ad Hoc Committee, the Clerk or his/her designate shall record the names of the Members and members present and the meeting shall stand adjourned until the date of the next regular meeting or until rescheduled.
- iii. Should loss of Quorum occur during a meeting, the meeting may recess for a period of fifteen (15) minutes to restore the Quorum, or the Clerk or his/her designate shall record the names of Members and members present and the meeting shall stand adjourned.
- iv. Where the number of Members and members who, by reason of the provisions of the Municipal Conflict of Interest Act, as amended, are disabled from participating in the meeting, is such that at the meeting the remaining Members and members are not of sufficient number to constitute a Quorum, then the remaining number of Members and members shall be deemed to constitute a Quorum, provided such number is not less than two (2).
- v. If the majority of the Members present in person at a Meeting of Council or a Committee of Council consent thereto for a specified time period or in respect of a particular Meeting, a Member may participate in any such Meeting by means of a communications facility, including Skype and other internet based video conferencing, provided the communications facility permits all Members participating in the Meeting to hear the Member participating through a communications facility, and a Member participating in such a Meeting by such means is deemed to be present at the Meeting.
- vi. Attendance through such communications facility shall not be considered so as to constitute a quorum and shall not be permitted during a meeting held in closed session.
- vii. A request to attend a meeting by means of a communications facility shall be made to the Clerk, in writing, no fewer than five (5) business days prior to the meeting date, and shall be made in the prescribed form.
- viii. A maximum of one (1) Member may attend a meeting by means of a communications facility.

**14) ~~ABSENCE OF THE MAYOR~~**

- i. In case the Mayor does not attend within fifteen (15) minutes after the time appointed for a Meeting of Council or Committee of the Whole, or in the absence of the Mayor from the Town or if he/she is absent through illness, or if he/she refuses to act or if the office is otherwise vacant, the Deputy Mayor for the purposes of this by-law shall act in the place and stead of the Mayor and shall have all the rights, powers and authority of the Mayor, while so acting.
- ii. In the event the Deputy Mayor is unable, for any reason, to act in the place and stead of the Mayor, the Clerk shall call the Members to order and an Acting Mayor shall be appointed, by resolution from among the Members present and shall preside until the arrival of the Mayor, and while so presiding the Acting Mayor appointed shall have all the powers of the Mayor while so acting.

**15) CURFEW**

No item of business may be dealt with at a Meeting of Council, a Committee of Council, or an Ad Hoc Committee after ten (10:00) p.m. unless approved by a two-thirds (2/3) majority of Members or members, as the case may be, present. Curfew shall only be extended by ½ an hour to deal only with the matter currently under discussion, or to complete the agenda or part thereof, at the discretion of Council or Committee by the 2/3 vote. When Council, a Committee of Council, or an Ad Hoc Committee is adjourned at curfew before the Agenda is completed, a time and date shall be established for a continued Meeting, or meeting, as the case may be, for consideration of the balance of the Agenda.

**16) THE CONDUCT OF PROCEEDINGS AT A MEETINGS**

- i. It shall be the duty of the Chair:
  - a) to open the meeting by taking the Chair, declaring that a Quorum is present, and calling the Members and members, to order,
  - b) to announce the business before Council, a Committee of Council, or an Ad Hoc Committee, in the order in which it is to be acted upon,
  - c) to receive and submit, in the proper manner, all motions presented by the Members, or members,
  - d) to put to vote all questions which are regularly moved and seconded, or necessarily arise in the course of proceedings, and to announce the result,
  - e) to decline to put to vote motions which infringe the Rules of Procedure or which are beyond the jurisdiction of Council, a Committee of Council, or an Ad Hoc Committee,

- f) to restrain the Members, or members, within the Rules of Procedure, when engaged in debate,
  - g) to enforce on all occasions the observance of order and decorum among the Members, or members, employees and the public,
  - h) to call by name any Member or member persisting in breach of the Rules of Procedure at a Meeting of Council, a Committee of Council, or Ad Hoc Committee thereby ordering him/her to vacate the Council Chambers, or other designated Meeting place, in accordance with subsection 30(iii),
  - i) to receive all messages and other communications and announce them to Council, a Committee of Council, or an Ad Hoc Committee,
  - j) to authenticate, by signature when necessary, all by-laws, resolutions and minutes of Council,
  - k) to inform Council, a Committee of Council, or an Ad Hoc Committee, when necessary or when referred to for the purpose, in a point of order or usage,
  - l) to enforce all time limits set out in this by-law unless a time extension in accordance with this by-law is approved by a two-thirds (2/3) majority of Members and members present,
  - m) to represent and support Council, declaring its will, and implicitly obeying its decisions in all things,
  - n) to ensure that the decisions of Council, a Committee of Council, or an Ad Hoc Committee, are in conformity with the laws and by-laws governing the activities of the Council,
  - o) to adjourn the meeting when the business is concluded,
  - p) to adjourn the meeting, without question put, in the case of grave disorder arising in the Council Chambers, or other designated meeting place.
- ii. The Mayor or Chair may take part in any debate without leaving the Chair. If the Mayor or Chair desires to introduce a motion or by-law, the Mayor or Chair shall vacate the Chair for that purpose and shall call on another Member to fill his/her place until he/she resumes the Chair.
  - iii. A motion to rise from a Committee of Council, or an Ad Hoc Committee, and report back to Council or a motion to rise without reporting may be made at any time and shall be put, forthwith, to the meeting by the Chair and decided without debate.
  - iv. A proposition, matter or question in a report on any by-law or amendment thereto, which requires by law a vote of a stated number of Members or a fraction thereof shall be included in the report only if and when carried by such vote.
  - v. Points of order arising in Policy and Priorities Committee shall be decided by the Chair, subject to an appeal to the ~~Mayor~~ Assembly, in person, and in the

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- ~~event of any disorder arising in Policy and Priorities Committee, the Mayor shall assume the Chair without any motion being put forward.~~
- ~~vi. After the report of Committee of the Whole has been received by Council, any~~
- ~~vii. A motion to the Committee of the Whole or Policy and Priorities Committee to rise without report shall always be in order and shall take precedence over any other motion, and on such motion, a debate shall be allowed, and on an affirmative vote the subject referred to the Committee of the Whole or Policy and Priorities Committee shall be considered as disposed of in the negative.~~

**17) AGENDA**

~~17)~~

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- i. **COUNCIL MEETINGS:** The Clerk shall have prepared and printed or made available electronically for the use of the Members at the regular Meetings of Council, an Agenda under the following headings:
- a. Call to Order and Declaration of Quorum
  - ~~b. Invocation~~
  - ~~e.b.~~ Singing of National Anthem
  - ~~d.c.~~ Approval of the Agenda
  - ~~e.d.~~ Disclosure of Pecuniary Interest & General Nature Thereof
  - ~~f.e.~~ Hearing of Delegations and/or Presentations to Maximum of Three
  - ~~g.f.~~ Report of Regional Council ~~ll~~or
  - ~~h.g.~~ Adoption of Minutes
  - ~~i.h.~~ Business Arising from the Minutes
  - ~~j.i.~~ Request(s) to Lift Consent Agenda Items for Separate Consideration
  - ~~k.j.~~ Consent Agenda Items to be Considered in Block
  - ~~l.k.~~ Item(s) Lifted for Separate Consideration, if any
  - ~~m. Correspondence Requiring Action~~
  - ~~n.l.~~ Members of Council Reports
  - ~~o.m.~~ Staff Reports Requiring Action
  - ~~p.n.~~ Unfinished Business
  - ~~q.o.~~ New Business
  - ~~r.p.~~ By-laws
  - ~~s.q.~~ Motions & Notices ~~s~~ of Motion
  - ~~t.r.~~ Matters for Committee of the Whole or Policy and Priorities Committee
  - ~~s.~~ Matters Arising out of Committee of the Whole or Policy and Priorities Committee
  - ~~t.~~ Resolution to Move In Camera
  - ~~u.~~ Rise from In Camera
  - v. Confirming By-law
  - w. Adjournment



ii. **COMMITTEE OF THE WHOLE MEETINGS:** The Clerk shall have prepared and printed or made available electronically for the use of the Members at Meetings of Committee of the Whole, an Agenda under the following headings:

- a. Call to Order and Declaration of Quorum
- ~~b.~~ Adoption of Agenda
- ~~b-c.~~ Disclosure of Pecuniary Interest
- ~~c-d.~~ Department Reports
  - I. Community Planning and Development
  - II. Corporate Services
  - ~~I-III.~~ Fire and By-law Services
  - ~~II-IV.~~ Community & Infrastructure Services Public Works and Utilities
  - ~~III-V.~~ Planning and Development Recreation, Culture and Wellness
  - IV. Fire Services
  - VI. Library Administration
  - V. \_\_\_\_\_
- ~~d-e.~~ Unfinished Business
- ~~e-f.~~ New Business
- ~~f.~~ Next Meeting
- g. Adjournment

iii. **POLICY AND PRIORITIES COMMITTEE MEETINGS:** The Clerk shall have prepared and printed or made available electronically for the use of the Members at Meetings of the Policy and Priorities Committee, an Agenda under the following headings:

- a. Call to Order and Declaration of Quorum
- ~~b.~~ Adoption of Agenda
- ~~b-c.~~ Disclosure of Pecuniary Interest
- ~~c-d.~~ New Business
- ~~d-e.~~ Old Business
- ~~e.~~ Next Meeting
- f. Adjournment

iv. **PUBLIC MEETINGS AND PUBLIC HEARINGS:** The Clerk shall have prepared and printed or made available electronically for the use of the Members at a public Meeting or public hearing, an Agenda under the following headings:

- a. Call to Order
- ~~b.~~ Adoption of Agenda
- ~~b-c.~~ Disclosure of Pecuniary Interest
- ~~c-d.~~ Business of the public meeting or hearing;
- ~~d-e.~~ Proposed By-Law of Application:

- I. ~~Purpose of the public meeting or hearing~~ Planning Report and Presentation
  - II. ~~Brief overview of proposed by law~~ Applicant's Presentation
  - III. ~~Questions from Council~~ Public Input
  - IV. ~~Anyone from the public to speak in favour of proposed by law~~ Committee Input
  - V. ~~Anyone from the public to speak against proposed by law~~ by law
  - VI. ~~Anyone has further questions for Council or Staff~~
- e.f. Adjournment

## 18) DELEGATIONS AND PRESENTATIONS

- i. Any person, group of persons, or organizations wishing to address Council with respect to a matter already on Council's Agenda shall submit a written request to the Clerk no later than ~~12:00 noon, eight days~~ 4:30 p.m. on the Wednesday the week prior to the meeting of Council. Delegation requests to address a Council on matters not already on the Agenda of Council must be submitted at least fourteen (14) days before the date and time of the Meeting of Council. Delegations shall only be heard at regular Meetings of Council, unless specifically invited by Council to a Meeting of a Committee of Council.

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- ii. Delegations:
  - a) May only address Council at a Meeting with respect to matters that are on the Agenda for that particular Meeting. On matters clearly beyond Council's jurisdiction Delegations will be directed by the Clerk to the most appropriate authority. Subsection 18(iv) shall apply regarding notice of a request to appear. Where there is no staff report dealing with the specific subject of the Delegation, the matter may be referred to a future Meeting of Council or a Standing Committee and a staff report may be requested for that meeting prior to having a position taken on the subject matter of the Delegation.
  - b) In the event that in the Clerk's opinion the matter is urgent in nature and requires a decision prior to the next Council Meeting, clause 18(iii)(a) shall not apply and the Delegation may be heard at the conclusion of all items of business on the Agenda, with a ~~majority 2/3~~ vote of the Members present pursuant to a motion to suspend the rules.
  - c) Delegations appearing before Council who have previously appeared on the same subject matter shall be limited to providing only new or requested information in their second and subsequent presentations. Failure to provide the new information in accordance with Subsection

18(i) will result in a denial of the request to appear by the Clerk, in consultation with the Mayor.

- d) The Clerk shall list on the Agenda, in the order in which they are received, a maximum of ~~four (4)~~three (3) Delegations per Meeting. All other Delegations received will be held over until the next regular Meeting of Council.
- iii. Before appearing before Council, notice must be given ~~before 4:30 p.m. of the preceding Wednesday, in accordance with section 18(i)~~ to the Clerk, or where notice has not been given before the Meeting, Council must give its consent by motion, after receiving from the Delegation the requirements of subsection 18(iv).
- iv. The notice shall be legibly printed or typewritten on paper and signed by at least one representative of the Delegation, and shall provide the following information:
  - a) The topic to be discussed;
  - b) The identity of the spokesperson or agent who will make the presentation;
  - c) A copy of any written material to be presented by the Delegation. If in the opinion of the Mayor and Clerk sufficient detail has not been provided in the request, the matter shall not be placed on the Agenda until further written clarification has been provided, to the satisfaction of the Mayor and Clerk. Where more than one (1) person wishes to speak, the consent of the Chair must be obtained;
  - d) A clear statement of the action or outcome sought by the Delegation.
- v. A presentation by Delegations shall be for a maximum of ten (10) minutes per Delegation (whether the Delegation consists of an individual or a group) unless the Chair gives permission for a longer presentation.
- vi. Questions directed towards Council in the form of a presentation or by a Delegation shall be submitted in writing and any subsequent response by Council shall be in a time and manner as deemed appropriate by Council.
- vii. A written response to the Delegation shall be submitted by Council as soon as possible after full consideration of the Delegation.
- viii. Persons addressing Council shall confine their remarks to the business stated in their written request to be heard, and such shall be presented in a respectful and temperate manner, and their conduct shall be governed by the provisions set out in clauses 30(i), (ii) and (iii) of this by-law.
- ix. Except on matters of order, Members, other than the Mayor or Chair, shall not interrupt a Delegation while the Delegation is addressing Council.
- x. Members may ask Delegations only questions of clarification and shall not express an opinion or enter into debate with the Delegations.
- xi. The Clerk, in collaboration with the Mayor and/or Chief Administrative Officer, may refuse to schedule a Delegation if it is deemed that the topic of the

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Delegation is beyond the jurisdiction of the municipality, contrary to Town policies or contrary to the public interest, or if the matter has been previously considered and no new information is presented.

**19) PUBLIC ACCESS TO MEETINGS**

- i. The meetings of the Council, Committees of Council, and Ad Hoc Committees shall be open to the public except where the Members present determine that certain matters on the Agenda shall not be open to the public. No person shall be excluded from a public meeting except for improper conduct as determined by the Chair.
- ii. Only Members, other members of a Committee of Council or Ad Hoc Committee, the Clerk, municipal officials and others invited by Council shall attend Closed Session meetings.
- iii. Matters to be considered in Closed Session shall be dealt with only as provided in the Municipal Act, S.O. 2001, c. 25, as amended, more particularly defined in Subsection 239(2), 239(3) and/or 239(3.1). The following matters shall be dealt with in Closed Session, in accordance with provisions of the Act, as amended:
  - ~~a) the security of the property of the Town;~~
  - ~~b) personal matters about an identifiable individual, including Town employees;~~
  - ~~c) a proposed or pending acquisition or disposition of land by the Town;~~
  - ~~d) labour relations or employee negotiations;~~
  - ~~e) litigation or potential litigation, including matters before administrative tribunals, affecting the Town;~~
  - ~~f) advice that is subject to solicitor client privilege, including communications necessary for that purpose;~~
  - ~~g) a matter in respect of which Council, a Committee of Council or other body may hold a Closed Session under another Act.~~
- iv. ~~A Meeting shall be closed to the public if the subject matter relates to the consideration of a request under the Municipal Freedom of Information & Protection of Privacy Act, as amended, if Council is designated as head of the institution for the purposes of that Act.~~
- v. ~~In addition, a Meeting of Council or a Committee of Council may be closed to the public if the following conditions are both satisfied:~~
  - ~~a) The Meeting is held for the purpose of educating or training the Members of Council, or the members of a Committee of Council;~~
  - ~~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 a Committee of Council.~~
  - a) The security of property of the municipality or local board;

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- b) Personal matters about an identifiable individual, including municipal or local board employees;
  - c) A proposed or pending acquisition or disposition of land by the municipality or local board;
  - d) Labour relations or employee negotiations;
  - e) Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
  - f) Advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
  - g) A matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
  - h) Information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
  - i) A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
  - j) A trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
  - k) A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.
- (3) Other criteria – A meeting or part of a meeting shall be closed to the the subject matter being considered is,
- a) A request under the Municipal Freedom of Information and Protection of Privacy Act, if the council, board, commission or other body is the head of an institution for the purposes of that Act; or
  - b) An ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ombudsman appointed under the Ombudsman Act, an Ombudsman referred to in subsection 223.13(1) OF THIS Act, or the investigator referred to in subsection 239.2(1).
- (3.1) Educational or training sessions – A meeting of a council or local board committee of either of them may be closed to the public if the following conditions are both satisfied:
- 1. The meeting is held for the purpose of educating or training the
  - 2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee.

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- ~~iv.~~ iv. Before holding a Meeting or part of a Meeting that is to be closed to the public, there shall be a resolution stating:
- a) the fact of the holding of the Closed Meeting and the general nature of the matter to be considered at the Closed Meeting; or
  - b) in the case of a meeting under subsection 19(v), the fact of the holding of the Closed Meeting, the general nature of its subject-matter and that it is to be closed under that subsection, and referencing any applicable file number.
- ~~vii.~~ v. ~~Subject to subsection 19(iii), a~~ Meeting shall not be closed to the public during the taking of a vote except as provided in the Municipal Act, Subsection 239(5) and (6) subsection 19(viii).
- ~~viii.~~ A Meeting may be closed to the public during a vote if:
- ~~a) Subsections 19(iii), (iv) and (v) permit or require the Meeting to be closed to the public; and~~
  - ~~b) The vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the Town or committee of either of them or persons retained by or under a contract with the Town.~~
- ~~ix.~~ vi. Council, Committees of Council, and other Ad Hoc Committees, shall record without note or comment all resolutions, decisions and other proceedings at a Meeting or meeting, whether it is closed to the public or not, and such record shall be made by the Clerk or his/her designate.
- ~~x.~~ vii. The Rules of Procedure shall be observed in ~~Committee of the Whole and Policyies and Priorities Committee sitting in~~ a Closed Session, except the rules respecting a Recorded Vote and the limit on the number of times of speaking. No motion for the previous question, for an adjournment or to refer shall be received. No motion shall be required to be in writing or seconded.
- ~~xi.~~ viii. A Member may at any time move that the Council, Committee of Council, or other Ad Hoc Committee rise to report progress, or to obtain the ruling of the Chair, with leave to sit again. A motion to rise and report shall be decided without debate.

## 20) MINUTES

- i. The minutes of a meeting shall record:
  - a) the place, date and time of the meeting;
  - b) the names of the Chair and record of the attendance of the members;
  - c) the reading, and if requested, correction and adoption of the minutes of prior meetings;
  - d) all other proceedings of the meeting without note or comment;
  - e) disclosure of any Pecuniary Interest and the general nature thereof.
- ii. It shall be the duty of the Clerk or his/her designate to ensure that the minutes of the last regular Meeting of Council and of Committees of Council held more than five (5) days prior to a regular Meeting of Council, together

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with the Agenda prepared in accordance with section 17, and any reports of a Committee of Council, or Ad Hoc Committee received, are mailed, delivered personally or electronically, or made available for pick up at the Municipal Offices to each Member not less than five (5) business days ~~ninety six (96) hours~~ before the hour appointed for the holding of such regular Meeting of Council.

- iii. Such minutes as referred to in subsection 20(ii) may be adopted by Council without having been read at the Meeting considering the question of their adoption, and in other cases, the minutes shall be read prior to consideration of adoption.

## **21) PETITIONS AND COMMUNICATIONS**

- i. Every communication, including a petition designed to be presented to Council, shall be legibly written or printed and shall not contain any obscene or improper material or language and shall be signed by at least one (1) person and filed with the Clerk.
- ii. Every petition or communication shall be delivered to the Clerk before 12:00 noon 4:30 p.m. on the Wednesday no less than ten (10) business days prior to the regular Meeting of Council and shall be in the Form of Petition available from the Clerk.
- iii. The Clerk shall provide to Council and may read the substance thereof to Council but any Member may require the reading of part or all thereof.
- iv. All petitions or communications on any subject within the jurisdiction of a Committee of Council shall be formally received by resolution without debate, unless otherwise disposed of by Council, forthwith and be referred to the appropriate Committee of Council, or Town staff for subsequent report.

## **22) COMMITTEE REPORTS**

Reports of Committees of Council shall not be received by Council unless received by the Members in accordance with subsection 20(ii) and may be recommitted.

## **23) UNFINISHED BUSINESS**

The items listed in the order of the topics set out in the Agenda of prior Meetings which have not been disposed of by Council or a Committee of Council, and the date of their first appearance on the Agenda shall be noted and repeated on each subsequent Agenda until disposed of by Council or a Committee of Council, unless removed from the Agenda by leave of the Council.



**24) READING OF BY-LAWS AND PROCEEDINGS THEREON**

- i. No by-law except a by-law to confirm the proceedings of Council shall be presented to Council unless the subject matter thereof has been considered and approved by Council.
- ii. Every by-law shall be introduced upon motion by a Member, specifying the title of the by-law.
- iii. Every by-law, when introduced, shall be in typewritten form and shall contain no blanks except such as may be required to conform to accepted procedure or to comply with the provisions of any Act and shall be complete with the exception of the number and date thereof.
- iv. Every by-law shall have three (3) readings prior to it being passed and all such readings may or may not take place in the same Meeting of Council, except when requested otherwise by motion of the majority of the Members, provided the majority of Council, or otherwise as required by law, are in favour of the by-law.
- v. ~~Should separate readings be required, the~~ The first reading of a by-law shall be decided without amendment or debate and such motion shall specify the title of the by-law or by-laws and the by-laws shall be dealt with collectively. A Member may request that any by-law be considered separately and upon the request of the Member, the by-law shall, without debate, be removed from the motion and dealt with separately.
- vi. If the Council determines that the by-law is to be referred and considered in Committee of the Whole, it shall be so considered prior to the third reading thereof.
- vii. In proceedings in Committee of the Whole where by-laws are to be considered, each section shall be considered in its proper order, inclusive of the title and recitals.
- viii. If Council so determines, a by-law may be taken as read.
- ix. The Clerk shall set out on all by-laws enacted by Council, the date of the several readings thereof.
- x. All amendments made in Committee of the Whole shall be reported to Council which shall receive the same forthwith and after the report has been received a by-law shall be open to debate and amendment before it is ordered for the third reading.
- xi. When a by-law is reported without amendment, it shall be forthwith ordered to be read the third time at such time as may be appointed by Council.
- xii. Every by-law enacted by Council shall be numbered and dated and shall be signed by the Clerk and the Mayor and sealed with the seal of the Town and shall be deposited by the Clerk in the Municipal Offices for safekeeping.
- xiii. The proceedings at every regular, Special Meeting or emergency Meeting of Council shall be confirmed by by-law so that every decision of Council at that Meeting and every resolution passed thereat shall have the same force and

effect as if each and every one of them had been the subject matter of a separate by-law duly enacted. Confirming by-laws shall not be amendable or debatable.

- xiv. After the by-laws have been passed, the Clerk shall be responsible for their correctness should they be amended at the Council Meeting.
- xv. Pursuant to the provisions of the Act, as amended, the Clerk is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantic or descriptive nature or kind to the by-laws and schedules as may be necessary after the passage of the by-law.

## 25) MOTIONS

- i. Notices of Motion - Notice of all new motions except motions listed in subsections 25(xiii) and (xiv) shall be given, in writing, delivered to the Clerk at least ~~eight (8) business days~~ ~~three (3) calendar days, excluding weekends and Holidays,~~ preceding the date of the meeting at which a motion is to be introduced and a motion shall be printed in full in the Agenda for that meeting and each succeeding meeting until the motion is considered or otherwise disposed of. The motion shall be submitted to the Clerk, in writing, over the signature of the mover and seconder and shall be complete and correct.
- ii. When a Member's, or member's, notice of motion has been called from the Chair at two (2) successive meetings and not proceeded with, it shall be dropped from the Agenda unless Council otherwise decides.
- iii. If at the third meeting such notice of motion is called from the Chair and not proceeded with, it shall be deemed to have been withdrawn.
- iv. Dispensing with Notice - Any motion may be introduced without notice if Council, a Committee of Council, or an Ad Hoc Committee, without debate, dispenses with notice, on the affirmative vote of a two-thirds (2/3) majority of the Members and members, present and voting and such motion must be presented in writing under the signature of the mover and seconder.
- v. Seconding - A motion must be formally seconded before the Chair can put the question or a motion be recorded in the minutes.
- vi. Presentation of Motion by the Chair - When a motion is presented to Council, a Committee of Council, or an Ad Hoc Committee in writing, it shall be read or, if it is a motion which may be presented orally, it shall be stated by the Chair before debate.
- vii. Ultra Vires - A motion in respect of a matter which is beyond the jurisdiction of the Council, a Committee of Council, or an Ad Hoc Committee shall not be in order.
- viii. Withdrawal - After a motion is read or stated by the Chair, it shall be deemed to be in possession of Council, a Committee of Council, or an Ad Hoc Committee, but may, with the permission of Council, a Committee of Council,

- or an Ad Hoc Committee, be withdrawn at any time before decision or amendment.
- ix. Priority of Disposition - A motion properly before Council, a Committee of Council, or an Ad Hoc Committee, for decision must receive disposition before any other motion can be received except motions in respect of matters listed in subsections 25(xii) or (xiii).
  - x. Procedure Next Meeting - A motion called in the order in which it stands upon the Agenda of the routine of business of a meeting and which is not decided by Council, a Committee of Council, or an Ad Hoc Committee, shall be allowed to stand retaining its place upon the Agenda of the routine of business of the next regular meeting.
  - xi. Reference to a Committee - A motion to refer a matter under discussion by the Council to a Committee of Council or an Ad Hoc Committee shall preclude all amendments of the main question until it is decided.
  - xii. Amendments - A motion to amend:
    - a) shall be presented in writing;
    - b) shall receive disposition of Council, a Committee of Council, or an Ad Hoc Committee before a previous amendment or the question
    - c) shall not be further amended more than once provided that further amendment may be made to the main question;
    - d) shall be relevant to the question to be received;
    - ~~e) shall not be received proposing a direct negative to the question;~~
    - ~~f) shall not be received~~ if it would produce the same result as defeat of the main motion;
    - ~~g) may propose a separate and distinct disposition of a question;~~
    - and
    - ~~h) shall be put in the reverse order to that in which it is moved~~
  - xiii. The Previous Question - A motion for the previous question:
    - a) cannot be amended;
    - b) cannot be proposed when there is an amendment under consideration;
    - c) shall preclude all further amendments of the main question;
    - d) when resolved in the affirmative, the question is to be put forthwith, without debate or amendment;
    - e) can only be moved in the following words, "That the question be now put"; and
    - f) may be voted against by the mover and seconder.
  - xiv. Motion to Adjourn - A motion to adjourn:
    - a) shall always be in order except as provided by the Rules of Procedure;
    - b) when resolved in the negative, cannot be made again until after some intermediate proceedings shall have been completed by Council, the Committee of Council, or the Ad Hoc Committee which considered the motion;

- c) is not in order when a Member or member, is speaking or during the verification of a vote,
- d) is not in order immediately following the affirmative resolution of a motion for the previous question.
- xv. Privilege - A motion on a matter of privilege shall receive disposition of Council, the Committee of Council, or the Ad Hoc Committee to which the motion was received forthwith upon receipt and, when settled, the question so interrupted shall be resumed from the point where it was suspended.
- xvi. Motion to Refer - A motion to refer back a question to a Committee of Council or Ad Hoc Committee with or without instructions may be amended but must receive disposition by Council before the question, or an amendment to the question, and when made prior thereto, before decision on a motion for the previous question or postponement.
- xvii. Motion to Divide - When the question under consideration contains more than one (1) distinct part, upon the request of any Member or member, to divide, such request being made prior to the calling of the vote each part or combination of parts contained in the motion, shall be considered and voted on separately.

## 26) RECONSIDERATION

- i. Any substantive motion may be reconsidered if, upon the putting of the substantive motion, the minority vote comprised not less than one-third (1/3) of the Members, and members, present and voting.
- ii. After a substantive motion has been decided, any Member or member who voted or is deemed to have voted thereon may at any time prior to adjournment of the Meeting at which such substantive motion was decided give notice, in writing, that he/she will move at the first meeting held thereafter for a reconsideration thereof.
- iii. Council, the Committee of Council, or the Ad Hoc Committee may immediately, upon such notice having been given, vote as to whether or not such notice or reconsideration be entertained.
- iv. After such notice has been given and accepted, no action shall be taken to carry into effect the main motion until after the motion to reconsider has been disposed of.
- v. If a motion to reconsider is decided in the affirmative, such reconsideration of the original motion shall become the next order of business, unless the motion for reconsideration calls for a future definite date. Debate on the motion to be reconsidered may proceed as though the motion had never previously been decided.
- vi. A motion to reconsider may be introduced by a notice of motion. Neither the mover nor seconder is required to have voted with the majority of Council. This notice of motion shall appear on the Agenda of a subsequent meeting or

the meeting specified by the mover and seconder and shall be in writing under the signature of the mover and seconder.

- vii. Every motion for reconsideration considered at a subsequent meeting shall be declared lost, unless the majority of the Council, Committee of Council or Ad Hoc Committee votes therefore.
- viii. No discussion of the main question shall be allowed upon an accepted notice of reconsideration or upon the motion to reconsider unless and until Council, the Committee of Council or Ad Hoc Committee shall have voted to reconsider the same, but the Member or member, who gives the notice may have the privilege of stating the reasons for doing so.
- ix. No question upon which a notice of reconsideration has been accepted shall be considered more than once, nor shall a vote to reconsider be reconsidered.
- x. The words "the first Meeting held thereafter" in subsection 26 (ii) shall mean the first regular meeting of Council, a Committee of Council, or Ad Hoc Committee or a meeting of Council, a Committee of Council or Ad Hoc Committee called specially to consider the accepted motion of reconsideration of which notice has been given.

## 27) VOTING ON MOTIONS

- i. Declaration of Pecuniary Interest – Every Member or member present, when a question is put, shall vote therein unless he/she has any Pecuniary Interest, direct or indirect. When a Member or member, has a Pecuniary Interest in the question under debate, he/she shall so advise the Council, the Committee of Council, or Ad Hoc Committee, in accordance with the provisions of the Act and the Municipal Conflict of Interest Act, as amended. In instances where Council, or a Committee of Council is meeting in a Closed Session, the Member shall vacate his/her chair and the Meeting until the question is decided and the Clerk shall duly record the circumstances in the minutes.
- ii. Every Member or member present at a meeting of Council, Committee of Council, or Ad Hoc Committee shall vote when a question is put forth, unless prohibited by statute. Members must clearly distinguish their vote when voting on any matter or question. If any Member or member present persists in refusing to vote except for reasons disclosed pursuant to the Municipal Conflict of Interest Act, or any other applicable Act, as amended, such Member or member shall be deemed to have voted in the negative on the question before Council, Committee of Council, or Ad Hoc Committee.
- iii. Questions Stated - Immediately preceding the taking of the vote, the Chair may state the question in the form introduced and shall do so if required by a Member or member except when a motion for the previous question has been resolved in the affirmative. He/she shall state the question in the precise form in which it will be recorded in the minutes.

- iv. No Interruption After Question - After a question is finally put by the Chair no Member or member shall speak to the question nor shall any other motion be made until after the vote is taken and the result has been declared.
- v. Division of Question - A separate vote shall be taken upon each proposal contained in a question divided in accordance with procedures contained in subsection 25(xvii) of this by-law.
- vi. Vote Not Allowed - A Member or member not present before the result of the division on a question is declared, shall not be entitled to vote on that question.
- vii. Unrecorded Vote - The manner of determining the decision on a motion shall be at the discretion of the Chair and may be by voice, show of hands, standing or otherwise.
- viii. Recorded Vote - the conduct of a Recorded Vote at a Meeting of Council or Committee of Council shall be as follows:
  - a) Where a vote is taken for any purpose and a Member or member requests, before or immediately after the vote, that there be a Recorded Vote, each Member or member present, except a Member or member disqualified from voting by any Act, shall, in alphabetical order by surname unless otherwise determined by the Mayor or Chair, announce their vote openly when called upon to do so by the Clerk. The Mayor or Chair, except where disqualified to vote, shall vote on all questions and when so doing, shall vote last.
  - b) When a Recorded Vote is requested by a Member or member, or is otherwise required, the Clerk shall record the name and vote of every Member or member on any matter or question.
  - c) Any Member or member at a Meeting of Council ~~or Committee of Council~~ when a question is put and a Recorded Vote taken, does not vote, shall be deemed as voting in the negative except where prohibited from voting by statute.
  - d) The Clerk shall record in the minutes the name of any Member or member who is not present in the Council chamber when such Recorded Vote is taken.
- ⇒ ix. If a Member or member disagrees with the announcement of the Chair any question is carried or lost he/she may, but only immediately after the declaration by the Chair, appeal the declaration and request that a Recorded Vote be taken.
- ⇒ x. When the Chair calls for the vote on a question, each Member or shall occupy a seat and shall remain in place until the result of the vote has been declared by the Chair, and during such time, no Member or member shall walk across the room to speak to any other Member or member, or make any noise or disturbance.

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~~ix~~ **xi. Secret Ballot** – No vote shall be taken by ballot or any other method of voting and every vote so taken is of no effect, unless explicitly provided in legislation. The only voting that can take place during a Closed Meeting shall be that as provided in subsection 19(viii) of this by-law as provided for in the Act, as amended.

~~x~~ **xii. Tie Vote** – In the event of a tie vote on any motion, it shall be deemed have been decided in the negative, except where expressly provided in statute.

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## **28) RULES OF DEBATE AT A MEETING OF COUNCIL**

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- i. Every Member prior to speaking to any question or motion shall address the Chair. When two or more Members wish to speak, the Chair shall designate the Member who may speak first. Any Member may require the question or motion under discussion to be read at any time during the debate, but not so as to interrupt a Member while speaking. Every Member present at a Meeting of Council when a question is put, shall vote thereon unless prohibited by statute.
- ii. When a Member is speaking no other Member shall pass between him/her and the Chair or interrupt, except to raise a point of order.
- iii. Any Member may require the question or motion under discussion to be read at any time during the debate but not so as to interrupt a Member while speaking.
- iv. No Member shall speak more than once to the same question without leave of Council, except that a reply shall be allowed to be made only by a Member who has presented the motion to Council, but not by any Member who has moved an amendment or a procedural motion, at the discretion of the Chair.
- v. No Member, without leave of Council, shall speak to the same question, or in reply, for longer than five (5) minutes.
- vi. A Member may ask a question, through the Chair, only for the purpose of obtaining information relating to the matter under discussion and such question must be stated succinctly and asked only of the previous speaker, the mover of the motion, or an employee of the Town.
- vii. Notwithstanding subsection (vi), when a Member has been recognized as the next speaker, then immediately before speaking such Member may ask a question of the Chair or an employee of the Town on the matter under discussion but only for the purpose of obtaining information, following which the Member shall speak.
- viii. The following matters and motions with respect thereto may be introduced orally without written notice and without leave, except as otherwise provided in this by-law:
  - a) a point of order or personal privilege;
  - b) presentation of petitions;



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- c) to lay on the table (to defer temporarily);
- d) to postpone for a period not to exceed the end of the third month following the Meeting date, or to a specific day; and
- e) to move the previous question (immediate vote on the main motion).
- ix. The following motions may be introduced without notice and without leave, but such motions shall be in writing and signed:
  - a) to refer;
  - b) to adjourn;
  - c) to amend; and
  - d) to suspend the rules of procedure (two-thirds (2/3) vote required)
- x. Except as provided by subsection 28(viii) above, all motions shall be in writing and signed by the mover and seconder.
- xi. In all unprovided cases in the proceedings of Council, or a Committee of Council, the matter shall be decided in accordance with section 5, and if still unprovided, by the Chair, subject to an appeal to Council upon a point of order.
- xii. It being recognized that the Municipal Conflict of Interest Act, as amended requires only that a Member leave the Meeting when involved in a Closed Session Meeting where the Member has a conflict, in order that there be no opportunity to influence the voting on the matter, whether before, during or after the Meeting, it shall be the practice that Members who have disclosed a Pecuniary Interest shall leave the Meeting room during the deliberations and voting on the matter regardless of the Meeting being held in open or Closed Session.

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## **29) POINTS OF ORDER AND PRIVILEGE**

- i. The Chair shall preserve order and decide questions of order.
- ii. When a Member speaks to a point of order he/she shall ask leave of the Chair to raise a point of order and after leave is granted, shall state the point of order to the Chair and shall wait until the Chair shall have stated and decided the point of order.
- iii. Thereafter, a Member shall only address the Chair for the purpose of appealing the Chair's decision to Council.
- iv. If no Member appeals, the decision of the Chair shall be final.
- v. Council, if appealed to, shall decide the question without debate and its decision shall be final.
- vi. Where a Member considers that his/her integrity or the integrity of Council as a whole has been impugned, he/she may, as a matter of personal privilege, speak at any time, with the consent of the Chair, for the purpose of drawing the attention of Council to the matter.

- vii. Where the Mayor or Chair considers that the integrity of any Town employee has been impugned or questioned, the Mayor or Chair may permit the Chief Administrative Officer or appropriate municipal employee to make a statement to Council.

### **30) CONDUCT OF MEMBERS OF COUNCIL AND/OR PERSONS ADDRESSING COUNCIL**

- i. No Member or person addressing Council, a Committee of Council, or an Ad Hoc Committee, shall speak disrespectfully of the Reigning Sovereign, or of any of the Royal Family, or of the Governor-General, the Lieutenant-Governor of any province, or any Member of the Senate, the House of Commons of Canada or the Legislative Assembly of the Province of Ontario, or any person administering the Government of Canada, Province of Ontario, Regional Municipality of Niagara or the Council of the Town or any member thereof, or any member of the Town's staff.
- ii. No Member or person addressing Council, a Committee of Council, or an Ad Hoc Committee shall:
  - a) use offensive words or unparliamentarily language in or against Council, a Committee of Council, or an Ad Hoc Committee, or against any Member or member;
  - b) speak on any subject other than the subject in debate;
  - c) criticize any decision of Council except for the purpose of moving that the question be reconsidered;
  - d) disobey the rules of Council or a decision of the Chair or of Council on questions of order or practice or upon the interpretation of the Rules of Procedure;
  - e) As provided in the Act, the Mayor or other Chair may expel any person for improper conduct at a Meeting.
- iii. In the event that a Member persists in a breach of the Rules of Procedure prescribed herein, after having been called to order by the Mayor or Chair, the Mayor or Chair shall name the Member and put the question "Shall the Member, (state first name/last name) be ordered to leave his/her seat for the duration of the meeting?" and such question is not debatable.
- iv. If Council decides the question set out in subsection 30(iii) in the affirmative by a majority vote of the Members present, the Mayor or Chair shall order the Member to leave his/her seat for the duration of the Meeting.
- v. If the Member named under subsection 30~~7~~(iii) apologizes, the Mayor or Chair, with the approval of Council by general consent, may permit him/her to resume his/her seat.
- vi. During a Meeting of Council, Committee of the Whole, or the Policy and Priorities Committee, no person except Members and officers of Council shall be permitted to proceed beyond the area set aside for members of the public

or press without permission of the Chair or the Council upon reference. During a meeting of any other Standing Committee or Ad Hoc Committee, no person, except a member of such committee and officers of Council shall be permitted to proceed beyond the area set aside for members of the public or press without permission of the Chair.

- vii. When the Chair is putting the question no Member or member, shall leave or make a disturbance.
- viii. Every Member shall keep confidential any information or documents received by reason of being such a Member. All information, documentation or deliberations received, reviewed or taken in a Closed Session is confidential and shall be returned to the Clerk upon request, prior to meeting adjournment.
- ix. No Member shall release or make public any information considered at a Closed Session or discuss the content of such a Meeting with persons other than Members or relevant staff Members without the authorization of Council.
- x. Any Member who contravenes subsection (ix) shall be deemed not to be acting in the interest of, on behalf of, or with the authority of Council of the Town, and may be subject to such disciplinary action as may be determined by Council.
- xi. Members of Council shall abide by the Code of Conduct for the Town of Pelham, as established by Town policy, which may be amended from time to time.

### 31) PECUNIARY INTEREST

- i. All Town of Pelham business shall be carried out by Member or Members under the terms and extent of the Municipal Conflict of Interest Act, and any amendments made thereto.
- ii. Members shall complete the required Written Statement of Disclosure of Pecuniary Interest which shall state the Member name, Council/Committee Date, Agenda Item Number and title, and state the general nature of the pecuniary interest. The Statement shall be dated and signed by the Member and submitted to the Clerk for retention in the public Conflicts Registry.
- iii. The Clerk, or designate, shall record the interest in the minutes of the meeting, through the electronic meeting management software, and shall make available publicly a register of pecuniary interests disclosed.
- iv. Wherein a Member must not influence the vote on a question where the Member has disclosed an interest, it shall be the practice of Members to vacate the meeting during deliberation and voting on the matter in which the Member has so disclosed.
- v. If a Member is absent from a meeting where a matter is considered for which the Member would have disclosed a pecuniary interest were the Member in attendance, the interest shall be disclosed in full at the next meeting at which

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the Member is present, and such disclosure shall be in the same manner as if the Member were present at the meeting.

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### **32) COMMITTEES OF COUNCIL**

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- i. The Council may appoint such Standing Committees and Ad Hoc Committees, as deemed necessary, by resolution and by-law.
- ii. A Committee of Council, and such other Ad Hoc Committees shall meet in accordance with the schedule of Meetings as adopted by Council and shall be guided by the Rules of Procedure.
- iii. The Clerk or designate shall give notice of all Meetings of every Committee of Council, and such other Ad Hoc Committees, together with the Agenda and support materials of all matters, so far as known, that are to be brought before the Committee of Council or Ad Hoc Committee at such meeting, to every Member or member of the Committee of Council or Ad Hoc Committee so that the Member or member will receive the same at least ~~ninety-six (96) hours~~ five (5) business days prior to the meeting of such Committee of Council or Ad Hoc Committee (i.e. by end of regular workday on the Monday preceding the scheduled Monday meeting).
- iv. A majority of the members of a Committee of Council or Ad Hoc Committee shall be a quorum.
- v. Unless there is a quorum present within thirty (30) minutes after the time appointed for any Meeting of a Committee of Council or Ad Hoc Committee, or when a Committee of Council or Ad Hoc Committee adjourns for want of a quorum, the Clerk shall then record the names of the members present, the time of adjournment and the Committee of Council shall stand adjourned.
- vi. All recommendations of a Committee of Council or other Ad Hoc Committee shall be reported to Council, in writing, and shall be subject to the approval of Council.

### **33) PRESS RELEASES**

No Member or municipal employee shall undertake to issue press releases or claim to speak on behalf of the Town without permission granted by motion in Council or municipal by-law. Communication with the media shall be in accordance with the Town's Communication Plan, as amended, and should be vetted through the Town's Public Relations and Marketing Specialist. Media interviews within the Council Chambers are prohibited during the formal portion of a Meeting. Any press release or media announcement scheduled solely for the purpose of informing the public of a particular matter shall not be deemed to fall within the definition of a "Meeting" as contained in this by-law, regardless if a majority of Members are present, and provided that deliberations on the subject matter will not take place.

**34) TAPING AND/OR RECORDING OF MEETINGS**

- i. Meetings of Council or Committees of Council, which are not held in Closed Session under the provisions of section 19 of this by-law, may be taped, televised or otherwise electronically or mechanically recorded by a cable television company, by any other licensed telecommunications company, or by any freelance person provided that such taping, television or recording is carried out within the designated area and in such a manner as to not interfere with the proceedings of the Meeting. The designated area means the area where the audience is seated or at the rear of the meeting place;
- ii. Meetings of Council or Committees of Council, which are not held in Closed Session under the provisions of section 19 of this by-law, may be taperecorded by Town of Pelham staff and posted to the municipal website for viewing by the general public;
- iii. Freelance individuals and/or representatives of companies wishing to tape, televise or record a Meeting of Council or Committees of Council are to advise Council or the Committee of Council, in writing, setting out the intended use of the tape, at the beginning of the Meeting if they have not so advised the Clerk prior to the Meeting, of their intention to record. Any telecommunications company wishing to tape a Meeting of Council or a Committee of Council is requested to advise the Clerk of its intention at least ~~four (4) one business day~~ hours prior to the commencement of the Meeting. The Clerk, in consultation with the Mayor and Chief Administrative Officer, has the authority to deny permission to any individual and/or representative the right to record the proceedings if it is determined that the use of the recording is inappropriate.
- iv. If, in the opinion of the Chair, the use of such equipment or device is deemed to be disruptive to the conduct of the Meeting, or if prior notification was not provided in accordance with section 34(ii) of this by-law, the recording privileges will be withdrawn from any offending user. The ruling of the Chair shall be final unless a Member appeals the ruling to Council which shall then decide upon the question without debate.

**35) USE OF CELLPHONES, PAGERS, RADIOS**

All cell phones, pagers, radios, tablets, and other devices with a radio transmitter shall be switched "off" or set to non-audible or muted upon entry to the Council Chamber. Only communications facilities utilized by a Member pursuant to subsection 25(v) shall be permitted to be switched "on" and audible.

**36) SUMMER MEETING SCHEDULE**

During the months of July and August, subsection 8(i) shall not apply and regular Meetings of Council shall be held in the Council Chambers at the Municipal Offices on the third Monday of each month at ~~6:30~~ 3:00 p.m. unless Council, by resolution, directs

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otherwise, in which case a notice shall be posted in the Municipal Offices advising of the time and place.

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**37) STAFF DIRECTIONS**

Staff directions shall be through a resolution of Council, or a direction of Committee of the Whole or Policy and Priorities Committee and shall be put in writing to the Clerk prior to the adjournment of the Meeting at which the direction was made, and such resolution shall include a specific delineation of the staff/department responsible to undertake the direction and the expected date of receipt of a resolution report by Council, Committee of the Whole or Policy and Priorities Committee.

**38) PUBLIC NOTICE OF MEETINGS**

The Clerk shall provide public notice of all Meetings of Council, Committees of Council and Ad Hoc Committees, by posting a notice on the website of the Town which includes the place, date and time of the Meeting and the Meeting Agenda. Such published Agenda shall be considered as adequate notice of regular Meetings of Council and Committees of Council, except as otherwise provided for in this by-law. Posting to the website shall occur a minimum of three business days prior to the meeting.

**39) PUBLIC MEETINGS – PLANNING ACT**

- i. Public meetings held pursuant to the Planning Act, as amended, shall be held, whenever practical and in accordance with notice requirements, on the ~~fourth~~ <sup>second</sup> (4<sup>th</sup> 2<sup>nd</sup>) Monday of each month at ~~67:30~~ p.m., at a location to be determined by the Director of Planning Services and Clerk.
- ii. Any Planning matter referred back to Council by the Local Appeals Planning Tribunal shall not be considered as a reconsideration motion.

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**40) REPEAL**

THAT By-law #~~3293(2012)2723(2005)~~ be and the same is hereby repealed upon the effective date as set out below:

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**41) EFFECTIVE DATE**

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THAT ~~this~~ by-law shall become effective ~~upon the date of enactment~~ October 1, 2012.

~~READ A FIRST TIME THIS~~  
~~6<sup>th</sup> DAY OF MAY, 2019 A.M.~~

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~~22<sup>ND</sup> DAY OF MAY, 2012 A.D.~~

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~~READ A SECOND TIME THIS~~

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~~4<sup>TH</sup> DAY OF SEPTEMBER, 2012-???, 2019, A.D.~~

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~~READ A FIRST TIME THIS~~

~~22<sup>nd</sup> DAY OF MAY, 2012 A.D.~~

~~READ A SECOND TIME THIS~~

~~13<sup>th</sup> DAY OF AUGUST, 2012 A.D.~~

~~READ A THIRD TIME AND FINALLY PASSED~~

~~THIS 17<sup>TH</sup> DAY OF SEPTEMBER, 2012??TH DAY OF ??, 2019 A.D.~~

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MAYOR ~~DAVE AUGUSTYN~~ MARVIN JUNKIN

TOWN CLERK, NANCY J. BOZZATO

## **Concept: How Might We allow Assante Wealth Management to upgrade their current business sign to a new electronic sign.**

### **Background:**

Assante Wealth Management operates an office at 77 Highway 20 west Fonthill, they currently have a sign located on their property fronting on Highway 20, which has passed its useful life. The owners would like to remove the old sign and install a new electronic sign.

### **The Challenge:**

The current sign by-law requires all electronic signs to be approved by Council, and the sign be set back 3 meters from the property line, the requested location has a 1.5 meter set back which requires a variance from the bylaw and Council approval. See attached documents which detail the request and the bylaw in question.

### **Our Recommended Solution:**

THAT Committee receive the report entitled Assante sign variance update 2019; and  
THAT Committee recommend approving the variance at the next regular meeting of Council.



March 25, 2019

**TO: Town Council**  
**FROM: Pelham By-law Department**

**Re: SIGN VARIANCE REQUEST FOR**  
Assante Wealth Management  
77 Highway 20, West,  
Fonthill, ON

Assante Wealth Management has applied for a Variance in regard to the installation of a new Electronic Ground Sign on their property. They are seeking relief from the following section of Sign By-law 3310(2012):

**12.2.2 No ground sign shall be located closer to the street line or any other property line than the setback line for a building as established by the Corporations zoning by-law or 3.0m (9.84 ft.), whichever is the lesser.**

Their application is asking relief from the **3.0m (9.84 ft.)** setback requirement and to allow for a **1.5m (4.92 ft.)** set back. The following documents have also been provided by the applicant in this regard and are attached hereto: *Owner permission letter, Sign Permit Application, Site Plan Drawing, and Variance Request Letter.*

In addition to this Variance request the following By-Law Department findings should be noted:

- If the Variance is granted, the location of the sign will comply with section 5.10. and 5.10.7 of the Town of Pelham Sign By-law 3310(2012) which states “**Except as specifically permitted by this By-law, the following signs shall not be erected, located or displayed within the municipality – any sign within any sight triangle.** The location of this sign will fall outside of the Site Triangle at this intersection.
- As well as the requested variance, this sign application also requires approval from Council for the *Electronic Digital Display* portion of this sign. Sign By-law amendment 3548(2014) section 5.8.1 states “**That all Electronic Digital Signs are to be approved by Council or delegate**”
- The requested sign complies with all other sections of the Town’s Sign By-law
- As this sign will be erected adjacent to a Regional Road (Highway 20 West) it will also require a permit from the Region of Niagara in addition to a Permit issued by the Town of Pelham. **Section 5.8** of the Town of Pelham Sign By-law states “**Where signs are regulated by more than one authority having jurisdiction, such signs shall be erected in accordance with the regulations of the most restrictive regulating authority**”. In this application the Town of Pelham’s Sign By-law is more restrictive than the Region of Niagara’s Sign By-law.
- **Section 4.4.3** of the Town of Pelham Sign By-law Amendment 3548(2014) states “**Subject to clause 4.4.1 and 4.4.2 the sign requiring a Permit falls under the definition of Portable Ground Sign, Temporary Special Event Sign or Ground Sign in which case the permit will be issued by the Director of By-law Services or their delegate**”.

Report prepared by; Senior Bylaw Officer Craig Genesse  
Report Approved by; Director Of By Law services R Lymburner



**Assante**  
WEALTH MANAGEMENT

1977670 Ontario Inc.  
c/o Trevor Marsh, CPA, CA, CFP  
Chartered Accountant  
Certified Financial Planner  
Wealth Advisor

Assante Wealth  
Management  
(Canada) Ltd.  
1977670 Ontario Inc.  
77 Hwy 20 West Box 194  
Fonthill, ON L0S 1E0

T: (905) 641-6654  
C: (905) 933-6577  
F: (905) 641-5757

[www.assante.com/advisors/tmarsh/](http://www.assante.com/advisors/tmarsh/)

February 28, 2019

Town of Pelham  
20 Pelham Town Square  
Fonthill ON L0S 1E0

**Re: 1977670 Ontario Inc. Authorization to Act**

This letter authorizes Signature Sign & Image permission to act on behalf of 1977670 Ontario Inc., owner of the property located at 77 Hwy 20 West, Fonthill, ON. for the purposes of dealing with the Town of Pelham regarding a Ground Sign Permit application.

Trevor Marsh, CA, CPA, CFP  
Vice-President  
1977670 Ontario Inc.

# Application for Sign Permit

Town of Pelham

For Office Use Only			
Application number		Permit number (if different):	
Date received:		Roll number:	
<p>Application submitted to: <u>The Town of Pelham</u></p> <p>(Name of municipality, upper-tier municipality, board of health or conservation authority)</p>			
<b>A. Project information</b>			
Building number, street name		Unit number	Lot/con.
77 HWY 20 WEST			
Municipality	Postal code	Plan number/other description	
Fonthill	LOSIES		
Project value est. \$			
20,000.00			
<b>B. Purpose of application</b>			
<input checked="" type="checkbox"/> New Sign		<input type="checkbox"/> Modification to Existing Sign	
<b>Description of proposed work: please check one</b>			
<input checked="" type="checkbox"/> Ground Sign <input type="checkbox"/> Wall Sign <input type="checkbox"/> Portable Ground Sign – Proposed Display Dates: _____ <input type="checkbox"/> Pole Sign <input type="checkbox"/> Roof Sign <input type="checkbox"/> Projecting Sign <input type="checkbox"/> Other Sign – Specify _____			
Note: Sign descriptions can be found in the Pelham Sign By-law 3310(2012) online at <a href="http://www.pelham.ca">www.pelham.ca</a> under the By-law Section			
<b>C. Applicant Information:</b>			
Applicant is:		Owner or <input checked="" type="checkbox"/> Authorized agent of owner	
Last name	First name	Company Name	
CAPONE	KAREN	SIGNATURE SIGN & IMAGE	
Street address		Unit number	Lot/con.
4875 EAST AVENUE			
Municipality	Postal code	Province	E-mail
NIAGARA FALLS	L2H 1T5	ONT	karen@signaturesigns.ca
Telephone number	Fax	Cell number	
(905) 357 0885	(905) 357 1967	( )	
<b>D. Owner Information (if different from Applicant)</b>			
Last name		First Name	
CORCORAN		SEAN	
Street address		Company Name (if applicable)	
77 HWY 20 WEST		ASSANTE WEALTH MGMT	
Municipality	Postal code	Province	E-mail
Fonthill	LOSIES	ONT	SCORCORAN@ASSANTE.COM
Telephone number	Fax	Cell number	
(905) 441-9292	( )	( )	



### E. Required Attachments

- i) Attach 2 Sets of Site Plan Drawings (Site plan drawings must show the lot and its dimensions, existing buildings, dimensions of buildings, the location on the lot or building where the sign is to be placed or installed.
- ii) 2 Sets of drawings or pictures showing the proposed sign and its dimensions.
- iii) For all signs EXCEPT Portable Ground signs: include a description of materials that make up the construction of the sign and the hardware and materials to be used for the installation of the sign on the building or in the ground.

### H. Completeness and compliance with applicable laws

Initials

i) I understand that all Electrical wiring must be inspected by the Electrical Safety Authority (ESA). I must file separate Inspection Applications (permits) with the ESA. For More information and to arrange an inspection by an ESA Inspector please call the Electrical Safety Authority at 1-877-372-7233 or visit their website at <a href="http://www.esasafe.com">www.esasafe.com</a> .	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
ii) This application is accompanied by the plans and specifications prescribed by the applicable by-law, resolution or regulation made under clause 7(1)(b) of the <i>Building Code Act, 1992</i> .	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
iii) The proposed sign will not contravene any applicable law including regulations and restrictions outlined in the Town of Pelham's Sign By-law 3310-2012 which is available on the Towns Website at <a href="http://www.pelham.ca">www.pelham.ca</a>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	

### I. Declaration of applicant

I Karen Copone declare  
that: (print name)

1. The information contained in this application plans, specifications, and other attached documentation is true to the best of my knowledge.
2. If the owner is a corporation or partnership, I have the authority to bind the corporation or partnership.

Jan 29/19

Karen Copone

Date

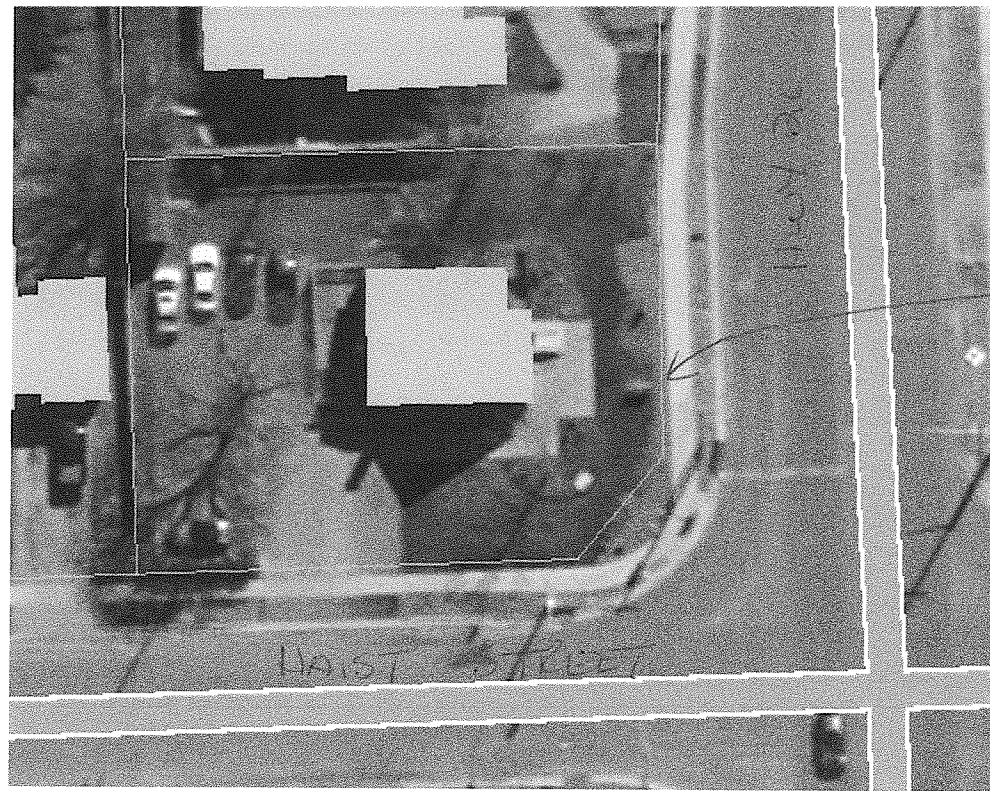
Signature

Personal information contained in this form and schedules is collected under the authority of subsection 8(1.1) of the *Building Code Act, 1992*, and will be used in the administration and enforcement of the *Building Code Act, 1992* and all applicable By-laws. Questions about the collection of personal information may be addressed to: a) the Director of By-law Services of the municipality or upper-tier municipality to which this application is being made, or, b) Director, Building and Development Branch, Ministry of Municipal Affairs and Housing 777 Bay St., 2nd Floor, Toronto, M5G 2E5 (416) 585-6666.



Fire & By-Law  
Services

Return this completed Application with all necessary documentation to Fonthill Fire Station One, 177 Highway 20 West, Fonthill Ontario, L0S 1E0., Att: By-Law Services Division/ Sign Permits (p) 905.892.2607 ext. 201.

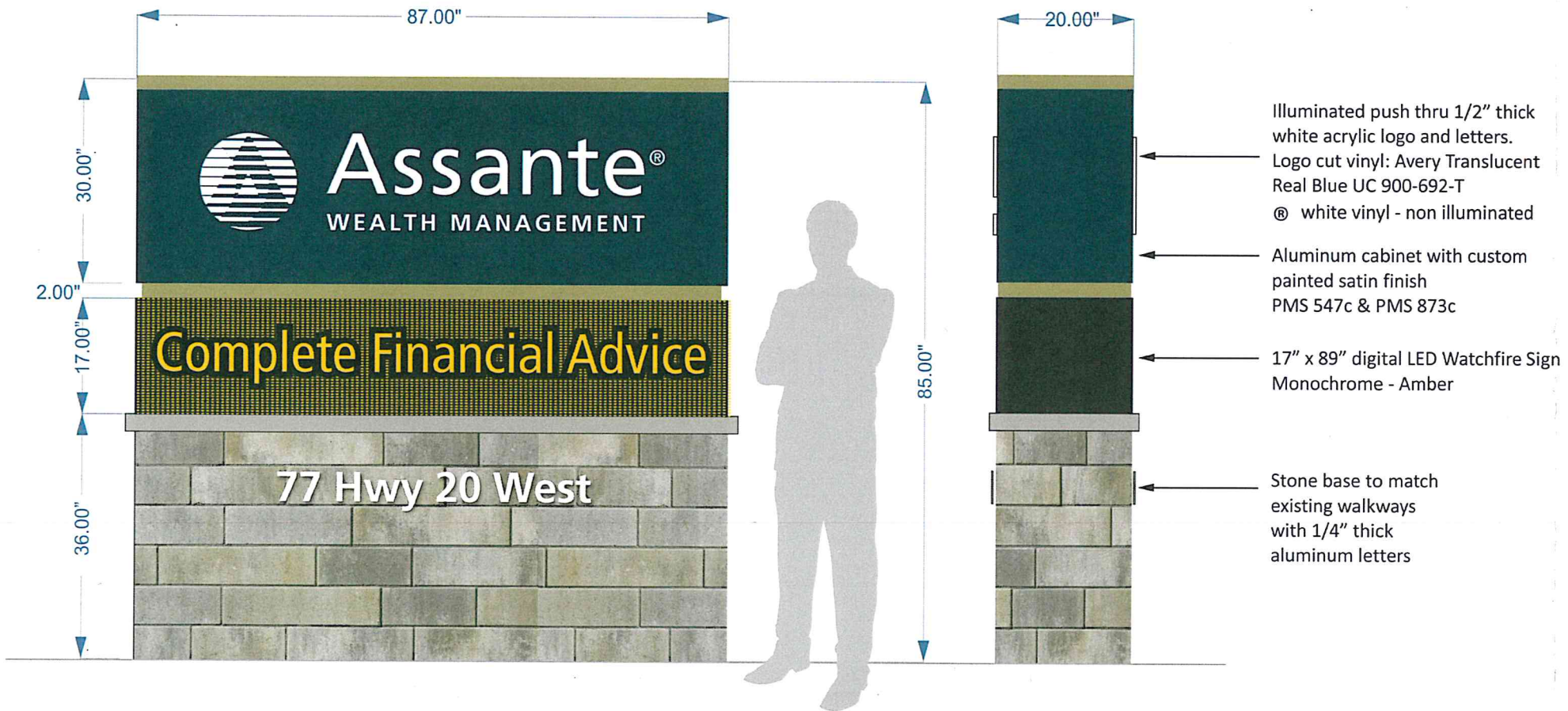


REMOVE AND  
REPLACE EXISTING  
SIGN IN SAME  
LOCATION

PROPERTY LINE TO  
LEADING EDGE  
OF SIGN IS LESS  
THAN THE REQUIRED  
3 METERS.

SET BACK WOULD  
BE 1.5 METERS





Navy Blue  
Pantone 547c



Metallic Gold  
Pantone 873c



4875 Kent Avenue  
Niagara Falls, Ontario L2H 1J5  
www.signaturesigns.ca  
t:905-357-0885 f:905-357-1967

Client:

Assente Wealth  
Management -  
New sign for Fonthill Office  
77 Hwy 20W,  
Fonthill, Ontario

Date: 12/18/18

File:  
Assente Wealth Management

Designer: Elaine Wallis

Job# 181549 Page# 1

Revision: Date:

1

2

CLIENT APPROVAL:

Date:

THIS DRAWING REMAINS THE EXCLUSIVE PROPERTY OF SIGNATURE SIGN & IMAGE. THIS DESIGN CANNOT BE COPIED IN WHOLE OR IN PART, ALTERED, OR EXHIBITED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF SIGNATURE SIGN & IMAGE. THE EXCEPTION IS ANY PREVIOUSLY COPYRIGHTED ARTWORK SUPPLIED BY THE CLIENT.

UNLESS OTHERWISE NOTED, ALL COLOURS PORTRAYED ARE REPRESENTATIVE ONLY.



Dear Pelham Council;

We are excited to present an opportunity for new sign with a digital display for Assante Wealth Management. The reason for this letter is to bring rational towards this business receiving an electronic message centre (EMC) as a part of their main ground sign out front of the business. The EMC presents many opportunities for this business to grow and inform the surrounding community of the important information they wish to put out.

We are applying for relief of the Town of Pelham by-law 3310 (2012) which includes the following: Under the zoning by-law the frontage would be considered the property line along Hwy 20 & Haist st., there can only by one ground sign on that property so the sign that is on Haist St will be removed. The location of the new ground sign will be set back within the 3 m allowance from the property line limit where the current sign resides. We are unable to move the sign back further as it will interfere with their stone patio. The sign by-law states that the sign shall be under 50 sq/ft. Our sign is 87" x 46.75" (7.25 ft x 3.895 ft) =28.23 sq/ft with a stone base that is 89" x 18"h (7.416 ft x 1.5 ft) = 11.124 sq/ft with a total square footage of **39.354 sq/ft.**

We feel the new sign will bring an updated presence to their business so they can fit in and market to the mix of new development that has taken place in the surrounding area. We are fully aware that some brands of EMC's look intrusive, have brightness issues at night, will flicker and glitch when dysfunctional and can be an overall eye sore to many. Our brand of EMC is top of the line. We have photo eye sensor and GPS location built in so the screen will automatically dim as ambient conditions change. There is an on off feature that will allow the screen to turn off after hours, a discussion could be had by council as to what are appropriate times to have the screen operational, so we do not disturb the surrounding community at night. When we use this on off feature, it allows the sign to continuously have power to keep cooling fans operational while only having the display remain blank. This is especially important for longevity and maintaining a working product for many years.

This sign will allow the business to market themselves efficiently and effectively. They will be able to display seasonal messages relating to their business, local events, local charity events, amber alerts, and missing persons alerts if they decide to participate. Very useful tool. We hope you consider our proposal an honest attempt to help this business grow and follow the current market trend.

Sincerely,

Mark Wallis



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Vice President of Signature Sign & Image

## Concept: How Might We Partner with Trout Unlimited?

### Background:

On February 21<sup>st</sup>, 2019, the Mayor and the Director of Public Works & Utilities met with members of the local chapter of Trout Unlimited (TU) to discuss the health of the Twelve Mile Creek, and how development and Public Works activities have significant impact on that health.

The meeting was a success, with everyone agreeing that Trout Unlimited can help the Town improve practices that affect stream health and develop guidelines for lower impact development, while the Town can offer opportunities with projects through local post-secondary institutions and TU regarding stream health, roadway design and culvert/ stream repairs.

Since this meeting, TU has made a presentation to council and has requested that council direct staff to explore opportunities associated with developing a partnership between the Town of Pelham and TU. The partnership would be focused on maintaining the environmental health and sustainability of the 12 Mile Creek through the development of best practices related the Public Works Operations procedures and providing input and expertise regarding capital projects which effect the 12 Mile Creek. TU has expressed interest and will be an important stakeholder in the Sulphur Springs Road Failure Reconstruction project when considering the various reinstatement alternatives moving forward.

The principles of this partnership are outlined in the attached letter.

### The Challenge:

How might we partner with TU to help protect stream health?

### Our Recommended Solution:

**That Committee receive the Public Works report, Trout Unlimited Principles of Partnership, and**

**That Committee recommend Council endorse the partnership as outlined.**



**Rationale:**

The rationale for this partnership is to help preserve and maintain the environmental health and sustainability of the 12 Mile Creek in the Town of Pelham.

**Measure of Success:**

The measure of success will be the development of policies, procedures, and best practices to ensure that the activities within the Town of Pelham's Public Works Department are undertaken while keeping the environmental health of the 12 Mile Creek in mind. In addition, TU will serve as an important stakeholder with respect to the design and construction of capital projects affecting the 12 Mile Creek.

**Milestones:**

The Town of Pelham and TU will meet on an annual basis to review the partnership and the activities that may affect the health and sustainability of the 12 Mile Creek.

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**Prepared by:**

Jason Marr, P. Eng.  
Director, Public Works & Utilities

---

**Recommended by:**

Teresa Quinlin  
Interim Chief Administrative Officer, Treasurer, Director of Corporate Services

Appendix 1 – Twelve Mile Creek Principles of Partnership

Appendix 2 – Addendum to Public Works Letter

Andrea Clemencio  
Director of Public Works  
20 Pelham Town Square, Fonthill, ON L0S 1E0

Dennis Edell  
Chair, Niagara Chapter Trout Unlimited  
2494 Fifteenth Street, St. Catharines, ON L2R 6P7



Subject: Twelve Mile Creek Principles of Partnership

We are pleased to propose a partnership in principle between the Town of Pelham and the Niagara Chapter of Trout Unlimited Canada for the purposes of improving the aquatic health of the headwaters of Twelve Mile Creek, Niagara's only year-round cold water resource

Trout Unlimited Canada is a charitable organization and Canada's leading advocate for cold-water conservation. The Niagara Chapter focuses on improving the headwaters of aquatic habitat of Twelve Mile Creek.

The Headwaters of Twelve Mile Creek lie within the Town of Pelham, Ontario and is composed of five unique and historic villages: Effingham, Fenwick, Fonthill, North Pelham, and Ridgeville.

Brook Trout, once populous throughout Twelve Mile Creek, are important indicators of stream health since they are very susceptible to increases in temperature, turbidity, sedimentation, and disturbance. Unfortunately, in recent years, development in the headwaters of Twelve Mile Creek has put at risk the resident population of Brook Trout - the only trout species that is native to the Niagara Region's streams. This clearly suggests a degradation of this important watershed.

Trout Unlimited has been working with landowners to help bring back the Brook Trout by increasing shade and stabilizing stream banks through the planting of trees and native plants on private properties. These actions will help reduce excessively warm temperatures in the summer and stop harmful erosion.

As these waters are located mostly within the boundaries of the Town of Pelham meaningful improvements require close cooperation between landowners and the Town and various agencies of government that regulate stream improvements.

The Town of Pelham and Trout Unlimited agree that partnership can be an important ingredient in the improvement of the aquatic health of Twelve Mile Creek. Some of the dynamic actions could include:

- Adopting proactive public works policies regarding mowing or spraying of trees and plants adjacent to Twelve Mile Creek as well as managing runoff from road salt that lead directly into Twelve Mile Creek
- As part of the approval process assessing the environmental impact of all road improvement actions on the aquatic health of Twelve Mile Creek

- Undertaking or assisting with projects designed to rehabilitate streams such as roadway design, removal of obstructions, culvert and stream bank repairs, assessing other areas of improvement and monitoring stream health
- In all new development within the Town, take into consideration the impact increased runoff will have on the Headwaters of the Twelve, which originate within 500 metres of Highway 20.

To this end the Niagara Chapter of Trout Unlimited Canada and the Town of Pelham agree to the following partnership principles:

1. Prepare a declaration for Town Council expressing the Town of Pelham's commitment to actions and policies that will improve the health of Twelve Mile Creek;
2. Meet on an as needed basis and at least once a year to review policies plans and projects that might impact Twelve Mile Creek and discuss options and mitigation measures;
3. Communicate on a regular basis on work that Trout Unlimited is doing in the headwaters especially where this work impinges on Town property;
4. Advise on stream rehabilitation strategies and help develop projects where graduate students in Niagara College's Environmental Programs can best deploy their expertise and co-operate in overseeing these projects;
5. Exchange information and ongoing advice pertaining to issues that might affect the health of the headwaters of Twelve Mile Creek including actions by the Town and possible problematic actions by landowners;
6. Coordinate outreach to citizens for education and awareness of their role in improving the health of cold water resources;
7. Consider supporting the work of Trout Unlimited on Twelve Mile Creek via financial and in-kind services
8. Agree to review these principles of partnership annually and report on progress

We are pleased to move forward based on these principles and look forward to a long and productive relationship.

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Niagara Chapter Trout Unlimited

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Town of Pelham

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## Addendum to Pelham Works Letter

### 1. Altered Flow Regimes and Holding Ponds

The Region of Niagara states that it supports Green Infrastructure (aka Low Impact Development Strategies (LIDS)) in its Official Plan. All urban area development should be undertaken only if the natural water balance can be protected. This means that water should not simply be passed from impervious areas (roads, roof tops, parking areas/driveways) to storm water ponds and then into the Twelve. Water from urban areas must also be allowed to evapotranspire and infiltrate as it did prior to development. This is the only way that baseflow in the watershed can be preserved and flows can be kept from becoming too 'peaky' and thus highly erosive. This appears to be the main problem in the Twelve. Pelham does not yet appear to be in line with the Region's Official Plan in this regard. Source: <http://greeninfrastructureontario.org/green-infrastructure-ontarios-official-plans-update/>

Flooding of inadequate holding ponds in existing developments in Fonthill has led to vastly increased sedimentation and channel alteration in Twelve Mile Creek. The maintenance of these ponds into the future is in question. Who is responsible, and what measures are being taken to ensure upkeep and proper function of these ponds? Increased flows are causing erosion and sedimentation problems through all channels downstream of the Fonthill Urban Area, right into Short Hills Provincial Park. (See figure 1 attached)



### 2. Road design and maintenance

In many instances, road design actually directs runoff of rainwater and salt-laden snow and sand into the fragile headwaters, polluting and warming the stream where it is most vulnerable (i.e. Metler Road). Snow removal, salting and sanding, and road maintenance must be undertaken with consideration of the importance and fragility of the Twelve Mile Creek ecosystem.

Of specific concern is Sulphur Springs Road, where excessive runoff (caused by inadequate measures taken upstream due to urban development) has caused a catastrophic failure of the roadway. The resulting sedimentation has adversely affected the stream all the way down to Short Hills Park. The failure of the Gabion Baskets in this stretch of the stream illustrates the need for long term solutions that are ecologically sustainable and suitable for fish habitat value such as bioengineered live crib wall and mechanically stabilized earth structures (MSE) planted with suitable riparian plant species (see <https://www.layfieldgroup.com/Landing-Pages/Flex-MSE-Retaining-Wall.aspx>). (See figures 2 and 3)



### 3. Riparian planting and maintenance

The Town is in some areas, actively removing riparian vegetation in road rights-of-way abutting Twelve Mile Creek that are clearly not causing sight line problems or blockage of roads (see figure 4). Stream shading vegetation needs to be left in place wherever possible. The preservation and augmentation of riparian vegetation stabilizes stream banks and provides shading that cools the stream; its removal allows erosion and sedimentation, and contributes to the warming of the watershed. Using native species in the riparian zone is good practice both in terms of aesthetics and effectiveness.



## Concept: How Might We Adopt the Code of Conduct and Complaint Protocol

### Background:

As Committee is aware, on January 21, 2019 Council authorized the execution of an agreement with ADR Chambers Inc. for the purpose of providing services of an Integrity Commissioner, and subsequently approving the Code of Conduct, in principle with direction that the Integrity Commissioner review and provide comment.

Mr. McDermott, the Integrity Commissioner assigned to Pelham through ADR Chambers Inc., has reviewed the Code and suggested a few minor revisions, appended.

The next step will be to obtain final approval on the Code of Conduct whereupon Mr. McDermott will subsequently provide an Orientation session for Council.

ADR Chambers Inc. has proposed a simplified complaints procedure which has been adopted for a number of other municipalities, including the Region of Niagara and the Town of Niagara-on-the-Lake. This simplified procedure is appended to the Code of Conduct. A second version, quite detailed, is also included for Committee's consideration however in the experience of ADR Chambers, the more detailed protocol is not recommended.

### The Challenge:

The Code of Conduct will apply to all Members of Council and members of Local Boards. The Integrity Commissioner will attend a meeting of Council to provide an orientation on the new Code and training for Local Boards will follow, to be facilitated by staff.

### Our Recommended Solution:

**THAT the Policy & Priorities Committee receive the report, Integrity Commissioner Review and proposed Amendments to Code of Conduct; and**

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Integrity Commissioner Review and Proposed Amendments to Code of Conduct  
April 15, 2019

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**THAT Committee recommend that the Code of Conduct, as amended, be presented to Council for final approval on May 6, 2019 which shall be in place for the Members of Council and Local Boards; and**  
**THAT staff be directed to prepare the necessary By-law to adopt said Code; and**  
**THAT Policy S201-15 be repealed and replaced with the new Code of Conduct; and**  
**THAT Policy S201-16 (Code of Conduct for Board and Committee Appointees) be repealed.**

Alternatives:

Committee could recommend the more detailed Complaint Protocol as the preferred option.

Consultation:

Prepared by the Town Clerk in consultation with T. McDermott, ADR Chambers Inc.

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## KEY FACTS:

The Municipal Act, 2001, requires that Council adopt a Code of Conduct.

## HOW MIGHT WE:

*How Might the Town of Pelham* establish a general standard to ensure all Members of Council share a common basis for acceptable conduct on a foundation of integrity, transparency, justice, truth, honesty and courtesy?

## SOLUTION STATEMENT:

### 1.0 Application

- 1.1 This Code of Conduct applies to Members of the Council of the Town of Pelham, including the Mayor and, unless specifically provided, with necessary modifications to all Town committees, agencies, boards and commissions, which are defined as local boards in the *Municipal Act, 2001*.
- 1.2 The purpose of this Code of Conduct is to establish a general standard to ensure that all Members share a common basis for acceptable conduct, and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and requires Members to follow the Procedural By-law and other sources of applicable law, including but not limited to:
  - *Municipal Act, 2001*
  - *Municipal Conflict of Interest Act*
  - *Municipal Elections Act, 1996*
  - *Municipal Freedom of Information and Protection of Privacy Act*
  - *Human Rights Code*
  - *Occupational Health and Safety Act*
  - *Provincial Offences Act*
  - *Criminal Code*



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## 2.0 Statement of Principles

- 2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Town by its Members as duly elected public representatives to ensure that they each operate from a foundation of integrity, transparency, justice, truth, honesty and courtesy.
- 2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:
- Members shall serve and be seen to serve the public in a conscientious and diligent manner;
  - Members shall observe and act with the highest standard of ethical conduct and integrity;
  - Members shall avoid the improper use of the influence of their office and act without self-interest;
  - Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;
  - Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence;
  - Members shall be cognizant that they are at all times representatives of the Town and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the Town; and
  - Members will uphold the laws of Canada, Ontario and the laws and policies adopted by Council.

## 3.0 Definitions

- 3.1 The following terms shall have the following meanings in this Code of Conduct:
- (a) “CAO” means the Chief Administrative Officer of the Town;
  - (b) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
  - (c) “confidential information” means information or records that are in the possession, in the custody or under the control of the Town that the Town is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedural By-law or any of its other by-laws, policies, rules or procedures, or that it is required to

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refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;

- (d) “conflict of interest” means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative such that it might influence his or her decision in a particular matter;
- (e) “Council” means the council for the Town;
- (f) “frivolous” includes something that is not worthy of serious consideration or that is of little or no importance, due to its lack of seriousness or sense;
- (g) “Member” means a Member of the Council for the Town;
- (h) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (i) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (j) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (k) “staff” means the CAO and all commissioners, officers, directors, managers, supervisors and all individual members of staff, whether full-time, part-time, contract, seasonal or volunteer, as well as agents and consultants acting in furtherance of the Town’s business and interest;
- (l) “Town” means The Corporation of the Town of Pelham;
- (m) “vexatious” includes something that is instituted without sufficient grounds and serving only to cause annoyance, frustration or worry.

## 4.0 General Obligations

### 4.1 In all respects, Members shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Town’s Procedural By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;

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- (d) seek to serve their constituents in a conscientious and diligent manner;
- (e) respect the individual rights, values, beliefs and personality traits of any other person;
- (f) refrain from making statements the Member knows or ought reasonably to know to be false or with the intent to mislead Council or the public;
- (g) accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings; and
- (h) refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

## 5.0 The Role of Staff

- 5.1 Council as a whole approves the budget, policies and governance of the Town through its by-laws and resolutions. Individual Members do not direct or oversee the functions of the staff of the Town.
- 5.2 The Town's staff serve Council and work for the Town as a body corporate under the direction of the CAO. Inquiries of staff from Members should be directed to the CAO or to the appropriate senior staff as directed by the CAO. Members shall not publicly criticize staff. Should a Member have any issue with respect to staff such issue shall be referred to the CAO who will direct the matter to the particular staff member's appropriate superior.
- 5.3 Members shall respect the role of staff in the administration of the business affairs of the Town. Members shall respect that staff:
  - (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
  - (b) work within the administration of the business affairs of the Town and Members must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of the work of staff and, therefore, Members shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity; and
  - (c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, Members must

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not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

## 6.0 Town Property

- 6.1 Council is the custodian of the assets of the Town. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.
- 6.2 By virtue of their office or appointment, Members must not use or permit the use of the Town's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Town. No Member shall seek financial gain for themselves, family or friends from the use or sale of Town owned intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the Town.

## 7.0 Gifts and Benefits

- 7.1 Gifts to Members risk the appearance of improper influence. Gifts may improperly induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the Town. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality or any form of personal benefit connected directly or indirectly with the performance of his or her duties except as provided in Section 10.3. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.
- 7.2 For greater clarity, despite Section 7.1, Members are entitled to accept any compensation, remuneration or benefits authorized by law and shall not accept any gift or benefit in their public capacity other than in the following circumstances:
  - (a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
  - (b) a political contribution otherwise reported by law, in the case of Members running for office;
  - (c) services provided without compensation by persons volunteering their time;

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- (d) nominal tokens, mementos or souvenirs received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;
- (e) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity;
- (f) entrance fees or food and beverages consumed at banquets, receptions or similar events, if:
  - (i) attendance serves a legitimate municipal business purpose related to the normal business of the Town,
  - (ii) the person extending the invitation or a representative of the organization is in attendance, and
  - (iii) the value is reasonable and the invitations are infrequent;
- (g) gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.); and
- (h) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

7.3 A Member who has received and accepted and gift or benefit pursuant to Section 7.2 shall file a disclosure of the gift or benefit indicating the person, body or entity from which it was received together with the estimated value of the gift or benefit. The list shall be provided to the Town's Clerk on a quarterly basis commencing on March 31 of every year and shall be a matter of public record and posted to the Town's website.

7.4 No Member shall seek or obtain by reason of his or her office any personal privilege or advantage with respect to municipal services not otherwise available to the general public and not connected directly or indirectly to the performance of the Member's duties.

## 8.0 Confidential Information

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- 8.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes information received in confidence by the Town that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council. Examples of types of information that a Member must keep confidential, unless expressly authorized by Council or as required by law, include, but are not limited to:
- (a) matters related to ongoing litigation or negotiation, or that is the subject of solicitor-client privilege between the Town and its Legal Counsel;
  - (b) information provided in confidence, for example the identity of a complainant where a complaint is made in confidence;
  - (c) price schedules in contract tender or Request for Proposal submissions if so specified;
  - (d) personnel matters about an identifiable individual;
  - (e) “personal information” as defined in the *Municipal Freedom of Information and Protection of Privacy Act*; and
  - (f) any census or assessment data that is deemed confidential.
- 8.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting. A Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. All confidential documents received at a closed meeting are to be turned into the Clerk at the end of the closed meeting. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.
- 8.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Town that is relevant to matters before the Council, or a committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Town and must follow the same processes as any private citizen to obtain such information.
- 8.4 Members shall not misuse confidential information in any way or manner such that it may cause detriment to the Town, Council or any other person, or for financial or other gain for themselves or others.



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- 8.5 Members shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, Town policies, procedures and rules, ethical standards and, where appropriate, professional standards.
- 8.6 A Member shall not disclose any confidential information received by virtue of his or her office, even if the Member ceases to be a Member.

## 9.0 Discrimination and Harassment

- 9.1 Members shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that the work environment for employees who work for the Town is free from discrimination and harassment.
- 9.2 Members shall not use indecent, abusive or insulting words, phrases or expressions toward any member of the public, another Member or staff. Members shall not make comments or conduct themselves in any manner that is discriminatory to any individual based on the individual's race, colour, ancestry, citizenship, ethnic origin, place of origin, creed or religion, gender, sexual orientation, marital status, family status, disability, age or record of offences for which a pardon has not been granted.
- 9.3 Members shall comply with the Town's "Respectful Workplace Policy" and "Council/Staff Relations Policy".

## 10.0 Improper Use of Influence

- 10.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.
- 10.2 Members shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.
- 10.3 Members who are asked to support charitable activities within the community may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. In doing so, Members

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shall ensure that they do not have a conflict between their private interest and their duties to the public. Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds.

## 11.0 Conflicts of Interest

- 11.1 Members shall avoid conflicts of interest, both pecuniary and non-pecuniary. Members shall take proactive steps to mitigate conflicts of interest in order to maintain public confidence in the Town and its elected officials. Members are encouraged to seek guidance from the Integrity Commissioner (if enabled by legislation to do so) and/or legal advice when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, pecuniary or non-pecuniary.

## 12.0 Council Policies and Procedures

- 12.1 Members shall observe and adhere to the policies, procedures and rules established by Council.

## 13.0 Election Activity

- 13.1 Members of Council are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any Town policies. The use of the Town's resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

## 14.0 Respect for the Code of Conduct

- 14.1 Members shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the Town. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. Members shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner.



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

### 15.0 Penalties for Non-Compliance with the Code of Conduct

15.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council may impose the following penalties on the Member:

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

15.2 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following actions in furtherance of a reprimand, and require that the Member:

- (a) provide a written or verbal apology;
- (b) return property or make reimbursement of its value or of money spent;
- (c) be removed from or not be appointed to the membership on a committee of Council;
- (d) be removed from or not be appointed as chair of a committee of Council.

### 16.0 Complaint Protocol

16.1 The procedure for filing complaints alleging that a Member of Council has contravened the Code shall be governed by the policies of Council as amended from time to time. The current Complaint Protocol is Appendix 1 to the Code of Conduct.



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# Appendix 1

## Complaint and Investigation Protocol

### Code of Conduct

\*Subject to amendment in accordance with the policies of Council from time to time.

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**Council Code of Conduct**  
**Complaint and Investigation Protocol**

Under Section 223.4(1) of the Municipal Act, 2001, Council, a Member of Council or a member of the public may request the Integrity Commissioner to conduct an inquiry about whether a member of Council has contravened the Town Council Code of Conduct.

**1. Request for Inquiry**

- I. A request for an inquiry shall be in writing.
- II. All requests shall be signed by an identifiable individual (which includes the signing officer of an organization).
- III. A request shall set out all reasonable and probable grounds for the allegation that the member has contravened the Town Council Code of Conduct and shall include a supporting affidavit that sets out the evidence in support of the complaint in the form set out in this protocol.
- IV. Staff in the Town Clerk's office, who are Commissioners of Oaths, are authorized to swear the supporting affidavit.
- V. In a regular municipal election year between the fourth Friday in July ("nomination day") and voting day, a Code of Conduct complaint may not be filed and any uncompleted inquiries into outstanding complaints under the Code of Conduct shall be terminated, provided that either the Complainant or the Councillor whose conduct is affected by the complaint may, within six weeks after the voting date, request the Integrity Commissioner to recommence any investigation relative to the terminated complaint.

**2. Initial Review by Integrity Commissioner**

- I. The request shall be filed with the Town Clerk who shall forward the matter to the Integrity Commissioner for initial review to determine if the matter is, on its face, a complaint with respect to non-compliance with the Council Code of Conduct and not covered by other legislation or other Council policies.
- II. If the request does not include a supporting affidavit, the Integrity Commissioner shall defer the review until an affidavit is received.
- III. If the complaint, including any supporting affidavit, is not on its face, a complaint with respect to non-compliance with the Council Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner may inform the Town Clerk to advise the Complainant in writing as follows:

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- a. If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the matter should be referred to the appropriate authorities and the Town Clerk shall advise the Complainant that if the Complainant wishes to pursue any such allegation, the Complainant must pursue it with the appropriate police service;
  - b. If the complaint on its face relates to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the Complainant should be advised that the matter will be referred to the Town Clerk for review.
  - c. If the complaint on its face is with respect to non-compliance with a more specific Council policy, with a separate complaint procedure, the Complainant should be advised by the Town Clerk that the matter should be processed under that procedure; and
  - d. In other cases, the Complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.
- IV. The Integrity Commissioner may report to Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner.

### 3. Integrity Commissioner Investigations

- I. If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, shall terminate the investigation.
- II. Other than in exceptional circumstances, the Integrity Commissioner shall not report to Council on any complaint described in subsection (I) except as part of an annual or other periodic report.

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#### 4. Investigation & Settlement

- I. If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under Section 2, the Commissioner shall investigate and may attempt to settle the complaint.
- II. Section 223.4(2) of the *Municipal Act* provides for the Integrity Commissioner to elect to investigate a complaint by exercise of the powers of a commission under Parts I and II of the *Public Inquiries Act*.
- III. When the *Public Inquiries Act* applies to an investigation of a complaint, the Integrity Commissioner shall follow the procedures specified in that Act and this Complaint Protocol, but if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act*, the provision of the *Public Inquiries Act* prevails.
- V. The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act*:
  - a. Serve the complaint and supporting material filed by the Complainant upon the Member whose conduct is in question with a request that a written response to the allegation be filed within seven days or such shorter or longer period as the Integrity Commissioner may authorize in writing; and
  - b. Serve a copy of the response provided by the Member upon the Complainant with a request for a written reply within seven days or such shorter or longer period as the Integrity Commissioner may authorize in writing.
- VI. Section 33 of the *Public Inquiries Act* allows the Integrity Commissioner to speak to anyone relevant to the complaint, access and examine any of the information relevant to the complaint and to enter any Town work location relevant to the complaint for the purpose of investigation and settlement. The Integrity Commissioner is to be provided 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.
- VII. The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to

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comment on the proposed finding and any recommended sanction.

- VIII. The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.

## 5. Final Report

- I. The Integrity Commissioner shall report to the Complainant, the Member and Council, generally no later than 90 days after the making of the complaint.
- II. Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining his or her findings and/or recommended penalty and the terms of any settlement which have not been agreed by the parties to be held in confidence.
- III. Any recommended corrective action or penalty must be permitted by the *Municipal Act, 2001*, and shall be designed to ensure that the inappropriate behaviour or activity does not continue and is not repeated.

## 6. Member Not Blameworthy

- I. If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner may so state in the report and may recommend that no penalty be imposed.

## 7. Copies

- I. The Integrity Commissioner shall give a copy of the report to the Complainant and the Member that was involved.

## 8. Report to Council

- I. The Town Clerk shall process the report for the next meeting of General Committee, followed by Council. The report shall remain confidential until the matter has received complete and final disposition by the Integrity Commissioner and has been reported out to the Members of Council.

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## 9. Council Review

- I. Council shall consider and respond to the report within 90 days after the day the report is laid before it.
- II. Section 223.4 (5) of the *Municipal Act, 2001*, allows the municipality to impose either of the following penalties on a Member of Council if the Commissioner reports to the municipality that, in his or her opinion, the Member has contravened the code of conduct:
  - a. A reprimand.
  - b. Suspension of the remuneration paid to the Member in respect of his or her service as a Member of Council, for a period of up to 90 days.

## 10. Confidentiality

- I. Section 223.5(1) of the *Municipal Act, 2001*, provides that the Integrity Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties.
- II. If the Commissioner provides a periodic report to the municipality on his or her activities, the Commissioner may summarize advice he or she has given but shall not disclose confidential information that could identify a person concerned.
- III. If the Integrity Commissioner reports to the municipality his or her opinion about whether a Member of Council has contravened the applicable Council Code of Conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purpose of the report (including name of the Member whose conduct was investigated).

## 11. Amendments to Protocol

- I. This protocol is subject to amendment in accordance with the policies of Council from time to time.



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**Code of Conduct — Formal Complaint Form**

**AFFIDAVIT**

I, \_\_\_\_\_ (first and last name), of the

municipality of \_\_\_\_\_ in the Province of Ontario.

**MAKE OATH AND SAY (or AFFIRM):**

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

\_\_\_\_\_ (specify name of Member),

a member of the Council of the Town of Pelham has contravened section(s)

\_\_\_\_\_ of the Code of Conduct of the Town of Pelham. The particulars of which are  
are attached hereto.

2. Facts constituting the alleged contravention (use separate page if required)

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This affidavit is made for the purpose of requesting that this matter be reviewed and/or investigated by the Town of Pelham's appointed Integrity Commissioner and for no other improper purpose.

SWORN (or AFFIRMED) before me at the )  
the Town of Pelham on )

\_\_\_\_\_ (date) )  
)

\_\_\_\_\_

(Signature)





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# **Appendix 1**

## **Complaint and Investigation Protocol**

### **Code of Conduct**

[\\*Subject to amendment in accordance with the policies of Council from time to time.](#)

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## COMPLAINT and INVESTIGATION PROTOCOL

### Council Code of Conduct - Appendix 1

#### PART A - INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Code of Conduct may seek to address the prohibited behaviour or activity themselves in the following manner by following the Informal Complaint Procedure:
  - (a) document the incident(s) where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;
  - (b) advise a third party about the concerns regarding the Member's actions;
  - (c) advise the Member that the behaviour or activity appears to contravene the Code of Conduct;
  - (d) identify to the Member the specific provision(s) of the Code of Conduct that may have been contravened;
  - (e) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to undertake to refrain from future occurrences of the prohibited behaviour or activity;
  - (f) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to settle or resolve the issue;
  - (g) if applicable:
    - (i) confirm to the Member that his or her response is satisfactory, or
    - (ii) advise the Member that his or her response is unsatisfactory;
  - (h) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.
2. Individuals are strongly encouraged to pursue the Informal Complaint Procedure as the first means of remedying behaviour or activity of a Member that they believe violates the Code of Conduct.
3. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint.
4. The Informal Complaint Procedure is not a precondition or a prerequisite to pursuing the Formal Complaint Procedure set out in Part B.

## PART B - FORMAL COMPLAINT PROCEDURE

### Formal Complaints

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

### Filing of Complaint and Classification by Integrity Commissioner

- 2.(1) The complaint shall be filed with the [Town](#) Clerk, who shall forward the matter forthwith to the Integrity Commissioner.
- (2) The Integrity Commissioner shall initially classify the complaint to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 3.

### Complaints Outside Integrity Commissioner's Jurisdiction

3. If the complaint, including the supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint relates to matters addressed by other legislation or complaint procedure under another Town procedure, policy or rule, the Integrity Commissioner shall advise the complainant in writing [that he/she does not have jurisdiction to deal with the complaint, as follows:](#)

#### ***Criminal Matter***

- ~~(a) — if the complaint is, on its face, an allegation of a criminal nature consistent with the Criminal Code, the complainant shall be advised that:~~

- (e) If the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, a human rights or workplace harassment complaint or similar process, or to a civil matter that is pending before the courts, the Integrity Commissioner may, in his/her sole discretion and in accordance with legislation, suspend any investigation, in whole or in part, pending the result of the other process;

#### **Similar Matter Already Pending**

- (f) If the complaint is in relation to a similar matter which is subject to an outstanding complaint before the Integrity Commissioner, the Integrity Commissioner may, in his/her sole discretion, consider the matter in conjunction with the similar matter or deal with it separately, including not undertaking an inquiry if the matter can be adequately addressed in any report and/or recommendations made with respect to the complaint in the similar matter; and

#### **Other Ethical Code Applies**

(g) If the complaint is in relation to a matter which is governed by a code of ethical code or similar procedure or policy of another body or entity which also governs the Members (for example, another board to which the Member has been appointed), the Integrity Commissioner shall consider the most appropriate forum for the complaint and may, in his/her sole discretion, defer consideration of the matter pending any determination made by the other body or entity and shall so advise the complainant and, if necessary, the Member.

#### **Municipal Conflict of Interest Act**

If the complaint is in relation to a contravention of the *Municipal Conflict of Interest Act*, an elector, as defined in section 1 of that statute, or a person demonstrably acting in the public interest may pursue an alleged contravention of such statute by a Member in accordance with the provisions set forth in the *Municipal Conflict of Interest Act*, or as otherwise provided by law. The Integrity Commissioner will only receive a complaint relative to the *Municipal Conflict of Interest Act* when the subject matter of the complaint is not being processed under the Statute and the Integrity Commissioner is otherwise enabled and mandated to deal with it in accordance with the law.

#### **Limitation Period**

4. The Integrity Commissioner shall not accept a complaint for which the event giving rise to the complaint occurred ~~or came to the attention of the complainant~~ more than six (6) months prior to the date of the filing of the complaint. The complainant must establish that the event giving rise to the complaint occurred ~~and/or came to the complainant's attention~~ within six (6) months of the complaint being filed in accordance with Section 2 ~~unless the complainant establishes exceptional circumstances that justify the delay to the satisfaction of the Integrity Commissioner.~~

#### Periodic Reports to Council

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

#### Refusal to Conduct Investigation

6. If the Integrity Commissioner is satisfied, after considering the information contained in the complaint, that a complaint:
  - (a) is frivolous or vexatious,
  - (b) is not made in good faith,
  - (c) constitutes an abuse of process, or
  - (d) discloses no grounds or insufficient grounds for an investigation,

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

#### Opportunities for Resolution

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

#### Investigation

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



~~(ii) the identity of any witnesses set out in the complaint or that are~~  
complaint to the Integrity Commissioner within ~~ten-seven (107)~~ business days; and

(c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant to the Integrity Commissioner within ~~ten-seven (107)~~ business days.

- (2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Town's computers and servers, and may enter any Town work location relevant to the complaint for the purpose of investigation and potential resolution.
- (3) The Integrity Commissioner may, but is under no obligation, to provide the Member with a draft of the proposed draft report on the complaint.
- (4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Member unless the Member has had an opportunity either in person or in writing to comment to the Integrity Commissioner on the proposed finding(s).
- (5) The Integrity Commissioner may, but is under no obligation, to advise either the Member or the complainant of any proposed sanction or recommendation the Integrity Commissioner may include in the report to Council.
- (6) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or by any other person encountered during the formal complaint investigation.
- (7) The Integrity Commissioner shall retain all records related to the complaint and investigation for a period of one (1) year. The Integrity Commissioner but may provide copies of certain records, in confidence, to Town administrative staff who are required to ensure that any such records are securely and confidentially retained.

#### **No Complaint Prior to Municipal Election**

9. Notwithstanding any other provision of this Complaint Protocol, no complaint may be referred to the Integrity Commissioner on or after the fourth Friday in July up to voting day in a regular municipal election year.

#### **Advice Provided to Member by Integrity Commissioner**

10. (1) Subject to Section 10(2), a Member is entitled to rely upon any written advice given by the Integrity Commissioner to the Member respecting the Code of Conduct in any subsequent consideration of the conduct of the Member in the same matter by the Integrity Commissioner provided that the Member fully disclosed in writing all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.

- (2) A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code of Conduct or generally at law, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of the investigation that may impact the Member's rights under the Code of Conduct or at law.

### Investigation Report

11. (1) The Integrity Commissioner shall report to the complainant and the Member no later than ninety (90) days after the official receipt of any complaints, where feasible. The Integrity Commissioner may, at his/her discretion, extend this period if the investigation cannot be concluded within ninety (90) days. If the investigation process is anticipated to or takes more than ninety (90) days, the Integrity Commissioner ~~shall provide an interim report to Council and must~~ may advise the parties of the date the report will be available, if known. The Integrity Commissioner may also, at his or her discretion, advise any witnesses or other persons of the date the report will be available.
- (2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended remedial or corrective action.
- (3) The Integrity Commissioner may provide a copy of the report to the complainant and the Member whose conduct has been investigated in advance of the public release of the report, in strict confidence until the report is publicly released. The Member shall have the right to address the report when it is considered by Council but cannot vote on the matter.
- (4) Where the complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings although such anonymized information may be included in a report or as part of an annual or other periodic report by the Integrity Commissioner.
12. If the Integrity Commissioner determines that a contravention occurred but:
- ~~(a) — there has been no contravention of the Code of Conduct, or~~
- (ii) it was trivial,
- (iii) it was committed through inadvertence, or
- (iv) it resulted from an error of judgment made in good faith,

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

### Report to Council

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

#### **No Inquiries or Reports Prior to Municipal Election**

14. (1) If the Integrity Commissioner has not completed an inquiry before the fourth Friday of July in a municipal election year, the Commissioner shall terminate the inquiry on that day.
- (2) If an inquiry is terminated under s. 14(1), the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, the person or entity who made the request or the Member or former Member whose conduct is concerned makes a written request to the Commissioner that the inquiry be commenced.
- (3) Notwithstanding any other provision of this Complaint Protocol, the Integrity Commissioner shall not make any report to Council or to any other person on or after the fourth Friday in July in a municipal election year, until the first official meeting of the newly-elected Council following the election.

#### **Duty of Council**

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

#### **Public Disclosure**

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

#### **Delegation**

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

**Code of Conduct — Formal Complaint Form**

**AFFIDAVIT**

I, \_\_\_\_\_ (first and last name), of the  
municipality of \_\_\_\_\_ in the Province of Ontario.

**MAKE OATH AND SAY (or AFFIRM):**

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

\_\_\_\_\_, (specify name of Member),  
a member of the Council of the Town of ~~Niagara-on-the-Lake~~Pelham, has contravened section(s)  
\_\_\_\_\_ of the Code of Conduct of the Town of ~~Niagara-on-the-Lake~~Pelham. The  
particulars of which are attached hereto.

2. Facts constituting the alleged contravention (use separate page if required)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This affidavit is made for the purpose of requesting that this matter be reviewed and/or  
investigated by the Town of ~~Niagara-on-the-Lake~~Pelham's appointed Integrity Commissioner and  
for no other improper purpose.

SWORN (or AFFIRMED) before me at the )  
the Town of ~~Niagara-on-the-Lake~~Pelham on )  
\_\_\_\_\_ (date) )  
) \_\_\_\_\_  
(Signature)

A Commissioner for taking affidavits etc.

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