

Authority: Item 8, Audit, Finance &
Administration Committee Report
18-012 (Governance Review Sub-
Committee Report 18-004)
Date: September 12, 2018

Bill No. 270

CITY OF HAMILTON

BY-LAW NO. 18-270

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

CONSOLIDATION

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

CITY OF HAMILTON
CONSOLIDATED BY-LAW NO. 18-270

Incorporating amendments made by:

By-law Number

Effective Date

19-090

May 9, 2019

19-212

September 11, 2019

CITY OF HAMILTON

BY-LAW NO. 18-270

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

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

WHEREAS, the Council of the City of Hamilton, in adopting Item 8 of Audit, Finance and Administration Committee Report 18-012 on September 12, 2018 recommended that Procedural By-law 14-300 be repealed and replaced;

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

INDEX

TITLE	SECTION	PAGE
Definitions	1	3
Application	2	6
Council Meetings	3	6
First Council Meeting	3.1	6
Regular Council Meeting Times	3.2	7
Location of Meetings	3.3	8
Special Meetings of Council	3.4	8
Meetings of Council for Emergencies	3.5	8
Cancellation of a Council Meeting	3.6	9
Quorum	3.7	9
Remedy for Lack of Quorum	3.8	10
Delegations	3.9	10
Communication Items	3.10	10
Order of Business	3.11	11
Rules of Debate	3.12	11
Relinquishing the Chair	3.12(9)	12
Voting Procedures (<i>electronic voting effective January 2019</i>)	3.13	12
Motion Procedures	3.14	14
Notice of Motion	3.14(1)	14
Dispensing with Notice	3.14 (2)	14
Motion to Withdraw	3.14 (3)	14

Motion to Amend	3.14(4)	15
Motion to Defer	3.14(5)	15
Motion to Refer	3.14(6)	15
Motion to Adjourn	3.14(7)	16
Motion to Call the Question	3.14(8)	16
Motion to Reconsider a Matter Decided by Council	3.14(9)	16
Order of Procedural Motions	3.14(10)	17
Non-Debatable Motions	3.14(11)	17
Motion to Suspend the Rules of Procedure	3.14(12)	18
Motion Beyond Jurisdiction of Council	3.14(13)	18
Bills and By-laws	3.15	18
Editorial and Other Changes	3.16	18
Shareholder and Board of Director Meetings	3.17	20
Conflict of Interest Declarations (<i>effective March 1, 2019</i>)	3.18	20
Provisional Governance Committee During a Declared Emergency	3.19	20
Committee of the Whole	4	21
Council may, be resolution:	4.1	21
Standing Committee Meetings	5	21
Standing Committees	5.1	21
Appointment of Standing Committee Chairs and Vice Chairs	5.2	21
Standing Committee Membership	5.3	22
Quorum	5.4	22
Standing Committee Meeting Times	5.5	23
Cancellation of a Committee Meeting	5.6	23
Standing & Selection Committee Reports	5.7	24
Rules of Procedure	5.8	24
Duties of Standing Committees	5.9	25
Order of Business	5.10	25
Delegations	5.11	26
Public Hearings	5.12	27
General	5.12(A)	27
Procedure	5.12(B)	27
Written Information	5.12(C)	27
Communication Items	5.13	28
Reconsideration of Matter Decided Within a Standing Committee Meeting	5.14	29
Conflict of Interest Declarations (<i>effective March 1, 2019</i>)	5.15	29
Special Meetings of a Standing Committee	5.16	29
Establishment of Advisory Committees or Task Forces	6	30
Order and Decorum	7	31
Meetings Closed to the Public	8	32
Electronic Participation at Council and/or Committee Meetings	9	33

Role of Clerk	10	33
General	11	34
Appendices		
General Issues Committee	Appendix A	35
Board of Health	Appendix B	37
Public Works Committee	Appendix C	38
Planning Committee	Appendix D	39
Healthy & Safe Communities Committee	Appendix E	40
Audit, Finance & Administration Committee	Appendix F	41
Office of the City Auditor Charter	Schedule F1	43
Roles of Council, Mayor and Committee Chair	Appendix G	52
Criteria for the Creation of Advisory Committees or Task Forces	Appendix H	55
Hamilton Advisory Committee/Task Force Code of Conduct	Appendix I	56

SECTION 1 - DEFINITIONS

1.1 In this By-law,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Council” means the City Council.

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

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

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

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

“Ex-officio” means by virtue of the office or position and the Mayor is an ex officio member of all Standing Committees who, when attending a Standing Committee meeting, shall have full voting privileges and shall be counted for

the purposes of the Standing Committee's quorum as such quorum is set out in subsection 5.4 of this By-law.

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

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

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

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

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

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

“Notice of Motion” means advanced, written notice, given by a member and received by the Clerk, advising Council or Committee that a Motion will be brought forward at a future Meeting of Council or Committee.

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

“Point of Privilege” means a question by a member with respect to the rights of a member individually or that Council or Committee collectively hold, that ensure Council's or a Committee's ability to function freely.

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

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

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

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

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

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

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

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

“Selection Committee” means a Committee established by Council, comprised entirely of Members of Council, to interview and report back to Council on the appointment of citizen representatives to agencies, boards and Committees, and reports directly to Council.

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

“Website” means the official City website.

SECTION 2 - APPLICATION

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

SECTION 3 – COUNCIL MEETINGS

3.1 First Council Meeting

- (1) The First Meeting of Council shall be held on the first Monday of December in an election year at 5:00 p.m.

- (2) The Proceedings of the First Meeting of Council shall include:
- (a) Ceremonial - special address by guests;
 - (b) Filing of Declarations of Office in accordance with the provisions of the Act;
 - (c) Council appointments to Committees, boards and agencies; and
 - (d) Confirming By-law.

3.2 Regular Council Meeting Times

- (1) Unless otherwise decided by Council, Regular Council meetings shall be held:
- (a) in January:
 - on the fourth Wednesday of the month, commencing at 5:00 p.m. unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;
 - (b) in February, April, May, June, September, October and November:
 - every second and fourth Wednesday of each month, commencing at 5:00 p.m., unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;
 - (c) in March:
 - on the fourth Wednesday of the month, commencing at 5:00 p.m. unless such day is a public or civic holiday, in which case Council shall set an alternate day and time;
 - (d) in July and August:
 - on a Friday of each month (one meeting per month), commencing at 9:30 a.m., unless such a day is a public or civic holiday, in which case Council shall set an alternate day and time;
 - (e) in December:
 - on the second Wednesday of the month, commencing a 9:30 a.m., unless such a day is a public or civic holiday, in which case Council shall set an alternative day and time; or
 - (f) in accordance with the schedule approved by Council.
- (2) Advance notice of meetings for the public's information may be found by accessing the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca

3.3 Location of Meetings

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

3.4 Special Meetings of Council

- (1) In addition to scheduled Council meetings, the Mayor may, at any time, summon a special meeting of Council by giving written direction to the Clerk stating the date, time, and purpose of the special meeting.
- (2) The Clerk shall summon a special meeting of Council when requested to do so in writing by a majority of Members of Council.
- (3) The Clerk shall give each Member of Council, or their designated staff, notice of a special meeting of Council at least 48 hours before the time appointed for such meeting by:
 - (a) delivering a written notice personally;
 - (b) delivering such notice at their residence or place of business; or
 - (c) facsimile transmission or electronic mail to such residence or place of business.
- (4) The written notice to be given under subsection 3.4(3) shall state the nature of the business to be considered at the special meeting of Council and no business other than that which is stated in the notice shall be considered at such meeting.
- (5) Notwithstanding subsection 3.4(4), other business may be considered at a special meeting with at least two-thirds of the Members of Council present and voting in the affirmative.
- (6) The Clerk shall prepare the Order of Business for a special meeting of Council with the appropriate selection of agenda categories from subsection 3.11.

3.5 Meetings of Council for Emergencies

- (1) Despite any other provisions of this By-law, a meeting of Council for an emergency may be called by the Mayor, without written notice, to deal with an emergency, provided that an attempt has been made by the Clerk to notify Members of Council about the meeting as soon as possible and in the most expedient manner available.
- (2) The only business to be dealt with at a meeting of Council for an emergency shall be business dealing directly with the emergency.

- (3) The lack of receipt of a notice of, or an agenda for, a meeting of Council for an emergency by any Member of Council shall not affect the validity of the meeting or any action taken at such meeting.
- (4) The Clerk shall prepare the Order of Business for an emergency meeting of Council with the appropriate selection of agenda categories from subsection 3.11.

3.6 Cancellation of a Council Meeting

- (1) The Clerk may cancel a Council meeting in consultation with the Mayor or the Deputy Mayor in the Mayor's absence.
- (2) The Clerk shall give each Member of Council, or their designated staff, notice of a cancellation of a meeting of Council at least two business days prior to the time appointed for such meeting by:
 - (a) delivering a written notice personally;
 - (b) delivering such notice at their residence or place of business; or
 - (c) facsimile transmission or electronic mail to such residence or place of business.
- (3) The written notice to be given under subsection 3.6(2) shall state the reason for the cancellation of the meeting.
- (4) The Clerk shall ensure that the meeting cancellation information is posted to the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca.

3.7 Quorum

- (1) As soon as there is a quorum after the time set for the meeting, the Mayor shall take the chair and call the meeting to order.
- (2) A majority of Members of Council is necessary to constitute a quorum of Council.
- (3) If the Mayor does not attend within 15 minutes of the time appointed for a Council meeting and a quorum of Council is present, the Deputy Mayor shall take the chair and call the meeting to order and will preside until the arrival of the Mayor.
- (4) If a quorum is not achieved within 30 minutes after the time appointed for a meeting of Council, the Clerk shall record the names of the Members of Council present and the meeting shall stand adjourned until the date of the next scheduled Council meeting or other meeting called in accordance with the provisions of this By-law.

- (5) If Quorum cannot be maintained during a meeting, the Clerk will advise the Mayor or Deputy Mayor that quorum is lost and the decision to continue the meeting will rest with the Mayor or Deputy Mayor. During the absence of quorum, no decisions may be approved.

3.8 Remedy for Lack of Quorum

Municipal Conflict of Interest Act

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

3.9 Delegations

Delegations are not permitted at meetings of Council.

3.10 Communication Items

- (1) Shall be addressed to the Mayor and Members of Council or the City Clerk and shall be presented to Council for consideration.
- (2) Shall be forwarded to the Office of the City Clerk no later than 12 Noon on the Wednesday the week prior to the City Council meeting for inclusion in the printed Council Agenda.
- (3) If the Communication Item is relevant to a matter that appears on the Council Agenda for that meeting, and is not received for inclusion in the Agenda package, it shall be introduced under Changes to the Council Agenda, provided that it is received in the Office of the City Clerk no later than 12 Noon on the business day prior to the Council meeting.
- (4) Shall not be anonymous or contain any defamatory, obscene, offensive, indecent, improper, rude or vulgar language.
- (5) Debate on Council communications shall be limited to the recommended disposition, or limited to reason for or against the referral of the matter to an appropriate Standing Committee.
- (6) Resolutions from other municipalities requesting support will be included on the Council Agenda to be received, unless otherwise directed by a Member of Council.
- (7) Receipt of resolutions from other municipalities by City Council shall not be construed as endorsement by the City of any recommendations or actions contained therein.

- (8) Communications respecting labour relation matters, conduct of a member(s) of staff and matters before another body (i.e. Police Services Board) will not be placed on the Council Agenda and will be forwarded forthwith by the City Clerk to the relevant City Department or body for consideration and appropriate action.
- (9) Communications respecting the conduct of a member(s) of Council will not be placed on a Council Agenda and the author will be advised of the process for filing a complaint with the Integrity Commissioner.
- (10) Notwithstanding subsections 3.10(8) and 3.10(9) Council may add any communication item to a Council Agenda.

3.11 Order of Business

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

- (a) Approval of Agenda
- (b) Declarations of Interest
- (c) Ceremonial Activities
- (d) Approval of Minutes of Previous Meeting
- (e) Communications
- (f) Committee Reports
- (g) Motions
- (h) Notice of Motions
- (i) Statement by Members (non-debatable)
- (j) Private and Confidential
- (k) By-laws and Confirming By-law
- (l) Adjournment

3.12 Rules of Debate

- (1) No Member of Council shall be deemed to have precedence or seniority over any other Member of Council.
- (2) Before speaking to a question or motion, a Member of Council shall be recognized by the Mayor and be placed on the speakers' list.
- (3) When a Member of Council is speaking, no other Member of Council shall pass between that Member of Council and the Mayor or interrupt that Member of Council except to raise a point of order or privilege.

- (4) A Member of Council may require the question or motion under discussion to be read at any time during the debate but not so as to interrupt a Member of Council who is speaking.
- (5) A Member of Council may not speak on any matter other than the matter being debated.
- (6) All Members of Council are restricted to a five minute time limit when asking a question and/or making a statement during Committee and Council meetings.
- (7) Notwithstanding subsection 3.12(6), an extension of a specific allotment of time to the five minute speaking restriction may be granted with the approval of a majority of the members of the Committee/Council present.
- (8) The following matters may be introduced orally without written notice and without leave:
 - (a) a point of order
 - (b) a point of privilege
 - (c) a motion to adjourn
 - (d) a motion to call the question
 - (e) a motion to go into committee of the whole
 - (f) a motion to recess
 - (g) a motion to refer
 - (h) a motion to defer
 - (j) a motion to go into a closed meeting
 - (k) a motion to suspend the rules of procedure
- (9) **Relinquishing the Chair**

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

3.13 Voting Procedures (*electronic voting is effective January 2019*)

- (1) Once a motion is moved and seconded it shall be deemed to be in the possession of Council or Committee.
- (2) Where a Member of Council present at a meeting of Council or Committee is prohibited from voting by statute, the Clerk shall record the name of the Member of Council and the reason that they are prohibited from voting.

- (3) When an electronic voting system is available every Member of Council or Committee present and participating in a vote on a motion, excluding those motions referred to in (i) and (ii) below, shall vote electronically:
 - (i) procedural (majority vote: refer, defer, withdraw, recess, call the question; move into Closed Session and adjourn); and
 - (ii) Consent Items.
- (4) When an electronic voting system is used for a vote, the results will be displayed and recorded in the proceedings.
- (5) When an electronic voting system is not available every Member of Council or Committee present shall vote by a show of hands;
- (6) When a vote is taken and a tie results, a question is deemed to be lost.
- (7) When a Member of Council at a meeting of Council or Committee does not disclose a pecuniary interest, and does not vote on a Motion, the member will be deemed as having voted in the negative and when an electronic voting system is in use the recusal will be displayed and noted in the proceedings.
- (8) When an electronic voting system is not available and a recorded vote is requested by a Member of Council or Committee immediately before or after a question is put, the Clerk shall record the name and vote of every Member of Council on the question.
- (9) When the Mayor or Chair calls for a vote on a question, each Member of Council or Committee shall occupy their seat and shall remain in their seat until the result of the vote has been declared by the Mayor or Chair, and during such time no Member of Council shall walk across the room or speak to any other Member of Council or make any noise or disturbance.
- (10) After a question is put by the Mayor or Chair, no Member of Council or Committee shall speak to the question nor shall any other motion be made until after the vote is taken and the result has been declared.
- (11) No vote shall be taken by ballot or by any other method of secret voting and every vote so taken is of no effect, except where permitted by statute.
- (12) Despite subsection 3.13(11), a meeting may be closed to the public during a vote if:
 - (a) the vote relates to an issue permitting the meeting to be closed to the public in accordance with section 8 (Meetings Closed to the Public) of this By-law; and

- (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the City or persons retained by or under a contract with the City.
- (13) The Mayor or Chair shall, upon request of a Member of Council or Committee, divide a question, if the question under consideration contains distinct propositions, and the vote upon each proposal shall be taken separately.
- (14) If a Member of Council or Committee disagrees with the announcement of the Mayor or Chair that a question is Carried or Lost on a vote by show of hands, they may immediately after the declaration by the Mayor or the Chair, object to the Mayor's or the Chair's declaration and require that a recorded vote be taken.

3.14 Motions Procedures

(1) Notice of Motion

- (a) Notice of all new motions, except motions listed in subsection 3.12(8) shall be given in writing:
 - (i) at a meeting of Council or Committee, but shall not be debated until the next meeting of Council or Committee; or
 - (ii) delivered to the Clerk at any time before noon on the last business day preceding the date of the meeting at which the notice of motion is to be introduced.
- (b) Where a Member of Council's or Committee's motion has been called by the Mayor or Chair at the subsequent meeting and not proceeded with, it shall be dropped from the agenda unless Council or Committee decides otherwise.
- (c) Where Council or Committee has determined not to drop a motion from the agenda, and at the second meeting such motion is called by the Mayor or Chair and not proceeded with, it shall be deemed to have been withdrawn.

(2) Dispensing with Notice

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

(3) Motion to Withdraw

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

(4) Motion to Amend

(a) A motion to amend:

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

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

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

(5) Motion to Defer

A motion to defer a question:

- (a) is debatable; and
- (b) shall include the date when the question is to be considered.

(6) Motion to Refer

(a) A motion to refer the question:

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

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

(c) A motion to refer a question may be amended in accordance with subsection 3.14(4).

- (d) When a motion to refer a question to Council is defeated by a Standing Committee, the Chair of the Standing Committee shall call the question on the matter.
- (e) A member who has spoken to the motion under debate shall not be permitted to move a motion to refer a question.
- (f) A motion to refer a question is only in order after all first time speakers have been heard.

(7) Motion to Adjourn

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

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

(8) Motion to Call the Question

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

(9) Motion to Reconsider a Matter Decided by Council

- (a) At any Council Meeting, after a matter has been decided by Council, including both successful or failed motions, a Member of Council who voted in the majority, may present a Notice of Motion to reconsider the matter. The Chair may ask the Member of Council to confirm that they voted with the majority on the issue in question. Such Notice of Motion shall be referred to the next scheduled meeting of Council and shall be included on the agenda under "Motions".
- (b) No decided matter shall be reconsidered more than once during the term of Council.
- (c) A motion to reconsider a decided matter shall require the approval of at least two-thirds of Council present.
- (d) It is not in order to reconsider a decided matter when the motion has been implemented, resulting in a legally binding commitment that is in place on the date that a motion to reconsider is to be debated.
- (e) No motion to reconsider may, itself, be the subject of a motion to reconsider.

- (f) Debate on a motion to reconsider shall be confined to reasons for or against the reconsideration.
- (g) The following motions cannot be reconsidered:
 - (i) to adjourn;
 - (ii) to recess; and
 - (iii) to suspend the rules of procedure.
- (h) Subsections 3.14(9)(a) to 3.14(9)(f) do not apply when:
 - (i) a motion pertains to a decision of a previous Council;
 - (ii) a motion that, while pertaining to a previously decided motion, does not alter the core purpose or intent of the previously decided motion;
 - (iii) a motion presented in respect of a previously decided matter for the purpose of strengthening or clarifying the original decision; or
 - (iv) a motion presented in respect of a previously decided matter for the purpose of moving a matter through a series of necessary steps or phases.

(10) **Order of Procedural Motions**

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

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

(11) **Non-Debatable Motions**

The following motions/actions are not debatable:

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

(12) Motion to Suspend the Rules of Procedure

The rules governing the procedure of the Council at Council meetings may be suspended and shall require the approval of at least two-thirds of members present.

(13) Motions Beyond Jurisdiction of Council

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

3.15 Bills and By-laws

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

3.16 Editorial and Other Changes

- (1) The Clerk may make the following changes to By-laws or resolutions to:

- (a) Correct spelling, punctuation or grammatical errors, or errors that are of a clerical, typographical or similar nature.
 - (b) Alter the style or presentation of text or graphics to improve electronic or print presentation.
 - (c) Replace a description of a date or time with the actual date or time.
 - (d) If a provision provides that it is contingent on the occurrence of a future event and the event occurs, remove text referring to the contingency and make any other changes that are required as a result.
 - (e) When the name, title, location or address of a body, office, person, place or thing has been altered, change any reference to the name, title, location or address to reflect any alteration in name, title, location or address.
 - (f) Correct errors in the numbering of provisions or other portions of a By-law and make any changes in cross-references that are required as a result.
 - (g) If a provision of a transitional nature is contained in a By-law, make any changes that are required as a result.
 - (h) Make a correction, if it is patent both that an error has been made and what the correction should be.
- (2) The Clerk:
- (a) may provide notice of the changes made under subsections 3.16(1)(a) to 3.16(1)(c) inclusive in the manner that they consider appropriate.
 - (b) shall provide notice of the changes made under subsections 3.16(1)(d) to 3.16(1)(h) inclusive in the manner that they consider appropriate.
 - (c) in determining whether to provide notice under subsection 3.16(2)(a), shall consider:
 - (i) the nature of the change; and
 - (ii) the extent to which notice, and the information provided in it, would provide assistance in understanding the relevant legislative history.
 - (d) in providing notice under subsection 3.16(2)(a) or 3.16(2)(b), shall state the change or the nature of the change.
- (3) No legal significance shall be inferred from the timing of the exercise of a power under this section.
- (4) Regardless of when a change is made to a By-law under this section, the change may be read into the By-law as of the date it was enacted if it is appropriate to do so.

3.17 Shareholder and Board of Director Meetings

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

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

3.18 Conflict of Interest Declarations *(this section is effective March 1, 2019)*

- (1) Where a member, has disclosed an interest referred to in Section 5 of the *Municipal Conflict of Interest Act, 1990* at a meeting, the member, shall file a written statement with the Clerk.
- (2) Where a member, has disclosed an interest and filed a written statement with the Clerk, as required by subsection 3.18(1), the Clerk, shall:
 - (a) file the written statement by the member in the Conflict of Interest Registry;
 - (b) record the interest in the minutes of the meeting;
 - (c) file a record of the interest recorded in the minutes of the meeting in the Conflict of Interest Registry; and
 - (d) make the Conflict of Interest Registry available for public inspection.

3.19 Provisional Governance Committee During a Declared Emergency

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

- (b) the Committee shall conduct its meetings in accordance with this By-law, providing that the quorum for the constitution of a valid meeting of the Committee shall be 5 Members of Council.

SECTION 4 - COMMITTEE OF THE WHOLE

4.1 Council may, by resolution:

- (a) move into Committee of the Whole to consider, including debate, Standing Committee Reports and Selection Committee Reports on the Council meeting agenda; and
- (b) move out of Committee of the Whole to report to Council.

SECTION 5 – STANDING COMMITTEE MEETINGS

5.1 Standing Committees

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

- (a) General Issue Committee
- (b) Board of Health
- (c) Public Works Committee
- (d) Planning Committee
- (e) Healthy & Safe Communities Committee
- (f) Audit, Finance & Administration Committee

5.2 Appointment of Standing Committee Chairs and Vice Chairs

- (1) Each Standing Committee shall recommend to Council the appointment of a Chair, Vice-Chair and, where applicable, 2nd Vice-Chair for the required term.
 - (a) The term of the Chair, Vice-Chair and 2nd Vice-Chair shall be for a calendar year, or part of a calendar year in an election year.
 - (b) No Member of Council may serve as Chair, Vice-Chair or 2nd Vice-Chair of the same Standing Committee for more than one year in a Council term.
 - (c) The role of the Chair of the General Issues Committee shall be rotated amongst the Deputy Mayors.
- (2) Despite subsection 5.2 (1)(a) and (b), the Mayor shall stand as Chair for the term of Council for the Board of Health.
- (3) The Board of Health shall recommend to Council the appointment of a Vice-Chair for the required term.

- (4) Despite subsection 5.2 (1)(a) and (b), the Vice-Chair shall stand as Vice-Chair for the term of Council for the Board of Health.

5.3 Standing Committee Membership

- (1) General Issues Committee and Board of Health shall be comprised of all Members of Council.
- (2) Public Works Committee shall be comprised of a minimum of 8 Members of Council.
- (3) Planning Committee shall be comprised of a minimum of 9 Members of Council.
- (4) Healthy & Safe Communities Committee shall be comprised of a minimum of 5 Members of Council.
- (5) Audit, Finance & Administration Committee shall be comprised of a minimum of 7 members of Council.
- (6) Each Member of Council shall sit on a minimum of 2 Standing Committees, in addition to the Board of Health and General Issues Committee.
- (7) Membership on Standing Committees shall be for the duration of the term of Council.
- (8) The Mayor is an ex-officio member of all Standing Committees who, when attending a Standing Committee meeting, shall have full voting privileges and shall be counted for the purpose of the Standing Committee's quorum as set out in subsection 5.4.

5.4 Quorum

- (1) The quorum for all Standing Committees shall be a half of the membership rounded up to the nearest whole number.
- (2) As soon as there is a quorum after the time set for the meeting, the Chair shall take the chair and call the meeting to order.
- (3) If the Chair does not attend within 15 minutes of the time appointed for a Committee meeting and a quorum of Committee is present, the Vice Chair shall take the chair and call the meeting to order and will preside until the arrival of the Chair.
- (4) If a quorum is not achieved within 30 minutes after the time appointed for a meeting of Committee, the Clerk shall record the names of the Members of Council present and the meeting shall stand adjourned until the date of the next scheduled Committee meeting or other meeting called in accordance with the provisions of this By-law.

- (5) If quorum cannot be maintained during a meeting, the Clerk will advise the Chair that quorum is lost and the decision to continue the meeting will rest with the Chair. During the absence of quorum, no decisions may be approved.

5.5 Standing Committee Meeting Times

- (1) Unless otherwise decided by Council, scheduled meetings of the Standing Committees will be as follows:
- (a) (i) General Issues Committee shall meet at least once per month on a Wednesday commencing at 9:30 a.m.;
 - (ii) Board of Health shall meet at least once per month commencing at 1:30 p.m.;
 - (iii) Public Works Committee shall meet at least once per month commencing at 9:30 a.m.;
 - (iv) Planning Committee shall meet at least once per month on a Tuesday commencing at 9:30 a.m.;
 - (v) Audit, Finance & Administration Committee shall meet at least once per month on a Thursday commencing at 9:30 a.m.;
 - (vi) Healthy & Safe Communities Committee shall meet at least once per month on a Thursday commencing at 1:30 p.m.;
- (b) In the event a meeting date, as shown in subsections 5.5(1)(a)(i) to 5.5(1)(a)(vi) falls on a day which is a public or civic holiday, an alternate date and time will be selected;
- (c) In accordance with the schedule approved by Council.
- (2) In addition to regularly scheduled Standing Committee meetings, a special meeting of a Standing Committee may be scheduled when required, at the call of the Chair, at locations and times to permit convenient access for members of the public most affected by such a matter with at least 48 hours notice, delivering notice in accordance with subsections 3.4(3) and 3.4(4).
- (3) Advance notice of Committee meetings for the public's information may be found by accessing the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca

5.6 Cancellation of a Committee Meeting

- (1) The Clerk may cancel a Committee meeting in consultation with the Committee Chair or the Committee Vice Chair in the Committee Chair's absence.

- (2) The Clerk shall give each Member of the Committee, or their designated staff, notice of a cancellation of a Committee meeting at least two business days prior to the time appointed for such meeting by:
 - (a) delivering a written notice personally;
 - (b) delivering such notice at their residence or place of business; or
 - (c) facsimile transmission or electronic mail to such residence or place of business.
- (3) The written notice to be given under subsection 5.6(2) shall state the reason for the cancellation of the meeting.
- (4) The Clerk shall ensure that the meeting cancellation information is posted to the Committee and Council Meeting Calendar on the City's website at www.hamilton.ca.

5.7 Standing & Selection Committee Reports

- (1) Each Standing Committee, including the Selection Committee, shall make recommendations to Council.
- (2) A minimum of 48 hours shall pass before a Standing Committee and/or Selection Committee Report is presented to Council to provide adequate opportunity for review. Every effort will be made for Standing Committee and/or Selection Committee Reports to be released at an earlier date.
- (3) Despite subsection 5.7(2), this rule may be suspended by the affirmative vote of two-thirds of the Members of Council present and voting.

5.8 Rules of Procedure

- (1) The rules governing the procedure of the Council at Council meetings shall be observed at Committee meetings, so far as they are applicable.
- (2) No member of Council shall speak more than once, until every member of a Standing Committee, followed by every Member of Council who is not a member of the Standing Committee, has spoken, and then only to provide information or seek clarification from the Chair, other Members of Council or staff.
- (3) A Member of Council may place an item on a future agenda of a Standing Committee meeting by delivering a Notice of Motion as set out in subsection 3.14(1) to the Chair of the Standing Committee and to the Committee Legislative Coordinator.

- (4) A Member of Council who is not a member of a Standing Committee is entitled to attend such Standing Committee meetings and to participate when a subject matter directly affects their Ward, provided that the Member of Council shall:
- (a) not be counted for quorum purposes, and;
 - (b) not move any motion or vote on any matter.

5.9 Duties of Standing Committees

The duties of the Standing Committees shall be as set out in Appendices A to F and F1, inclusive.

5.10 Order of Business

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

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

5.11 Delegations

- (1) Persons who wish to appear as a delegation to address a Standing Committee on a matter that:
 - (a) is not listed on a Standing Committee agenda, may make a request in writing to the Clerk, the Clerk will list the delegation request on the respective Standing Committee's upcoming agenda. The requester will be notified of the date of the meeting where their delegation will be heard following Council's ratification of the Standing Committee's Report.
 - (b) is listed on the agenda for a Standing Committee meeting, may make a request in writing to be listed as a delegation, such request to be received by the Clerk no later than 12:00 noon the business day before the meeting. If the Standing Committee is meeting on a Monday, the deadline will be 12:00 noon on the Friday.
 - (c) provided that a person may attend as a delegation in the absence of a request under paragraphs (a) or (b) where prescribed by applicable legislation or allowed by the Standing Committee.

The "Request to Speak to a Committee of Council" form is available on the City's website at www.hamilton.ca.

- (2) A request to attend as a delegation shall include the person's name, reason(s) for the delegation, and if applicable the name, address and telephone number of any person, corporations or organizations which they represent.
- (3) Upon receipt of a request to attend as a delegation, the Clerk shall list the delegation request on the next appropriate agenda for the relevant Standing Committee and the decision whether or not to entertain the delegation will be made by the Standing Committee.
- (4) A delegation granted permission to appear before the Standing Committee is encouraged to provide the Clerk with a brief of their presentation, which in turn will be provided by the Clerk to the Members of the Standing Committee in advance of the meeting.
- (5) When a person is listed as a delegation on a Standing Committee agenda and such person, without notification to the Clerk, does not attend said meeting, that person must make a new request to be considered as a delegation and must re-apply in accordance with subsections 5.11(1) and 5.11(2).
- (6) A delegation, which can be made by two or more individuals, shall be limited to a presentation of not more than five minutes, except as otherwise prescribed for at a public meeting by applicable legislation.

- (7) Notwithstanding subsection 5.11(6), an extension of a specific allotment of time to the five-minute speaking restriction may be granted with the approval of a majority of the members of the Committee present.
- (8) Notwithstanding subsection 5.11(6), a delegation may provide additional written material regarding the subject matter, for the public record.
- (9) A delegation making a request to address a Standing Committee pursuant to their rights under applicable legislation shall be heard without a written request being received in accordance with subsections 5.11(1) and 5.11(2), if advanced notice is not required by such applicable legislation.
- (10) Except as required by by-law, any Delegations who have previously appeared before a particular Committee on a subject matter shall be limited to providing only new information in their second and subsequent appearances at that Committee.
- (11) Notwithstanding subsection 5.11(10), a Committee member may add the delegation on a Committee Agenda.

5.12 Public Hearings

(A) General

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

(B) Procedure

- (1) A delegation shall be in accordance with subsection 5.11.
- (2) Public Hearings shall commence with:
 - (a) an introduction of the subject matter by the Chair or by staff;
 - (b) the staff presentation, if any and if not waived by the members of the Standing Committee;
 - (c) the signing in of all delegations on a sheet, provided by staff, with their name, address, including postal code, phone number and e-mail address (optional).

(C) Written information

- (1) A delegation may provide additional written material regarding the subject matter, for the public record. Where a delegation wishes copies of the

information to be provided to all members of a Standing Committee, either one (1) copy of the material shall be provided to the Clerk at least two (2) weeks ahead of the meeting date for inclusion in the agenda or 25 copies shall be provided to the Clerk for distribution at the meeting, with the exception of the General Issues Committee which requires 45 copies.

5.13 Communication Items

- (1) Shall be addressed to the Mayor and Members of Council or the City Clerk and presented to the Standing Committee for consideration if the matter is being considered at the Standing Committee meeting.
- (2) Shall be forwarded to the Office of the City Clerk no later than 12 Noon on the Monday two weeks prior to the Standing Committee meeting for inclusion in the printed Standing Committee Agenda.
- (3) When the date described in subsection 5.13(2) is a public or civic holiday, the communication item shall be forwarded to the Office of the City Clerk no later than 12 Noon on the last business day prior to the date as set out in subsection 5.13(2), for inclusion in the printed Standing Committee Agenda.
- (4) If the Communication Item is relevant to a matter that appears on the Standing Committee Agenda for that meeting, and is not received for inclusion in the Agenda package, it shall be introduced under Changes to the agenda, provided that it is received in the Office of the City Clerk no later than 12 Noon on the business day prior to the Standing Committee meeting.
- (5) Shall not be defamatory or contain any obscene, offensive, anonymous, indecent, improper, rude or vulgar language.
- (6) Communication items that are relevant to a matter that appears on the Standing Committee Agenda, will be received and referred to the consideration of that matter.
- (7) Communication items received after the prescribed deadline as set out in subsection 5.13(4) will be included on the Council Agenda, to be received and referred to the consideration of that matter within the Standing Committee Report.
- (8) Communications respecting labour relation matters, conduct of a member(s) of staff and matters before another body (i.e. Police Services Board) will not be placed on the Committee Agenda and will be forwarded forthwith by the City Clerk to the relevant City Department or body for consideration and appropriate action.

- (9) Communications respecting the conduct of a member(s) of Council will not be placed on a Committee Agenda and the author will be advised of the process for filing a complaint with the Integrity Commissioner.
- (10) Notwithstanding subsections 5.13(8) and 5.13(9) a Committee member may add any communication item to a Committee Agenda.

5.14 Reconsideration of a Matter Decided Within a Standing Committee Meeting

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

5.15 Conflict of Interest Declarations (*this section is effective March 1, 2019*)

- (1) Where a member has disclosed an interest referred to in Section 5 of the *Municipal Conflict of Interest Act, 1990* at a meeting, the member shall file a written statement with the Clerk.
- (2) The Clerk shall establish and maintain a registry in which shall be kept,
 - (a) a copy of each statement filed under section 5.15(1); and
 - (b) a copy of each declaration recorded in the minutes of the meeting.
- (3) The Clerk shall make the Conflict of Interest Registry available for public inspection.

5.16 Special Meetings of a Standing Committee

- (1) In addition to scheduled Standing Committee meetings, the Mayor or the Committee Chair may, at any time, summon a special meeting of a

Standing Committee by giving written direction to the Clerk stating the date, time, and purpose of the special meeting.

- (2) The Clerk shall summon a special meeting of a Standing Committee when requested to do so in writing by a majority of Members of the Standing Committee.
- (3) The Clerk shall give each Member of the Standing Committee or their designated staff, notice of a special meeting of a Standing Committee at least 48 hours before the time appointed for such meeting by:
 - (a) delivering a written notice personally;
 - (b) delivering such notice at their residence or place of business; or
 - (c) facsimile transmission or electronic mail to such residence or place of business.
- (4) The written notice to be given under subsection 5.16(3) shall state the nature of the business to be considered at the special meeting of a Standing Committee and no business other than that which is stated in the notice shall be considered at such meeting.
- (5) Notwithstanding subsection 5.16(4), other business may be considered at a special meeting with at least two-thirds of the Committee members present and voting in the affirmative.
- (6) The Clerk shall prepare the Order of Business for a special meeting of a Standing Committee with the appropriate selection of agenda categories from subsection 5.10.

SECTION 6 – ESTABLISHMENT OF ADVISORY COMMITTEES OR TASK FORCES

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

SECTION 7 - ORDER AND DECORUM

- 7.1** No Person in attendance at a Council or Committee meeting shall:
- (a) ***be disrespectful or disrupt the Meeting in any manner;***
 - (b) bring food or beverages, water excepted, into the Council Chamber when a meeting is being held;
 - (c) address remarks to anyone but the Chair;
 - (d) interrupt a person who has the floor;
 - (e) applaud participants in debate.
- 7.2** Should a person persist in conducting themselves in a manner contrary to the rules set forth in subsection 7.1 after having been called to order by the Mayor or a Chair of a Committee, the Mayor or a Chair of a Committee may expel that person and may request the assistance of security and/or Police in doing so.
- 7.3** Notwithstanding subsection 7.2, in the event a member of the public is conducting themselves in a manner which poses a threat to the personal safety of themselves or others in attendance at the meeting, they shall be removed from the meeting, without warning.
- 7.4** Should a Member of Council persist in conducting themselves in a manner contrary to the rules set forth in subsection 7.1 after having been called to order by the Mayor or the Chair of the Committee, the Mayor or the Chair may order them to vacate the place the meeting is being held. If the Member of Council apologizes, they may, by vote of a majority of the Council or Committee members, be permitted to remain at the meeting.
- 7.5** No person except members of Council or a Committee, the Clerk, and officials authorized by the Clerk, shall:
- (a) be allowed on the floor while a meeting is being held, namely where members of Council or Committee, the Clerk, and officials authorized by the Clerk are seated and from which they speak;
 - (b) before or during a meeting of the Council or a Committee, place on the desks of members or otherwise distribute any material whatsoever unless such person is so acting with the approval of the Clerk.
- 7.6** Signs or placards are permitted at Council and Committee Meetings, provided:
- (a) they do not contain disrespectful or offensive language;
 - (b) they do not disrupt the Meeting;
 - (c) they do not disrupt an attendee's ability to view the proceedings; and
 - (d) they do not contain solid handles or hard backings.
- 7.7** Electronic devices at meetings:

- (a) Every person shall have all electronic devices, including but not limited to phone, computers, and similar electronic devices, etc. switched to a non-audible function during Council and Committee meetings.
- (b) The use of electronic devices at Closed Meetings is strictly prohibited.
- (c) Staff from the Office of the City Clerk are exempted from subsection 7.7(b) when using electronic devices for record-keeping purposes.

SECTION 8 – MEETINGS CLOSED TO THE PUBLIC

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

8.1 No meeting of Council or a Committee or part thereof shall be closed to the public unless the subject matter being considered is:

- (a) the security of the property of the City;
- (b) personal matters about an identifiable individual, including City employees;
- (c) a proposed or pending acquisition or disposition of land for City purposes;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the City;
- (f) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which Council or a Committee may hold a closed meeting under an Act other than the *Municipal Act, 2001*;
- (h) information explicitly supplied in confidence to the City 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 City and has monetary value or potential monetary value; or
- (k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the City.

8.2 A meeting of Council shall be closed to the public if the subject matter relates to the consideration of:

- (a) a request under the *Municipal Freedom of Information and Protection of Privacy Act* if Council is designated as head of the institution for the purposes of that Act; and
 - (b) an ongoing investigation respecting the City or a municipally-controlled corporation by the Ombudsman appointed under the *Ombudsman Act*.
- 8.3** A meeting of Council or a Committee may be closed to the public if:
- (a) it is held for the purposes of educating or training members; and
 - (b) at the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of Council or the Committee.
- 8.4** Before holding a meeting or part of a meeting that is to be closed to the public, a Council or Committee shall:
- (a) state specifically by resolution the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting;
 - (b) state specifically that members of the public will be invited to return to hear any further deliberations when Council or Committee reconvenes in Open Session, indicated by the removal of the frosting on the windows and the elimination of the white noise; and
 - (c) Council or Committee will, in the event they are in Closed Session for more than 30 minutes, wait up to 5 minutes upon reconvening in Open Session before proceeding with the meeting, to provide members of the public and the media time to return to the meeting room.

SECTION 9 - ELECTRONIC PARTICIPATION AT COUNCIL AND/OR COMMITTEE MEETINGS

- 9.1** Electronic participation is prohibited at Council and/or Committee meetings.

SECTION 10 - ROLE OF CLERK

- 10.1** The Clerk shall distribute the agendas of Council and Standing Committee meetings to members of Council and Senior Leadership Team at least 5 days prior to the scheduled meetings.
- 10.2** The Clerk shall make the agendas of Council and Standing Committee meetings, available to the media and general public, simultaneously with the distribution set out in subsection 10.1.
- 10.3** The Clerk shall make the agendas of Council and Standing Committee meetings available on the City website.

- 10.4** The Clerk shall advise the Mayor or Chair when items are required to be added to or removed from an agenda.
- 10.5** The Clerk shall submit for confirmation the minutes of the previous Council or Standing Committee meeting. Upon approval of the majority of the members of Council or Standing Committee, the Mayor or Chair and Clerk shall sign the minutes as confirmed or as amended.
- 10.6** The Clerk shall advise the Mayor or Chair, if in their opinion, a matter or portion of a matter being discussed in a meeting that is closed to the public is not procedurally appropriate in accordance with section 239 of the Act and section 8 of this By-law.
- 10.7** The Mayor or Chair may call upon the Clerk to provide advice regarding procedure. The Clerk shall provide this advice following which the Mayor or Chair will announce their ruling.
- 10.8** The Clerk shall assume the role of the Mayor or Chair as the chair of Council or a Standing Committee, when a ruling of the Mayor or Chair is challenged by a Member of Council. The Clerk shall take a vote of the challenge for Members of Council in favour or opposed to the ruling. The ruling fails when there is a majority vote in favour of the challenge.

SECTION 11 – GENERAL

- 11.1** This By-law shall not be amended or repealed except by a majority vote of all Members of Council.
- 11.2** General guidelines describing the respective roles and responsibilities of Council, the Mayor and the Chair of a Committee are set out in Appendix G to this By-law.
- 11.3** This By-law comes into force on the date on which it is passed, except that subsection 3.17 shall come into force on March 1, 2019.
- 11.4** The short title of this By-law is the Procedural By-law or the Council Procedural By-law.
- 11.5** By-law No. 14-300, governing the rules and procedures of Council of the City of Hamilton is repealed.

PASSED this 12th day of September, 2018.

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk

Appendix A**GENERAL ISSUES COMMITTEE****COMPOSITION**

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

MANDATE*General:*

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

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

Specific duties shall include:

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

- To Meet as Shareholders and/or Board of Directors of a corporation when required.
- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee

Appendix B**BOARD OF HEALTH****COMPOSITION**

The Board of Health shall be comprised of all 16 members of Council.

MANDATE*General:*

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

Specific duties shall include:

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

Appendix C**PUBLIC WORKS COMMITTEE****COMPOSITION**

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

MANDATE*General:*

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

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

Specific duties shall include:

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

Appendix D**PLANNING COMMITTEE****COMPOSITION**

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

MANDATE*General:*

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

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

Specific duties shall include:

To consider and recommend to Council on:

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

Appendix E

HEALTHY & SAFE COMMUNITIES COMMITTEE

COMPOSITION

The Healthy & Safe Communities Committee shall be comprised of a minimum of 5 members of Council, plus the Mayor as ex-officio.

MANDATE

General:

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

- Children's Services
- Ontario Works
- Neighbourhood Development
- Housing Services
- Lodges: Macassa Lodge and Wentworth Lodge
- Recreation
- Fire Services
- Paramedic Services
- Advisory Committees that report to the Healthy and Safe Communities Committee

Specific duties shall include:

To consider and recommend to Council on:

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

Appendix F**AUDIT, FINANCE & ADMINISTRATION COMMITTEE****COMPOSITION**

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

MANDATE*General:*

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

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

Specific duties shall include:

To consider and make recommendations to Council on:

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

- To receive delegations from the public and conduct public hearings as required by statute and Council specific to the mandate of this committee on matters under the Standing Committee
- Schedule F1 – Office of the City Auditor Charter

Schedule F1**CITY OF HAMILTON
OFFICE OF THE CITY AUDITOR CHARTER****INTRODUCTION**

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

In the capacity of Auditor General, the City Auditor assists City Council in holding itself and its administrators accountable for the quality of stewardship over public funds and for the achievement of value for money in City operations.

SCOPE

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

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

The first three activities are conducted by the Office in its capacity as Auditor General.

Audit Assurance and Special Investigations

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

- Risks are appropriately identified and managed.
- Significant financial, managerial, and operating information is accurate, reliable and timely.
- Actions are in compliance with policies, standards, procedures, and applicable laws and regulations.

- Resources are acquired economically, used efficiently and are adequately protected.
- Programs, plans and objectives are achieved.
- Significant legislative and regulatory issues impacting the City are recognized and addressed properly.
- Quality and continuous improvement are fostered in the organization's internal control processes.

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

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

Consulting and Risk Assessment

In addition to audit engagements, the Office of the City Auditor provides advisory or other consulting services, as planned, or at the request of Council or senior management. These types of services may include:

- Risk assessments and related workshops;
- Performing research;
- Providing education/training on audit related topics such as risk management, fraud awareness, performance measurement and internal controls;
- Performing Lessons Learned/Opportunities Assessments on project/program implementations that have experienced difficulties or challenges; and

- Providing counsel or advice (e.g. on the adequacy of draft procedures).

AUTHORITY

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

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

All employees will assist the OCA in fulfilling its objectives.

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

- City Departments;
- Members of Council;
- Local boards (not including the Board of Health, the Hamilton Public Library Board, the Police Services Board or other local boards in accordance with the current definition of “local board” under Section 223.1 of the *Municipal Act, 2001*);
- Municipally-controlled corporations (a corporation that has 50 per cent or more of its issued and outstanding shares vested in the City or that has the appointment of a majority of its board of directors made or approved by the City, not including a corporation established in accordance with Section 203 of the *Municipal Act, 2001*); and
- Grant recipients (as currently defined under Section 223.1 of the *Municipal Act, 2001* as “a person or entity that receives a grant directly or indirectly from the municipality, a local board or a municipally-controlled corporation”);

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

The relevant excerpts from the *Municipal Act* (accessed on July 16, 2019 at <https://www.ontario.ca/laws/statute/01m25#BK272>) are included below for reference:

Auditor General

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

Same

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

Exceptions

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

Powers and duties

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

Grant recipients

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

Delegation

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

Same

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

Status

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

Duty to furnish information

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

Access to records

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

No waiver of privilege

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

Powers re examination

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

Application of Public Inquiries Act, 2009

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

Duty of confidentiality

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

Same

(2) *Subject to subsection (3), the persons required to preserve secrecy under subsection (1) shall not communicate information to another person in respect of any matter described in subsection (1) except as may be required,*
(a) *in connection with the administration of this Part, including reports made by the Auditor General, or with any proceedings under this Part; or*
(b) *under the Criminal Code (Canada). 2006, c. 32, Sched. A, s. 98.*

Same

(3) *A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General*

under section 223.20 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege. 2006, c. 32, Sched. A, s. 98.

Section prevails

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

Testimony

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

INDEPENDENCE

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

To provide for the independence of Office of the City Auditor, its personnel report to the City Auditor, who reports administratively to the City Manager and functionally to the Audit, Finance and Administration Committee of Council. Audit and other reports are sent directly to the Audit, Finance and Administration Committee for discussion and approval and then to Council. These reporting relationships help ensure independence, promote comprehensive audit objectivity and coverage and assure adequate consideration of audit recommendations.

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

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

RESPONSIBILITIES

The City Auditor and the staff of the OCA have the responsibility to:

- Review operations within the City at appropriate intervals to determine whether planning, organizing, directing and controlling are in accordance with management instructions, policies and procedures and in a manner that is consistent with both City objectives and high standards of administrative practice.

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

AUDIT PLANNING

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

For the projects, the following sources are considered:

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

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

REPORTING

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

The OCA is responsible for appropriate follow up on audit findings and recommendations. All significant findings will remain open until the City Auditor has determined management has appropriately taken action to resolve the finding.

By-law 19-181 (Whistleblower By-law), Section 19 – Responsibility of the City Auditor requires a quarterly report for, in the aggregate, on the number, nature and outcome of disclosures of serious wrongdoing made under this By-law. Quarterly reports known as “Whistleblower, Fraud and Waste Information Updates” are submitted to the Audit, Finance and Administration Committee and capture at a high level the special investigations activity undertaken by the OCA.

Consulting and risk assessment project reports are issued at the discretion of the City Auditor. Considerations for reports include project size and type, topic, risk profile and organizational impact.

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

PROFESSIONAL STANDARDS

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

- Municipal Act, Sections 223.19-223.23 (Auditor General), as applicable.
- City of Hamilton Whistleblower By-law (19-181).
- International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors, for research and general consulting work.
- Certified Fraud Examiners Code of Professional Standards issued by the Association of Certified Fraud Examiners for Fraud, Waste and Whistleblower assessments and investigations.

When working as an Auditor General performing audit assurance engagements, work activities will be guided by professional standards and/or legislative requirements, as applicable.

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

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

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

GENERAL ROLE/GUIDELINES (COUNCIL)

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

ROLE OF THE MAYOR

(including the Deputy Mayor while fulfilling the duties of Mayor)

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

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

ROLE OF COMMITTEE CHAIR

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

DUTIES OF COMMITTEE CHAIR

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

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

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

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

Appendix I**HAMILTON ADVISORY COMMITTEE/TASK FORCE CODE OF CONDUCT**

Council has adopted this Code of Conduct for the guidance of Appointees to Advisory Committees and Task Forces providing recommendations to Standing Committees and to assist Appointees in performing their duties in a manner which will promote the public's confidence in these Advisory Committees and Task Forces operating with integrity, transparency and courtesy.

It is recognized that the Code of Conduct cannot anticipate all possible fact situations in which Appointees may be called upon to exercise judgement as to the appropriate standard of conduct. When this occurs, Appointees are to ensure that their decisions maintain the Advisory Committee or Task Force's integrity, transparency and courtesy.

This Code of Conduct does not apply to Members of Council who are subject to the Council Code of Conduct.

Failure to comply with this Code of Conduct may result in the Advisory Committee or Task Force:

- (1) requesting an apology from the Appointee; and/or
- (2) removing the Appointee from the Advisory Committee or Task Force for a portion or all of their term.

1. GOOD CONDUCT

Appointees shall act with honesty and integrity including:

- acting in a manner that contributes to the public's confidence in the Advisory Committee or Task Force; and,
- not engaging in conduct that may, or may appear to, constitute an abuse of their position as an Appointees.

2. MEETINGS

Appointees shall maintain proper control over meetings demonstrating respect for everyone who is involved in a proceeding.

Appointees are expected to attend all meetings of the Advisory Committee or Task Force. If an Appointee misses more than three meetings during their term, the Chair, after hearing and considering any explanation provided by the Appointee, may remove the Appointee from the Advisory Committee or Task Force for the remainder of their term.

3. COLLEGIALITY

Appointees shall respect and co-operate with other Appointees and the Advisory Committee or Task Force staff.

4. GIFTS OR BENEFITS

Appointees shall not accept a gift or benefit that may appear as being offered because they are Appointees.

5. CONFIDENTIAL INFORMATION

Appointees shall not disclose to any member of the public any confidential information acquired by virtue of their position.

6. COMMUNICATION

Appointees should accurately communicate a recommendation or direction.

Appointees may provide their own personal opinion on a matter, provided that it is made clear to the party they are speaking to that the comments are their own and are not being made on behalf of the Committee providing it does not relate to In Camera discussions.

Appointees may refer the media or others making inquiries to the Chair, or, in the absence of the Chair, to the Vice-Chair.