

Town of Georgina Lake Drive Shoreline Jurisdiction Ad Hoc Committee

COMMITTEE AGENDA

Tuesday, February 9, 2016
6:30 PM

Committee Room- Civic Centre

1. CALL TO ORDER
2. ROLL CALL
3. INTRODUCTIONS
4. ORIENTATION OVERVIEW
 - Pages 1- 4**
 - (1) Lake Drive Shoreline Jurisdiction Ad Hoc Committee Terms of Reference
 - Pages 5 - 45**
 - (2) Town of Georgina Procedural By-law
 - Pages 46 - 55**
 - (3) Town of Georgina Code of Conduct
 - Pages 56 - 57**
 - (4) Town of Georgina Smoke-Free Workplace Policy
 - Pages 58 - 83**
 - (5) Town of Georgina Violence and Harassment Policy
 - Pages 84 – 95**
 - (6) Accessible Customer Service and IASR Volunteer Policy
 - Pages 96 - 139**
 - (7) Ontario Sunshine Law Handbook
5. ELECTION OF CHAIR AND VICE CHAIR
6. INTRODUCTIONS OF ADDENDUM ITEM(S)
7. APPROVAL OF AGENDA
8. DECLARATIONS OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF
9. ADOPTION OF MINUTES - *None*

10. CONSIDERATION OF REPORTS ON THE AGENDA

- (1) Development of Issues List – group discussion

11. COMMUNICATIONS

Pages 140 - 158

- (1) Report No. OED-2015-0025 dated July 14, 2015 re LAKE DRIVE North and East - Policy re Shoreline Development

12. OTHER BUSINESS

- (1) Next Meeting

13. MOTION TO ADJOURN

TOWN OF GEORGINA
Lake Drive- Shoreline Jurisdiction Ad Hoc Committee

TERMS OF REFERENCE

1. Purpose

Provide information and assistance in the drafting of a comprehensive policy for submission to Council with respect to the use of Town road allowance in the area of the Lake Drive North and East shoreline.

2. Meetings

- i. The Committee shall meet as required throughout the year.
- ii. Quorum for the Committee shall be the majority of the appointed membership (50% plus 1 or round up to nearest whole number).
- iii. Members of the Committee who are unable to attend a regular meeting are required to report their absence prior to the meeting date and/or time.
- iv. A member shall not be absent for three (3) consecutive meetings without notice. For any anticipated lengthy absence (3 meetings or more), the member shall submit a request for leave of absence in order to preserve membership standing. Without a valid and acceptable reason, the individual's appointment to the Committee will be rescinded.

3. Agenda

The Agenda of the Committee may contain the following items:

- 1. Call To Order**
- 2. Approve/Amend Agenda**
- 3. Declaration of Pecuniary Interest**
- 4. Deputations/Presentations** if required
- 5. Adoption of Minutes**
- 6. Unfinished Business**
- 7. New Business**
- 8. Correspondence**
- 9. Information** Next meeting date: _____
- 10. Adjournment**

4. Responsibilities

The Committee will elect and appoint a Chair and Vice Chair, and shall:

- i. Draft formal policy, for recommendation to Council, pertaining to acceptable use of Town road allowance in the area of the North and East shoreline of Lake Drive.
- ii. Ensure such draft policy:
 - Provides for continued exclusive use of the road allowance abutting the Lake Simcoe shoreline by indirect lake front property owners.
 - Establishes standards for reasonable use of, maintenance of, and improvements on the road allowance.
 - Addresses liability issues associated with the use of the Town road allowance.
 - Ensures protection of shoreline aesthetics/vision of the lake front.
 - Examines the limits of the Lake Drive road allowance.
 - Examines options for formalizing the use of the road allowance by the indirect lake front property owners.
 - Ensures the protection of the environment.
 - Ensures the protection of the health, safety and wellbeing of person using the road allowance.
 - Ensures the protection of the integrity of the travelled portion of the road allowance.

5. Reporting and Recommendations to Town Council

- i. When requiring a matter to be considered or a decision of Council, the Committee shall make recommendations to Council, by reporting in a report format to include:
 - background information to be a brief synopsis or history of the issue
 - options for consideration to include financial and policy implications
 - a recommendation for Council's consideration
- ii. The report will be separate from the Minutes. However, information in the minutes pertinent to the recommendation will be summarized in the report to Council.
- iii. Reports for consideration to Council shall be provided to the Clerk for processing.
- iv. Should the Committee wish to provide a deputation to Council, a request shall be made in writing through the Clerk's office.

6. Membership

- i. Appointed by Council, the Committee shall consist of:
 - Mayor Quirk, Councillor Fellini and Councillor Neeson
 - Residents Alan Drenfeld, Susan Jagminas, Peter Stevens and Deyril Blanchard
 - Eastbourne resident representative Carr Hatch
 - One (1) to three (3) citizen appointments
- ii. Resignations from the Committee must be in writing to the Committee and Council.

7. Length of Term/Vacancies

- i. The Committee shall be appointed until the submission of a comprehensive report and recommendations to Council.
- ii. Recognizing that vacancies may arise, Council will request submissions from the public and will appoint citizens to fill such vacancies.

8. Member in Good Standing

The rules governing the procedure of Council and the conduct of members shall be observed by this Committee. All members should reflect appropriate conduct when attending meetings and/or representing the Georgina Shoreline Jurisdiction Ad Hoc Committee in public.

Consequences:

Upon any infraction of the above (which infers a negative impact upon the effectiveness of the Committee's work), a member can be put on probation for a two-meeting period with a letter from the Chair and/or a vote from members. If the conduct of the member continues to impact negatively upon the Committee's work, during and following the probation, then the Committee may make recommendation to Council to remove the member from the Committee.

9. Use of Town Logo/Letterhead

- i. The Committee has the ability to draft correspondence and make contacts with external organizations/individuals to solicit information to/from the public, to carry out its mandate. However, the nature and information shall not significantly bind the Municipality and shall be approved by the Communications Coordinator.

- ii. The Committee shall adhere to the Town logo policy in carrying out the mandate of the Committee.

10. Authority

- i. The Committee shall work within the scope of their responsibilities as set out in this Terms of Reference.
- ii. The Committee has no decision-making authority. Recommendations to Council in the form of resolutions are required.
- iii. Any information or action that binds the Corporation will require Council's approval.

11. Confidentiality

The *Municipal Act* shall bind the members of the Committee as it relates to confidentiality, conflict of interest, closed sessions, and any other requirements under the Act, which pertain to the conduct of officials.

12. Procedural By-law

The rules and regulations contained in the procedural by-law shall be observed in all proceedings of the Committee and shall be the rules and regulations of the dispatch of business by the Committee.

THE CORPORATION OF THE TOWN OF GEORGINA
IN THE
REGIONAL MUNICIPALITY OF YORK

BY-LAW 2015-0089 (COU-2)

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THE CORPORATION OF THE TOWN OF GEORGINA
IN THE
REGIONAL MUNICIPALITY OF YORK

BY-LAW 2015-0089 (COU-2)

PROCEDURAL BY-LAW

A By-law to govern the calling, place and proceedings
of meetings for the Town of Georgina.

WHEREAS Section 238 (2) of the *Municipal Act*, S.O. 2001, c. 25, as amended, provides that every municipal Council pass a by-law for governing the calling, place and the proceedings of meetings;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GEORGINA HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

In this by-law:

- (1) **“ACTING MAYOR”** means the Member of Council who has been appointed by by-law to act in the place or stead of the Deputy Mayor in the absence or incapacity of the Mayor and subsequent Deputy Mayor. (Deputy Mayor is also referred to as the Regional Councillor).
- (2) **“ADDENDUM”** means any addition to an item on the agenda. Changes in motions or resolutions following discussion on an agenda item are not considered an addendum.
- (3) **“AD HOC COMMITTEE”** means a committee established by Council from time to time to act on a temporary or singular initiative or matter, and shall be deemed discontinued when its recommendations upon the specified initiative or matter have been provided and further recommendations are no longer required unless it is continued by Council.
- (4) **“ADJOURN”** means to end the meeting.
- (5) **“ADVISORY COMMITTEE”** means a committee established by Council from time to time to act in an advisory capacity to Council on operational and strategic matters.

- (6) **“CAO”** means the Chief Administrative Officer of The Corporation of the Town of Georgina or their designate.
- (7) **“CLERK”** means the Town Clerk or a Deputy Clerk of the Town.
- (8) **“CLOSED SESSION”** refers to a meeting or portion thereof which is closed to the public in accordance with the applicable legislation.
- (9) **“COMMITTEE”** means any statutory advisory, subcommittee, standing, ad hoc, steering, or other committee, or similar entity of The Corporation of the Town of Georgina.
- (10) **“COMMITTEE MEMBER”** means a member of a committee of The Corporation of the Town of Georgina.
- (11) **“CONFIRMATORY BY-LAW”** means a by-law passed for the purpose of giving general effect to a previous decision or proceedings of Council.
- (12) **“CONSENT AGENDA”** means that portion of the Council agenda that contains reports from which members select the specific reports they wish to discuss. The remaining reports on the consent agenda (i.e. those reports that are not selected for discussion) are approved in one motion.
- (13) **“COUNCIL”** means the Council of the Corporation of the Town of Georgina.
- (14) **“DELEGATION”** means a person or group who has made a written request to address Council on a specific matter, and by virtue of the written request shall appear as a delegation on an agenda.
- (15) **“DEPUTY MAYOR”** means the Regional Councillor.
- (16) **“INVITED PRESENTATIONS”** means an address to Council normally at the request of Council or the Chief Administrative Officer, by a person, level of government or agency or other body on a specific matter.
- (17) **“LOCAL BOARD”** means a body established by Council pursuant to a specific statutory authority.
- (18) **“MAJORITY”** means more than half of the members present at the Council, committee or local board as follows:

Majority of 7 members equals 4

Majority of 6 members equals 4

Majority of 5 members equals 3

Majority of 4 members equals 3

Majority of 3 members equals 2

Majority of 2 members equals 2

(19) **"MAYOR"** means the Head of Council of The Corporation of the Town of Georgina.

(20) **"MEETING"** means any regular, special, closed or other meeting of the Council, committee or local board.

(21) **"MEMBER"** means a Member of Council, committee or local board and includes the Mayor.

(22) **MOTIONS AND PROCEDURE**

(a) **"AMENDING MOTION"** means to change the words of a pending motion.

(b) **"MAIN MOTION"** means a motion that is brought before Council, for its consideration, on any particular subject independent of any other pending motion.

(c) **"MOTION TO RECONSIDER"** means consider again. A motion to reconsider allows Council to consider again a motion on which a vote has been taken previously.

(d) **"MOTION TO SUSPEND OR WAIVE THE RULES"** means to render temporarily ineffective one or more rules of order.

(e) **"MOTION TO DEFER"** means to postpone all discussion on the matter until later in the same meeting or to a future date which is established as part of the motion.

(f) **"MOTION TO RECEIVE"** means to receive the information.

(g) **"MOTION TO RECESS"** means to take a short break or intermission in a meeting for a specified length of time. "Stand at ease" is an alternative for use when allowing the gallery to clear during a meeting.

(h) **"MOTION TO REFER"** means to direct a matter under discussion by Council to a committee or a department head for further examination.

(i) **"MOTION TO TABLE"** means to postpone without setting a

definite date as to when the matter will be re-discussed.

- (j) **“NOTICE OF MOTION”** means a statement of intention for a future meeting and is required in the case of intended motions being raised by any Member at the next scheduled meeting.
- (k) **“POINT OF ORDER”** means the raising of a question by a Member for the purpose of calling attention to a deviation or departure from the rules of procedure.
- (l) **“POINT OF PRIVILEGE”** means the raising of a question by a Member or the Chief Administrative Officer, where such member or the Chief Administrative Officer, feels that his/her integrity, the integrity of the Council, or the integrity of staff has been impugned by another member, a delegate, a presenter or a speaker.
- (m) **“POINT OF INQUIRY”** means the raising of a factual inquiry regarding business matters or procedural inquiry regarding the rules of order.
- (n) **“SUBSIDIARY MOTION”** means a motion applied to other motions for the purpose of disposing or amending a main motion.
- (o) **“TWO-THIRDS VOTE”** means an affirmative vote of at least two-thirds of the members present at the time of the vote as follows:

Two-thirds of 7 members equals 5
Two-thirds of 6 members equals 4
Two-thirds of 5 members equals 4
Two-thirds of 4 members equals 3
Two-thirds of 3 members equals 2
Two-thirds of 2 members equals 2.

- (p) **“WITHDRAW OR MODIFY A MOTION”** means withdrawal or modification of a motion by the mover, if applicable.
- (23) **“NEWSPAPER”** means a printed publication in sheet form, intended for general circulation, published regularly at intervals of no longer than a week, consisting in great part of news of current events of general interest and sold to the public and regular subscribers.
- (24) **“NOTICE”** means a written, published or printed notification.
- (25) **“OUTSIDE RESOLUTIONS”** means a resolution from the Region or other municipality received by the Town.

- (26) **“PECUNIARY INTEREST”** means an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For the purposes of the *Municipal Conflict of Interest Act*, R.S.O. 1990 c. M.50, a member has an indirect pecuniary interest in any matter in which the council or local board, as the case may be, is concerned, if,

- (a) the member or his or her nominee,
 - (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,
 - (ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, or
 - (iii) is a member of a body, that has a pecuniary interest in the matter; or
 - (b) the member is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter.
- (27) **“PETITIONS”** means the presentation of a formal request, in writing, to Council, committee or local board.
- (28) **“PRESIDING OFFICER”** means the Mayor, or designate or appointed Chair who presides at meetings of Council, committee or local board meetings.
- (29) **“PROCLAMATIONS”** means an official public announcement and symbolic gesture of endorsement.
- (30) **“PUBLIC HOLIDAY”** means and includes New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving, Christmas Day, Boxing Day, and any other day proclaimed by Council as a civic holiday.
- (31) **“PUBLIC MEETING”** means a public meeting held pursuant to the Planning Act or other legislation where statutory notice is required.
- (32) **“PUBLIC PRESENTATION”** means an address to Council at the written request of the presenter.
- (33) **“QUORUM”** means the majority of the whole number of members required to constitute a Council or committee. The number of members

present needed for Council to conduct business is four (4) members, except in the event of more than one conflict of interest.

- (34) **"RECORD"** means 'written' for the purpose of compiling minutes of a meeting.
- (35) **"RECORDED VOTE"** means a written record of the name and vote of every member on a motion on any matter or question conducted by the Clerk.
- (36) **"RULES OF PROCEDURE"** means the rules and regulations as set out in this by-law.
- (37) **"SPEAKER"** means members of the public who during the Delegations/Speakers/Petitions section of the agenda speaks or submits comment to Council on an item included in the Council portion of the agenda.
- (38) **"STAFF"** means employees of The Corporation of the Town of Georgina.
- (39) **"STAFF PRESENTATIONS"** means an address to Council by staff supported by a formal presentation method.
- (40) **"TOWN"** means The Corporation of the Town of Georgina.
- (41) **"TOWN PAGE"** means the advertisement containing Town related matters which is published weekly in the local newspaper.
- (42) **"TOWN WEBSITE"** means the Town of Georgina website at www.georgina.ca.

2. GENERAL PROVISIONS

(1) Rules and Regulations

- (a) The rules and regulations contained in this by-law shall be the rules and regulations for the order and dispatch of business in Council and its Committees provided that the rules and regulations contained herein may be suspended by a two-third (2/3) vote of the members present at the meeting. Council is prohibited from suspending any statutory requirement with respect to its proceedings.
- (b) All meetings of Council shall be open to the public unless the subject matter to be discussed relates to the closed session topics as stated in subsection 2(8) of this by-law.

- (c) The Clerk, or his/or her designate, shall be present at all meetings of Council.
- (d) Notwithstanding anything in this by-law, where Council convenes for the purpose of holding a hearing as required by any statute, the provisions of the statute and the *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22*, as applicable, shall govern the proceedings.

(2) Interpretations

- (a) In the event of any uncertainty in the interpretation of any provision of this Procedural by-law, reference shall be made to Robert's Rules of Order as an interpretive aid in resolving such uncertainty.
- (b) In the event of conflict between the provisions of this Procedural by-law and relevant legislation, the provisions of the legislation shall prevail.

(3) Roles of Council and Head of Council

(a) Role of Council –

It is the role of Council,

- (i) To represent the public and to consider the well-being and interests of the municipality;
- (ii) To develop and evaluate the policies and programs of the municipality;
- (iii) To determine which services the municipality provides;
- (iv) To ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
- (v) To ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- (vi) To maintain the financial integrity of the municipality;
- (vii) To carry out the duties of Council under this and any other Act.

(b) Role of the Head of Council

It is the role of the Head of Council,

- (i) To act as chief executive officer of the municipality;
- (ii) Preside over Council meetings so that its business can be carried out efficiently and effectively;
- (iii) To provide leadership to the Council;
- (iv) Without limiting clause (iii), to provide information and recommendations to the Council with respect to the role of Council described in clauses 2(3)(a)(iv);
- (v) To represent the municipality at official functions; and
- (vi) To carry out the duties of the head of Council under this or any other Act.

(4) Presiding Officer

- (a) The Mayor, or designate or appointed Chair shall sit as Presiding Officer at meetings of Council, committee or local board meetings.
- (b) When the Office of the Mayor as Head of Council is vacant, or when the Mayor is unable to carry out his/her duties through illness or otherwise, or when the Mayor is absent from the office in the course of his/her duties, or on vacation or a Council approved leave, or
- (c) When the Mayor refuses to act or declares a conflict of interest, the Deputy Mayor shall act in the absence of the Mayor and shall have all the powers and duties of the Mayor.
- (d) The Regional Councillor shall be the Deputy Mayor.
- (e) In the absence, refusal or inability of the Mayor or Deputy Mayor to act, then in accordance with the order set out in the Appointment of a Presiding Officer by-law, the respective Member of Council shall assume the position of Presiding Officer.
- (f) If the Mayor/Presiding Officer does not attend within fifteen (15) minutes after the hour fixed for the meeting, the Deputy Mayor or, in his absence, the Presiding Officer calls the meeting to order and shall preside until the Mayor arrives.

(5) Duties of the Presiding Officer

- (a) As soon as quorum is present, after the hour fixed for the holding of a Council meeting, the Mayor or Presiding Officer may call the meeting to order.
- (b) It shall be the duty of the Mayor or Presiding Officer:
 - (i) To preside at all meetings of the Council;
 - (ii) To put to a vote all motions which are regularly moved and seconded, or necessarily arise in the course of proceedings, and to announce the result of the vote;
 - (iii) To decline to put to vote motions which infringe the rules of procedure;
 - (iv) To restrain the Members, within the rules of procedure, when engaged in debate;
 - (v) To enforce on all occasions, the observance of order and decorum among the members and attendees/audience;
 - (vi) To call by name any member persisting in breach of the rules of procedure, thereby ordering the member to vacate the council chamber;
 - (vii) To decide all questions of order at the meeting, subject to an appeal by any member to Council on any question of order in respect to business before the Council;
 - (viii) To execute, by his/her signature when necessary, all by-laws and minutes of a meeting and other required documents;
 - (ix) To represent and support Council, declaring its will, and implicitly obeying its decisions in all matters; and
 - (x) That regular Council meetings shall not exceed four (4) hours in duration and shall be adjourned forthwith unless otherwise determined by a majority of the members present.
 - (xi) The Presiding Officer shall enforce the rules of procedure.

(6) Conduct of Members

(a) No member shall:

- (i) Speak without the permission of the Presiding Officer;
- (ii) Use offensive words or unparliamentary language in or against the Council, any Member of Council, or any officer or employee of the Town or guest;
- (iii) Speak on any subject other than the subject in debate;
- (iv) Criticize any decision of the Council except for the purpose of moving that a question be reconsidered or rescinded;
- (v) Interrupt the member who has the floor, except to raise a point of order or point of privilege;
- (vi) Disobey the rules of procedure or a decision of the Presiding Officer on questions of order or upon the interpretation of the rules of procedure; and where a member persists in any such disobedience after having been called to order by the Presiding Officer, the Presiding Officer shall introduce the motion without amendment, adjournment or debate being allowed, "that such member be ordered to leave his/her seat for the duration of the meeting of the Council", but if the member apologizes, he/she may be permitted to retake his/her seat;
- (vii) Leave the at any time without advising the Presiding Officer or the Clerk; and
- (viii) Speak in a manner that is discriminatory in nature on an individual's vocation, race, ancestry, place of origin, colour, ethnic origin, citizenship, religion, creed, sex, sexual orientation, age, marital status, family status or mental or physical disability.

- (b) Any member may require the question or motion under discussion to be read at any time during the debate, but not so as to interrupt a member while speaking.
- (c) No member shall speak more than once, except to give an explanation to the motion that may have been interpreted incorrectly or with leave of the Presiding Officer after all other members so desiring have spoken.

(7) Decorum

- (a) Attendees at a meeting shall maintain order and shall not display signs or placards, heckle, or engage in telephone or other conversations or any behaviour that may be considered disruptive.
- (b) All cell phones, personal digital assistant and electronic devices shall be set to silent mode during a meeting. Electronic communication devices shall be permitted at the council table for the purpose of accessing the agenda electronically; use of such electronic communication devices shall be at the discretion of each Council member, but shall not be permitted for the exchange of e-mails, texting or any digital communication amongst members during the meeting.
- (c) The Presiding Officer or Council may expel or exclude from any meeting any person for improper conduct at a meeting.
 - (i) The Presiding Officer, where a warning or ruling has not been heeded, may expel any member or person from the meeting place for improper conduct at the meeting, which for purposes of this section shall include:
 - a. violation of the rules;
 - b. interruption of the proceedings of Council;
 - c. making of disruptive noise or visible gestures;
 - d. campaigning for any political cause or outcome; or
 - e. any other activity that impedes the conduct of the meeting.
 - (ii) Where the Presiding Officer expels any member or person from the meeting, such member or person shall vacate the meeting place forthwith.
 - (iii) Where the expulsion applies to a member, the member shall only address the Presiding Officer for the purpose of appealing the Presiding Officer's ruling of expulsion.
 - (iv) If no member appeals, the ruling of the Presiding Officer shall be final.
 - (v) If a member appeals the Presiding Officer's ruling on expulsion to Council, the member shall have the right to give reasons for the

appeal, following which the Presiding Officer shall have the right to reply with reasons, and the Council shall decide the question: "That the decision of the Chair be sustained" without further debate, and the decision of Council shall be final.

- (d) No person, except members of Council and staff of the Town, shall be allowed to approach the dais (platform) uninvited where the members of Council are seated or the table where Town staff is seated.
- (e) Members of the public who wish to submit materials for Council must do so through the Clerk.
 - (i) The use of audio and video recording equipment in the council chambers by the public or the media will be permitted provided that it is not disruptive to the meeting. The location of the recording equipment will be at the discretion of the Clerk.
 - (ii) If, in the opinion of the Clerk, the use of such equipment or devices is deemed to be disruptive to the conduct of the meeting, the recording privileges will be withdrawn from any offending user. The ruling of the Clerk shall be final unless a member appeals the ruling to Council which shall then decide upon the question without debate. A majority vote of the members present shall be required.

(8) No Quorum

- (a) If no quorum is present fifteen (15) minutes after the time appointed for a meeting, the Clerk shall record the names of the members present and the meeting shall not commence or proceed.
- (b) In a meeting where there is only the minimum requirement for a quorum and a member declares a Conflict of Interest, the remaining members of Council are deemed to constitute a quorum, provided that this number is not fewer than two (2).
- (c) If during the course of a meeting, the quorum is lost, then the meeting shall stand recessed and shall reconvene when a quorum is regained. In the event that the quorum is not regained within fifteen (15) minutes, then the Clerk shall record in the minutes the time when quorum was lost, note the names of those present and the meeting shall be ended without formal adjournment.
- (d) If a meeting ends because the quorum is lost,
 - (i) The items on the agenda that were dealt with by Council including

any recommendations therefrom, will be included in the minutes of the meeting;

- (ii) The items on the agenda that were not dealt with or finally disposed of by Council shall be placed on the agenda for the next regular meeting or special meeting as the case may be.

- (e) Each Member of Council is encouraged to notify the Clerk when the member is aware that he/she will be absent from any meeting.

(9) Late Arrival

- (a) If a member arrives late at a meeting, any prior discussion shall not be reviewed without the unanimous consent of all members present.

(10) Disclosure of Pecuniary Interest and General Nature Thereof

- (a) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting at which the matter is the subject of consideration, the member:
 - (i) Shall, prior to any consideration of the matter at the meeting, orally disclose the interest and its general nature;
 - (ii) Shall not, at any time, attempt, either on his or her own behalf or while acting for, by or through another person, in any way whether before, during or after the meeting to influence the voting on any such question; and
 - (iii) Shall leave the room immediately prior to any consideration or discussion of the matter during a closed session.
- (b) Where the interest of a member has not been disclosed by reason of the member's absence from the meeting wherein the matter was discussed, the member shall disclose the interest at the first meeting attended by the member after the meeting referred to.

(11) Points of Order or Privilege

- (a) A member may interrupt the person who has the floor to raise a point of order when such member feels that there has been a deviation or departure from the rules of procedure. The ruling of the Presiding Officer shall be final unless a member appeals the ruling to Council which shall then decide upon the question without debate.

- (b) A member may raise at any time a point of privilege where such member feels that his/her integrity, the integrity of any other member, the integrity of the Council, or the integrity of staff has been impugned by another member, presenter, delegate or speaker. Upon hearing such point, the ruling of the Presiding Officer shall be final unless a member appeals the ruling to Council which shall then decide upon the question without debate.
 - (c) Where the Presiding Officer recognizes that a breach of privilege has taken place, the Presiding Officer shall demand that the offending member, presenter, delegate or speaker apologize, and failing such apology shall require such person to vacate the council chambers for the duration of the meeting.
 - (d) Any member may appeal the decision of the Presiding Officer to the Council which shall decide the question "that the decision of the Presiding Officer be sustained" without the debate upon a fifty percent vote of the members present.
 - (e) When the Chief Administrative Officer considers that the integrity of a member of Town staff has been impugned or questioned, the Chief Administrative Officer may seek leave from the Presiding Officer to make a point of privilege to Council.
- (12) Signing Authority
- (a) The Mayor, the Deputy Mayor and the Clerk or Deputy Clerk are hereby authorized to sign and seal all agreements and other municipal documents that have been approved by Council.

3. COUNCIL MEETINGS

(1) Inaugural Meeting

The first meeting of a newly elected Council after a regular election shall be held in the Council Chambers on the first Wednesday of December at 7:00 p.m.

(2) Regular Meetings

- (a) Unless otherwise provided by a resolution of the Council, the regular meeting of Council shall be held on:
 - the first Wednesday of each month at 9:00 a.m. (local time);

- the second Wednesday of each month at 7:00 p.m. (local time);
 - The third Wednesday of each month will be reserved for meetings, as required at 9:00 a.m.; and
 - The fourth Wednesday of each month at 7:00 p.m. (local time).
- (b) In December of each year, Council shall set the schedule of meetings for the following year. No meeting shall be held during the second and third weeks of the month of March, during the first week of September, during the last two weeks of the month of December and only one meeting per month will be held during the months of July and August unless otherwise specified by resolution of Council.

(3) Special Council Meeting

- (a) The Mayor may, at any time, summon a special Council meeting on 48 hours' notice to the members, or when so requested in writing by a majority of the members, the Clerk shall summon a Special Council meeting on 48 hours' notice to all members for the purpose and the time mentioned in the petition.
- (b) The only business to be dealt with at the special Council meeting is that which is listed in the notice of the meeting. Special meetings may be open or closed as provided in the *Municipal Act*.
- (c) Lack of receipt of the notice shall not affect the validity of the meeting or any action taken at that meeting.

(4) Emergency Meeting

Notwithstanding any other provision of this by-law, a special meeting may be held without 48 hours' notice, to deal with an emergency situation, provided that a reasonable attempt has been made to reach the members of Council by telephone and email at their respective residences and/or places of business. No business, except business dealing directly with the emergency situation, shall be transacted at that meeting.

(5) Public Meetings

- (a) When required, public meetings held to consider applications under the *Planning Act*, or to obtain public input for other purposes will be held at 7:30 p.m. as the second order of business at the Council meeting.
- (b) A public meeting may be called at an earlier or different date and time

upon the approval by resolution of Council provided that adequate notice is given to the public of the impending change as directed by the Clerk or designate.

- (c) The Mayor or Presiding Officer shall explain the public meeting process for those in attendance and the statutory requirements under the *Planning Act* or other applicable legislation.
- (d) Delegates wishing to address Council at a public meeting under the *Planning Act* or a public meeting called for other purposes shall be permitted to speak without advance notice.
- (e) The time limitation for delegations at a public meeting to hear applications under the *Planning Act*, shall not exceed five (5) minutes. Council may extend, without debate, the five (5) minute time period by a majority vote of the Council members present.
- (f) Council may ask questions of staff after the staff presentation and prior to the delegates addressing Council.

(6) Postponement of Meeting

- (a) If it appears that inclement weather, or like occurrence, or an emergency situation will prevent the Members from attending a meeting, the Chief Administrative Officer or designate, in consultation with the Mayor may direct the Clerk to postpone that meeting by contacting as many members as he/she is able to reach. Information regarding the cancellation of the meeting shall be recorded on the Town's telephone system and posted on the Town website. Postponement shall not extend beyond the date of the next regularly scheduled meeting, unless extenuating circumstances continue preventing the holding of the next regular meeting.

(7) Location of Meetings

- (a) All meetings of Council shall be held at 26557 Civic Centre Road, Keswick, ON, Canada, L4P 3G1 Council Chambers or at any other place in the municipality or adjacent municipality, authorized by the Mayor in the case of a special meeting or by Council in the case of regular meetings.
- (b) Despite subsection a) above, a joint meeting of the Councils of two or more municipalities for the consideration of matters of common interest may be held within any one of those municipalities or in a municipality adjacent to any of them.

- (c) In the event of an emergency the Council may hold its meetings and keep its public offices at a convenient location within or outside the municipality.

(8) Recording of Meetings

- (a) Council meetings, which are not closed to the public in accordance with the provisions of Section 5 of this by-law, subject to Subsection 3(8) of this by-law may be digitally, televised or otherwise recorded.
- (b) Inability of recording of the meeting due to technical difficulties with recording equipment will not prohibit the meeting from commencing or continuing.

(9) Notice of Meetings

- (a) The Clerk shall provide notice to the public of all meetings of Council, agendas, agenda items, cancellations and re-scheduling by:
 - (i) Posting the annual regular schedule of meetings once adopted by Council on the Town Page in the local newspaper and the Town's website at www.georgina.ca and distributing copies upon request.
 - (ii) Updating the annual regular schedule of meetings posted on the Town website within 24 hours of any changes made to the schedule; and
 - (iii) For special meetings, posting the agenda on the Town website not less than 24 hours in advance of the meeting.
- (b) The form, manner and times when Notice will be provided to the public regarding specific by-laws and the holding of certain meetings are outlined in the Policy on Public Notice Requirements or any other applicable by-law.
- (c) Notice which is substantively given but which is irregular or not otherwise in strict compliance with this by-law will not invalidate the holding of a meeting or any proceeding taken at a meeting.

(10) Committees/Local Boards of Council

- (a) The Office of the Clerk shall publicly advertise and recruit applicants for committees and local boards at the beginning and throughout (if vacancies arise) each term of Council. The Selection Committee will conduct the selection process of applicants and make confidential

recommendations to Council for appointments. Council shall appoint, by by-law, members including Council representative(s) to committees and local boards at the beginning of each term of Council. Council may only alter appointments through a by-law.

- (b) All committees and local boards shall include a minimum of one (1) Member of Council and a maximum of three unless otherwise approved by Council.
- (c) All committees and local boards Terms of Reference, to govern the committee or local board, shall be drafted by staff and said Terms of Reference shall require Council's approval.
- (d) All committees and local boards shall elect a Chair and Vice-Chair from its citizen appointees at the beginning of each calendar year throughout the term of office.
- (e) All Committees and Local Boards shall, through the Office of the Clerk, publicly advertise their meeting schedule and location on the Town's website.
- (f) All committees and local boards shall, through the Office of the Clerk, publicly advertise their agendas one week in advance of their meetings on the Town's website and provide them, upon request. Minutes of meetings shall be approved by committee and presented to Council, and also be posted on the Town website and provided, upon request, in an accessible format.
- (g) It shall be the duty of the committees and local boards to report to Council, on all matters connected with their mandate as outlined in their terms of reference and/or, on matters referred to them by Council and to recommend action(s), through a recommendation report to Council in a timely manner and as deemed necessary.
- (h) Where deemed necessary by the committee or local board or Council, sub-committees may be established to conduct research and report to the committee or local board sub-committee members are not necessarily required to be committee or local board members but a committee or local board member shall Chair sub-committee meetings. Sub-committees must report in a timely fashion to the committee or local board.
- (i) Committees and local boards will be provided administrative and legislative support through the Office of the Clerk.
- (j) Committees and local boards are advisory bodies to Council, and do not

have any decision-making authority outside of the scope of the responsibilities outlined in their Terms of Reference.

- (k) Council may establish an ad hoc committee and appoint its members by by-law to consider a specific matter.
- (l) Members of staff appointed to committees shall be non-voting members of the committee.
- (m) Agendas and meeting minutes of committees and boards should be formatted and created so that they appear substantially similar to those resulting from Council meetings.

4. AGENDA

(1) Order of Business

- (a) The Clerk shall prepare for distribution an agenda with the routine order of business for regular meetings of Council to be as follows:

1. CALL TO ORDER- MOMENT OF MEDITATION
2. ROLL CALL
3. COMMUNITY ANNOUNCEMENTS
4. INTRODUCTION OF ADDENDUM ITEMS
5. APPROVAL OF AGENDA
6. DECLARATIONS OF PECUNIARY INTEREST AND GENERAL NATURE THEROF
7. ADOPTION OF MINUTES
8. SPEAKERS
9. DELEGATIONS/PETITIONS
10. PRESENTATIONS
11. PUBLIC MEETINGS

IF MORE THAN ONE PUBLIC MEETING IS SCHEDULED FOR THE SAME TIME, THEY WILL BE DEALT WITH IN THE ORDER THAT THEY APPEAR ON THE AGENDA OR AS COUNCIL MAY DETERMINE.

- (1) STATUTORY MEETINGS UNDER THE PLANNING ACT OR MEETINGS PERTAINING TO THE CONTINUATION OF PLANNING MATTERS
- (2) STATUTORY MEETING(S) UNDER OTHER LEGISLATION
- (3) OTHER PUBLIC MEETINGS

12. REPORTS

- (1) ADOPTION OF REPORTS NOT REQUIRING SEPARATE DISCUSSION
- (2) REPORTS REQUIRING SEPARATE DISCUSSION

13. DISPOSTIONS/PROCLAMATIONS, GENERAL INFORMATION ITEMS AND COMMITTEE OF ADJUSTMENT

- (1) Dispositions/Proclamations
- (2) General Information Items
- (3) Committee of Adjustment Planning Matters
 - (a) Under Review
 - (b) Recommendations
 - (c) Decisions

14. MOTIONS/NOTICES OF MOTION

15. REGIONAL BUSINESS

16. OTHER BUSINESS

17. BY-LAWS

18. CLOSED SESSION

- (1) Motion to move into closed session of Council
- (2) Motion to reconvene into open session of Council and report on matters discussed in closed session.

19. CONFIRMING BY-LAW

20. MOTION TO ADJOURN

(2) Changes in Order of Business

- (a) All business shall be considered in the order in which it appears on the agenda unless otherwise decided by the Presiding Officer.

(3) Addendum Items

- (a) Addendum items will only be permitted on the agenda pertaining to matters of the utmost importance and if sanctioned by the Chief Administrative Officer (CAO). Approval of addendums presented at Council are at the discretion of Council with a majority vote.
- (b) Addendum items will be introduced by the Presiding Officer or Clerk at the beginning of the meeting. Whenever possible addendums will be posted to the website and Civic Centre bulletin boards prior to the meeting.

(4) Delegations and Petitions

For the purposes of this by-law Delegations and Speakers Regarding Items on the Agenda are separated for distinction (see 4 & 5)

(a) Delegations

- (i) Anyone wishing to appear before Council as a delegation shall advise the Clerk by 10:00 a.m. on the Monday ten (10) days prior to the Wednesday meeting. A delegation will only be included on the agenda when the Clerk is in receipt of a completed registration form which shall include the nature of the matter to be addressed and contact information for the delegate. In accordance with accountability and transparency, no delegation shall be permitted to address Council except those individuals that have submitted a registration form within the prescribed time and are listed as delegations on the agenda.
- (ii) The Clerk shall give due consideration to the length of the agenda and the number of delegations and shall recommend to the requester the earliest possible date when their delegation may be accommodated. A maximum of three (3) delegations shall be allowed to address Council per meeting.
- (iii) If the Clerk receives four (4) or more requests to appear as a

Delegation regarding the same issue at the same meeting, Council shall be informed and may schedule a special meeting to address the matter.

- (iv) No person other than the designated spokesperson may speak on the matter and for not more than a total of five (5) minutes. A five (5) minute extension may be decided, without debate, by a majority vote of the Council Members present at the Council meeting. A delegation consisting of more than three (3) or more persons who are present at the meeting may have more than one (1) speaker provided that the total speaking time does not exceed ten (10) minutes in total.
- (v) All delegations on an issue shall be heard before questions are asked of staff or discussion takes place among Council.
- (vi) Once discussion in respect of a motion or resolution has commenced, no further presentation shall be made by a delegation or by any person other than a member, except at the discretion of the Presiding Officer.
 - a. Council shall receive, by resolution, the delegation and any documentation. Where there is no accompanying staff report, the matter may be referred to a future Council meeting and a report requested for that meeting.
 - b. Notwithstanding the immediate previous subsection of this by-law, no delegation shall be permitted when the subject matter to be addressed relates to a recommendation of any tribunal that has conducted a hearing under the *Statutory Powers Procedures Act*, 1990, c S.22.
- (vii) Delegations shall not:
 - a. Speak more than once on an item;
 - b. Speak disrespectfully of any person;
 - c. Use offensive words;
 - d. Speak on any subject other than the subject for which they received approval to address Council;
 - e. Disobey a decision of the Presiding Officer;
 - f. Enter into cross debate with other delegations or presenters,

Town staff, members or the Presiding Officer.

- (viii) Upon the completion of a delegation to Council, any discourse between members and the delegation shall be limited to members asking questions for clarification and obtaining additional relevant information only. Members shall not enter into debate with the delegation. Once a motion has been moved and seconded, no further presentation or questions of the delegation shall be permitted.

(b) Petitions

- (i) All petitions presented to Council shall be filed with the Clerk. Every petition intended for presentation to Council shall be legible and shall not contain any defamatory allegations, or impertinent or improper matter, and shall be signed by at least one person giving his/her name and mailing address.
- (ii) Any person wishing to present a petition shall submit a copy of the material to the Clerk no later than 10:00 a.m. on the Monday ten (10) days prior to the Wednesday meeting. Any petition submitted after 10:00 a.m. on Monday will be accepted where it relates to a matter on the agenda, but may not be circulated to Members until after the meeting.
- (iii) If, in the Chief Administrative Officers opinion, the petition is of a time sensitive nature, the Chief Administrative Officer may bring forward such petition for Council consideration, after the aforementioned deadline.
- (iv) Petitions designed to be presented to the Council and filed with the Clerk shall become part of the public record and shall contain:
 - a. The text regarding the petition must appear at the top of every signature sheet.
 - b. Each person petitioning must print his or her name and address and telephone numbers on the petition.
 - c. A petition must contain original signatures only, written directly on the face of the petition and not pasted or transferred to it.
 - d. Petitions must be free of erasures or insertions.
 - e. The petitioners must be a resident of Georgina and/or the specific geographic area pertaining to the petition.

f. It is acceptable for petitioners to be under the age of majority.

(v) Council may receive petitions and, if required, refer to staff for staff report.

(5) Speakers Regarding Items on the Agenda

- (a) In addition to the requirements noted in subsection 4(4)(a) of this By-law, a member of the public wishing to speak in respect to a matter on the Council portion of the agenda shall submit a request to speak form (available at the meeting). The speaker shall then be provided with an opportunity to speak to the matter under Delegations / Speakers / Petitions. If the speaker does not wish to wait to observe Council's discussion on the matter, the Clerk's Division, upon request, shall advise the speaker of the outcome of the discussion.
- (b) Speakers shall be permitted to speak on a matter only once and may speak for no more than five (5) minutes. A five (5) minute extension to speak may be decided, without debate, by a majority vote of the Council Members present at the council meeting. Where there are numerous speakers taking the same position on a matter, they are encouraged to select a spokesperson to present their views. Speakers are also encouraged to not repeat information presented by an earlier speaker.
- (c) Speakers shall be encouraged to submit any questions they may have, for Council or speaker notes, to the Clerk, in writing, prior to the meeting.
- (d) Members shall be permitted to ask questions or seek clarification from the speaker but shall not make statements to or enter into debate with the speaker.
- (e) Questions of staff by any speaker shall be received by the Presiding Officer and addressed when practical prior to the consideration of the matter.

(6) Presentations

(a) Public Presentations

- (i) Anyone wishing to appear before Council with a presentation shall advise the Clerk by 10:00 a.m. on the Monday ten (10) days prior to the Wednesday meeting. A presentation will only be included on the agenda when the Clerk is in receipt of a completed request which shall

include the nature of the matter to be addressed and contact information for the presenter. In accordance with accountability and transparency, no presentation shall be permitted before Council except those individuals that have submitted a written request within the prescribed time and are listed as presentations on the agenda.

- (ii) All public presentations appearing before Committee shall be heard at the beginning of the regular meeting as it appears in the order of business on the agenda and shall be permitted to speak only once on an item. Once the business of the Council has commenced, no further presentation shall be made by the presenter or by any person other than a member, except at the discretion of the Presiding Officer.
- (iii) The time limit for a public presentation shall be ten (10) minutes and may be extended at the discretion of the Presiding Officer with a majority vote of members present at the time of the presentation.
- (iv) Where there is no accompanying staff report relating to a public presentation, the matter shall be referred to a future meeting of the Council and a staff report requested for that meeting.
- (v) Rebuttal or cross debate with other presenters shall not be permitted.
- (vi) Presenters shall not:
 - a. Speak disrespectfully of any person;
 - b. Use offensive words;
 - c. Speak on any subject other than the subject for which they received approval to address Council;
 - d. Disobey a decision of the Presiding Officer;
 - e. Enter into cross debate with other delegations or presenters, Town staff, Members or the Presiding Officer.
- (vii) Upon the completion of a presentation to Council, any discourse between members and the presenters shall be limited to members asking questions for clarification and obtaining additional relevant information only. Members shall not enter into debate with the presenters. Once a motion has been moved and seconded, no further presentation or questions of the presenters shall be permitted.

(b) Invited Presentations

- (i) Presentations invited by the Town or Council; such as, consultants, other level of governments or agencies, etc. shall be given a ten (10) minute time limit and may be extended at the discretion of the Presiding Officer with a majority vote of members present at the time of the presentation.
- (ii) All Invited presentations appearing before Committee shall be heard at the time of the accompanying staff report, if applicable, otherwise shall be heard at the beginning of the regular meeting as it appears in the order of business on the agenda.
- (iii) Rebuttal or cross debate with other presenters shall not be permitted.
- (iv) Presenters shall not:
 - a. Speak disrespectfully of any person;
 - b. Use offensive words;
 - c. Speak on any subject other than the subject for which they received approval to address Council;
 - d. Disobey a decision of the Presiding Officer;
 - e. Enter into cross debate with other delegations or presenters, Town staff, members or the Presiding Officer.
- (v) Upon the completion of a presentation to Council, any discourse between members and the presenters shall be limited to members asking questions for clarification and obtaining additional relevant information only. Members shall not enter into debate with the presenters. Once a motion has been moved and seconded, no further presentation or questions of the presenters shall be permitted.

(c) Staff Presentations

- (i) Staff presentations, if related to a report on the agenda shall occur at the time the report is discussed. Time limits, if deemed necessary, may be established at the discretion of the Presiding Officer.
- (ii) Rebuttal or cross debate with other presenters shall not be permitted.
- (iii) Presenters shall not:

- a. Speak disrespectfully of any person;
- b. Use offensive words;
- c. Speak on any subject other than the subject for which they received approval to address Council;
- d. Disobey a decision of the Presiding Officer;
- e. Enter into cross debate with other delegations or presenters, Town staff, members or the Presiding Officer.

(7) Communications and Proclamations

(a) Communications

- (i) All written communications presented to Council shall be filed with the Clerk. Every communication intended for presentation to Council shall be legible and shall not contain any defamatory allegations, or impertinent or improper matter, and shall be signed by at least one person giving his/her name and mailing address.
- (ii) Any person wishing to present material either in hard copy or electronically shall submit a copy of the material to the Clerk no later than 10:00 a.m. on the Monday ten (10) days prior to the Wednesday meeting. Any material submitted after 10:00 a.m. on Monday will be accepted where it relates to a matter on the agenda, but may not be circulated to Members until after the meeting.
- (iii) Submissions received or matters arising later than 10:00 a.m. on Monday ten (10) days prior to the Wednesday meeting will be treated as an addendum item and will only be permitted in the event of matters of the utmost importance and if sanctioned by the Chief Administrative Officer (CAO).
- (iv) Approval of addendums presented at Council are at the discretion of Council with a majority vote.

(b) Proclamations:

- (i) Council recognizes the symbolic gesture of endorsing special days, weeks or months in support of various community groups and their causes.
- (ii) Requests for proclamations shall be processed by the Clerk or

designate.

- (iii) The Clerk shall review the request and make any appropriate amendments to the proclamation, which in the Clerk's view improves the structure and/or intent of the requested proclamation. The Clerk shall present the proclamation to the Mayor for signature. Once the proclamation has been signed, the proclamation shall be noted on the communication for disposition/proclamations portion of the agenda
- (iv) Each organization shall be responsible for disseminating the proclamation to the media and making arrangements for the attendance of the Mayor and/or Councillors at the specific function or event, if any, at which the proclamation is to be made.

(8) Outside Resolutions

- (a) Copies of outside resolutions will be circulated to all Members of Council, the Chief Administrative Officer and the appropriate department heads through the general information items.
- (b) Any outside resolution contained in Item 13(2) General Information Items may be moved to Item 13(1) Disposition / Proclamations at the request of a Member of Council or Chief Administrative Officer.

(9) By-laws

- (a) All by-laws shall be read and enacted in a single motion, unless a Member wishes to discuss the contents of a by-law, at which time the subject by-law shall be removed from the motion and dealt with in a separate single motion. The headnote only of the by-law shall be read.
- (b) All amendments to any by-law approved by Council shall be deemed to be incorporated into the by-law and if the by-law is enacted by Council, the amendments shall be applied to the by-law by the Clerk.
- (c) Every by-law which is passed by Council shall be sealed with the seal of the Corporation, signed by the Mayor or Deputy Mayor and by the Clerk, and shall be deposited with the Clerk for custody.
- (d) The proceedings at every regular and special meeting shall be confirmed by by-law so that every decision of the Council and every resolution passed at that meeting shall have the same force and effect as if each and every one of them had been the subject matter of a separate by-law duly enacted.

5. COUNCIL IN CLOSED SESSION

(1) Council Closed Session Procedure

- (a) The rules governing the procedure of the Council and the conduct of members shall be observed for Council in closed session so far as they are applicable.

(2) Type of Business

- (a) A meeting may be held in closed session only when the subject matter to be discussed relates to one or more of the following:
 - (i) The security of the property of the municipality or local board;
 - (ii) Personal matters about an identifiable individual, including municipal or local board employees;
 - (iii) A proposed or pending acquisition or disposition of land by the municipality or local board;
 - (iv) Labour relations or employee negotiations;
 - (v) Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
 - (vi) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (vii) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
 - (viii) A meeting of a Council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:
 - a. The meeting is held for the purpose of educating or training the members.
 - b. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of Council, local board or committee.

(3) Resolution to Meet in Closed Session

- (a) Before holding a meeting or part of a meeting in closed session, Council shall state by resolution,
 - (i) The fact of the holding of the closed session; and
 - (ii) The general nature of the matter to be considered at the closed session.
- (b) Should Council, during an open meeting session, wish to meet in closed session, the open meeting of Council may, following the passage of the resolution referred to immediately above, convene into the closed session.

(4) Voting In Closed Session

- (a) No vote in closed session shall be taken unless,
 - (i) The subject matter is permitted as per subsection 5(2) of this by-law ; and
 - (ii) The vote is for a procedural matter (i.e. adopt minutes, to recess, adjourn, adopt closed session minutes) or for giving directions or instructions to officers, employees or agents of the Town or Council appointed board, committee or persons retained by or under contract with the Town or Council appointed board or committee.

(5) Confidentiality

- (a) Members shall ensure that confidential matters disclosed to them and materials provided to them during closed session are kept confidential. Members are to return confidential material to the Clerk.

6. AGENDAS AND MINUTES

(1) Preparation and Distribution of Agenda

- (a) Prior to each meeting, the Clerk (or his/her designate), with the assistance of the department heads and approval by the Chief Administrative Officer, shall prepare an agenda of all the business to be brought before such meeting.
- (b) In the case of a special Council meeting, the agenda shall be distributed to Members of Council and posted to the Town website at

least 48 hours before the meeting.

- (c) In the case of a regular Council meeting or a public meeting, the agenda shall be distributed to Members of Council at least seven (7) days before the day of the meeting and made available to the public at least six (6) days before the day of the meeting.
 - (d) That insofar as is practicable, Council and committee agendas, along with supporting material, shall be prepared and made available to members by noon on the Wednesday prior to the following Wednesday meeting; seven (7) days prior to the meeting. Insofar as is practical, agendas shall be made available to the public via the Town and by request through the Clerk's Division by noon on the Thursday for the following Wednesday meeting; six (6) days prior to the meeting.
 - (e) Insofar as is practicable on a holiday Monday weekend, Council and Committee agendas, along with supporting material, shall be prepared and made available to members by close of business at 4:30 p.m. on the Wednesday prior to the following Wednesday meeting or seven (7) days prior to the meeting. Insofar as is practical, agendas will be made available to the public via the Town's website and by request through the Clerk's Division by close of business at 4:30 p.m. on the following day (Thursday) prior to the meeting.
- (2) Minutes
- (a) It shall be the duty of the Clerk to record, or cause to be recorded, the proceedings of Council in the form of minutes that shall contain the following:
 - (i) The beginning and ending time of meetings;
 - (ii) The names of the members present. Should a member enter after the commencement of a meeting or leave prior to adjournment, the time shall be noted;
 - (iii) Names of staff present;
 - (iv) Disclosures of pecuniary interest and the general nature thereof;
 - (v) A record of each item before Council for consideration;
 - (vi) Decisions of Council on each item;
 - (vii) Names of delegations appearing before Council and brief one

line summary of request.

- (b) The minutes shall record all other proceedings of the meeting without note or comment.

(3) Administrative Authority of Clerk

- (a) The Clerk shall be authorized to make minor corrections to any by-law, minutes or other Council document to eliminate technical or typographical errors prior to the documents being signed.

(4) Adoption of Minutes

- (a) Upon calling to order of a regular meeting and following the order of business, the Presiding Officer shall ask for approval of the minutes of the previous meeting(s) and shall forthwith, or immediately after any correction or change, declare the minutes adopted and sign them.

7. MOTIONS

(1) General Rules

- (a) Every motion, when duly moved and seconded, shall be open for discussion. A seconder is required in order to introduce the motion for discussion purposes. The seconding of a motion does not imply that the seconder supports the motion put forward. Debate shall not be allowed on any motion or amendment until it has been properly seconded. The Presiding Officer may not move or second any motion. The Presiding Officer shall vote on a motion but shall not have a second or casting vote in the event of an equality of votes on any motion.
- (b) Any member may request the Presiding Officer to put the motion to a vote.

(2) Motion under Debate

- (a) When a motion is under consideration, no other motion shall be made, except for the following purposes:
 - (i) Raise a point of order;
 - (ii) Raise a point of privilege;
 - (iii) To refer the motion under consideration to staff for a report;
 - (iv) To defer the motion under consideration to a definite date (to postpone

definitely);

- (v) To defer the motion under consideration indefinitely (to postpone indefinitely);
- (vi) To table the motion under consideration;
- (vii) To amend the motion under consideration;
- (viii) Motion to put the question (to end debate);
- (ix) To extend the hour of automatic adjournment;
- (x) To recess;
- (xi) To adjourn.

- (b) Any Member may require a motion under discussion to be read at any time during the debate but not so as to interrupt a member while speaking.

(3) Adoption in a Single Motion

- (a) One or more report items on an agenda may be adopted in a single motion.
- (b) At a Council meeting any member or anyone present at the meeting may request that an item be discussed and that item shall not be included in the motion to adopt Council items not requiring separate discussion.

(4) Motion Containing Two or More Matters

- (a) When the motion under consideration concerns two or more matters, the Presiding Officer, upon the request of any member, may direct that the vote upon each matter may be taken separately.

(5) Motion to Amend

- (a) A motion to amend:
 - (i) shall be relevant to the main motion;
 - (ii) shall not be directly contrary to or propose a direct negative to the main motion;
 - (iii) shall be debatable; and

- (iv) shall not itself be amended more than once.
- (b) Motions to amend shall be put to a vote in reverse order from which motions to amend are put forward, and should the motion to amend be carried, the main motion shall then be considered by Council as amended.
- (c) Notwithstanding the foregoing, a motion to amend shall not be required where the mover and seconder of the main motion agree to re-word the main motion to accommodate a proposed amendment and no Member of Council objects. While a motion to amend normally applies to main motions, it may also be applied to other motions that can be varied.
- (d) After the motion to amend has been voted on, the main motion (as amended) shall, if no other amendment or subsidiary motion is proposed, be put to a vote.
- (e) If the original mover and seconder of the main motion do not agree with the amendments, they may, without further discussion, withdraw the main motion.
- (6) Motion to Refer
 - (a) A motion to refer a matter under consideration to staff:
 - (i) Shall be open to debate and may be amended;
 - (ii) Shall include the terms on which the matter is being referred and the time at which it is to be returned;
 - (iii) Shall include the reasons for the referral.
- (7) Motion to Defer
 - (a) A motion to defer a matter to a certain time or date:
 - (i) Shall be open to debate as to the advisability of its deferral;
 - (ii) May be amended as to the time or date to which the matter is deferred.
- (8) Motion to Table
 - (a) A motion to table a matter
 - (i) Shall not be amended or debated;

(ii) Shall apply only to the main motion and any adhering options to the main motion.

(b) A tabled motion that has not been decided by Council either in the affirmative or in the negative during the term of the Council in which the motion was introduced shall be deemed to have been withdrawn.

(9) Motion to Recess

(a) A motion to recess when other business is before the meeting:

(i) Shall specify the length of time of the recess;

(ii) Shall not be debatable;

(iii) Shall only be amendable with respect to the length of the recess.

(10) Withdrawal of Motion

(a) A request to withdraw a motion:

(i) May only be made by the mover of the motion and not by the seconder or any other member;

(ii) Shall have the consent of the seconder of the motion; and

(iii) Shall be in order at any time during debate.

(11) Reconsideration of a Motion

(a) After a resolution/by-law that determines the final outcome of a main motion has been enacted, Council may not reconsider or rescind such resolution/by-law for a period of six (6) months, except in accordance with these provisions.

(b) Any member from the prevailing side or a member who was absent from the meeting when the matter was considered may give notice of a motion to reconsider a resolution/by-law.

(c) Such notice may only be given during the Notice of Motion section of a meeting and may relate to a resolution/by-law enacted during that meeting or at a prior meeting.

(d) If the motion is seconded, Council may only enact such a motion by a two-thirds vote of the members present.

- (e) Where it is determined that a resolution/by-law shall be reconsidered, no further action shall be taken to carry into effect the affected resolution/by-law until after the motion to reconsider has been disposed of, either at the next regular meeting or at a special meeting called to consider the motion to reconsider.
- (f) No discussion of the affected resolution/by-law shall be allowed at a Council meeting where notice to reconsider is given, until Council has voted to reconsider the same, but the Member giving such notice shall have the privilege of stating the reasons for doing so.
- (g) When the affected resolution/by-law is reconsidered, either at the next regular meeting or at a special meeting, it shall be declared lost, unless passed by the majority of the members present.
- (h) Once a resolution/by-law has been the subject of a motion to reconsider duly seconded and voted on, such resolution/by-law may not again be reconsidered until six (6) months after its original enactment and no resolution to reconsider may itself be the subject of a motion to reconsider.

(12) Notice of Motion

- (a) A notice of motion shall be in writing and shall be delivered to the Clerk, who shall read the notice into the record at the first regularly scheduled Council meeting following the delivery of notice. No seconder is required, and the motion is not debatable at that time.
- (b) The notice of motion shall be dealt with at the next regularly scheduled Council meeting. The Chief Administrative Officer may deem it appropriate for staff to prepare a report in relation to the notice of motion which report will appear on the agenda in conjunction with the notice of motion.

(13) Suspension or Waiving of Rules

- (a) A motion to suspend the rules of procedure required by this by-law shall not be debatable or amendable and shall require a two-third (2/3) vote of the members present at the Council meeting.

8. VOTING

(1) Voting on Motions

- (a) After a motion is finally put to vote by the Presiding Officer, no member

shall speak to the motion or shall any other motion be made until after the vote is taken and the result declared. Each member present and voting shall announce or indicate his/her vote upon the motion openly and individually and no vote shall be taken by ballot or any other method of secret voting.

(2) Member Disagrees with Announcement of Vote

- (a) If a member who has voted on a motion disagrees with the declaration of the Presiding Officer that the question is carried or lost, the member may, but only immediately after the declaration by the Presiding Officer, object to the Presiding Officer's declaration and require the Presiding Officer to call for another vote on the matter.

(3) Member Who Does Not Vote

- (a) If a member present abstains from voting, he/she will be deemed to have voted in the negative unless the member's reason for abstaining is due to his/her declaration of a pecuniary interest. When a member abstains from voting as a result of a declaration of a pecuniary interest, his/her abstention shall be deemed to be neither an affirmative nor a negative vote and shall not be considered in determining the result of the vote.

(4) Tie Vote

- (a) Any motion on which there is a tie vote shall be deemed to be lost except where the *Municipal Act* expressly provides otherwise.

(5) Recorded Vote

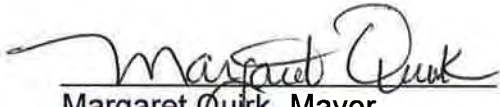
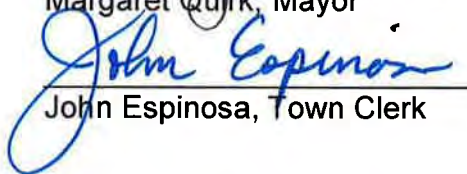
- (a) Recorded votes shall only be taken at Council meetings.
- (b) When a member requests, immediately prior to the taking of the vote, that the vote be recorded, the Clerk shall, with the exception of members who have declared a pecuniary interest, call all members present at the meeting to vote. The Regional Councillor shall be called first and each member in alphabetical order thereafter, with the Mayor being called last to vote. The name of each member who voted and the manner in which he/she voted shall be noted in the minutes. If a member at a Council meeting, where a motion is put to a vote and a recorded vote is taken, does not vote, he/she will be deemed to have voted in the negative unless the member's reason for abstaining is due to his/her declaration of a pecuniary interest, in which case his/her abstention shall be deemed to be neither a negative nor an affirmative vote. The Clerk shall announce the total number of votes for and against and the Presiding Officer shall announce the results.

9. ADMINISTRATION

- (1) By-law No. 2014-0123 (COU-2) is hereby repealed in its entirety.
- (2) This By-law is administered by the Town Clerk.

READ and enacted this 10th day of June, 2015.

THE CORPORATION OF THE TOWN OF GEORGINA


Margaret Quirk, Mayor

John Espinosa, Town Clerk

Legislative History

Oct 15, 2002	Council adopted By-law 2002-0134
Feb 9, 2004	Council adopted By-law 2004-0016, amending By-law 2002-0134
Dec 11, 2006	Council adopted By-law 2006-0141
Mar 5, 2007	Council adopted By-law 2007-0017
June 17, 2013	Council adopted Resolution C-2013-0275 and CW-2013-0164 (Report DAS-2013-0025)
Aug 26, 2013	Council adopted Resolution C-2013-0343 and CW-2013-0192 (Report DAS-2013-0041)
Sept 16, 2013	Council adopted SC-2013-0355 (Report CAO-2013-0014); Pilot Project (Oct 30, 2013 to April 30, 2014)
Oct 7, 2013	Council adopted Resolution C-2013-0382 and CW-2013-0212 (Report DAS-2013-0044)
Oct 15, 2013	Council adopted By-law 2013-0133
Oct 30, 2013	Council adopted Resolution C-2013-0475 (Report DAS-2013-0049)
Jan 8, 2014	Council adopted Resolution C-2014-0003 (Report DAS-2014-0003)
May 7, 2104	Council adopted Resolution -2014-0284 (Report DAS-2014-0020); Resolution C-2014-0285 (Report DAS-2014-0021)
Sept 9, 2014	Council adopted Resolution C2014-0526 (Report DAS-2014-0039)
Sept 10, 2014	Council adopted By-law 2014-0123
June 10, 2015	Council adopted Resolution (Report DAS-2015-0033); by-law 2015-0089

TOWN OF GEORGINA – CLERK'S DEPARTMENT
POLICY No. DAS-CL-031

Subject: CODE OF CONDUCT POLICY	Authority, Ref. & Sec. Bill 130, The Municipal Statute Law Amendment Act, 2006 The Municipal Act, 2001		
Policy Classification:	Pages:	Year	Month Day
	10	2008	09 15
Recommended/Approved by: Town Clerk	Contact Position for Inf. Town Clerk		

1. Policy Statement:

A written Code of Conduct helps to ensure that the members of Council, advisory committees and local boards of the municipality share a common basis or acceptable conduct.

Attaining an elected position within one's community is a privilege which carries significant responsibility and obligation.

In order to strengthen the role of Council and to enhance public trust, this Code of Conduct supplements existing provincial conflict of interest legislation and municipal by-laws that govern their conduct.

2. Purpose:

The Code of Conduct for Council Members and related policies identify the Town of Georgina's expectations of Members of Council and establishes guidelines for appropriate conduct to ensure that:

- the decision-making process of Town Council is open, accessible and equitable;
- decisions are made through appropriate channels of government structure;
- public office is not to be used for personal gain;
- residents have confidence in the integrity of their local government;
- the conduct of Members of Council is of the highest standard; and
- there is fairness and respect for differences and a duty to work together for goodwill and common good

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PART I - DEFINITION

“Members of Council” includes the Mayor and Members of Council.

“Confidential Information” means any information that is of a personal nature to Town employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Corporation or could give the person to whom it is disclosed an advantage. Confidential Information includes, but is not limited to the following information:

- Disclosed or discussed at a meeting of Council, Committee of the Whole or Standing Committee, or part of a meeting of Council, Committee of the Whole or Standing Committee that is closed to the public;
- That is circulated to members of Council and marked ‘confidential’; or
- That is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to the following types of information;
 - Personnel matters;
 - Information about suppliers provided for evaluation which might be useful to other suppliers;
 - Matters relating to the legal affairs of the Town;
 - Sources of complaints where the identity of the complainant is given in confidence;
 - Items under negotiation;
 - Schedules of prices in contract tenders; and
 - “Personal information” as defined in the *Municipal Freedom of Information and Protection of Privacy Act*

“Conflict of Interest” involves decisions made and/or actions taken by a Member of Council in respect of matters in which he or she has a direct or indirect personal or pecuniary interest.

“Fraud” involves any intentional or deliberate act to deprive any person or the public of property, money or valuable security by deception or other unfair means. This includes fraud as defined in the *Criminal Code*.

“Gifts, Hospitality, Benefits & Perquisites” are items, invitations, articles, services, offers, entrance fees or vouchers of more than a nominal value.

“Pecuniary interests” are interests that have a direct or indirect financial impact. They include:

- any matter in which the member has a financial interest

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- any matter in which the member is a shareholder, director or senior officer of or holds a controlling interest in a corporation that does or does not offer its securities to the public, and such corporation has a financial interest
- any matter in which the member is a partner of a person or is in the employment of a person that has a financial interest; and
- any matter in which a parent, spouse, same sex partner or any child of the member has a financial interest, if known to the member

“Personal Interests” involve forms of advantage other than financial such as seeking an appointment, promotion or transfer within the Corporation on behalf of a family member.

“Theft” is the act of fraudulently taking or converting to one’s use, or the use of another person, anything, with the intent to deprive the true owner of it, or a person who has a special property or interest in it. This includes theft as defined in the *Criminal Code*.

“Town Property” includes, but is not limited to all real property, municipal vehicles, equipment, material, supplies, intellectual property and documents.

PART II – RESPONSIBILITIES OF MEMBERS OF COUNCIL

Confidentiality

Members shall not disclose or release by any means to any member of the public either in verbal or written form any confidential information acquired by virtue of their office except when required by law to do so.

All information, documentation or deliberation received, reviewed or taken in closed session of Council and its committees is confidential until the matter ceases to be confidential, as determined by Council.

Members shall not permit any persons other than those who are entitled thereto to have access to information that is confidential.

Confidential information that comes to the attention of members does not belong to them. It is property that belongs to the Town.

The obligation to keep information confidential is a continuing obligation even if the Member ceases to be a Member of Council.

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Members have the same access rights to municipal information as any other resident in the Town, unless the information relates specifically to a matter before Council. Requests for information should be referred to the appropriate staff to be addressed as either an informal request for access to municipal records, or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*.

PART III – CONFLICT ON INTEREST

Members will follow and respect both the letter and spirit of the provisions of the Municipal Act 2001 and the Municipal Conflict of Interest Act, as amended from time to time.

Members shall not:

- engage in any activity, financial or otherwise, which is incompatible with the proper discharge of his or her official duties;
- use any influence of office for any purpose other than official duties;
- act as a paid agent before Council or any committee, board or commission of Council;
- solicit, demand or accept the services of any civic employee for re-election purposes during hours in which the employee is in the paid service of the Town;
- use any confidential information gained in the execution of office for any purpose other than official duties;
- give preferential treatment to any person or organization in which the member has a pecuniary interest;
- influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which the member has a financial interest;
- use Town property or Town employees for personal gain or for any private purpose.

PART IV – STAFF RELATIONS

Members shall acknowledge and respect the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate objectives, without undue influence from any individual member or group of members.

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In addition, members shall acknowledge and respect the fact that staff carry out directions of Council as a whole and administer the policies of the Town, and are required to do so without any undue influence from any individual member or group of members.

Members shall not publicly criticize individual staff members in a way that cast aspersions on their professional competence and credibility.

PART V – COMMUNICATIONS AND MEDIA RELATIONS

Members will accurately and adequately communicate the attitudes and decisions of Council, even if they disagree with a majority decision so that:

- There is respect for the decision-making process of Council;
- Official information related to decisions and resolutions made by Council will normally be communicated in the first instance to the community and the media in an official capacity by the Mayor or the Mayor’s designate;
- Information concerning adopted policies, procedures and decisions of the Council is conveyed openly and accurately.

PART VI – GIFTS, HOSPITALITY, BENEFITS & PERQUISITES

Members may only receive tokens, mementos, souvenirs or similar gifts that are received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office. Tokens, mementoes, souvenirs or gifts with a value of greater than nominal value, if accepted, shall be the property of the Town.

Members may accept hospitality or entertainment if the offer is infrequent and appropriate to the occasion.

Nothing in this section prevents the receipt of:

- personal gifts, benefits, rewards, commissions or advantages from any person or organization not connected directly or indirectly with the performance or duties of office

Members may also accept the following:

- political contributions that are otherwise offered, accepted and reported in accordance with applicable law;

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- food and beverages at banquets, receptions, ceremonies or similar events;
- services provided without compensation by persons volunteering their time;
- food, lodging, transportation and entertainment provided by other levels of governments or by other local governments, boards or commissions;
- a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations

Any gifts, benefits, hospitality or perquisites that exceed these guidelines shall be returned with an explanation of this Code of Conduct.

PART VII – POLITICAL ACTIVITY

Members must ensure compliance with all legislative requirements related to political activity including the use of Corporate Resources During an Election Year (Policy No. DAS-CL-ME01).

PART VIII – USE OF TOWN PROPERTY

In accordance with the use of “Corporate Resources During An Election Year”, Policy No. DAS-CL-ME01, members must respect Town property. Members may only use Town property or services for activities connected with the discharge of official duties or associated community activities having the sanction of Council or its committee.

Members shall not obtain financial gain from the use of Town developed intellectual property, computer programs, technological innovations, or other kinds of property, while an elected official or thereafter. All such property remains the exclusive property of the Town.

PART IX – CONDUCT AT MEETINGS

During Council, Committee of the Whole and other ad hoc, special purpose, task force or working group meetings, members shall conduct themselves with decorum and in accordance with the Town’s Procedure By-law in effect from time to time. Respect for delegations and for fellow members and staff requires that all members show courtesy and not distract from the business of Council during presentations and when other members have the floor.

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PART X – HARASSMENT

Harassment of another Council member, staff or any member of the public is prohibited under the Human Rights Code. In accordance with the Ontario Human Rights Code and the Town’s Sexual Harassment Policy No. 42 and Discrimination Policy No. 2, it is the policy of the town that all persons be treated with dignity and respect in the workplace in an environment free of discrimination and of personal and/or sexual harassment. Harassment, whether it occurs inside or outside the workplace but is related to the work environment or activities of elected office, is considered to be harassment and is inappropriate behaviour for the purpose of this Code of Conduct.

Harassment includes, but is not limited to any behaviour, conduct or comment by any persons that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the Ontario Human Rights Code as amended.

Any complaints of harassment will be investigated in accordance with the procedure set out in the town Harassment Policy No. 42. In the event that a regulation is not achieved, any Member may request that the complaint be dealt with in accordance with Part IX of the policy.

PART XI – ENCOURAGEMENT OF RESPECT FOR THE TOWN AND ITS BY-LAWS AND POLICIES

Members shall at all times encourage public respect for the Town and its policies.

PART XII – COMPLIANCE WITH CODE OF CONDUCT

- a) Where an alleged contravention of any provision of this Code of Conduct occurs, the complainant shall attempt to meet with the Member of Council to discuss the complaint and resolve the issue. In the event that a meeting between the complainant and the Member of Council is not possible, or fails to resolve the issue, the complainant may request a meeting with the Member of Council, the Chief Administrative officer, an independent third party and/or the Mayor or Alternate to discuss the complaint and resolve the issue. In the event that a meeting with the member of Council, the Chief Administrative Officer, an independent third party and/or the Mayor fails to resolve the issue, the complainant may request the CAO to investigate the complaint and/or to arrange for a neutral third party to mediate the dispute.

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- b) In the event the dispute can not be resolved after exhausting the steps set out in paragraph (a) above, Council may hold a special meeting of Committee of the Whole to determine if the member has breached this policy. The meeting shall be closed to the public, unless otherwise determined by the majority of members present at the meeting.
- c) The member alleged to have contravened this Code of Conduct shall be given opportunity to address Council at the meeting and will be provided with sufficient time to explain the alleged breach. The member shall be permitted to introduce evidence including witnesses to support his or her position, and shall have the option of attending with legal counsel. Should the member have legal counsel, then the Town shall have the right to legal representation.
- d) Should Council determine after hearing all evidence that the member has breached a provision of the Code of Conduct, Council shall report that such a determination has been made, and at a special open Council session called for that purpose, pass a Resolution that shall require the member to appear before an in-camera Committee of the Whole meeting to be sanctioned. The Sanction shall be ratified by Resolution at a session of Council.
- e) Should Council feel that a breach of this Code of Conduct may have occurred, but is unable to make a determination, Council may pass a resolution requesting a judge of the Ontario Superior Court of Justice to conduct an investigation of the member’s conduct under Section 274(1) of the Municipal Act, 2001 as amended. Should the Judge determine that a breach has occurred, the penalties for such breach shall be determined in accordance with this Policy.
- f) Sanctions include, but are not limited to demand of an apology, a public reprimand or a combination of any of the above.
- g) All sanctions under this Code of Conduct will be fair and in keeping with the severity of the breach, giving due regard to the member’s previous conduct.
- h) Nothing in this Sanction restricts or attempts to countermand a member’s legal right to challenge a decision of Council through established legal channels.

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PART XIII – IMPLEMENTATION

Upon the adoption of this Code of Conduct and thereafter at the beginning of each term, Members of Council will be expected to sign two copies of the Code of Conduct (one for themselves and one for the Clerk’s Office) to convey to each other and all stakeholders that they have read, understood and accept it.

A Code of Conduct component will be included as part of the orientation workshop for each new Council, or Council appointed advisory, ad hoc, special purpose committee, task force or working group.

Members of Council are expected to formally and informally review their adherence to the provisions of this Code on a regular basis or when so requested by Council.

Cross References

Municipal Act 2001 S.O. 2001, c.25 as amended

Municipal Conflict of Interest Act, R.S.O. 1900, c.M.50

Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56

Procedural By-law 2002-0134 (COU-2)

Sexual harassment Policy No. 42

Discrimination Policy No. 2

Employee Code of Ethics and Conduct Policy No. DAS-HR-01

Use of Corporate Resources During an Election Year Policy No. DAS-CL-ME01

Responsible Computing Guidelines Policy No. DAS-IT01

Recruitment Practice Policy No. DAS-HR-02

Criminal Code of Conduct RS 1985 c.C.46

Electronic Mail and Messaging Systems Usage Policy and Guidelines No. DAS-IT02

TOWN OF GEORGINA – CLERK’S DIVISION
POLICY No. DAS-CL-031

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SIGNATURE

The undersigned Member of Council hereby acknowledges that they have read, understood and accept this Code of Conduct.

Signature of Member of Council

Date

Printed Name

 HUMAN RESOURCES POLICIES, GUIDELINES AND PROCEDURES Policy No. 31 – Smoke-Free Workplace DAS-HR-35	Prepared by: Claire Marsden Human Resources Office Approved By: Council
Approved on: August 28, 1995 Effective Date: October 30, 1995 Revision Date: September 18, 2006	Page 1 of 2
PURPOSE: To provide a safe and healthy working environment for all municipal employees in compliance with the Smoke-Free Ontario Act and its regulations.	

1. SMOKE-FREE WORKPLACE

1. The Corporation of the Town of Georgina recognizes that Environmental Tobacco Smoke has been well documented as a Class “A” carcinogen in the same class as asbestos and benzene as a toxic substance and health hazard. In an effort to consider the needs of smokers and non-smokers alike and to provide a safe and healthy working environment for every employee, the Corporation’s smoke-free policy became effective on October 30, 1995.
2. This policy applies to all employees located in the Civic Centre Administration Building, all Public Works Facilities, including Roads and Waterworks, Parks Buildings, Arenas, Fire Halls, and Libraries. All company vehicles, whether owned or leased are included as smoke-free workplaces.’
3. All municipal employees, customers and visitors are expected to comply with the smoking regulations detailed in this policy and with the Smoke-Free Ontario Act and its regulations.
4. The role of the employee will be to respect the smoke-free policy and smoke outside the workplace in designated areas only. The role of management is to enforce this policy without exception, and to comply with the provisions of the Smoke-Free Ontario Act as specified under Employer obligations.
5. The following regulations outline when and where employees may smoke:
 - Smoking is permitted during the employee’s break and meal periods;
 - Smoking is permitted outside all buildings but NOT within a 5 meter radius from any entrance or exit customarily used by customers of the Corporation or by Town employees;
 - Smoking is NOT permitted in Town owned/leased vehicles

Ashtrays will be erected in smoking permitted areas in order to dispose of all cigarette butts. Smoking in any prohibited area will be considered an infraction of this policy and an offence under the Smoke-Free Ontario Act.

6. This policy will be posted on all staff bulletin boards in all workplaces. Pursuant to Section 9 (3) (c) of the Act, the prescribed signs prohibiting smoking throughout the enclosed workplace, place or area over which the employer has control, including


washrooms, will be posted in accordance with the regulations of the Smoke-Free Ontario Act.



Human Resources Policies, Guidelines and Procedures Policy No. 31 – Smoke-Free Workplace

7. All complaints of smoking in the prohibited areas will be brought to the attention of the appropriate supervisor. Failure to comply with this policy will result in disciplinary action and/or be guilty of an offence under the Smoke-Free Ontario Act.
8. The Corporation will provide written resources regarding various smoking cessation programs which will be available in the Human Resources Office.
9. The Corporation recognizes that many of its employees would like to quit smoking and that this policy and the Smoke-Free Ontario may encourage employees to attempt to stop smoking. In recognition of this, and to provide support to those who wish to quit, the Corporation will make a one-time reimbursement of fifty percent (50%) of the cost, to a maximum of \$75.00, of the cessation program of the employee's choice. The employee will receive this money upon completion of the cessation program by submitting a receipt payment to the Human Resources Office.

A copy of this policy will be included in the orientation package for all new employees.

 HUMAN RESOURCES POLICIES, GUIDELINES AND PROCEDURES Policy No. 42 – Violence and Harassment-Free Workplace DAS-HR-46	Prepared by: Human Resources Office Approved By: Council
Approved on: June 14, 2010 Effective Date: June 14, 2010 Revision Date:	Page 1 of 8
PURPOSE: To provide and maintain a work environment free of violence, harassment and discrimination in the firm belief that such workplace supports productivity and guarantees the dignity of every employee.	

1. VIOLENCE AND HARASSMENT FREE WORKPLACE

Overview

The Town of Georgina's (the "Corporation's") Violence and Harassment Free Workplace Policy sets out the duties and responsibilities of the employer, employees and others to prevent workplace violence and workplace harassment, in compliance with the Ontario Occupational Health and Safety Act and the Ontario Human Rights Code.

The provisions set out in the Act require employers to:

- Develop, communicate and maintain a Violence and Harassment Free Workplace Policy and Programs.
- Assess the risks of workplace violence (including domestic violence) and take reasonable precautions to protect workers.
- Provide measures to report, investigate and address incidents or complaints of workplace violence and/or workplace harassment
- Allow workers to remove themselves from situations where he/she feels endangered due to a risk of workplace violence.
- Provide information about a person with a history of violent behaviour to workers who can be expected to encounter them at work and the risk of workplace violence is likely to expose the worker to physical injury.

Policy

Maintaining a workplace that is free from violence and harassment is an important part of our internal responsibility system. Everyone is expected to uphold this policy and work together to prevent workplace violence and workplace harassment.

Workplace violence and harassment is unacceptable from anyone. Workplace violence and harassment may arise from a variety of sources including customers, contractors, employers, supervisors, workers, members of the public and domestic/intimate partners.

This policy applies to all employees engaged in work-related activities that occur in a workplace.



Human Resources Policies, Guidelines and Procedures Policy No. 42 – Violence and Harassment Free Workplace

No form of workplace violence or workplace harassment will be tolerated by the Corporation. No employee or any other individual affiliated with this organization shall subject any other person to workplace violence and/or workplace harassment. Employees who are found to have engaged in conduct which constitutes workplace violence or harassment may be subject to disciplinary action up to and including possible termination of employment.

Similarly, no form of reprisal, whether actual or threatened, against a person who initiates or contemplates initiating a complaint of workplace violence and/or harassment will be tolerated by the Corporation. An employee who participates or is involved in a reprisal whether actual or threatened may be subject to disciplinary action up to and including possible termination of employment.

Employees who do not disclose or report incidents or potential incidents of workplace violence may be subject to progressive discipline.

Employees who report incidents or potential incidents of workplace violence and workplace harassment in good faith, without malice, regardless of the outcome of the investigation, may not be subject to discipline. Management staff who do not take corrective action where the potential of or where workplace violence exists may be subject to disciplinary action.

With respect to workplace violence exercised by members of the public against a Town employee, the Town will take appropriate action, considering all legal recourses available.

Definitions

Workplace is defined under the Occupational Health and Safety Act as: “any land, premise, location or thing at, upon, in or near which a worker works.”

Workplace violence is defined under the Occupational Health and Safety Act as:

- a) “the exercise of physical force by a person against a worker, in a workplace that causes physical injury to the worker,
- b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- c) A statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.”

Some examples of Workplace Violence include:

- Verbal or written threats to physically attack a worker
- Leaving threatening notes at or sending threatening emails to a workplace
- Physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property or throwing objects



Human Resources Policies, Guidelines and Procedures Policy No. 42 – Violence and Harassment Free Workplace

- Leaving threatening notes or sending threatening emails
- Wielding a weapon at work
- Stalking someone
- Physically aggressive behaviour including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing objects at someone, physically restraining someone or any other form of physical or sexual assault

Domestic Violence is defined in the Ministry of Labour Guideline entitled 'Workplace Violence and Harassment: Understanding the Law' as: "A person who has a personal relationship with a worker – such as a spouse or former spouse, current or former intimate partner or a family member – may physically harm, or attempt or threaten to physically harm, that worker at work. In these situations, domestic violence is considered workplace violence."

Workplace Harassment is defined under the Occupational Health and Safety Act and **Harassment** is defined under the Human Rights Code as "engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome." Harassment may also relate to a form of discrimination (see definition below) as set out in the Human Rights Code.

Some examples of workplace harassment are:

- Verbally abusive behaviour such as yelling, insults, ridicule and name calling including remarks, jokes or innuendos that demean, ridicule, intimidate or offend
- Workplace pranks, vandalism and hazing
- Gossiping or spreading malicious rumours
- Bullying
- Excluding or ignoring someone, including persistent exclusion of a particular person from workplace-related social gatherings
- Humiliating someone
- Sabotaging someone else's work
- Displaying or circulating offensive pictures or materials
- Offensive or intimidating phone calls or emails
- Impeding an individual's efforts at promotions or transfers for reasons that are not legitimate; and
- Making false allegations about someone in memos or other work related documents



Harassment is not:

Workplace Harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- Measures to correct performance deficiencies, such as placing someone on a performance improvement plan,
- Implementation of dress codes
- Changes to work assignments, scheduling, job assessment, job evaluations and workplace inspections
- Imposing discipline for workplace infractions; or
- Requesting medical documents in support of an absence from work.

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

Discrimination includes any distinction, exclusion or preference based on the protected grounds in the Human Rights Code, which nullifies or impairs equality of opportunity in employment or equality in the terms and conditions of employment. The Corporation recognizes the protected grounds listed under Section 5(2) of the Human Rights Code that states:

“Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or disability.”

Sexual Harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offend him or her. It also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature, but which are directed at an individual because of his or her gender. Both men and women can be victims of harassment, and someone of the same or opposite sex can harass someone else.

Some examples of sexual harassment are:

- Sexual advances or demands that the recipient does not welcome or want
- Threats, punishment or denial of a benefit for refusing a sexual advance
- Offering a benefit in exchange for a sexual favour
- Leering, suggestive staring or other gesture
- Displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites or other material



Human Resources Policies, Guidelines and Procedures Policy No. 42 – Violence and Harassment Free Workplace

- Distributing sexually explicit e-mail messages or attachments such as pictures or video files
- Sexually suggestive or obscene comments or gestures
- Unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, clothing or sex
- Persistent, unwanted attention after a consensual relationship ends
- Physical contacts of a sexual nature, such as touching or caressing

The designation of a “**Workplace Coordinator**” with respect to workplace violence and workplace harassment is a requirement under the Occupational Health and Safety Act. The Human Resources Manager or her designate is the Town of Georgina's Workplace Coordinator.

Responsibilities

Directors/Managers/Supervisors

- Provide employees with a safe work environment, free from workplace violence, harassment, discrimination and other disruptive behaviour.
- Ensure that workplace violence, harassment and discrimination are not tolerated, ignored or condoned.
- Ensure this policy and the supporting programs are implemented and maintained.
- Report workplace violence that occurs or that is likely to occur to the police as appropriate, to the Chief Administrative Officer and to the Human Resources Manager.
- Provide and participate in information and instruction sessions for employees.
- Take appropriate action in accordance with the Violence-Free Workplace and Harassment-Free Workplace Programs including possible progressive discipline to mitigate circumstances surrounding violence, harassment and discrimination in the workplace.
- Investigate and address incidents of workplace violence and workplace harassment in a timely manner. The directors, managers and supervisors may request assistance of the Human Resources Manager or designate.
- Approach an employee if violence or the threat of violence is suspected because some employees may be embarrassed or reluctant to report a violent incident or threat of violence. In some circumstances, it may be necessary for management staff to report incidents of violence if the employee who is the victim of violence is reluctant, too frightened or otherwise unable to do so.



Human Resources Policies, Guidelines and Procedures Policy No. 42 – Violence and Harassment Free Workplace

- Provide employees who have been subjected to workplace violence or workplace harassment and their co-workers who witnessed the incident, with appropriate supports (EAP or other resources as appropriate) in consultation with Human Resources.
- Notify the police, as warranted, depending on the nature of the actual or potential violent incident.
- Post this policy in a conspicuous place for employees to view it.
- Review this policy as often as is necessary, but at least annually.
- Ensure that employee information related to workplace violence and workplace harassment incidents are handled discreetly and confidentially respecting the privacy of all parties to the extent we are able to do so.
- Provide information about a risk of workplace violence from a person with a history of violent behaviour, if an employee can be expected to encounter that person during the course of his or her work and the risk of workplace violence is likely to expose the employee to physical injury.
- Assess the risks of workplace violence, as often as is necessary that may arise from the nature of the workplace, type of work or conditions of work and report findings to the Joint Health and Safety Committee.

Human Resources Manager or designate (Workplace Coordinator)

- Ensure that workplace violence, harassment and discrimination are not tolerated, ignored or condoned.
- Ensure this policy and the supporting programs are implemented and maintained.
- Provide information and instruction to employees.
- Collaborate with Directors, Managers, Supervisors and the Joint Health and Safety Committee on workplace violence risk assessments, the development and maintenance of Violence-Free Workplace and Harassment-Free Workplace Programs and other preventative measures with respect to workplace violence and harassment.
- Provide employees who have been subjected to workplace violence or workplace harassment and their co-workers who witnessed the incident, with appropriate supports (EAP or other resources as appropriate).
- Investigate incidents of workplace violence and workplace harassment and recommend resolutions to appropriate management in a timely manner in accordance with the Violence-Free Workplace Program or the Harassment-Free Workplace Program.



Human Resources Policies, Guidelines and Procedures

Policy No. 42 – Violence and Harassment Free Workplace

- Ensure that employee information related to workplace violence and workplace harassment incidents are handled discreetly and confidentially respecting the privacy of all parties to the extent we are able to do so.
- Provide information about a risk of workplace violence from a person with a history of violent behaviour, if an employee can be expected to encounter that person during the course of his or her work and the risk of workplace violence is likely to expose the employee to physical injury.

Health and Safety Coordinator

- Notify the Ministry of Labour, the Joint Health and Safety Committee and the Union Representative within 4 days (immediately by phone when a person is killed or critically injured) if there is an incident of workplace violence and a worker is disabled from performing his/her regular work or requires medical attention.
- Within 4 days (48 hours where a person is killed or critically injured) give written notice of the occurrence to the Ministry of Labour with any information that may be prescribed.

Employees

- Foster a work environment based on respect that is free from workplace violence and harassment.
- Ensure that workplace violence, harassment and discrimination are not tolerated, ignored or condoned.
- Report incidents of workplace violence that occurs or that is likely to occur to the police as appropriate and to your manager and/or supervisor.
- Report incidents of workplace harassment that occurs or that is likely to occur to your manager and/or supervisor.
- Participate in information and instruction sessions provided by the Corporation.
- Co-operate fully in any investigation.
- Be aware of consequences of persistent unacceptable behaviour, such as progressive discipline as outlined in this policy.

Joint Health and Safety Committee

- Collaborate with Human Resources to conduct and provide feedback on the Workplace Violence Risk Assessment as well as assist in the development and maintenance of workplace violence and workplace harassment programs and other preventative measures.
- Promote the principles of this policy and programs to employees.



Procedures

Employees must report incidents/potential incidents of workplace violence and workplace harassment to their manager and/or supervisor. The manager and/or supervisor shall advise the Human Resources Manager.

Where an employee's supervisor or manager is the person who is alleged to have committed the act of violence or harassment, the employee shall report the incident to the Human Resources Manager.

Measures and procedures for management to investigate and address incidents/potential incidents of workplace violence and workplace harassment are set out in the Violence-Free Workplace Program and the Violence-Free Harassment Program


Human Resources will coordinate an annual review of this policy and supporting programs to ensure they are current.

Human Resources in collaboration with the Joint Health and Safety Committee will conduct and annually review and maintain a risk assessment relative to workplace violence.

Human Resources in collaboration with the Joint Health and Safety Committee will prepare and maintain a Violence-Free Workplace Program and a Violence-Free Harassment Program in support of this policy.

Cross-References

- Applicable Provincial Legislation such as the Occupational Health and Safety Act and regulations, Workplace Safety and Insurance Board Act and regulations as amended from time to time.
- Violence-Free Workplace Policy Statement
- Harassment-Free Workplace Policy Statement
- Violence-Free Workplace Program
- Harassment-Free Workplace Program
- Disciplinary Procedures – HR Policy No. 8
- Code of Ethics and Conduct – HR Policy No. 29
- Health and Safety Policy Statement – Health and Safety Manual - Section 1.1
- Work Refusal Procedure – Health and Safety Manual – Section 17.1

 HUMAN RESOURCES POLICIES, GUIDELINES AND PROCEDURES Policy No. 42 – Violence and Harassment-Free Workplace Appendix 1 – Violence-Free Workplace Program	Prepared in Collaboration with: Northern 6 Municipal Human Resources Group Recommended by: Caroline Probst, Health and Safety Coordinator Claire Marsden, Human Resources Manager Approved By: Susan Plamondon, Chief Administrative Officer
Approved on August 9, 2010 Effective Date: August 9, 2010 Revision Date:	Page 1 of 6

APPENDIX 1 - VIOLENCE - FREE WORKPLACE PROGRAM

Purpose

The Corporation is committed to maintaining a work environment free of violence in the firm belief that such workplace guarantees the dignity of every employee. This program supports the Violence and Harassment Free Workplace Policy.

This Violence-Free Workplace Program includes:

- Developing, posting and annually reviewing the Violence and Harassment Free Workplace Policy with respect to workplace violence.
- Measures and procedures to control the risks identified in the workplace violence risk assessment, as likely to expose an employee to physical injury.
- Measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur.
- Measures and procedures for employees to report incidents of workplace violence.
- Procedures to investigate and address incidents or complaints of workplace violence.
- Methods of providing appropriate information and instruction to employees regarding workplace violence.
- Recognizing an employee's right to refuse unsafe work, if applicable, in situations where the employee has reason to believe that workplace violence may endanger an employee, subject to applicable legislation.
- Providing information about a person with a history of violent behaviour to employees who can be expected to encounter them at work and the risk of workplace violence is likely to expose the employee to physical injury.

Scope

Each department has the responsibility to implement measures and procedures specific to that workplace to mitigate workplace violence. It is important to recognize that each workplace is different, taking into consideration the workplace circumstances and type of work done.

This program applies to all employees engaged in work-related activities that occur in

a workplace including Town sanctioned social events.



The **Workplace Coordinator** with respect to workplace violence and workplace harassment is the Human Resources Manager or her designate on behalf of the Town for the purpose of this program.

Responsibilities

Please refer to Violence and Harassment Free Workplace Policy (Health and Safety Manual – Section 15.5 or Human Resources Policies, Guidelines and Procedures No. 42).

Legislative References

Ontario Occupational Health & Safety Act

Canada Criminal Code

Ontario Human Rights Code

Municipal Freedom of Information and Protection of Privacy Act

Definitions

Please refer to Violence and Harassment Free Workplace Policy (Health and Safety Manual – Section 15.5 or Human Resources Policies, Guidelines and Procedures No. 42).

Procedure

Risk Assessment

The Health and Safety Coordinator in collaboration with the Joint Health and Safety Committee will prepare and maintain a risk assessment specific to workplace violence that is likely to arise from the nature of the workplace, type of work or conditions of work. The results of the risk assessment will be used to identify the measures and procedures to control risks of violence in the workplace. The Joint Health and Safety Committee will make appropriate recommendations to senior management. The risk of workplace violence should be re-assessed as often as is necessary to protect employees from workplace violence. For example, a re-assessment should be undertaken if:

- The workplace moves or the existing workplace is renovated or reconfigured.
- There are significant changes in the type of work.
- There are significant changes in the conditions of work.
- There is new information on the risks of workplace violence.
- A violent incident indicates a risk related to the nature of the workplace, type of

work or conditions of work that was not identified during an earlier assessment.



Workplace inspections, specific to violence, are conducted to assist in the development of the risk assessment to identify hazards specific to each workplace and to identify the controls that exist or that may be implemented to reduce the levels of risk of workplace violence. These inspections are conducted by the Health and Safety Coordinator and the Joint Health and Safety Committee members at the onset of the risk assessment and when deemed necessary as outlined above. A Violence-Free Workplace Inspection Form is used to conduct these workplace inspections.

Employee and Supervisor surveys are delivered to each employee at the on-set of the risk assessment in order to receive feedback on past violent incidents that may have occurred or concerns that employees may have of a risk of workplace violence. Results are tabulated by the Human Resources department and reported to the Joint Health and Safety Committee. The results from the surveys assist in the analysis of the controls that have been implemented or may be implemented to minimize risk levels.

Reporting Process

An employee must report a situation that he/she believes is workplace violence under this program to his/her supervisor, manager, director, Human Resources Manager and/or Health and Safety Coordinator. If the incident or complaint is brought to the attention of the director, manager or supervisor, he/she will report the incident or complaint to the Human Resources Manager or designate without delay.

A report may be made by any parties including but not limited to the actual victim of alleged workplace violence, a co-worker who witnessed the incident(s) and/or a third party reporting on behalf of the victim(s).

When to Contact Police or Emergency Assistance

- When a situation becomes volatile or escalates into a situation where workplace violence is likely to occur.
- A situation where an employee fears workplace violence is likely to occur because of threats made in person, via the phone, email or mail from the accused party.

How to Summon Immediate Assistance

- Dial 9-1-1. Dial a line out if using a land line.

Use other means provided in your particular workplace to call for immediate assistance. (e.g. Panic buttons, personal alarms, two-way radio/walkie-talkie)



Investigation Process

The Human Resources Manager and/or designate will decide who will investigate the incident or complaint of workplace violence for internal purposes. The investigation will commence immediately in accordance with the Corporation's Accident/Incident Investigation Procedure (Health and Safety Manual – Section 12.2).

Right to Refuse Unsafe Work

An employee has the right to refuse work, subject to applicable legislation, if he/she has reason to believe that workplace violence is likely to endanger him/her. In that instance the employee should immediately contact his/her supervisor or manager, at which point appropriate measures will be taken to protect the employee and investigate the situation according to the Corporation's Work Refusal Procedure (Health and Safety Manual, Section 17.1).

For some employees the right to refuse work for any reason, including for workplace violence, is limited.

Certain employees who protect public safety cannot refuse work if:

- The danger is an inherent or normal part of their job, and
- The refusal would endanger the life, health or safety of another person.

Domestic Violence

If an employee is experiencing domestic violence or an employee has reason to believe that a co-worker is experiencing domestic violence **that could expose that employee or another employee to physical injury in the workplace**, the employee should seek immediate assistance by contacting their supervisor, manager or director and/or the Human Resources Manager. The Human Resources Manager, in consultation with the department head and Chief Administrative Officer will develop a safety plan on a case-by-case basis in consultation with the targeted employee to assist in preventing and responding to the situation. In developing the plan, the employer and employee may be able to work with the police, courts or other organizations who may already be involved.

Information about a Person with a History of Violent Behaviour:

The employer will provide information, including personal information, where known, to employees related to a risk of workplace violence from a person with a history of violent behaviour and all such information will be provided to the Chief Administrative Officer and the Human Resources Manager. This information will be provided when the employee can be expected to encounter



the violent person in the course of employment with the Town and the risk of workplace violence is **likely to expose the employee to physical injury**. The employer must also not disclose more information than is reasonably necessary for the protection of an employee from physical injury.

Information and Instruction

Upon the introduction of the Violence and Harassment Free Workplace Policy and Violence Free Workplace Program, management and workers will receive information and instruction on the following:

Intent and content of the Violence and Harassment Free Policy and Violence-Free Workplace Program

- The legislation governing workplace violence
- The process for summoning immediate assistance
- The reporting process in regards to workplace violence
- An overview of the investigation process

This information will be included in the new employee orientation package. The Joint Health and Safety Committee will review annually, the need for additional and/or follow-up training.

Confidentiality of Complaints and Investigations

The Corporation recognizes the sensitive nature of harassment and violence complaints and we will keep all complaints confidential, to the extent that we are able to do so. The Corporation will only release as much information as is necessary to investigate and respond to the complaint or situation or if required to do so by law.

Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards.


Cross References

- Violence and Harassment Free Workplace Policy – Health and Safety Manual Section 5.15 or Human Resources Policies, Guidelines and Procedures No. 42
- Violence-Free Workplace Policy Statement – Health and Safety Manual Section 5.15
- Harassment-Free Workplace Policy Statement – Health and Safety Manual Section 5.15
- Harassment-Free Workplace Program – Health and Safety Manual, Section 5.15b or Human Resources Policies, Guidelines and Procedures No. 42



Human Resources Policies, Guidelines and Procedures
Policy No. 42, Appendix 1 – Violence-Free workplace Program

- Workplace Violence Risk Assessment – Health and Safety Manual, Section 4.2
- Injury/Illness Reporting Procedure – Health and Safety Manual, Section 12.1
- Accident/Incident Investigation Procedures – Health and Safety Manual, Section 12.2
- Work Refusal Procedure – Health and Safety Manual, Section 17.1
- Working Alone Procedure – To be created
- Cash Handling Procedure – To be created

 HUMAN RESOURCES POLICIES, GUIDELINES AND PROCEDURES Policy No. 42 – Violence and Harassment-Free Workplace Appendix 2 – Harassment-Free Workplace Program	Prepared in Collaboration with: Northern 6 Municipal Human Resources Group Recommended by: Caroline Probst, Health and Safety Coordinator Claire Marsden, Human Resources Manager Approved By: Susan Plamondon, Chief Administrative Officer
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APPENDIX 2 - HARASSMENT - FREE WORKPLACE PROGRAM

Purpose

The Corporation is committed to maintaining a work environment free of harassment and discrimination in the firm belief that such workplace guarantees the dignity of every employee. This program supports the Violence and Harassment Free Workplace Policy.

This set of procedures will outline how an employee can report an incident of workplace harassment and/or discrimination and how the Town will address the incident.

The successful resolution of concerns and complaints is often determined by the way in which they are handled. The existence of a process with detailed procedures is critical to ensure that complaints are dealt with in a consistent and fair manner while allowing some flexibility to accommodate different types of circumstances and needs.

This Harassment Free Workplace Program includes:

- Measures and procedures for employees to report incidents, complaints or concerns of workplace harassment or discrimination.
- Measures and procedures to investigate and address complaints, concerns or incidents of workplace harassment and discrimination.
- Methods of providing appropriate information and instruction to employees regarding workplace harassment.

Scope

The Town will investigate and address incidents, complaints or concerns of harassment and discrimination in the workplace.

This program applies to all employees engaged in work-related activities that occur in a workplace. It should be noted that workplace harassment and discrimination can occur at off-site business-related functions (conferences, trade shows), at social events related to work, in residents homes or away from work but resulting from work (a threatening telephone call to your home from a client, customer, resident, etc.).

The **Workplace Coordinator** with respect to workplace violence and workplace harassment is the Human Resources Manager or her designate on behalf of the Town for the purposes of this program.



Human Resources Policies, Guidelines and Procedures Policy No. 42, Appendix 2 – Harassment-Free workplace Program

Responsibilities

Please refer to the Violence and Harassment Free Workplace Policy (Health and Safety Manual – Section 15.5 or Human Resources Policies, Guidelines and Procedures No. 42)

Legislative References

Ontario Occupational Health and Safety Act

Canada Criminal Code

Ontario Human Rights Code

Municipal Freedom of Information and Protection of Privacy Act

Definitions

Please refer to the Violence and Harassment Free Workplace Policy (Health and Safety Manual – Section 15.5 or Human Resources Policies, Guidelines and Procedures No. 42)

Systemic harassment or discrimination – policies, practices, procedures, actions or inactions, that appear to be neutral, but have an adverse impact associated with one of the prohibited grounds.

Systemic problem – occurs when policies, practices or procedures that appear to be neutral, have a discriminatory effect on an individual or group who is identified by a prohibited ground.

For the purpose of this program, the following defines the roles of employees with respect to incidents, complaints or concerns of workplace harassment and discrimination.

Complainant – Refers to an employee that has raised a concern, complaint, or incident of harassment or discrimination in the workplace.

Respondent – Refers to a person(s) who is the alleged harasser.

Procedure

Reporting an Incident

There are three ways that an incident, complaint or concern can be resolved or

addressed internally under this program:

The complainant can:

Option A: Deal directly with the respondent to resolve the issue on their own; or

Option B: Request informal action and resolution; or

Option C: File a formal complaint to seek resolution.



Human Resources Policies, Guidelines and Procedures
Policy No. 42, Appendix 2 – Harassment-Free workplace Program

If the complainant chooses Option B or C, the incident should be reported immediately (either verbally or in writing) to the Human Resources Manager as well as the complainant's immediate (or another) supervisor.

Reporting a complaint using any of these options does not preclude an employee from filing a complaint with the Ontario Human Rights Commission or pursuing any other available avenues.

Option A: Dealing Directly With the Respondent

An employee who experiences harassment or discrimination should attempt to make it known to the person(s) responsible that the behaviour is offensive and unwelcome, and contrary to the Town's policy and request that it stop. The respondent(s) may not realize the behaviour is unwelcome and offensive. In many instances this will stop the offensive behaviour.

The Town recognizes that in some incidents dealing with the respondent may be difficult or inappropriate, or the employee may have told the respondent to stop but the offensive behaviour continues. In this case, the employee is advised to take immediate action as outlined in Option B.

However, when a supervisor becomes aware of a concern, he/she must ensure that the concerns are addressed in a confidential manner to the extent he/she is able to do so, and that they are resolved promptly.

Option B: Handling a Concern in an Informal Manner

An employee who experiences harassment or discrimination and has unsuccessfully tried to deal directly with the respondent or who feels that a direct approach is inappropriate may choose to have the matter dealt with on an informal basis with the assistance of management or the Human Resources Manager or designate prior to proceeding with a formal complaint.

The incident should be reported immediately (either verbally or in writing) to:

- the employee's immediate or another supervisor
- the Human Resources Manager

Once a supervisor has been informed of a concern about an incident of workplace harassment or discrimination and the employee wishes to handle the concern informally, the supervisor is obligated to treat the conversation or written complaint as serious and attempt to resolve the matter in a confidential manner. It is important to clarify the concern that is being raised and take notes to record the particular information pertinent to the concern. The supervisor may request the assistance of his/her Manager and/or the Human Resources Manager (or designate).



The employee will be asked what remedies might address the incident and satisfy the potential complaint. Proceeding informally may produce a quick and simple solution without having to engage in a full investigation. It is important that the respondent is informed of the complaint. The supervisor can then attempt a mutually agreeable resolution. The complainant and the respondent will acknowledge in writing the mutually acceptable resolution.

The supervisor will document the situation and ensure that the Department Head and the Human Resources Manager are notified. All documentation will go into a separate file in the Human Resources Office.

Where attempts to achieve a resolution at this stage are unsuccessful or unsuitable, a formal written complaint may be filed as outlined in Option C.

Option C: Initiating a Formal Complaint

Formal complaints must be filed with the Human Resources Manager and the formal complaint must be in writing and include a description of the incident, date(s), witnesses, and steps, if any, already taken to date. Where an employee is unable, or under the circumstances it is unreasonable to request a written complaint, assistance will be made available to ensure that the complaint is documented on their behalf. The complaint may be documented by the Human Resources Manager and verified in writing, by the complainant.

The respondent will be notified of the complaint where it is determined reasonable cause exists. Formal complaints will be investigated by the Human Resources Manager or designate or a third party depending on the circumstances.

The Human Resources Manager will schedule a confidential meeting with the complainant to discuss and clarify the incident and identify steps taken to date. The complainant may request the support of another employee.

The Human Resources Manager or designate will conduct an investigation as outlined in the next section.

If an employee has specific concerns about filing a formal complaint, he/she is strongly encouraged to contact the Human Resources Manager or designate.

Investigation of Complaint

File Opening:

Where a formal complaint is received a file will be opened by the Human Resources Manager or designate.

Where it is determined that reasonable cause exists, the Human Resources Manager or designate will investigate the complaint or will arrange to have the investigation

carried out by a neutral third party. The Human Resources Manager may request additional resources to assist with an investigation.



Human Resources Policies, Guidelines and Procedures Policy No. 42, Appendix 2 – Harassment-Free workplace Program

The investigative process involves three primary steps; fact finding, preliminary findings and further investigations as outlined below.

Step 1 - Fact Finding:

The Human Resources Manager or designate will conduct confidential interviews with relevant parties to obtain information and clarify the details of the reported incident. The complainant and the respondent will have an opportunity to identify witnesses or others to be interviewed. All interviews will be conducted confidentially and in a manner that respects the nature of the work environment. Employees covered by a collective agreement may wish to request the presence of a union representative.

Step 2 - Preliminary Findings:

Where the information revealed early in the investigation suggests a reasonable possibility of resolution, the Human Resources Manager may make resolution recommendations prior to conducting the entire investigation. In these instances, the Human Resources Manager will meet with the complainant and the respondent involved discussing preliminary findings of the investigation and informing participants of the possibility and nature of an early resolution.

Where mutual agreement is reached to the satisfaction of all parties, the Human Resources Manager will prepare a summary report for the appropriate Department Head and Chief Administrative Officer.

Step 3 - Further Investigations:

Where, as a result of preliminary findings a more intensive review is warranted, a resolution cannot be reasonably proposed or achieved, or where the Human Resources Manager determines that file closure at this point would not be appropriate, further investigation will be conducted.

Upon completion of further investigation and where mutual agreement for resolution of the incident is reached to the satisfaction of all parties, the Human Resources Manager will prepare a summary of the complaint and results of the investigation and provide a copy to the Department Head and/or union where appropriate, the parties affected by the outcome, and the Chief Administrative Officer.



Results of Investigations/Mediation

Complaint Supported

Where the results of the investigation support a specific complaint of harassment or discrimination, or where the results suggest the existence of systemic problem(s) in the work environment which caused or contributed to the incident, the following, without limitation, may be recommended forms of remedial action:

- Education and training;
- Review and modification of policies, procedures, programs and practices;
- Disciplinary action up to and including dismissal;
- Documentation on employee's personnel file, as appropriate; and/or
- Continuous monitoring.

Where deemed reasonable and appropriate, the Human Resources Manager in consultation with the parties involved in the complaint, may propose and develop a more comprehensive strategy for the elimination and/or prevention of workplace harassment and/or discrimination to improve the culture of the overall workplace. Both the complainant and the respondent will be informed of the results of the investigation.

In an effort to ensure that the incident has been addressed, the investigation file will remain open for a reasonable period of time to allow for the monitoring of actions to be taken and subsequent updates, as appropriate, to be placed on the file.

Complaint Unsupported

Where the results of the investigation do not support the allegations of harassment or discrimination made by the complainant, the complaint shall not proceed. Both the complainant and respondent, if the respondent has been formally involved in the investigation, will be informed of the results of the investigation.

Where the results of the investigation do not support the specific complaint, but where the investigation suggests the existence of systemic problems in the work environment which may cause, contribute to, or encourage harassment and/or discrimination, the Human Resources Manager may further investigate and make recommendations for change.



Malicious Complaints

Where it is determined that the complaint was made maliciously or in bad faith with reasonable knowledge of and intent to harm, disciplinary action may be taken against the complainant. Documentation regarding this disciplinary action will be placed in the complainant's personnel file.

File Retention and Disposal

Upon determination and notification of the results of a complaint investigation to both parties, the file will be closed and retained in Human Resources.

Reopening of Files

Reopening of a closed file may occur in the following circumstances:

- New and relevant information regarding a closed case has been brought forward to the Human Resources Manager;
- A new incident of harassment has taken place post-closure by the same respondent; or
- A reprisal from a closed case is alleged to have occurred.

Monitoring

Where complaints have been supported, follow-up is a critical component of effective complaint resolution. The Human Resources Manager in conjunction with the relevant supervisor will ensure that an effective monitoring plan is developed, as appropriate.

Implementation and Execution of Resolutions

Where, as a result of the monitoring process, or through other means, it is determined that there are difficulties in implementing or executing the solutions recommended from the investigation, or where actions have been taken but are deemed ineffective, inappropriate or untimely; the Human Resources Manager or designate, in consultation with the Department Head, shall determine what further actions and/or support can be provided to ensure that the terms of resolution can be met more effectively and efficiently.

Anonymous Complaints

Complaints that have been made anonymously may not be investigated. An anonymous complaint is difficult if not impossible for the Town to adequately investigate and take appropriate action.



Complaints involving Elected Officials and Members of Boards and Committees

Where the complaint involves an elected official or members of boards and committees, the complaint will be referred by the Human Resources Manager, in consultation with the Chief Administrative Officer, to an outside third party to investigate the matter. The results of the investigation and recommendations of the investigator will be submitted to the Human Resources Manager who will review same with the Chief Administrative Officer and/or Mayor as appropriate. A copy of the report will be maintained in the file opened for that purpose.

Information and Instruction

Upon the introduction of the Violence and Harassment Free Workplace Policy and Violence Free Workplace Program, management and workers will receive information and instruction on the following:

- Intent and content of the Violence and Harassment Free Policy and Harassment-Free Workplace Program
- The legislation governing workplace violence
- The reporting process in regards to workplace harassment and discrimination
- An overview of the investigation process

This information will be included in the new employee orientation package. The Joint Health and Safety Committee will review annually, the need for additional and/or follow-up training.

Confidentiality of Complaints and Investigations

The Corporation recognizes the sensitive nature of harassment and discrimination complaints and will keep all complaints confidential, to the extent that it can do so. The Corporation will only release as much information as is necessary to investigate and respond to the complaint or incident or if required to do so by law.

Out of respect for the employees involved in a complaint, it is essential that the complainant, respondent, witnesses and anyone else involved in the investigation of a complaint maintain confidentiality throughout the investigation and afterwards.

It must also be recognized that information collected and retained is subject to release under the Municipal Freedom of Information and Protection of Privacy Act, the Ontario Human Rights Code or the rules governing court proceedings.

Refer to the attached diagram for an overview of the process.



Cross References

- Violence and Harassment Free Workplace Policy – Health and Safety Manual Section 5.15 or Human Resources Policies, Guidelines and Procedures No. 42
- Violence-Free Workplace Policy Statement – Health and Safety Manual Section 5.15
- Harassment-Free Workplace Policy Statement – Health and Safety Manual Section 5.15
- Violence-Free Workplace Program – 5.15a Health and Safety Manual – Section 5.15a
- Working Alone Procedure – To be created



Accessible Customer Service and the Integrated Accessibility Standards Training for Contractors, Board or Committee Members and Volunteers

Accessible Customer Service and the Integrated Accessibility Standards Training

The Accessibility for Ontarians with Disabilities Act (AODA) was passed by the Ontario Legislature in 2005. Its purpose is to create standards to improve accessibility in Ontario. The Ontario Human Rights Code works together with the AODA to promote equality and accessibility. The Human Rights Code's purpose is to provide all Ontarians with equal rights and opportunities without discrimination and it supersedes any conflicts with the AODA and its regulations. There are two main regulations under the AODA including the Accessibility Standards for Customer Service Regulation 429/07 and the Integrated Accessibility Standards Regulation 191/11.

The purpose of this legislation is to develop, implement and enforce the accessibility standards in Ontario on or before January 1, 2025. There are five accessibility standards that have been developed that identify, remove and prevent barriers for people with disabilities including:

- Accessible Customer Service
- Information and Communication
- Transportation
- Employment and
- Built Environment or Design of Public Spaces

The Town of Georgina is committed to providing all members of the public and our employees an environment of inclusive design and integration through ongoing policy development in our services, products and facilities.

The Town has several policies, procedures and plans that describe how we meet the requirements of the AODA regulations that can be found on the Town of Georgina's website. They include:

- Corporate Accessibility Standards – Accessibility Standards for Customer Service – Approved by Council – July 13, 2009
- Procedures to Accessibility Standards for Customer Service – Approved by Council – July 13, 2009
- Accessibility Policy – Approved by Council on February 11, 2013.
- The Multi-Year Accessibility Plan – Approved by Council on November 19, 2012
The Accessibility Plan outlines the steps that the Town of Georgina will take to prevent and remove barriers to accessibility and how the requirement of the regulation will be met.

When procuring goods, services and facilities, the Town of Georgina will incorporate accessibility criteria and features. Where applicable, the procurement documents will

specify the desired accessibility criteria to be met and provide guidelines for the evaluation of proposals in respect of those criteria. Where it is impractical for the Town to incorporate accessibility criteria and features when procuring or acquiring specific goods, services or facilities, the Manager of Purchasing will provide a written explanation, on request and in an accessible format if requested.

The legislation mandates that a public sector organization such as a municipality provide training to all employees, volunteers, all persons who participate in developing the organization's policies and all other persons who provide goods, services or facilities on behalf of the organization (i.e. contractors).

Please read the following information booklet, sign the acknowledgement form attached and return it to the applicable Town representative as soon as possible.

What is a Disability?

The Accessibility for Ontarians with Disabilities Act, 2005 uses the same definition of "disability" as the Ontario Human Rights Code.

A "disability" is:

- a. any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- b. a condition of mental impairment or developmental disability;
- c. a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- d. a mental disorder; or
- e. an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997

General categories of disabilities include, but are not limited to:

Vision	Hearing
Physical	Intellectual
Developmental	Learning
Mental Health	Speech or Language
Temporary Disabilities	Other Conditions: cancer, asthma

Accessibility Customer Service Standard:

4 Principles of Effective Customer Service:

The Town of Georgina is committed to providing:

- Goods or services in a manner that respects the **dignity** and **independence** of persons with disabilities, and
- The **integration** and **equal opportunity** to obtain the same services, in the same or similar way as other customers.

Dignity, independence, integration and equal opportunity are also known as the 4 principles of providing effective customer service.

Barriers:

The Town is also committed to removing barriers that may affect persons with disabilities. A barrier is anything that keeps someone from fully participating in all aspects of society. There are four main types of barriers that include:

1. **Physical Barriers** - exist in a structural environment that interferes with or impedes a person with a physical disability from accessing a particular location or service.
Example:
 - No ramp to enter a building
2. **Communication Barriers** – exist when an individual is unable to access information in a format they can use. Alternative forms of communication include such things as audiocassettes, Braille, large print and closed captioned video.
Example:
 - Websites that don't support screen-reading software
3. **Systemic Barriers** – occur when practices or policies are put in place that discriminate against individuals by screening them out from participation.
Example:
 - Recruitment Policies
4. **Attitudinal Barriers** – are inaccurate beliefs or perceptions about a person's ability based on assumptions and a lack of direct knowledge. This type of barrier impacts accessibility on all levels since most of the other barriers are rooted in attitudes as well. These can be the hardest to address in spite of the fact that they are the ones we have the most control over.
Example:
 - Assuming someone with a speech problem has an intellectual limitation and speaking to them in a manner that would be used with a child

How to Interact and Communicate with Persons with Various Types of Disabilities:

- Always put the person first – Do not use the term “disabled person”, instead use the term “a person with a disability”.
- Don’t make assumptions, always ask. Ask **“May I help you?”** – Don’t assume the person with a disability requires your help. If the person answers yes, then ask **“How may I help you?”** – Don’t assume how the person with a disability would like your assistance.
- Speak directly to the customer using a normal tone of voice.
- Focus on meeting your customer’s needs. All customers have a range of needs and preference and so do your customers with disabilities.
- If you can’t understand, politely ask your customer to repeat it.
- Exercise patience.
- Recognize your nervousness and relax.
- Don’t be afraid to ask questions when you are unsure of what to do.

Assistive Devices, Service Animals and Support Persons:

It is important to understand how to interact with a person with a disability who may use an assistive device, or rely on a service animal or a support person.

Assistive Devices:

An assistive device is an item a person may bring with them or that is already on the premises and is used to assist a person with a disability in accessing goods and/or services or participating in a program provided by the Town of Georgina.

Assistive devices include, but are not limited to, wheelchairs, walkers, canes used by people who are blind or who have low vision, note-taking devices, portable magnifiers, recording machines, assistive listening devices, personal oxygen tanks and devices for grasping.

Where Town-owned assistive devices are available, appropriate staff within the applicable department will be knowledgeable of the presence and trained in the use of the assistive devices. Staff will be available to assist with the Town owned assistive devices if requested for use by an individual.

Assistive devices available at some of the Town of Georgina’s facilities include:



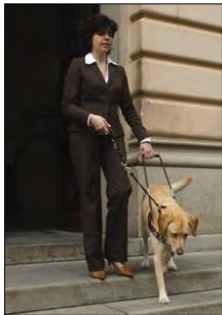
- Automatic door openers and grab bars at town facilities
- Elevators
- Water wheelchair and water lift
- Magnifying lenses
- Wheelchair or walker

How to interact with a person with a disability who may use an assistive device:

- Do not lean on or reach over them.
- Ensure the person is permitted to enter the premises with the device and to utilize the device.
- Potential barriers to the use of assistive devices must be removed where possible.
- Ensure persons with disabilities are aware of assistive devices available on the Town's premises.
- Assistive devices must be offered in a manner that respects the person's dignity and independence.

Service Animals:

A service animal is an animal that is specially trained to assist individuals with disabilities. Usually the animal is identified with a harness or other means making it readily apparent that it is a service animal. If it is not readily apparent that an animal is a service animal, the person can be asked for a letter from a physician or nurse confirming that the person requires the animal for reasons relating to the disability. Service animals are not limited to dogs and may come in a variety of animals used for various reasons. For example, a person with a mental disability may have a parrot, rabbit or snake with them to provide them comfort in social situations.



How to interact with a person with a disability who uses a service animal:

- Do not pet the service animal
- Do not feed the service animal
- Do not call out to or distract the service animal, they are on duty
- Never grab the harness or leash from the handler
- Speak to the person, not the service animal
- The person with the service animal is responsible for the care and control of the animal while they are on our premises

Support Persons:

A support person is a person who accompanies a person with a disability in order to assist them with communication, mobility, personal care or medical needs or with access to goods or services. A support person may be a paid worker, a volunteer, a friend or a family member. The support person does not need to have special training or qualifications.

How to interact with a person with a disability who may bring a support person with them:

- Both persons are permitted to enter the premises together.
- The person with a disability is allowed to have access to the support person while on the premises.
- Consent is required if confidential information is going to be shared while a support person is present.
- Speak directly to your customer, not the Support Person.

Providing Information in Alternative Formats:

People with disabilities use methods other than standard print to access information. These methods are often referred to as alternative formats. Some people with disabilities may be able to use documents in a variety of formats while other individuals, depending on their disability and circumstances, may have only one option.

The accessibility standards require that municipalities provide information offered to the public in alternative formats. Consider discussing an appropriate alternative format with the customer. For example, if the customer asks for large print, be clear about what “large print” means to them.

Notice of Service Disruption:

Notice of Service Disruptions shall be provided when facilities or services that people with disabilities usually use to access the Town of Georgina’s goods or services are temporarily unavailable or if the goods or services are expected in the near future to be temporarily unavailable, in whole or in part.

The Town is required to provide notice of disruptions regardless of whether the disruption is planned or not.

The Notice must include the following information:

- The reason for and information about the disruption
- Anticipated duration
- Description of alternative facilities or services, if available
- Contact information

The Town has two different types of service disruptions notices. When a disruption is known in advance or planned, an anticipated Notice of Disruption of Service will be posted two weeks prior to a service disruption whenever possible. Unexpected disruptions in service shall be posted as soon as possible with the unexpected Notice of Disruption of Service.

Notices may be given by posting the information in a conspicuous place on the premises, on the Town's website or any other such method as is reasonable in the circumstances, for example:

- On the municipalities owned, leased or operated buildings or property, on the front doors
- In the local newspaper
- After hours service line
- LED Display Boards where appropriate
- Voicemail where appropriate
- Other method as appropriate

Each department will appoint a designated person and back up person to be responsible for posting and maintaining the notice of service disruption.

Feedback:

The legislation requires that there is a process for receiving and responding to feedback about how the town provides goods and/or services to a person with a disability.

The feedback process allows people to provide feedback using different methods and can be offered in alternative formats. If a customer requires assistance to complete the feedback form due to their disability, offer to assist them in completing their form. Review what you have written with the customer to ensure you have recorded their feedback correctly.

Feedback can be provided online, by telephone, e-mail, in person or in writing. Information regarding this, as well as a copy of the Town's feedback form is available on the Town's website.

Feedback relating to the accessibility of goods and/or services will be forwarded to the Town Clerk for follow up with the appropriate department and the customer.

Information and Communication Standard

The information and communication standard establishes processes that organizations in Ontario must follow to create, provide, and receive information and communications in ways that are accessible to people with disabilities.

Alternatives to standard print are often referred to as accessible formats and ways to help communication between people are referred to as communication supports. When a person with a disability requests information or communication in an accessible manner the person providing customer service must consult with the person to determine their accessibility needs and provide the accessible formats or communication supports in a timely manner and at a cost that is not more than the regular costs charged to other people.

Examples of alternative formats and communication supports include:

- Reading written information to a person directly
- Large print
- Text transcripts of audio or visual information
- Handwritten notes instead of spoken word
- Information written in plain language
- An electronic document formatted to be accessible for use with a screen reader

There are exemptions to the requirement including product labels, information the Town does not control directly or indirectly through a contract and in cases where it is not possible to convert the requested materials. When it is not possible to convert the information, the individual making the request should be provided with an explanation as to why the information or communications are unconvertible and a summary of the information and communications.

Examples of information and communication that must be made accessible include but are not limited to:

- The Town's customer service feedback form.
- In the event the Town provides emergency procedures, plans or public safety information to the public.
- The Town's website and web content.
- Public Library materials where they exist.

Employment Standard

The employment standard addresses the processes and procedures organizations follow in recruiting and accommodating their employees. The requirements of the standard do not apply to volunteers and other non-paid individuals.

The employment standard requires employers to provide accommodations during recruitment and employment that take into account an employee's accessibility needs due to disability. All employees are made aware of accessible formats and communication supports that can be available and will be provided individual accommodation plans that will support them if they have a disability or if they acquire a disability later in their career.

Written, individual accommodation plans can include:

- emergency response assistance during an emergency situation
- a return to work plan to assist an employee who may be recovering from an injury or illness until undue hardship
- performance management, career development or redeployment

Transportation Standard

The transportation standard sets out the requirements to prevent and remove barriers to public transportation in Ontario. For the Town of Georgina, this means ensuring taxicabs meets specific requirements in consultation with our Accessibility Advisory Committee.

Owners and operators of taxicabs should

- not be charging higher fares or additional fees to a person with a disability
- be placing vehicle registration and identification on the rear bumper of the taxi and ensuring it is available in an accessible format

Built Environment / Design of Public Spaces Standard

The design of public spaces standard sets out the requirements for newly constructed or redeveloped public spaces in Ontario.

If the Town has entered into a contract on or before December 31, 2012 to construct or redevelop any public space, the contract is not required to meet the requirements to honour the existing contract.

The design of public spaces standards contains technical requirements (with some exceptions) for:

- Trails
- Beach Access Routes
- Boardwalks
- Ramps
- Outdoor Public Eating Areas
- Outdoor Play Spaces
- Exterior Paths of Travel
- Parking Spaces
- Service Counters
- Fixed Queuing Guides
- Waiting Areas

Procedures for preventative and emergency maintenance and dealing with temporary disruptions should be put in place for the items listed above.

Accessible Customer Service and Integrated Accessibility Standards Training Acknowledgement

Learning Outcomes

- ☐ Purpose of the Human Rights Code as it pertains to persons with disabilities.
- ☐ Purpose of the Accessibility for Ontarians with Disabilities Act
- ☐ Requirements of the Customer Service Standard, Information and Communication Standard, Employment Standard, Transportation Standard and the Built Environment or Design of Public Spaces Standard
- ☐ How to interact and communicate with persons with various types of disabilities including people who may use an assistive device, or require the assistance of a support person, guide dog or other service animal
- ☐ How to use equipment or devices available on the Town's premises that help with the provision of goods or services to a person with a disability
- ☐ Reviewed the Town of Georgina's:
 - Corporate Accessibility Standards – Accessibility Standards for Customer Service
 - Procedures to Accessibility Standards for Customer Service
 - Accessibility Policy

By signing below I agree that I understand and will follow the Accessibility for Ontarians with Disabilities Act, the Accessibility Standards for Customer Service Regulation 429/07 and the Integrated Accessibility Standards Regulation 191/11.

Committee/Board Member/
Volunteer Name (Print)

Signature

Date

THE **Sunshine Law** HANDBOOK

3rd edition

*Open Municipal Meetings
in Ontario*

Page 96 of 158

Top 10 Tips for Municipal Officials

1. Know and follow the *Municipal Act, 2001* and your procedure by-law's open meeting requirements.
2. Make sure you have a procedure by-law that complies with the *Municipal Act*.
3. Give adequate advance public notice of all meetings, closed sessions and agenda items.
4. Do not add last-minute agenda items to closed sessions, except in truly urgent situations.
5. Open the meeting unless closure is specifically authorized under the *Municipal Act* and there is a real need to exclude the public.
6. Pick the right s. 239 exception before closing a meeting.
7. Pass a resolution in public that includes meaningful information about the issue to be considered – *before* closing the doors.
8. Record the meeting, including all resolutions and decisions, preferably using digital audio or video.
9. Do not hold a vote in closed session unless it is for a procedural matter or for giving directions to staff.
10. Report back publicly in open session about what occurred in closed session.

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Please note that this guide is provided for information purposes only and should not be considered or relied upon as legal advice.

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This guide and related information is available on the Ombudsman's website, www.ombudsman.on.ca

Note: On December 9, 2014, the provincial government passed Bill 8, the *Public Sector and MPP Accountability and Transparency Act, 2014*, which will extend the Ombudsman's jurisdiction to municipalities, as well as universities and school boards.

Once it is proclaimed in force, this new law will amend various sections of the Ombudsman Act and affect some aspects of the closed meeting investigation process as well.

At the time this guide was published, no date had been set for these changes to take effect. Any updates will be posted on the Ombudsman's website (www.ombudsman.on.ca), and included in future editions of this Handbook.

Message from the Ombudsman

Ontario's "Sunshine Law" ushered in a new era of local government transparency when it came into effect in 2008. The amendments to the *Municipal Act, 2001* established a public complaints system to enforce the requirement that all municipal meetings be held in public.

Ontario municipalities have been required by law to hold open meetings (with narrow exceptions) for many years. But in the past, the only way to challenge a closed meeting was through the courts. Today, public complaints about closed meetings are investigated by the Ombudsman's Office – or by investigators appointed by the municipalities themselves.

"Sunshine laws" requiring open meetings have been in place in many jurisdictions, including all U.S. states, for decades. In Ontario, the complaint regime has created an excellent opportunity to raise awareness of the importance of openness in municipalities – the level of government that is literally closest to home for all of us.

At the Office of the Ombudsman of Ontario, our Open Meeting Law Enforcement Team (OMLET) specializes in investigating closed meeting complaints and in assisting municipal officials and the public with questions about the Sunshine Law.

This is the **third edition** of our guide to the law, which we have updated to reflect our years of experience in investigating closed meeting complaints. We have made this handbook available to every municipality in Ontario in the hope that it will be useful to all, no matter who their investigator is.

Many tips and legal references are included in this handy booklet, but the spirit of the legislation can be summed up in six words: **When in doubt, open the meeting.**

André Marin

Ombudsman of Ontario

Questions about the Ombudsman

Who is the Ombudsman?

The Office of the Ombudsman was established in 1975 by the Government of Ontario to enhance the provincial government's accountability to the public. **The Ombudsman is an independent and impartial Officer of the Legislature.** The *Ombudsman Act* gives the Ombudsman's Office complete independence and the powers to oversee virtually everything the government does – it is not a department of the provincial government.

What does the Ombudsman do?

The Ombudsman's job is to investigate complaints about the provincial government – about 500 ministries, agencies, boards, commissions, tribunals and Crown corporations – and make recommendations. Investigations are evidence-based and objective. In 2013-2014, the Ombudsman's office handled about 27,000 complaints. The majority of these were quickly resolved.

The Ombudsman also investigates and reports on **broad systemic issues** within government that affect large numbers of people. The Ombudsman's recommendations in these cases have prompted the provincial government to make significant changes to its administration of property tax assessments, newborn screening and lotteries, to cite just a few examples. Although the Ombudsman's recommendations are not binding, they have been overwhelmingly accepted and implemented by the government.

Complaints about closed municipal meetings are handled by the Ombudsman's Open Meeting Law Enforcement Team (OMLET), which specializes in the investigation and resolution of complaints under the "sunshine law." The team of experienced early resolution officers, investigators and legal counsel also provides guidance and education to municipalities and members of the public on the requirements of the *Municipal Act, 2001* with respect to open meetings and best practices.

Is there a fee for the Ombudsman's services?

The Ombudsman does not charge fees to anyone who complains, or to any organization that is the subject of a complaint. Fees are discouraged by ombudsmen around the world because they can act as a barrier to legitimate complaints.

Why does the Ombudsman investigate closed municipal meetings?

In 2006, the Government of Ontario amended the *Municipal Act, 2001*, giving municipalities additional powers and duties, while providing for **increased accountability and transparency**. The amendments established a mechanism for members of the public to complain when they believe that a meeting has been improperly closed to the public.¹ These provisions took effect on January 1, 2008.

All municipalities must have a closed meeting investigator, and can appoint anyone they choose, including the Ombudsman. The *Municipal Act* also empowers the Ombudsman to receive complaints about closed meetings in **all municipalities that have not appointed investigators**.

¹ The City of Toronto has the same open meeting obligations under the *City of Toronto Act, 2006*.

Pursuant to section 239.1 of the *Municipal Act, 2001*, a person may request an investigation of whether a municipality or local board has:

- i. complied with section 239 of the Act (which sets out the open meeting requirements); or,
- ii. complied with a procedure by-law in respect of a meeting or a part of a meeting that was closed to the public.

To find out who the investigator is for a particular municipality, members of the public can call the municipality, or consult the **“Find Your Municipality”** database in our website’s **Municipal Investigations** section (www.ombudsman.on.ca).

Closed meeting investigations are focused strictly on whether or not the open meeting requirements of the *Municipal Act* have been followed. **They do not deal with any other municipal issues.**

Questions about Closed Meeting Investigations

What happens when the Ombudsman receives a closed meeting complaint?

When complaints are received about a closed meeting by a municipality,² our Office first determines whether the municipality has appointed a closed meeting investigator other than the Ombudsman. If so, the complaint is referred back to the municipality and/or its appointed investigator.

If there is no other investigator, OMLET staff review the complaint, contact the municipal clerk to explain our process, and obtain meeting documents and other relevant information.

If an investigation appears warranted, OMLET staff notify the municipality accordingly.

OMLET staff then gather additional documentary evidence and interview witnesses either by phone, Skype or in person, as warranted. For efficiency, accuracy and a complete record, we generally make audio recordings of our interviews.

When the investigation is complete, the Ombudsman shares his findings and any recommendations relating to illegal meetings, procedural violations and best practices with the relevant municipal officials. They are given a chance to respond to this. The Ombudsman then finalizes his report and sends it to the municipality.

The municipality is expected to make the report public as soon as possible. The Ombudsman then makes the report available on his website and might comment publicly on the case. Complainants are also informed of the outcome.

² Throughout this guide, except where specified or in excerpts from legislation, references to “municipalities” can be understood to include townships, local boards that are subject to the open meeting requirements, and committees of either of them.

How long does the complaints process take?

Strict timelines are set for investigations. Some investigations may take longer than others, depending on the individual circumstances and complexity of the issues. The Ombudsman may also use his discretion under the *Ombudsman Act* to decide not to investigate, for instance, where he finds a complaint to be frivolous or vexatious.

About 70% of all OMLET complaints are resolved within a month.

What are the Ombudsman's powers in an investigation?

Under the *Ombudsman Act*, the Ombudsman and his staff **have the power to:**

- Make inquiries of such persons as they think fit [s. 18(3)];
- Require the municipality to provide information, documents or anything they believe relates to the investigation [s. 19(1)];
- Summons and examine witnesses under oath, including complainants, officers or employees of the municipality, or anyone else relevant to the investigation [s. 19(2)];
- Enter and inspect (upon notification to the municipality) any premises the municipality occupies [ss. 25(1) and 25(2)].

Ombudsman investigations are conducted in private. Municipal solicitors or parties other than the witness are not normally present during interviews.

Are complaints confidential?

Any information received relating to a complaint **cannot be disclosed**, except where permitted by the *Ombudsman Act*. The Ombudsman's Office is also not subject to the application of freedom of information and privacy legislation.

The Ombudsman **does not release the identity of complainants** without consent. The identity of a specific complainant is normally not relevant to a closed meeting investigation, which focuses on whether or not the meeting was properly closed under the law.

When does the Ombudsman report on his investigations?

The Ombudsman sets out his findings in each investigation in a report, including his opinion and recommendations to address any contraventions of the open meeting law. The report is provided to the municipality. Once provided with an Ombudsman report, the municipality is required **to make it available to the public**.³ Reports are also made public on the Ombudsman's website, www.ombudsman.on.ca.

If a complaint raises a broader public policy issue of relevance throughout the province, the Ombudsman has the option to **table his report with the Legislature**, and also make it available to the public.

In addition, each year the Ombudsman publishes and tables with the Legislature **an annual report** on his Office's OMLET operations and investigations.

What are the consequences for the municipality?

Unlike in some U.S. jurisdictions whose “sunshine laws” include the possibility of fines or jail, there are no penalties in Ontario for holding an illegal closed meeting. Although the municipality must make the Ombudsman's findings public, his recommendations are not binding; it is up to the municipality to decide whether or not to accept and implement them.

Questions about the Open Meeting Requirements

Why are open meetings important?

In the 2007 case, *London (City) v. RSJ Holdings Inc.*, the Supreme Court of Canada described how the impetus for open meetings reform in Ontario in the 1990s was in the interest of “fostering democratic values and responding to the public’s demand for more accountable municipal government.” The justices noted that open meetings are required if there is to be “robust democratic legitimacy.” They also observed that section 239 of the *Municipal Act, 2001* “was intended to increase public confidence in the integrity of local government by **ensuring the open and transparent exercise of municipal power.**”

The Ombudsman considers the principles of **accountability, transparency and integrity** in interpreting section 239 and in conducting closed meeting investigations.

Whose meetings must be open to the public?

The *Municipal Act, 2001* provides that municipal councils and most local boards and their committees are required to hold meetings that are open to the public, **subject to some limited exceptions.**

What is a “committee”?

The *Municipal Act* defines “committee,” for the purposes of the open meeting provisions, to mean **any advisory or other committee**, subcommittee or similar entity of which at least 50% of the members are also members of one or more councils or local boards. A procedure by-law may also designate certain bodies to be committees.

What are “local boards”?

Local boards subject to the open meeting requirements are: Municipal service boards, transportation commissions, boards of health, planning boards, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities. A board of management of a business improvement area (BIA) is also considered to be a “local board.” School boards and conservation authorities are not considered “local boards” for the purpose of the open meeting law.

The *Municipal Act, 2001* specifically excludes police services boards and public library boards from the open meeting requirements of the Act. For the purpose of the open meetings law electrical companies incorporated by municipalities under s.142 of the *Electricity Act, 1998* are **not considered to be local boards**.

In addition, certain municipal corporations are not considered local boards.⁴ Whether a corporation is subject to the open meeting law depends on its date of incorporation and other factors established under regulation and by the courts.⁵

⁴ *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, s. 203, and O.Reg 599/06, or its predecessor, O.Reg. 168/03.

⁵ June 12, 2014 letter to City of Elliot Lake <http://www.ci.elliottlake.on.ca/Files/sitemedia/Documents/Elliott-Lake---June-2014.pdf>

Must all meetings be open to the public?

No. A municipal or local board meeting, or part of a meeting, **may be closed** to the public if the subject of the meeting deals with any of the following:

- The security of the property of the municipality;
- Personal matters about an identifiable individual, including municipal employees;
- A proposed or pending acquisition or disposition of land by the municipality;
- Labour relations or employee negotiations;
- Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality;
- Advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- A matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.

A meeting may also be closed if it is held for the purpose of **educating or training** the members, so long as no member discusses or otherwise deals with any matter during the closed meeting in a way that materially advances the business or decision-making of the council, local board or committee. Meetings closed under the education or training exception must be for educational or training purposes **only**. Other topics cannot be discussed in such sessions. Presenters and trainers should be advised in advance of the permissible scope of these meetings and any materials to be used should be vetted to ensure they are consistent with the educational or training purpose of the meeting.

In addition, meetings **must be closed** if the subject matter of the meeting relates to the consideration of a request under the *Municipal Freedom of Information and Protection of Privacy Act*, if the council, board, commission or body is the head of an institution for the purposes of that Act.

Why does the legislation permit closed meetings?

While transparency of municipal governance should be maximized as far as possible, the *Municipal Act, 2001* recognizes that there may be certain situations in which the privacy of an individual should be respected, or where open meetings would not serve the public interest, or the interests of the municipality.

It is important to note, however, that eight of the nine exceptions to the rule requiring meetings to be open to the public are discretionary – in other words, **even if the body can legally close its doors**, the legislation leaves it the flexibility, in the interests of transparency and accountability, to **keep the doors open**.

What is a “meeting”?

The *Municipal Act, 2001* defines “meeting” as any regular, special or other meeting of a council, of a local board or of a committee of either of them.⁶ This definition is quite circular.

The courts have considered whether gatherings held without the usual procedural trappings associated with municipal meetings are caught by the open meeting rules. For instance, in one case,⁷ a municipal committee held an in-camera “workshop.” The purpose of the workshop was to review the committee’s terms of reference and to consider objectives. It was held in a lounge, not in the regular committee room, and media were excluded. No report to council was ever made of the proceedings. The Ontario Court of Appeal held that the workshop was in fact a “meeting.”

In another case,⁸ a city council held an in-camera “retreat” at a ski resort. On the first day’s agenda were many items the council would ordinarily address. On the second day, items such as decorum at meetings, relations with staff and councilor salaries, were discussed. The Divisional Court held that the “retreat” was in fact a “meeting,” noting that matters that would ordinarily be the subject of council business were discussed, in part to make action-taking decisions and to materially move along a number of matters.

⁶ s.238(1).

⁷ *Southam Inc. v. Hamilton-Wentworth (Regional Municipality) Economic Development Committee* (1988), 66 O.R. (2d) 213 (Ont. C.A.).

⁸ *Southam Inc. v. Ottawa (City)* (1991), 5. O.R. (3d) 726 (Ont. Div. Ct.).

Based on the principles of accountability, transparency and openness underscoring the Sunshine Law and reflected in relevant court cases, the Ombudsman developed the following working definition to describe those gatherings subject to the open meeting requirements:

A meeting occurs when members of a council, local board or committee come together for the purpose of exercising their power or authority, or for the purpose of doing the groundwork necessary to exercise that power or authority.⁹

What is a quorum?

A quorum is the minimum number of members of a body **required to be present** at a meeting in order for a body to exercise its power or authority. The presence of a quorum is an important indicator of whether a “meeting” has occurred, since a body can take official action when it has a quorum.

Does the term “meeting” include such things as informal gatherings, informal discussions and attendance at social functions?

Informal gatherings for social purposes are **not** considered to be “meetings.” However, where the purpose of the gathering is to **discuss business** of the council, local board or committee and/or to make decisions, a gathering is more likely to be deemed a “meeting” that is subject to the open meeting requirements.

⁹ Ombudsman Report: *Don't Let the Sun Go Down on Me* Investigation into the City of Greater Sudbury meeting of February 20, 2008 (April 25 2008).

Are meetings conducted over the phone or by email subject to the open meeting requirements?

A “meeting” is not limited to a physical gathering. A teleconference, sequential telephone or email conversation conducted for the purpose of exercising the power or authority of a council, local board or one of their committees or for the purpose of doing the groundwork necessary to exercise that power or authority may constitute a “meeting” subject to the open meeting requirements.¹⁰ Serial telephone calls or emails are, by their nature, closed to the public.

What is a municipality required to address in its procedure by-law?

Every municipality and local board is required to **pass a procedure by-law** governing the calling, place and proceedings of meetings. The procedure by-law must also provide for **public notice** of meetings.

How does a procedure by-law affect the ability of a municipality to close a meeting?

When a municipality decides to close a meeting or part of a meeting, it has to comply not only with the requirements of the *Municipal Act, 2001*, but **also with any additional requirements of its procedure by-law**.

¹⁰. Ombudsman Report: Investigation into the Township of Niagara April 25, 2008 meeting (February 6, 2009)

Must a specific procedure be followed to close a meeting?

Yes. The municipality, local board, or committee must state **by resolution in open session** that a closed meeting will be held and state the general nature of each matter to be considered at the closed meeting. The resolution authorizing a closed meeting must be made in advance and cannot be retroactively amended.

The resolution to go into a closed meeting should provide a **general description of the issue** to be discussed in a way that maximizes the information available to the public **while not undermining the reason for excluding the public**. (See *Farber v. Kingston (City)*, 2007 ONCA 173.) In the case of meetings for the purpose of educating or training members, the subsection of the *Municipal Act, 2001* authorizing meeting closure for this purpose must also be cited. However, as a best practice, the relevant exceptions should always be indicated in connection with each subject for discussion.

What information should a public notice of a meeting contain?

The *Municipal Act, 2001* requires municipalities to establish a procedure by-law governing their meetings. The by-law must provide for public notice of meetings, but the Act **does not specify the content** of that notice.

In practice, many procedure by-laws require that an agenda be publicly posted, listing the matters to be discussed, in advance of a meeting. Some municipalities also provide that items arising after an agenda has been posted are to be included in an addendum, which must also be publicly posted. This is generally for items of an urgent nature.

In the case of items that arise without advance public notice, many procedure by-laws require approval of all members in attendance, or a resolution suspending the normal meeting rules, before they can be considered.

It is the Ombudsman's view that advance public notice should include information about all open and closed portions of a meeting, and meaningful information about **all items to be considered**. The Ombudsman discourages the practice of having "standing" closed session items and recommends that notices and agendas accurately reflect the specific matters intended to be discussed at a particular meeting. In addition, adequate notice should not only include the date of the meeting, but also its time and place, in order to facilitate the public's right to attend and observe open portions of municipal meetings.

Can subjects not identified in the public notice and resolution authorizing a closed meeting be considered during the meeting?

Items that have not been the subject of advance public notice should only be considered if all procedural requirements have been met, and the matter is urgent. **These circumstances should be rare.** Items can only be discussed in a closed meeting if they come within the exceptions to the open meeting requirements and have been expressly identified in the resolution authorizing the closed meeting. If matters are introduced in a closed session that were not identified in the resolution authorizing the session, participants in the meeting are individually and collectively responsible for ensuring that no discussion of the issue takes place.

Can votes be taken during a closed meeting?

Generally, meetings cannot be closed to the public during the taking of a vote. However, voting in a closed meeting is permitted if the closed meeting **is otherwise authorized** and the vote is for a **procedural matter** or for **giving directions or instructions** to officers, employees, agents of the municipality, or persons under contract. Informal voting on issues through a "straw poll," "show of hands" or "secret ballot" is not permissible.

Does the “Sunshine Law” entitle members of the public to participate in a meeting?

No. There is **no automatic right to speak or participate** in a meeting. There is a distinction between a citizen’s right to participate, and his or her right to observe municipal government in progress. The open meeting requirements set out in section 239 of the *Municipal Act* permit the public to **observe the political process**.

Must a record be kept of the closed meeting?

Yes. All resolutions, decisions and other proceedings that take place must be recorded without comment, **whether the meeting is open or closed**.

A proper record of a closed meeting should include reference to the location, time of commencing and adjourning the meeting and the names of attendees. A detailed description of the substantive and procedural matters discussed, including reference to any specific documents considered, motions (including who introduced the motion and seconders) and all votes taken or direction given should also be part of the official record.

The Ombudsman recommends that all municipalities make audio or video recordings of all meetings – both open and closed – to ensure the most thorough record possible, and encourages municipalities, committees or local boards to report publicly in open session about what transpired in closed session, providing as much detail as the subject matter permits.

How the Ombudsman Interprets the s. 239 Exceptions

Although every case is assessed on its own merits, here are some guidelines and examples of how the Ombudsman has interpreted and applied the eight discretionary exceptions to the open meeting requirements.

“Security of the property” – s. 239(2)(a)

Includes:

- Discussions relating to protection of property from physical loss or damage and the protection of public safety in relation to this property.

Does not include:

- Matters relating to the financial interests of the municipality
- Discussions of strategy with respect to municipal infrastructure or growth
- Discussions regarding strategy with regard to municipal property

Case examples (available online):

- **Township of Russell (May 5, 2014 meeting):** Discussions related to financial interests, municipal growth, future planning and negotiation strategy did not fit within this exception.
- **City of Niagara Falls (December 12, 2011 and January 24, 2012 meetings):** Discussion of security concerns with respect to a member of the public did not fit within this exception.
- **City of Welland (Spring 2014 meetings):** Discussions of a bid to host a sporting event did not fit within this exception.

“Personal matters about an identifiable individual” – s. 239(2)(b)

Includes:

- Discussions of opinions about an identified individual
- Examination of a municipal employee’s performance or conduct
- Discussion of nominees for appointment to a committee
- Discussion of an investigation of an individual’s possible violation of law

Does not include:

- Discussion of council members’ remuneration or expenses and related policy
- Discussion of general working relations between council and staff
- Discussion about an individual in his/her professional or official capacity

Case examples (available online):

- **City of Timmins (June 17, 2014 meeting):** Discussion of an investigation of a resident’s contravention of a zoning by-law fit within this exception.
- **Township of Midland (July 22, 2013 meeting):** Discussion of a councillor’s request for reimbursement of legal fees did not fit within this exception, as they related to the councillor’s professional capacity.

“Acquisition or disposition of land” – s.239(2)(c)

Includes:

- When the bargaining position of the municipality needs to be protected with respect to buying or selling property
- Discussions of lease agreements or easements relating to the municipality’s property interests

Does not include:

- General discussions of real estate market volatility and its impact on land values

Case examples (available online)

- **Town of Ajax (May 23, 2013 committee meeting):** Discussion of an encroachment on municipal land and consideration of a possible sale of the property properly fit within the exception.
- **City of Hamilton (June 27, 2011 committee meeting):** Discussion of potential acquisition of land by a school board, which is not a “local board” under the Act, did not fit within the exception.

“Labour relations or employee negotiations” – s.239(2)(d)**Includes:**

Discussions involving:

- collective bargaining
- staff compensation or vacation
- hiring or firing staff, or disciplinary proceedings
- grievances under a collective agreement
- voluntary exit program
- review of staff workload and working relationships

Does not include:

- Discussions of litigation against employees

Case examples (available online)

- **Township of Leeds and the Thousand Islands (February 19, 2013 meeting):** Discussion of senior staff compensation fit within this exception, but the meeting was illegal because no public notice was provided.
- **Township of Bonfield (October 8, 2013 committee meeting):** Discussion relating to ongoing labour negotiations fit within this exception.

“Litigation or potential litigation” – s.239(2)(e)

Includes:

- Discussions of ongoing litigation involving the municipality, including proceedings before administrative tribunals
- Discussion of litigation that is a real likelihood, against or by the municipality
- Discussions about deciding whether or not to litigate

Does not include:

- Speculation that litigation may arise in future, or where there is no evidence of any current or future legal proceedings
- Meetings where an outside party is present (thereby waiving legal privilege)

Case examples (available online):

- **Municipality of Bluewater (August 27, 2013 meeting):** Discussion of advice from the municipality’s solicitor about a proposed by-law as a means to resolve pending litigation fit within this exception.
- **Township of Ryerson (Sept 24, 2012 meeting):** Discussion of a complaint related to zoning did not fit within this exception, as there was no pending litigation or notice of any intent to take legal action.
- **Town of Orangeville (September 9, 2013 meeting):** Discussion of possible litigation relating to a property lease fit within this exception, but the meeting became illegal when the property owner joined the meeting.

“Advice subject to solicitor-client privilege” – s. 239(2)(f)

Includes:

- Communication between the municipality and its solicitor, in seeking or receiving legal advice intended to be confidential (to ensure municipal officials can speak freely with their lawyer without fear of disclosure)

Does not include:

- Situations where the privileged communication is disclosed to third parties;
- Discussions that do not directly refer to legal advice

Case examples (available online):

- **Town of Carleton Place (July 23, 2013 meeting):** Discussion of advice from the town's solicitor about an easement issue and a pending lawsuit against the town fit within this exception.
- **Township of Ryerson (July 9, 2013 meeting):** Discussion of a letter from the township's solicitor did not fit within this exception, because the document did not include specific legal advice, just a draft proposal for consideration by a third party, who was at the meeting.
- **Town of Ajax (May 23, 2013):** Discussions about a report on which the municipality's solicitor was consulted did not fit within the exception because the solicitor provided no specific legal advice at the meeting or in the report.

“Education or training” – s. 239(3.1)**Includes:**

- Discussions solely for the purpose of educating and/or training council members

Does not include:

- Discussions that advance council business or decision-making

Case examples (available online):

- **Township of Brudenell, Lyndoch and Raglan (March 19, 2014 meeting):** A presentation to educate council on fire services delivery fit within this exception.
- **Town of Moosonee (August 26, 2013 meeting):** Information about grants, directly relating to town business, did not fit within this exception.
- **City of Welland (April 2014 meeting):** Discussions relating to the city's economic development strategy did not fit within this exception.

Legislation Relating to Open Meetings

MUNICIPAL ACT, 2001

The open meeting provisions apply to municipal councils and local boards and their committees. The Act generally defines what a local board is. Other sections of the Act exclude police services boards and public library boards from the open meeting requirements.

INTERPRETATION

s.1(1)

“local board” means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority; (“conseil local”)

Municipalities and local boards are required to have a procedure by-law relating to meetings. These by-laws must make provision for public notice of meetings.

PROCEDURE BY-LAW

Procedure by-law

Definitions

238. (1) In this section and in sections 239 to 239.2,

“committee” means any advisory or other committee, sub-committee or similar entity of which at least 50 per cent of the members are also members of one or more councils or local boards; (“comité”)

“local board” does not include police services boards or public library boards; (“conseil local”)

“meeting” means any regular, special or other meeting of a council, of a local board or of a committee of either of them. (“réunion”) 2001, c. 25, s. 238 (1); 2006, c. 32, Sched. A, s. 102 (1, 2).

Procedure by-laws respecting meetings

(2) Every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings. 2001, c. 25, s. 238 (2).

Notice

(2.1) The procedure by-law shall provide for public notice of meetings. 2006, c. 32, Sched. A, s. 102 (3).

Outside municipality

(3) The procedure by-law may provide that meetings be held and public offices be kept at a place outside the municipality within an adjacent municipality. 2001, c. 25, s. 238 (3).

Presiding officer

(4) The procedure by-law may, with the consent of the head of council, designate a member of council, other than the head of council, to preside at meetings of council. 2006, c. 32, Sched. A, s. 102 (4).

Secret ballot

(5) A presiding officer may be designated by secret ballot. 2006, c. 32, Sched. A, s. 102 (4).

The open meeting provisions set up the general obligation and exceptions.

Meetings

Meetings open to public

239.(1) Except as provided in this section, all meetings shall be open to the public. 2001, c. 25, s. 239 (1).

Exceptions

(2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the municipality or local board;
- (b) personal matters about an identifiable individual, including municipal or local board employees;
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act. 2001, c. 25, s. 239 (2).

Other criteria

- (3) A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the *Municipal Freedom of Information and Protection of Privacy Act* if the council, board, commission or other body is the head of an institution for the purposes of that Act. 2001, c. 25, s. 239 (3).

Educational or training sessions

- (3.1) A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:
 - 1. The meeting is held for the purpose of educating or training the members.
 - 2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee. 2009, c. 32, Sched. A, s. 103 (1).

Resolution

- (4) Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,
- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
- (b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection. 2001, c. 25, s. 239 (4); 2006, c. 32, Sched. A, s. 103 (2).

Open meeting

- (5) Subject to subsection (6), a meeting shall not be closed to the public during the taking of a vote. 2001, c. 25, s. 239 (5).

Exception

- (6) Despite section 244, a meeting may be closed to the public during a vote if,
- (a) subsection (2) or (3) permits or requires the meeting to be closed to the public; and
- (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board. 2001, c. 25, s. 239 (6).

Record of meeting

- (7) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not. 2006, c. 32, Sched. A, s. 103 (3).

Same

- (8) The record required by subsection (7) shall be made by,
- (a) the clerk, in the case of a meeting of council; or
 - (b) the appropriate officer, in the case of a meeting of a local board or committee. 2006, c. 32, Sched. A, s. 103 (3).

Record may be disclosed

- (9) Clause 6 (1) (b) of the *Municipal Freedom of Information and Protection of Privacy Act* does not apply to a record of a meeting closed under subsection (3.1). 2006, c. 32, Sched. A, s. 103 (3).

The following sections relating to investigations came into force January 1, 2008.

Investigation

- 239.1** A person may request that an investigation of whether a municipality or local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public be undertaken,
- (a) by an investigator referred to in subsection 239.2 (1); or
 - (b) by the Ombudsman appointed under the *Ombudsman Act*, if the municipality has not appointed an investigator referred to in subsection 239.2 (1). 2006, c. 32, Sched. A, s. 104.

Investigator

- 239.2** (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an investigator who has the function to investigate in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation. 2006, c. 32, Sched. A, s. 104.

Powers and duties

- (2) Subject to this section, in carrying out his or her functions under subsection (1), the investigator may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 104.

Matters to which municipality is to have regard

- (3) In appointing an investigator and in assigning powers and duties to him or her, the municipality shall have regard to, among other matters, the importance of the matters listed in subsection (5). 2006, c. 32, Sched. A, s. 104.

Same, investigator

- (4) In carrying out his or her functions under subsection (1), the investigator shall have regard to, among other matters, the importance of the matters listed in subsection (5). 2006, c. 32, Sched. A, s. 104.

Same

- (5) The matters referred to in subsections (3) and (4) are,
- (a) the investigator's independence and impartiality;
 - (b) confidentiality with respect to the investigator's activities; and
 - (c) the credibility of the investigator's investigative process. 2006, c. 32, Sched. A, s. 104.

Delegation

- (6) An investigator may delegate in writing to any person, other than a member of council, any of the investigator's powers and duties under this Part. 2006, c. 32, Sched. A, s. 104.

Same

- (7) An investigator may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 104.

Status

- (8) An investigator is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 104.

Application

- (9) Subsection 223.13 (6) and sections 223.14 to 223.18 apply with necessary modifications with respect to the exercise of functions described in this section. 2006, c. 32, Sched. A, s. 104.

Report and recommendations

- (10) If, after making an investigation, the investigator is of the opinion that the meeting or part of the meeting that was the subject-matter of the investigation appears to have been closed to the public contrary to section 239 or to a procedure by-law under subsection 238 (2), the investigator shall report his or her opinion and the reasons for it to the municipality or local board, as the case may be, and may make such recommendations as he or she thinks fit. 2006, c. 32, Sched. A, s. 104.

Publication of reports

- (11) The municipality or local board shall ensure that reports received under subsection (10) by the municipality or local board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 104.

See: 2006, c. 32, Sched. A, ss. 104, 192 (2).

The following provisions applying to a municipal ombudsman also apply to investigators appointed to investigate closed meeting complaints.

223.13 Powers paramount

- (6) The powers conferred on the Ombudsman under this Part may be exercised despite any provision in any Act to the effect that any such decision, recommendation, act or omission is final, or that no appeal lies in respect of them, or that no proceeding or decision of the person or organization whose decision, recommendation, act or

omission it is shall be challenged, reviewed, quashed or called in question. 2006, c. 32, Sched. A, s. 98.

Investigation

223.14 (1) Every investigation by the Ombudsman shall be conducted in private. 2006, c. 32, Sched. A, s. 98.

Opportunity to make representations

(2) The Ombudsman may hear or obtain information from such persons as he or she thinks fit, and may make such inquiries as he or she thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but if at any time during the course of an investigation it appears to the Ombudsman that there may be sufficient grounds for him or her to make any report or recommendation that may adversely affect the municipality, a local board, a municipally-controlled corporation or any other person, the Ombudsman shall give him, her or it an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel. 2006, c. 32, Sched. A, s. 98.

Application of *Ombudsman Act*

(3) Section 19 of the *Ombudsman Act* applies to the exercise of powers and the performance of duties by the Ombudsman under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(4) For the purposes of subsection (3), references in section 19 of the *Ombudsman Act* to “any governmental organization”, “the *Freedom of Information and Protection of Privacy Act*” and “the *Public Service of Ontario Act, 2006*” are deemed to be references to “the municipality, a local board or a municipally-controlled corporation”, “the *Municipal Freedom of Information and Protection of Privacy Act*” and “this Act”, respectively. 2006, c. 32, Sched. A, s. 98; 2006, c. 35, Sched. C, s. 134 (3).

Duty of confidentiality

223.15 (1) Subject to subsection (2), the Ombudsman and every person acting under the instructions of the Ombudsman 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.

Disclosure

(2) The Ombudsman may disclose in any report made by him or her under this Part such matters as in the Ombudsman's opinion ought to be disclosed in order to establish grounds for his or her conclusions and recommendations. 2006, c. 32, Sched. A, s. 98.

Section prevails

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

No review, etc.

223.16 No proceeding of the Ombudsman under this Part shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court. 2006, c. 32, Sched. A, s. 98.

Testimony

223.17 (1) The Ombudsman and any person acting under the instructions of the Ombudsman shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his or her knowledge in the exercise of his or her functions under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(2) Anything said or any information supplied or any document or thing produced by any person in the course of

any investigation by or proceedings before the Ombudsman under this Part is privileged in the same manner as if the inquiry or proceedings were proceedings in a court. 2006, c. 32, Sched. A, s. 98.

Effect on other rights, etc.

223.18 The rights, remedies, powers, duties and procedures established under sections 223.13 to 223.17 are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Part limits or affects any such remedy or right of appeal or objection or procedure. 2006, c. 32, Sched. A, s. 98.

OMBUDSMAN ACT

Function of Ombudsman

14.(1) The function of the Ombudsman is to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a governmental organization and affecting any person or body of persons in his, her or its personal capacity. R.S.O. 1990, c. O.6, s. 14 (1).

...

Application

(2.1) Subsections (2.2) to (2.6) apply if a municipality has not appointed an investigator referred to in subsection 239.2 (1) of the *Municipal Act, 2001* or if the City of Toronto has not appointed an investigator referred to in subsection 190.2 (1) of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 40.

Investigation

(2.2) The Ombudsman may investigate, on a complaint made to him or her by any person,

- (a) whether a municipality or local board of a municipality has complied with section 239 of the *Municipal Act, 2001* or a procedure by-law under subsection 238 (2) of that Act in respect of a meeting or part of a meeting that was closed to the public; or
- (b) whether the City of Toronto or a local board of the City has complied with section 190 of the *City of Toronto Act, 2006* or a procedure by-law under subsection 189 (2) of that Act in respect of a meeting or part of a meeting that was closed to the public. 2006, c. 32, Sched. C, s. 40.

Non-application

- (2.3) Subsections 14 (4) and 18 (4) and (5), sections 20 and 21 and subsections 22 (1) and 25 (3) and (4) do not apply to an investigation under subsection (2.2). 2006, c. 32, Sched. C, s. 40.

Interpretation

- (2.4) For the purposes of an investigation under subsection (2.2),
- (a) the references in subsections 18 (1) and 25 (2) to “head of the governmental organization” shall be deemed to be a reference to “municipality or local board”;
 - (b) the references in subsections 18 (3) and (6), 19 (1) and (2) and 25 (1) to “governmental organization” shall be deemed to be references to “municipality or local board”;
 - (c) the reference in subsection 19 (3) to the *Public Service of Ontario Act, 2006* shall be deemed to be a reference to the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be; and
 - (d) the reference in subsection 19 (3.1) to the *Freedom of Information and Protection of Privacy Act* shall be deemed to be a reference to the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 32, Sched. C, s. 40; 2006, c. 35, Sched. C, s. 134 (4).

Ombudsman's report and recommendations

(2.5) If, after making an investigation under subsection (2.2), the Ombudsman is of the opinion that the meeting or part of the meeting that was the subject-matter of the investigation appears to have been closed to the public contrary to section 239 of the *Municipal Act, 2001* or to a procedure by-law under subsection 238 (2) of that Act or contrary to section 190 of the *City of Toronto Act, 2006* or to a procedure by-law under subsection 189 (2) of that Act, as the case may be, the Ombudsman shall report his or her opinion, and the reasons for it, to the municipality or local board, as the case may be, and may make such recommendations as he or she thinks fit. 2006, c. 32, Sched. C, s. 40.

Publication of reports

(2.6) The municipality or local board shall ensure that reports received under subsection (2.5) by the municipality or local board, as the case may be, are made available to the public. 2006, c. 32, Sched. C, s. 40.

...

Proceedings of Ombudsman

18.(1) Before investigating any matter, the Ombudsman shall inform the head of the governmental organization affected of his or her intention to make the investigation. R.S.O. 1990, c. O.6, s. 18 (1).

Investigation to be in private

(2) Every investigation by the Ombudsman under this Act shall be conducted in private. R.S.O. 1990, c. O.6, s. 18 (2).

Where hearing necessary

(3) The Ombudsman may hear or obtain information from such persons as he or she thinks fit, and may make such inquiries as he or she thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is

entitled as of right to be heard by the Ombudsman, but, if at any time during the course of an investigation, it appears to the Ombudsman that there may be sufficient grounds for him or her to make any report or recommendation that may adversely affect any governmental organization or person, the Ombudsman shall give to that organization or person an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel. R.S.O. 1990, c. O.6, s. 18 (3).

...

Breach of duty or misconduct

- (6) If, during or after an investigation, the Ombudsman is of opinion that there is evidence of a breach of duty or of misconduct on the part of any officer or employee of any governmental organization, the Ombudsman may refer the matter to the appropriate authority. R.S.O. 1990, c. O.6, s. 18 (6).

Evidence

- 19.**(1) The Ombudsman may from time to time require any officer, employee or member of any governmental organization who in his or her opinion is able to give any information relating to any matter that is being investigated by the Ombudsman to furnish to him or her any such information, and to produce any documents or things which in the Ombudsman's opinion relate to any such matter and which may be in the possession or under the control of that person. R.S.O. 1990, c. O.6, s. 19 (1).

Examination under oath

- (2) The Ombudsman may summon before him or her and examine on oath,
- (a) any complainant;
- (b) any person who is an officer or employee or member of any governmental organization and who, in the Ombuds-

man's opinion, is able to give any information mentioned in subsection (1); or

- (c) any other person who, in the Ombudsman's opinion, is able to give any information mentioned in subsection (1),

and for that purpose may administer an oath. R.S.O. 1990, c. O.6, s. 19 (2).

...

Providing personal information despite privacy Acts

- (3.1) A person who is subject to the *Freedom of Information and Protection of Privacy Act* or the *Personal Health Information Protection Act, 2004* is not prevented by any provisions in those Acts from providing personal information to the Ombudsman, when the Ombudsman requires the person to provide the information under subsection (1) or (2). 2004, c. 3, Sched. A, s. 94.

...

Privileges

- (5) Every person has the same privileges in relation to the giving of information, the answering of questions, and the production of documents and things as witnesses have in any court. R.S.O. 1990, c. O.6, s. 19 (5).

Protection

- (6) Except on the trial of any person for perjury in respect of the person's sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Ombudsman is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Ombudsman shall be given against any person. R.S.O. 1990, c. O.6, s. 19 (6).

...

Prosecution

- (8) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his or her compliance with any requirement of the Ombudsman under this section. R.S.O. 1990, c. O.6, s. 19 (8).

Fees

- (9) Where any person is required by the Ombudsman to attend before him or her for the purposes of this section, the person is entitled to the same fees, allowances, and expenses as if he or she were a witness in the Superior Court of Justice, and the provisions of any Act, regulation or rule in that behalf apply accordingly. R.S.O. 1990, c. O.6, s. 19 (9); 2006, c. 19, Sched. C, s. 1 (1).

...

Proceedings not to be questioned or to be subject to review

- 23.** No proceeding of the Ombudsman shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court. R.S.O. 1990, c. O.6, s. 23.

Proceedings privileged

- 24.(1)** No proceedings lie against the Ombudsman, or against any person holding any office or appointment under the Ombudsman, for anything he or she may do or report or say in the course of the exercise or intended exercise of his or her functions under this Act, unless it is shown that he or she acted in bad faith. R.S.O. 1990, c. O.6, s. 24 (1).

Idem

- (2) The Ombudsman, and any such person as aforesaid, shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his or her knowledge in the exercise of his or her functions under this Act. R.S.O. 1990, c. O.6, s. 24 (2).

Idem

- (3) Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court. R.S.O. 1990, c. O.6, s. 24 (3).

Power of entry of premises

- 25.**(1) For the purposes of this Act, the Ombudsman may at any time enter upon any premises occupied by any governmental organization and inspect the premises and carry out therein any investigation within his or her jurisdiction. R.S.O. 1990, c. O.6, s. 25 (1).

Notice of entry

- (2) Before entering any premises under subsection (1), the Ombudsman shall notify the head of the governmental organization occupying the premises of his or her purpose. R.S.O. 1990, c. O.6, s. 25 (2).

...

Offences and penalties

- 27.** Every person who,

- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the performance of his or her functions under this Act; or

- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
 - (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his or her functions under this Act,
- is guilty of an offence and liable on conviction to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or to both. R.S.O. 1990, c. O.6, s. 27.

Making a Complaint in 3 Easy Steps

Anyone can complain about a closed municipal meeting – you do not have to live in the municipality you are complaining about. Here's how:

1. Find out who the investigator is for the municipality you wish to complain about. Do this by:
 - Calling the municipality
 - Checking the “Find Your Municipality” list in the “Municipal Matters” section of our website, www.ombudsman.on.ca ; or
 - Calling our Office at 1-800-263-1830.
2. If the municipality has appointed its own investigator, the Ombudsman cannot handle your complaint – you will need to consult the municipality to file it.
3. If the Ombudsman is the investigator for the municipality in question, you may file your complaint directly to our Office by:
 - Calling our complaint intake line at 1-800-263-1830, Monday to Friday between 9 a.m. and 4:30 p.m. (or TTY: 1-866-411-4211);
 - Completing a Closed Meeting Complaint Form online at www.ombudsman.on.ca; (you may also download and print out the form – it asks you to provide basic details about the meeting, such as time and place, and the subject, if known);
 - Sending an e-mail to info@ombudsman.on.ca;
 - Faxing your complaint to (416) 586-3485;
 - Mailing your complaint to:
Office of the Ontario Ombudsman
483 Bay Street
10th Floor, South Tower
Toronto, Ontario M5G 2C9; or
 - Appearing in person at the address above. An appointment is recommended and can be made by calling the complaint intake line at 1-800-263-1830.

If you have any questions about any of the above, feel free to call or e-mail our Office.

THE

Sunshine Law HANDBOOK

Open Municipal Meetings in Ontario

3rd edition

“The democratic legitimacy of municipal decisions does not spring solely from periodic elections, but also from a decision-making process that is transparent, accessible to the public, and mandated by law.”

– HON. MADAM JUSTICE LOUISE CHARRON,
SUPREME COURT OF CANADA



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THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. OED-2015-0025

**FOR THE CONSIDERATION OF
COUNCIL
July 14, 2015**

**SUBJECT: LAKE DRIVE North and East – Policy re Shoreline
Development**

RECOMMENDATION:

- 1. That Council receive Report No. OED-2015-0025 prepared by the Operations and Engineering Department dated July 14, 2015 regarding Lake Drive North and East – Policy re Shoreline development.**
- 2. That Council provide comment to staff and that staff report back with final drafts of the proposed policies and agreements.**
- 3. That staff provide public notice of any forthcoming reports.**
- 4. That staff use the resources of Lidor GPS mapping contractor to establish a baseline of existing structures and modifications to the lake side of the travelled portion.**

1. PURPOSE:

To provide Council with a preliminary review of proposed Policy RD 19 and the concept of an Encroachment Agreement. Please see Attachment 2 and 3.

To seek Council direction to contract the services of Lidnor GPS mapping contractor at an upset limit of \$7,000 to establish a baseline of existing structures and modifications to the lake side of the travelled portion.

2. BACKGROUND:

Who is W.D. (Rusty) Russell, Q.C., LL.B. B.A.

Mr. Russell is the Founder of, and was the senior member of, the Orillia law firm Russell, Christie, LLP. He has wide experience in municipal and planning law. In 2005, he was the first recipient of the Award of Excellence in Municipal Law awarded by the Municipal Law Section of the Ontario Bar Association. He has been a frequent and well known speaker at municipal conferences in Toronto and across the Province including the Law Society of Upper Canada, Ontario Land Surveyors, Ontario Good Roads Association and various municipal organizations.

Prior to 1992: Pre Rusty Russell

Prior to Rusty Russell being retained by the Town of Georgina, the Town staff and past Councils tried to address the issues of ownership of Lake Drive shoreline through several public meetings and other policies to deal with development issues. Many owners continue to believe they own portions of the road allowance, as their deed in some cases would support this. In past public meetings, many owners had legal representation to challenge the town's position. Although the town maintained their position of ownership they did not have a legal interpretation of the lands on the travelled portion of the road to challenge owner's deeds. As a result the town hired an expert on roads to validate the Town's position.

Hiring of Rusty Russell

Much of Lake Drive from Church Street in Keswick to South Drive in Jackson's Point abuts the shoreline of Lake Simcoe and Cooks Bay. In 1992 the Town retained Mr. Rusty Russell to examine ownership and limits of the Lake Drive road allowance between Eastborne and Jackson's Point and he concluded that a valid municipal road allowance was laid out by the Quarter Sessions Court in 1835 having a width of 66' measured from the shoreline. There are a number of areas where the road moves away from the shore across points of land as shown on registered plans of subdivision such that the Town does not own to the water's edge in these particular locations.

The Town also retained Mr. Russell in 2006 to examine the ownership of Lake Drive in Orchard Beach from Church Street to Boyers Road. He concluded that the road began as a forced or trespass road but that the limits of the road allowance became determined when plans of subdivisions were registered along the road. Where there is no registered plan the road became a municipal road by virtue of use and the expenditure of funds over time.

This has been a complex historical issue involving different opinions. Over a long period of time, cottage development took place, and owners used and made improvements to the portion of the road allowance lying between the travelled road and the shoreline. Buildings, retaining walls, boathouses, sheds, fences, decks, docks and landscaping are common along the lakeshore. The Town solicitor has advised that these items are not permitted to be placed there without closing or licensing the portion of the road allowance. It is recommended that the provision of water and sewer services to buildings on the road allowance not be permitted and that no plumbing permits be issued to install such works.

Notwithstanding the fact the Town owns to the water's edge and cannot issue permits to land owners abutting the east and south sides of the road allowance for structures and services, the Town does not object to these owners making reasonable use and maintaining the road allowance between the travelled road and the lake. Policies and procedures have been put in place over the years, however it is recommended that these be updated and formally approved, taking into consideration the opinions provided by Mr. Russell regarding ownership and by Cassels Brock regarding use and issuance of building permits. The Town's Operations and Engineering Department has conducted educational sessions to bring Council up to speed on the numerous 'issues' that have arisen over the years. The various uses of the land by owners abutting the east and south sides of the road allowance are discussed separately. Please see Attachment 1 illustrating Lake Drive North and East.

3. ANALYSIS:

ENCROACHMENT AGREEMENT:

Staff have determined that Encroachment Agreements are a viable tool to be used by the Town to control the shoreline development in question. Attachment 3 is a sample encroachment by-law that demonstrates the basic concept of such agreements. Should Council see this approach as favourable staff will proceed to draft an agreement specific to supporting Policy RD 19.

New Applications

The use of Encroachment Agreements would establish proper process and give required authority to staff.

Existing users of Road Allowance:

Again, the use of an Encroachment Agreement would establish proper process and give required authority to staff. As stated later in this report, staff feels this is a fair equitable approach after ownership has been established. The agreement most importantly indemnifies the Town. There will be owners who may refuse to sign the Encroachment Agreement. After attempts at educating such property owners, we will bring those issues back to Council for further direction.

Policy RD 19 Analysis

Before the Town will approve any uses outlined in Policy RD 19, the abutting owner must ensure all the applicable approvals are in place from the Lake Simcoe Region Conservation Authority, Ministry of Natural Resources and any other governing authorities. In some cases, abutting owners will also be required to provide engineered drawings.

1. Fences

Many residents want to install fences to prevent vehicles from parking on the grassed areas and to prevent children from running out when going back and forth across the road. The Town has not objected to these fences provided that they do not significantly obstruct the view of the lake nor interfere with snow plow operations. A policy was developed approximately 20 years ago to allow fences provided that fences:

- Are located a minimum of 1.5 metres from the edge of pavement.
- Area maximum height of 1 metre measured from the centerline of road. This would allow drivers, pedestrians, and cyclists to see over the fence and view the lake.
- The area of the fence material does not exceed 50% of the area of the overall length and height of the fence. This is to ensure that this is truly a fence and not a wall.
- Fences may only be installed parallel to the road. Perpendicular fences suggesting that a lot line exists are not permitted.

In some respects these fences are like guide rails. After discussions with staff and the Towns lawyer, we are recommending that such fences be maintained by the abutting property owners.

Staff are concerned about snow removal activities. Winters with large snowfall accumulations may result in fences being damaged by snow plowing. The 1.5 metres is a reasonable 'buffer' and will give a location for snow storage. The Town is not responsible for any damage that may occur to the fence during any road maintenance activities.

2. Hedges and Landscaping

Left in its natural state the shoreline supports the growth of trees and brush that almost totally obstructs the view of the lake. Land owners abutting the east and south sides of the road allowance have cleared the lakefront for their own purposes but this also provides a view for all users of the road. It is recommended that lot owners be allowed to remove trees and brush to make this land useable and to provide a view of the lake provided the ground does not become susceptible to erosion. On the other hand, trees are an asset and the Town should not be opposed to these owners planting trees and shrubs to landscape the area. An exception to this is the planting of hedges as these are essentially a fence and block the view completely. Hedges may only be 1 metre high when planted but will grow higher and act as a privacy fence. The Town does not want to start taking action to manage hedges that grow too high. The requirement to maintain is the sole responsibility of the abutting owner for the life of the plantings. The Town is proposing a 1.5 metre setback for maintenance activities.

3. Retaining Walls and Grading

Over the years many land owners have re-graded the lakefront and constructed various types of retaining walls to provide more useable level ground. Many of these walls are failing and threaten the stability of the road. Newer owners are asking the Town to repair or replace these walls. Retaining walls of a height less than 0.6 metres do not pose a significant risk of instability and therefore it is recommended that such be permitted. Similarly, re-grading by sloping the bank should be allowed with specific Town approval provided the slope will be stable and will not erode - i.e.: a maximum slope of 3:1 horizontal to vertical. Maintenance will be the sole responsibility of the abutting owner for the life of the structure.

4. Water and Sewer Service Laterals

Municipal services have been constructed along the subject road. Cabins, bunkies and boathouses have been constructed on the road allowance over the years and inquiries have been made about providing water and sewer services directly to these buildings or by a road crossing to the services for the lands on the east and south side of the road allowance

Although these existing structures may have some type of plumbing fixtures and perhaps some type of undesirable sewage system or holding tank, it is staff opinion that the adequacy of these facilities should be dealt with on their own and that allowing connections to the municipal system will encourage the continued use of the buildings and may allow interior upgrades to occur without Town approval. For that reason it is recommended that the provision of municipal water and sewer services to buildings on the road allowance not be permitted, and that no plumbing permits be issued to install such works.

5. Construction and Renovation of Boathouses, Cabins, Sheds, Cabanas, etc. on the Road Allowance

A number of boathouses and cabins have been constructed on the road allowance without approval but no action has been taken by the Town to remove them. Council gave informal direction in 1992 that new structures would not be permitted but that existing buildings could be rehabilitated. In addition, the Town solicitor has advised that the building permits cannot be issued to owners for structures on the road allowance. This would include building permits for renovation. It is recommended that this position be confirmed. This policy should also include the case of buildings not greater than 10m² where a building permit would not be required. Minor work such as reroofing, new siding and painting that does not require a building permit should be permitted.

There will no doubt be situations where the building will fall into disrepair and the owners will refuse to do anything. In that case the Town would have a responsibility to remove the structure and the liability that may exist. The Town should remove the owner's permission to use the lakefront if they refuse to remove dilapidated structures or keep them in reasonable condition.

6. Stairs, Decks and Docks

The Town does not object to abutting owners making use of the lakefront and has allowed stairs, decks and docks to be constructed on the road allowance. It is recommended that this practice be allowed to continue provided the structure does not require the issuance of a building permit. This would permit stairs and small decks/docks having an area of not greater than 10m² and less than 0.6 metres above grade. For clarity the abutting owner cannot have stairs or docks that exceed 10 m² in total aggregate, meaning several structures cannot be erected. An alternative to a 10m² deck would be a larger on-grade patio area. Only a portion of docks are located on the Town road allowance with the majority being located on the lakebed. The Town has in the past, and it is recommended that it continue to advise the Ministry of Natural Resources that, as riparian owner, the Town has no objection to the issuance of a work permit to allow the dock to be constructed on Crown land. A 1.5 metre setback from the asphalt surface is proposed.

7. Construction and Renovation of Boathouses totally on the Lakebed

The Town is being asked by the Ministry of Natural Resources for our comments or objections to the Ministry issuing permits to authorize large boathouses totally on the lakebed. As the abutting riparian owner the Town must support approval being granted to the non-riparian abutting owner wishing to build such a structure. This is not a road allowance issue and staff will seek Council's direction on next steps.

4. FINANCIAL ANALYSIS AND BUDGETARY IMPACT:

It is recommended that the Town complete a survey of all lands on the lake side of the road allowance. The quickest way to do this would be to GPS/GIS all lands on the travelled portion of the road on the lake side in their current state. There will be a fee for developing this baseline of Lake Drive North and East. An upset limit of \$7,000 would be established and the endeavor would be funded by the Town's operating budget.

5. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

Should Council wish to proceed with the proposed policy, it is recommended that notice be given of such intent. This would allow an opportunity for interested parties to submit comment prior to Council's final adoption of the policy.

6. CONCLUSION:

One of the difficult aspects of adopting a Policy with the Lake Drive issue involves ownership itself. Some abutting owners' deeds include language suggesting that the owners own land on the Lake side of the travelled road, whereas the Russell opinions referred to earlier are quite definitive in their conclusion that no such conveyances were validly made. Staff are recommending that in situations where such abutting owners wish to install or have installed works on the lake side of the travelled road that are otherwise in accordance with the Policy, the Town will attempt to obtain an encroachment agreement.

In summary, many activities have been allowed to take place on the Town road allowance over a long period of time. Urban development has taken over cottage dwellings and evidence supports that there is more desire by the owners abutting the east and south sides of the road allowance to carry out more significant development of the shoreline. It is recommended that the attached policy be considered for adoption to allow reasonable use of the shoreline but not to allow it to be intensely developed.

Formally approving the Policy would allow staff to manage visual appeal and add control over the development of Town owned lands. By seeking Encroachment Agreements with the abutting owners, where existing structures and plantings have been constructed without approval of the Town, the Town is proposing a compromise with a reasonable approach going forward. Such Encroachment Agreements would include indemnification clauses protecting the Town from risk and liability if someone were to be injured.

This approach is being sought after many hours of discussions with existing staff, and our legal experts. No solution is perfect but failing to act or deal with this difficult issue does not do justice to protecting our most valuable asset – Lake Simcoe.

Prepared by:



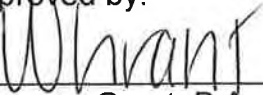
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Capital Projects Manager

Recommended by:



Dan Pisani, P. Eng.
Director of Operations & Engineering

Approved by:



Winanne Grant, B.A., AMCT, CEMC
Chief Administrative Officer

Recommended by:

Michael Bigioni
Town Solicitor

Attachment 1 - Lake Drive Pictures
Attachment 2 – Draft Policy RD19
Attachment 3 – Sample Encroachment Agreement

SUBJECT: DRAFT Lake Drive – Development along the water side of travelled road.	AUTHORITY: Council Resolution TBA	
DEPARTMENT: Operations and Engineering	PAGES: 3	DAY MONTH YEAR 14 JULY 2015
APPROVED BY: Director of Operations & Engineering/ Mayor and Council	CONTACT POSITION FOR INFO: Director of Operations and Engineering Capital Projects Manager	

BACKGROUND

Most of the road allowances for Lake Drive North and Lake Drive East run along the shoreline of Lake Simcoe and Cook's Bay but there are, at some locations, substantial amounts of land lying between the travelled portion of the road and the shoreline. The Town has allowed certain use of this land to be made by the owners of lands abutting the east and south sides of the road allowances, and other uses have occurred without Town approval. It is not the objective of the Town to turn this land into public open space, and the Town will continue to allow abutting owners to use and maintain the land in accordance with the above policy which sets out the activities that the Town will and will not allow on the untraveled portions of the Lake Drive North and Lake Drive East road allowances.

POLICY STATEMENT

Before the town will approve any uses outlined in this policy RD 19, the abutting owner must ensure all the applicable approvals are in place including Lake Simcoe Region Conservation Authority, Ministry of Natural Resources, applicable town policies, and any other governing authorities. In some cases, abutting land owners may be required to provide engineered drawings when requested by the town. New applications will be required to enter into an Encroachment Agreement. All future developments as defined below will be updated on the GIS to ensure tracking accuracy of the road allowance development from the established baseline.

After ownership has been verified, existing structures will be required to enter into an Encroachment Agreement.

POLICY NO: RD 19	PAGE: 1 of 3
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That where the Lake Drive North and Lake Drive East road allowances run along the shoreline of Lake Simcoe:

1. FENCES

Lake Drive North to the east, or land abutting Lake Drive East to the south, may construct fences on the lake side of the travelled road provided that:

- The fence is located no less than 1.5 meters from the edge of the pavement.
- The maximum height of the fence is 1 meter above centre-line of road.
- At least 50% of the fenced area must be open.
- The fence may only be constructed parallel to the road; fences running perpendicular to the road are not permitted.
- Repairs and maintenance of the fence are the responsibility of the abutting owner.

2. HEDGES AND LANDSCAPING

Abutting owners may remove trees and brush from the lake side of the travelled road provided that measures satisfactory to the Town are taken to prevent erosion. Trees and shrubs may be planted on the lake side of the travelled road provided that:

- Plantings are located no less than 1.5 meters from the edge of the pavement.
- Hedges and similar linear plantings are not permitted.
- Maintenance of the plantings is the responsibility of the abutting owner.

3. RETAINING WALLS AND GRADING:

Abutting owners may regrade the lake side of the travelled road with Town approval provided that:

- Retaining walls are no higher than 0.6 meters.
- Slopes are not steeper than 3:1 horizontal to vertical.
- Slopes are stabilized immediately with staked nursery sod.

4. WATER AND SEWER LATERALS

Municipal water and sewer services shall not be extended to any buildings located on the lake side of the travelled road, and the Town will not grant its approval for the extension of other utilities to such buildings.

5. CONSTRUCTION AND RENOVATION OF BOATHOUSES, CABINS, SHEDS, CABANAS, ETC ON THE ROAD ALLOWANCE

New boathouses, cabins, sheds, cabanas, walls or screens are not permitted on the lake side of the travelled road. Existing buildings, regardless of size, may only be upgraded if the work does not require the issuance of a building permit. Existing buildings severely damaged or destroyed may not be replaced. The term severely damaged for the purpose of this policy means that the structures are unsafe for its intended use. Determination of severely damaged will be made by a qualified person. Abutting owners are responsible to remove buildings or structures considered by the Town to be unsafe, applying the standards set out in the Building Code Act, 1992. Failure to do so will entitle the Town to remove any such structure at the abutting owner's expense, together with all other facilities and structures maintained by such owner on the lake side of the travelled road, and to terminate such owner's ability to make use of the lake side of the travelled road.

6. STAIRS, DOCKS, AND DECKS

The Town may grant its consent, as riparian owner, to the Ministry of Natural Resources and Forestry where the Ministry requests the Town's comments on the issuance of work permits to abutting owners to permit the construction of docks within the lake. Stairs may not be greater than 10 m². Decks, patios and the portions of docks that are to be situated on land may be constructed on the lake side of the travelled road with Town approval provided that:

- Such structures do not require the issuance of a building permit.
- Such structures are located no less than 1.5 meters from the edge of the pavement.
- The abutting owner indemnifies the Town on a form prescribed by the Town in writing against any liability it may incur in connection with the presence of such structures on the lake side of the travelled road.

7. CONSTRUCTION AND RENOVATION OF BOATHOUSES TOTALLY ON THE LAKEBED

The Town will not grant its consent, as riparian owner, to the Ministry of Natural Resources and Forestry where the Ministry requests the Town's comments on the construction, replacement or renovation of boathouses located totally on the lakebed.

**BY-LAW NUMBER #### Draft
(Requires legal review)**

OF

THE CORPORATION OF TOWN OF GEORGINA

**BEING A BY-LAW TO REGULATE
ENCROACHMENTS ON PUBLIC LANDS**

WHEREAS the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that a municipality may pass By-laws within the following spheres of jurisdiction: Highways, including parking and traffic on highways at Section 11(3) 1; Culture, parks, recreation and heritage at Section 11(3) 5 and Structures, including fences and signs at Section 11(3) 7;

AND WHEREAS Section 8 of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act, 2001 S.O. 2001, c.25, as amended*;

AND WHEREAS Section 9(1) of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that Section 8 and Section 11 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and enhance their ability to respond to municipal issues;

AND WHEREAS Section 391(c) of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that a municipality may pass by-laws imposing fees or charges on any class of persons for the use of its property including property under its control;

AND WHEREAS Section 446(1) of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that a municipality may proceed to do things at a person's expense which that person is otherwise required to do under a By-law or otherwise but has failed to do;

AND WHEREAS Section 446(3) of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that the costs incurred by a municipality in doing a thing or matter under Section 446(1) may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE
TOWN OF GEORGINA ENACTS A BY-LAW AS FOLLOWS:**

SHORT TITLE

This By-law shall be known and may be cited as the "Encroachment By Law".

Section 1-Definitions

For the purpose of this By-law:

- 1.1 "Applicant" shall include an owner seeking an Encroachment Agreement, or renewal of an Encroachment Agreement.
- 1.2 "Clerk" shall mean the Clerk of the Corporation of the Town of Georgina.
- 1.3 "Council" shall mean the Council of the Corporation of the Town of Georgina.

- 1.4 "Director of Operations and Engineering" shall mean the Director of Operations and Engineering of the Corporation of the Town of Georgina.
- 1.5 "Easement" shall mean an interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose, but does not include an interest created by a license agreement.
- 1.6 "Encroachment" shall mean any type of vegetation, man-made object or item of personal property of a person which exists wholly upon, or extends from a person's premises onto, public lands and shall include any aerial, surface or subsurface encroachments:
 - (a) "aerial encroachment" shall mean an encroachment that is located at least thirty (30) centimeters above the surface of public lands;
 - (b) "surface encroachment" shall mean an encroachment that is located anywhere between the following: the surface of public lands to a height less than thirty (30) centimetres and beneath the surface of public lands to a depth of not more than three (3) centimetres;
 - (c) "sub-surface encroachment" shall mean an encroachment that is located beneath the surface of public lands to a depth exceeding three (3) centimetres.
- 1.7 "Encroachment Agreement" shall mean an agreement prepared by the Town for execution by the Town and an owner granted authorization to erect, place or maintain an encroachment.
- 1.8 "Expense" shall mean any and all sums of money actually spent or required to be spent by the Township, and shall include but not be limited to all charges, costs, a twenty five percent (25%) administrative fee, taxes, outlays, legal fees and losses.
- 1.9 "Highway" shall mean a highway within the meaning of *The Municipal Act, 2001 S.O. 2001, c.25*, as amended.
- 1.10 "Officer" shall mean a Municipal Law Enforcement Officer appointed by Town of Georgina By-law, a Police Officer.
- 1.11 "Owner" shall mean the registered owner of a parcel of property as such person is described in the most current assessment roll.
- 1.12 "Person" shall include an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate or a natural person.
- 1.13 "Personal Property" means any object or item of property other than real property.
- 1.14 "Premises" means a parcel of real property under registered ownership and includes all buildings and structures thereon.
- 1.15 "Public Lands" means lands owned by, leased, licensed to or under the management of the Township, and shall include but not be limited to any public highway, road, street, avenue, parkway, lane, alley, square, place, viaduct or trestle, water, thoroughfare, way or bridge, park, woodland, greenbelt, storm water management facility, open space, cemetery, and all parts thereof, including any surface, grassed area, boulevard, ditch, curb, gutter and sidewalk.
- 1.16 "Right-of-Way" shall mean a person's legal right, established by usage, deed or by contract, to pass through grounds or private property which affords access to abutting lots and does not include a highway.

- 1.17 "Sign" shall mean any structure or device, intended for identification or advertisement, visible to the general public.
- 1.18 "Town" shall mean the Corporation of the Town of Georgina.
- 1.19 "Unauthorized Encroachment" shall mean any encroachment not authorized by this By-law.

Section 2-General Prohibitions

- 2.1 No person shall erect, place or maintain, or cause to be erected, placed or maintained, an encroachment of any kind on public lands, or on any right-of-way or easement in favor of the Town, except where permitted to do so in accordance with this By-law.
- 2.2 Notwithstanding Section 2.1 of this By-law, the provisions of this By-law do not apply to the following classes of encroachments:
 - (a) Signs and Advertising Devices, as authorized by By-law No. 2002-059, as amended;
 - (b) Election Signs, as authorized by By-law No. 2010-021 as amended;
 - (c) Encroachments permitted as a result of a written and signed agreement with the Town, other than an Encroachment Agreement;

Section 3-Request for Encroachment

ENCROACHMENT AGREEMENT APPLICATION FEES

- 3.1 All Encroachment Agreement application fees are for administrative purposes and are, therefore, non-refundable if the application is refused for any reason or is withdrawn by the Applicant prior to the issuance of an Encroachment Agreement.
- 3.2 The Encroachment Agreement application fee shall be as set out in Schedule 'A' to this By-law, and shall be reflected in the Town Fees By-law.

ENCROACHMENT AGREEMENT APPLICATION- FULL INFORMATION REQUIRED

- 3.3 Every Applicant shall provide in full a complete application, at the time the application is submitted or the Director of Operations and Engineering shall not accept the application.
- 3.4 Every Applicant shall provide in full a complete application, at the time the application is submitted, all of the information required on the application and shall provide:
 - (a) payment of the prescribed Encroachment Agreement Application fee set out in Schedule 'A' of this By-law;
 - (b) any other document or information as may be required in any other Section of this By-law;
 - (c) any other affidavit, document or information as may be requested by the Director of Operations and Engineering at any time during the term of the Encroachment Agreement.
 - (d) proof that the need for the encroachment is reasonable, feasible and no alternative option exists. In addition the encroachment must not jeopardize the health or safety of the public and must be in the public's best interest and must be minor in nature.

ENCROACHMENT AGREEMENT APPLICATION- SUBJECT TO APPROVAL

- 3.5 Every Encroachment Agreement application will be subject to investigations by and comments or recommendations from such municipal or provincial departments or agencies as the Director of Operations and Engineering deems necessary, or as directed by Council, including but not limited to:

INCOMPLETE APPLICATION

- 3.6 Any Encroachment Agreement application that does not comply with the provisions of Section 3.4 of this By-law, shall be deemed incomplete and shall be returned by registered mail to the applicant pursuant to Section 3.10 of this By-law.
- 3.7 Any Encroachment Agreement application that has not received approvals from all municipal or provincial departments or agencies as the Director of Operations and Engineering deems necessary within ninety (90) days from the date of the filing of the application, due to the Applicant's inability to comply with the requirements, shall be deemed to be incomplete.

INFORMATION HELD IS OPEN TO INSPECTION

- 3.8 Any application, comment, recommendation, information, document or thing in the possession of the Director of Operations and Engineering pursuant to the provisions of this By-law shall be made available by the Director of Operations and Engineering for an inspection:
- (a) by any Officer employed in the administration or enforcement of this By-law; and
 - (b) by any other person upon the consent, satisfactory to the Director of Operations and Engineering, of the person, civic department, board, commission, authority or other agency which produced or submitted the application, comment, recommendation, information, document or thing; subject only to the limitations imposed by the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, CHAPTER M.56, as amended.*

Notice

- 3.9 Every Encroachment Agreement owners shall notify the Director of Operations and Engineering in writing within ten (10) days of any change in his mailing address and shall be sent to:

Director of Operations and Engineering
Town of Georgina
Georgina, ON
L4P 3G1

- 3.10 Any notice or request made pursuant to this By-law may be given in writing by registered mail and is effective:
- (a) on the date on which a copy is hand delivered to the person to whom it is addressed;
 - (b) on the fifth (5th) day after a copy is sent by registered mail to the person's last known address.

- 3.11 For the purpose of Section 3.10 of this By-law, the Encroachment Agreement owner's last known address shall be deemed to include that provided pursuant to Section 3.4 of this By-law as they may be changed pursuant to Section 3.9 of this By-law.

CONTRAVENTION OF OTHER LAWS PROHIBITED

- 3.12 The issuance or renewal of an Encroachment Agreement under this By-law is not intended and shall not be construed as permission or consent by the Town for the Encroachment Agreement owner to contravene or to fail to observe or comply with any law of Canada or Ontario or any other By-law of the Town or the Regional Municipality of York.
- 3.13 Where a request to erect, install or maintain an encroachment has been approved, the Clerk shall prepare an Encroachment Agreement, and once the Applicant has been notified in writing that the Encroachment Agreement is ready for execution, the Applicant shall have thirty (30) calendar days to execute same.

Section 4-Registration of Agreement

- 4.1 Where the Director of Operations and Engineering deems it appropriate, an Encroachment Agreement may be registered against title to the Encroachment Applicant's property in the Land Registry Office and all expenses in doing so shall be paid for in advance by the Applicant.

Section 5-Authority of the Director of Operations and Engineering

- 5.1 The Director of Operations and Engineering shall have delegated authority to:
- (a) Approve or reject any application submitted for an Encroachment Agreement; and
 - (b) Impose such terms and conditions to any request and/or Encroachment Agreement as the Director of Operations and Engineering may deem appropriate; and
 - (c) Determine whether any Encroachment Agreement expiring on a date after the date of enactment and passage of this By-law shall be renewed and/or extended.

Section 6-Revocation

- 6.1 The execution of an Encroachment Agreement in respect of an encroachment does not create any vested right in the owner or occupant of the premises to which the encroachment is appurtenant, or in any other person, and the Encroachment Agreement may be revoked in accordance with the terms set out therein.

Section 7-Access to Encroachments

- 7.1 No person shall obstruct, hinder or interfere with the free access to any encroachment by an employee, officer or agent of the Township.

Section a-Discontinuance of Encroachments

- 8.1 The Director of Operations and Engineering may revoke an Encroachment Agreement:
- (a) If the owner of any premises to which an encroachment is appurtenant desires to permanently discontinue the encroachment.

The owner shall notify the Director of Operations and Engineering in writing and the Director of Operations and Engineering shall thereafter cause a notice to be sent to the owner by an Officer advising that the encroachment shall be removed or filled in and closed up, and the public lands shall be restored to their former condition by the owner at his own expense;

- (b) If the Director of Operations and Engineering is at any time of the opinion that a breach of the terms and conditions attached to an Encroachment Agreement has occurred and that the encroachment should be discontinued, or where an Encroachment Agreement has expired, the Director of Operations and Engineering shall cause a notice to be sent to the owner advising that the encroachment be removed or filled in and closed up, and the public lands be restored to their former condition by the owner at his own expense;

- 8.2 Where an owner fails to comply with the notice described in Section 8.1 of this By-law, within a minimum of ninety-six (96) hours of receipt of same, the encroachment may be removed or filled in and closed up by an Officer, and the public lands restored to their former condition at the expense of the owner, such expense to be recovered in full in the manner provided in Section 11 of this By-law, and until the encroachment is so removed or filled in and closed up and the public lands restored to their former condition, all expenses incurred by the Town in respect thereto shall continue to be paid by the owner.

Section 9-Emergency Situations

- 9.1 If an Officer deems that an emergency exists or may exist as a result of any encroachment being or about to become a source of danger to the health and safety of the public, the Officer may:
 - (a) notify in writing the owner of the premises to which the encroachment is appurtenant, requiring the repair, removal, filling in or closing up of the encroachment and restoration of the public lands to their former condition at the expense of the owner, so that the encroachment is no longer deemed to be a source of danger or potential danger to the public by the Officer, and/or
 - (b) take such measures on behalf of the owner, without notice to the owner, as the Officer may deem necessary to remove the danger or potential danger created by the encroachment.
- 9.2 Where the notice in Section 9.1(a) of this By-law is not complied with within ninety-six (96) hours of the date of the notice, an Officer may, on behalf of the owner shall, remove, fill in or close up the unauthorized encroachment and restore the public lands to their former condition at the expense of the owner, such expense to be recovered in full in the manner provided in Section 11 of this By-law.
- 9.3 Where the Officer elects to take any action under Section 9.1(b) of this By-law, the expenses incurred by the Town in so doing shall be recovered in full in the manner provided in Section 11 of this By-law.

Section 10-Removal of Unauthorized Encroachments

- 10.1 Where the Town becomes aware of an unauthorized encroachment, an Officer shall give notice in writing to the owner of the premises to which an unauthorized encroachment is appurtenant, to forthwith remove, fill in or close up the encroachment and to restore the public lands to their Former condition at the expense of the owner.

- 10.2 Where the notice in Section 10.1 of this By-law is not complied with within ninety-six (96) hours of the date of the notice, an Officer shall, on behalf of the owner, remove, fill in or close up the unauthorized encroachment and restore the public lands to their former condition at the expense of the owner, such expense to be recovered in full in the manner provided in Section 11 of this By-law.
- 10.3 Any materials or structures forming part of or attached to the encroachment and removed by an Officer shall, at the discretion of the Officer, either be deposited at the owner's premises or be stored for a minimum of ninety-six (96) hours at the owner's expense, such expense to be recovered in full in the manner provided in Section 11 of this By-law. Any item so stored and not claimed by the owner within said minimum ninety-six (96) hour period shall be disposed of by the Town in such manner as it deems appropriate.

Section 11-Recovery of Expenses

- 11.1 All expenses incurred by the Town in connection with the enforcement of this By-law shall be paid within thirty (30) days of their billing date, and in the event of failure to pay the entire amount due within said thirty (30) days, at the discretion of the Township, the outstanding balance of the invoice may thereafter be added to the tax roll as of the year in which the expenses were billed.
- 11.2 The Town may also recover all expenses owing under this By-law by a court action as a debt due to the Town.

Section 12-Infractions and Penalties

- 12.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to pay a fine or penalty for each offence, exclusive of costs, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as may be amended from time to time.

Section 13-Prohibition Order

- 13.1 When a person has been convicted of an offence under this By-law,
- (a) the Superior Court of Justice, or
 - (b) any other court of competent jurisdiction, may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.

Section 14- Administration

ADMINISTRATION OF BY-LAW

- 14.1 Unless otherwise indicated, the administration of this By-law is assigned by Council to the Director of Operations and Engineering who may delegate the performance of his functions under this By-law from time to time as occasion requires.
- 14.2 In this By-law, unless the contrary intention is indicated, words used in the singular shall include the plural and words used in the male gender shall include the female gender or vice versa, where applicable.

Section 15 - Enforcement

ENFORCEMENT OF BY-LAW

- 15.1 An Officer shall be responsible for the enforcement of this By-law.
- 15.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer or the Clerk while exercising any power or performing any duty under this By-law.
- 15.3 If there is a conflict between a provision in this By-law and a provision of any other Municipal By-law, the provision that establishes the highest standard to protect the health, safety and welfare of the general public shall apply.

Section 16-Exceptions and Grandfathering

- 16.1 Notwithstanding Section 2.1 of this By-law, any encroachment authorized under an Encroachment Agreement determined by the Clerk to be valid and binding at the date of enactment of this By-law, shall not require further authorization pursuant to this By-law until the Encroachment Agreement has expired or is terminated.
- 16.2 Subject to Section 16.1 of this By-law, this By-law shall apply to all encroachments which existed or were created before this By-law was enacted and passed.

Section 17- Severability

- 17.1 In the event any section or provision of this By-law is held invalid, the remainder of the By-law shall continue in force.
- 17.2 This By-law shall come into full force and effect on the date of its passing by Council.