

The Corporation of the Town of Ajax

GENERAL GOVERNMENT COMMITTEE



Thursday, September 24, 2015

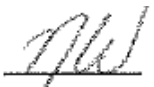
In-Camera at 1:30 p.m.

Open Meeting at 2:00 p.m.

Balance of In-Camera after Open Meeting

River Plate Room, Town Hall

65 Harwood Avenue South

Confirmed by: 

AGENDA

Alternative formats available upon request by contacting:
accessibility@ajax.ca or 905-619-2529 ext. 3347

Anything in **blue** denotes an attachment/link. By clicking the links on the agenda page, you can jump directly to that section of the agenda. To manoeuvre back to the agenda page use the **Ctrl + Home** keys simultaneously **OR** use the "Bookmark" icon to the left of your screen to navigate from one report to the next

R. Ashby, Chair
M. Crawford, Vice Chair

Open Meeting

1. **Call To Order**
2. **Disclosure of Pecuniary Interest**
3. **Adoption of In-Camera Minutes – June 25, 2015** (circulated separately)
 - *Any discussion will be held in the In-Camera Session*

In-Camera

4. **Authority to Hold a Closed Meeting and Related In-Camera Session**
 - *A matter of advice subject to solicitor-client privilege, including communications necessary for that purpose [Sec. 239 (2)(f), Municipal Act, 2001, as amended]*
- 4.1 **Duffin Creek Water Pollution Control Plant Outfall EA- Status Update**

2:00 p.m.

5. **Consent Agenda** – *Considered to be routine, these items may be approved by one motion. Items may be separated and referred to the Discussion Agenda*
 - 5.1 **Contract Award – ACC Chiller Replacement** – D. Meredith, Director of Operations & Environmental Services / R. Ford, Building Maintenance Manager.....3

5.2	Operations & Road Safety Review – Rands Road , P. Allore, Director of Planning & Development Services / R. Salewytch, Transportation Technologist.....	6
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6. Presentations / Discussion

6.1	Benjamin de Forest (Pat) Bayly Commemoration Bust – Features & Criteria , T. Vaughan-Barrett, Director of Recreation & Culture / R. Gruber, Manager, Community & Cultural Development	13
6.2	Changes to Canada Post Home Delivery Service , P. Allore, Director of Planning & Development Services / G. Muller, Manager of Planning	17
6.3	Proposed Revisions to Council Procedure By-law and Meeting Management Processes , M. de Rond, Director of Legislative & Information Services/Clerk / N. Wellsbury, Manager of Legislative Services/Deputy Clerk	41
6.4	Council Code of Conduct Update , M. de Rond, Director of Legislative & Information Services/Clerk / N. Wellsbury, Manager of Legislative Services/Deputy Clerk	73

In-Camera

7. Authority to Hold a Closed Meeting and Related In-Camera Session

- *A proposed or pending acquisition or disposition of land by the Municipality or local Board. [Sec. 239 (2)(c), Municipal Act, 2001, as amended]*
- *A matter pertaining to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board [Sec. 239 (2)(e), Municipal Act, 2001, as amended]*

7.1 **Confidential Property Matter**

7.2 **Confidential Legal Matter**

8. Adjournment

**TOWN OF AJAX
REPORT**



REPORT TO: General Government Committee

SUBMITTED BY: Dave Meredith, Director of Operations & Environmental Services

PREPARED BY: Ray Ford, Manager Building Maintenance

SUBJECT: **Contract Award - ACC Chiller Replacement**

WARD(S): All

DATE OF MEETING: September 24, 2015

REFERENCE: RFT No. T15035 – ACC ~ Chiller Replacement

RECOMMENDATION:

1. **That Council award the contract for the Ajax Community Centre Chiller Replacement, to Mutual Mechanical Ltd. in the amount of \$353,068.50 (inclusive of all taxes).**

BACKGROUND:

The existing chiller in the penthouse mechanical room of the Ajax Community Centre has reached the extent of its useful life cycle and needs to be replaced. This chiller supplies cooling to the majority of this facility. This chiller will be replaced with a new very high efficiency centrifugal chiller that will use less electricity thus reducing GHG emissions from this facility. The replacement of this chiller will be conducted in the fall season to ensure there will be no disruption in service to this facility.

DISCUSSION:

Request for Tender (RFT) documents were issued to 19 prospective bidders, with bids being received back from six of these, prior to the closing on September 8, 2015. Upon review of the six bids received, one of the submissions was found to be non-compliant and therefore cannot be considered in the award. Listed below is a summary of the bids considered:

NAME OF BIDDER	OPTION B TOTAL TENDER AMOUNT
Mutual Mechanical Ltd.	\$353,068.50
LCD Mechanical Inc.	\$354,481.00
Rainbow Mechanical Services Ltd.	\$402,845.23

Cimco Refrigeration, Division of Toromont Industries Ltd.	\$412,506.97
Canadian Tech Air Systems Inc.	\$508,500.00

FINANCIAL IMPLICATIONS:

Capital Account No. 966811 – ACC Chiller Replacement

Approved Capital Budget \$544,000.00

Contract (net of HST rebate) \$317,949.12

Contingency \$ 31,794.91

Under Budget \$194,255.97

The Contingency amount will be used for any unforeseen issues that occur during these types of replacement projects such as extra structural work that may be necessary when you have to remove such a large piece of equipment from a rooftop mechanical penthouse.

The Capital Detail Sheet is attached for information.

COMMUNICATION ISSUES:

NA

CONCLUSION:

It is the recommendation of staff that Mutual Mechanical Ltd. be awarded the contract for Ajax Community Centre Chiller Replacement, being the lowest bidder meeting minimum specifications.

Ray Ford – Manager Building Maintenance

Dave Meredith – Director of Operations & Environmental Services

TOWN OF AJAX
2015 CAPITAL BUDGET / 2016-2019 LONG RANGE CAPITAL FORECAST
DETAIL SHEET

Department	Recreation & Culture Services
Section	Recreation Facilities
Project Name	ACC - Chiller Replacement
Submitted By	Catherine Bridgeman, Manager of Infrastructure & Capital Projects
Start Year	2015
Project Number	0966811

PROJECT DESCRIPTION / JUSTIFICATION	
<p>The Ajax Community Centre penthouse chiller supplies cold water via heat exchangers in multiple air handling units to supply air conditioning to most of this facility. The existing chiller has been maintained by staff over its service life. It will be 25 years old and has reached the end of its useful life cycle. The existing unit is a significantly large Trane chilling unit that is costly to replace and difficult to remove from the penthouse due to its location. Detailed design of this project was completed in 2014 in preparation for the replacement of this unit with a high efficiency model.</p>	

EXPENDITURES / FUNDING						
	2015	2016	2017	2018	2019	Total
Total Expenditures	544,000					544,000
Federal Gas Tax Reserve Fund	544,000					544,000
Total Funding	544,000					544,000
Annual Operating Costs	(2,500)	(5,000)	(5,000)	(5,000)	(5,000)	

**TOWN OF AJAX
REPORT**



REPORT TO: General Government Committee

SUBMITTED BY: Paul Allore, MCIP, RPP
Director of Planning & Development Services

PREPARED BY: Robert Salewytch
Transportation Technologist

SUBJECT: **Operations & Road Safety Review – Rands Road**

WARD: 3

DATE OF MEETING: September 24, 2015

REFERENCE: Capital Account No. 964511 – Traffic Calming - 2015

RECOMMENDATION:

That the report to General Government Committee dated September 24, 2015 entitled “Operations & Road Safety Review – Rands Road”, be received for information.

BACKGROUND:

In 2015, the Town of Ajax completed the update to the traffic calming warrant. A major objective of that update was to create a flexible and efficient process that allowed the Town to focus its resources on the locations with the largest speeding concerns. In order to achieve that objective, the Town’s new warrant now incorporates an alternate process referred to as an Operations and Road Safety Review. This supplementary component provides the Town with a method for addressing concerns (i.e. recurring collision patterns) which are not typically resolved through the implementation of traffic calming measures. The purpose of these reviews is to understand collision patterns, determine contributing factors and propose feasible treatments aimed at improving conditions. Rands Road does not meet the requirements of the updated traffic calming warrant due to a low 85th percentile speed. However, it does meet the requirements to initiate an Operations & Road Safety Review due to the recurrence of severe collisions involving major property damage.

Rands Road is a two-lane, two-way local road that provides connections between Westney Road, Finley Avenue and other local roads. It has a posted speed limit of 40 km/h and predominantly travels east-west as it connects a number of local roads to a type “C” arterial road (Westney Road South). The severe recurring collisions that initiated this review both occurred at the intersection of Rands Road and Easton Court. As such, the review focused on this intersection and the adjacent approaches. A reverse curve is present along this segment. The study limits were bounded by the intersection of Rands Road with Westney Road South (eastern limit) and at Swanston Crescent (western limit).

DISCUSSION:

Rands Road was selected for the inaugural Operations and Road Safety Review due to its history of collisions that also included property damage. Town staff conducted a detailed site investigation and reviewed the relevant traffic data including volume, operating speed and collision history in order to finalize the recommendations contained within this report.

The assessment process consisted of reviewing traffic data and undertaking site investigations in order to determine which factors may be contributing to these collisions. Nine collisions occurred within the entire study area on Rands Road between 2009 and 2014. It was determined that one third of all of the collisions involved an **impaired driver**. A full collision summary table is provided as Attachment 2.

The collisions lacked a definite pattern with the exception of the two that involved property damage near the intersection of Rands Road and Easton Court. Further investigation revealed that these two collisions were the result of **impaired driving** which is considered a random and unpredictable factor and therefore not preventable from an engineering perspective.

After the contributing factors had been determined, an assessment of the potential treatments aimed at mitigating those factors was conducted. Town staff consulted the Federal Highway Administration's Highway Safety Manual, the Manual of Uniform Traffic Control Devices for Canada, and the Ontario Traffic Manual. However, these sources seek to provide guidance on deterministic factors and seek to create situations that drivers easily recognize. As such, staff determined that the best course of action was to pursue improvements that would increase visibility, help to delineate the change in horizontal alignment and guide drivers through the curve.

Although multiple options were considered, many proved to be unsuitable for use on Rands Road. Table 1 summarizes each option and their benefits and/or disbenefits.

Table 1: Summary of Options

Options	Benefit	Disbenefit
Roadway Pavement Markers	Night visibility	Easily damaged and removed by snowplows
Post Mounted Delineators	Night visibility	Significant visual impact to neighbourhood, not suitable for urban locations
Optical Speed Bars	Visibility, speed reduction	Collisions were not caused by excess speed, requires driver compliance
Rumble Strips	Audible & tactile notification	Significant auditory impact to surrounding neighbourhood
Curve Warning Signs	Advance warning of changing conditions, night visibility	N/A
Yellow Centreline	Positive guidance through curve, night visibility	N/A

Ultimately, the curve warning signs and yellow centerline provided the greatest benefit with the least negative impacts. There are two curve warning signs which accurately describe the change in the horizontal alignment. One is the “Sharp Reverse Curve” (Wa-4) sign and the other is the “Sharp Curve (Wa-2) sign. The “Sharp Curve (Wa-2) sign will be supplemented with an “Advisory Speed” (Wa-7t) tab to indicate that 20 km/h is the recommended speed to navigate the curve.

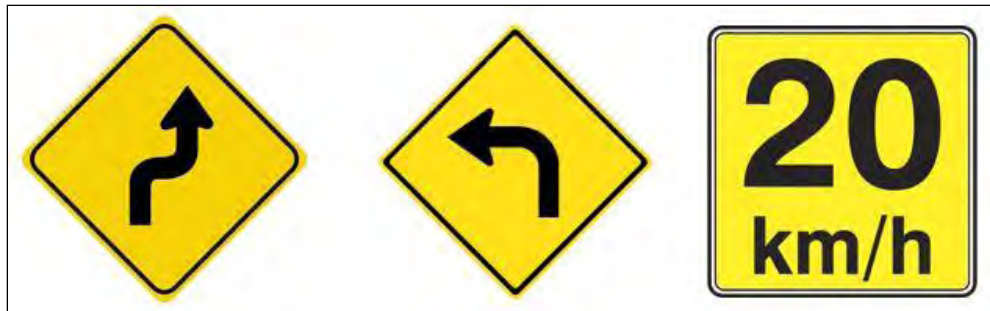


Figure 1: Curve Warning Signs

Additionally, reflective yellow paint will be utilized in creating a centreline through the sharp curve. This will help enhance visibility, delineate the change in horizontal alignment and provide positive guidance to drivers. It is common practice to provide breaks in the pavement marking at intersections with adjacent roadways. Attachment 3 indicates the location of the recommended improvements.

FINANCIAL IMPLICATIONS:

Capital Account Number 964511 – Traffic Calming - 2015

Approved Capital Budget		\$80,000.00
Previous Awards/Expenditures		
Consulting Fees	\$44,437.62	<u>\$44,237.62</u>
Available Budget		<u>\$35,762.38</u>

The Capital Detail Sheet is attached for information.

The purchase of the signs and roadway paint will be made through the available budget of Capital Account Number 964511 – Traffic Calming - 2015.

COMMUNICATION ISSUES:

A public consultation session was held during the design stage on July 28th, 2015 in the Admiral Room of the Ajax Community Centre. While some residents initially raised concerns over vehicle speeds, the statistical data provided indicated that it was not contributing to the major collisions. Once residents were informed of the relationship between the major collisions and impaired driving, they indicated their support for staff's recommendation to implement the curve warning signs and extend the yellow centerline. Comments from these sessions were incorporated into the final design.

CONCLUSION:

Staff will install the curve warning signs for both directions of travel as well as paint a yellow centerline throughout the sharp curve. Collision data will continue to be collected and reviewed in order to evaluate the effectiveness of the improvements.

ATTACHMENTS:

ATT-1: 2015 Capital Budget Detail Sheet

ATT-2: Collision Summary Table

ATT-3: Improvements Diagram

Robert Salewytch – Transportation Technologist

Hubert Ng, P. Eng. – Senior Transportation Planner

Gary Muller, MCIP, RPP – Manager of Planning

Paul Allore, MCIP, RPP – Director of Planning & Development Services

TOWN OF AJAX
2015 CAPITAL BUDGET / 2016-2019 LONG RANGE CAPITAL FORECAST
DETAIL SHEET

Department	Planning & Development Services
Section	Engineering Services
Project Name	Traffic Calming - 2015
Submitted By	Hubert Ng, Senior Transportation Planner
Start Year	2015
Project Number	0964511

PROJECT DESCRIPTION / JUSTIFICATION

Scope: Detailed design will be undertaken for traffic calming measures to reduce vehicular speeds along two of the top ranked warranted roadways based on the 2007 Traffic Calming Warrant Framework and Process. Public consultation will take place in advance of the design and construction of each project to determine whether residents support the project, as per the Traffic Calming Warrant.

Rationale: A list of traffic calming warranted roadway sections was established through customer service inquiries together with the 2007 Traffic Calming Warrant Framework and Process. The primary objective for these roadway sections is to decrease vehicular speeds. The four warranted traffic calming roadways listed below in order of priority will go through the resident survey requirements. Design of two of the top ranked roadways that pass the resident survey requirements will be undertaken. If none of the listed traffic calming candidates meet the resident survey requirements, the next candidates in the current priority list will be considered.

- Emperor St from Harwood Ave to Pickering Beach Rd
- Fletcher Ave from Kerrison Ave to Fishlock St
- Lincoln St from Church St to Rotherglen Rd
- Seward Dr from Bowring Gate to Williamson Dr

Please note that a Traffic Calming Warrant Update is currently in progress and aims to be finalized in the spring of 2015. Completion of the Traffic Calming Warrant Update may result in re-prioritization of the current list of roadways. However, this will not affect the traffic calming projects scheduled for 2015.

Roadway safety improvements are proposed on roadways where the traffic calming warrant is not met but where major incidents have occurred.

References: *Traffic Calming Warrant of 2007.*

Schedule: Projects to commence early 2015.

EXPENDITURES / FUNDING						
	2015	2016	2017	2018	2019	Total
Total Expenditures	80,000					80,000
Strategic Initiatives Reserve	80,000					80,000
Total Funding	80,000					80,000

ATT2: Rands Road Collision Summary Table

Date	Light	Road Surface Condition	Apparent Driver Action	Driver/ Pedestrian Condition	Initial Direction of Travel	Initial Impact Type	Other Comments
2009	Daylight	Dry	Failed to Yield ROW	Normal	South	SMV Other	Pedestrian
2009	Dark, Artificial	Dry	Disobeyed Traffic Control	Normal	West	SMV Other	Cyclist
2010	Daylight	Dry	Failed to Yield ROW	Normal	East	Turning Movement	
2010	Daylight	Dry	Lost Control	Ability Impaired, Alcohol (Over .08)	South	Turning Movement	
2010	Dark, Artificial	Dry	Lost Control	Had Been Drinking	East	SMV Other	Major Property Damage
2011	Dark, Artificial	Wet	Lost Control	Normal	North	SMV Other	
2011	Daylight	Dry	Inattentive	Inattentive	South	Rear End	
2012	Dark	Wet	Lost Control	Normal	West	Sideswipe	
2014	Dark, Artificial	Wet	Speed Too Fast For Condition	Had Been Drinking	East	SMV Other	Major Property Damage

ATT3: Rands Road Improvements Diagram



●	Wa-4R "Sharp Reverse Curve"
⊗	Wa-2 "Sharp Curve" with Wa-7t (20 km/h)

TOWN OF AJAX REPORT



REPORT TO: General Government Committee

SUBMITTED BY: Tracey Vaughan-Barrett
Director, Recreation & Culture

PREPARED BY: Robert Gruber
Manager, Community & Cultural Development

SUBJECT: **Benjamin de Forest (Pat) Bayly Commemoration Bust –
Features & Criteria**

WARD(S): All

DATE OF MEETING: September 24, 2015

REFERENCE: General Government Committee Report “Art in Public Spaces
Policy Review” – January 19, 2012

General Government Committee Report “2015 Capital
Budget/2016-2019 Long Range Capital Forecast (LRCF)” –
January 12, 2015

RECOMMENDATION:

- 1. That the report entitled Benjamin de Forest (Pat) Bayly Commemoration Bust – Features & Criteria, dated September 24, 2015 be received for information; and,**
- 2. That Council approve the Design Considerations and provide additional input on the bust to be installed at Pat Bayly Square (upon completion of the Square), to help inform the competition call process, as per the Art in Public Spaces policy; and,**
- 3. That Council direct staff to develop an open competition Call for Design Proposal for the commemoration bust to be installed at Pat Bayly Square (upon completion of the Square).**

BACKGROUND:

On January 12, 2015, Council approved the 2015 Capital Budget and 2016 – 2019 Long Range Capital Forecast. As stated on the detail sheet for Project Number CCD003, regarding art pieces at Pat Bayly Square, staff outlined that “Members of Council have also expressed an interest that they would like a bust of Pat Bayly, the first Mayor of Ajax and namesake for Pat Bayly Square, to be installed in the Square”. To that end, on February 24, 2015, staff submitted a grant proposal to Canadian Heritage through the World War Commemorations Community Fund to create a bust

of Benjamin de Forest (Pat) Bayly, the first Mayor of Ajax and one of the unsung heroes of World War II, to commemorate his contributions to the war effort and to Ajax. The grant application was successful and staff were notified that the Town of Ajax had received the maximum allocated amount of \$50,000 for the project.

On January 19, 2012, Council approved amendments to the Art in Public Spaces policy which included clarifying Council's role in the public art review process. As stated in the amended policy, prior to the undertaking of any public art project, Council now have the ability to provide input to staff, identifying any criteria they may wish to include for that particular commission/call. This is in addition to the final approval process for any public art piece.

DISCUSSION:

Ajax is a municipality with strong roots in the Second World War, and actively and proudly shares its Canadian heritage legacies with residents and visitors alike. The bust of Pat Bayly is meant to become an iconic emblem, representing not only the political history and development of the Town, but also the many accomplishments Mr. Bayly and the Town contributed to the war effort. The bust will act as an instrument to engage residents and visitors to learn about Canadian history, while developing an awareness and comprehensive knowledge base of the landscape of the war and how these milestones in history paved the way for the development of our incredible community and the quality of life enjoyed in Canada today. Through educational and informational storyboards and a meaningful commemorative unveiling ceremony, the Town will highlight the exceptional figures, places and achievements of Ajax and Canada during World War II with specific emphasis on Pat Bayly and the Defense Industries Limited munitions plant, as well as Mr. Bayly's contributions as first Mayor of Ajax.

Design Considerations

As per the detail sheet for Project Number CCD003, staff recommend the following design considerations to be included in the Call for Design Proposal. The bust should:

- Be realistic in design, based on archival photographs of Pat Bayly (ATT-1).
- Be two times (2 X) life-size and include head, neck and shoulders.
- Be created in bronze.
- Intrigue viewers and stimulate imagination while being suitable for all ages.
- Resonate with the public in Ajax.
- Respond to the site's general environment and connect viewers to the piece.
- Be safe, durable, reasonably low maintenance and long-term in intent.

Council's input in identifying any additional criteria for this particular piece will assist in informing the competition call process.

FINANCIAL IMPLICATIONS:

The successful grant application from the Canadian Heritage World War Commemorations Community Fund is in the amount of \$50,000. This figure, which will include all artist's fees and taxes, will be included in the Call for Design proposal.

On January 12, 2015, as part of the 2015 Capital Budget/2016-2019 Long Range Capital Forecast (LRCF) Report, Council approved \$75,000 for the bust of Pat Bayly project, which included the bust as well as the base for the bust to be mounted on. The 2016-2019 LRCF will need to be

adjusted as funding will still be required to create a base for the bust to be mounted on, as well as the installation of the entire piece itself.

As per the grant application, \$3,500 is the Town's contribution to the project, which was identified to be used for the design, creation & printing of storyboards, a display case to showcase the bust at Ajax Town Hall until such time as Pat Bayly Square is completed and the bust can be installed, as well as a commemoration unveiling ceremony. This amount will be added to the 2016 Community & Cultural Development Operating Budget.

COMMUNICATION ISSUES:

Recreation & Culture staff will develop the open call competition and working with Corporate Communications, will create a communication plan that reaches out to artists, stakeholders and the cultural sector.

CONCLUSION:

Public Art enhances the community, making the Town an attractive and memorable place where people want to visit, live, work and play. The addition of significant works of public art in Ajax continues to transform this community to a vibrant and creative destination for residents, artists and visitors alike. The Town of Ajax thrives on the importance of its place in history and its contribution to Canada's success in WWII, and the addition of artistically designed memorials, such as the bust of Pat Bayly, will help to enhance the beauty of the Square, engage the public and provide an educational component to the contributions of Mr. Bayly to the war effort and Ajax, as well as position the Square as a destination for residents and visitors to enjoy, learn, remember and reflect.

ATTACHMENTS:

ATT-1: Benjamin de Forest (Pat) Bayly

Robert Gruber
Manager, Community & Cultural Development

Tracey Vaughan-Barrett
Director, Recreation & Culture

ATT-1



**TOWN OF AJAX
REPORT**



REPORT TO: General Government Committee

SUBMITTED BY: Paul Allore, MCIP, RPP
Director of Planning and Development Services

PREPARED BY: Gary Muller, MCIP, RPP
Manager of Planning

SUBJECT: **Changes to Canada Post Home Delivery Service**

WARDS: all

DATE OF MEETING: September 24, 2015

REFERENCE: February 23, 2015 Council

RECOMMENDATIONS:

1. That the Report to General Government Committee entitled “Changes to Canada Post Home Delivery Service” dated September 24, 2015 be received for information;
2. That Canada Post be advised that the Town of Ajax hereby requests the following commitments prior to the planned phasing out of residential door-to-door mail delivery in Ajax:
 - a. The execution of a Community Mailbox Installation Agreement which stipulates Canada Post’s obligations for the placement, operation and maintenance of Community Mailboxes;
 - b. That Canada Post agree to be fully responsible for the coordination of all community outreach and addressing all public comments as part of this exercise;
 - c. That Canada Post consult with Town of Ajax staff on the location and placement of CMBs prior to the commencement of public consultation;
 - d. That Canada Post consult with the Town of Ajax Accessibility Advisory Committee to outline Canada Post’s plans for providing mail delivery service for individuals with mobility restrictions in advance of public consultation;
 - e. That contact information for Canada Post be provided in an accessible format on each CMB that clearly establishes Canada Post as the sole point of contact, and that Canada Post has sole responsibility for public concerns or complaints regarding CMB facilities or sites.
3. That as part of its community outreach exercise, that Canada Post be requested to include the following information in its circulations, brochures, presentations and communications:
 - a. Canada Post’s responsibility for:
 - i. the siting and installation of all CMBs including all associated concrete pads, curb cuts and boulevard restoration;

- ii. all maintenance related to CMBs, including snow and windrow removal, salting/sanding, graffiti and placard removal, and repairs;
 - iii. responding to all public complaints or concerns regarding the siting and maintenance of all CMBs and CMB sites.
 - b. Canada Post's plan to provide public access to postal delivery service to individuals with mobility or other restrictions, including providing a lower mailbox within the CMB to accommodate those using wheelchairs or similar mobility devices.
- 4. That Canada Post be requested to adhere to the following criteria for the siting of new CMB's:
 - a. That all CMBs face an adjacent public sidewalk wherever possible;
 - b. That all CMBs be located within 10 metres of a municipal light standard wherever possible to ensure adequate lighting;
 - c. That all CMBs adhere to the Design of Public Spaces criteria under the Accessibility for Ontarians with Disabilities Act;
 - d. That all CMBs avoid public road locations designated as arterials or collectors within the Town of Ajax Official Plan;
 - e. That in locations where sites are selected adjacent to residential properties, that no new CMB will block private driveways or be located closer than 10 metres from a corner;
 - f. That any new CMB location avoid the area designated as Open Space between the Lake Ontario Shoreline and Lake Driveway/Lakeview Boulevard/Shoal Point Road/Ashbury Boulevard/Audley Road;
 - g. That all CMBs avoid locations at the inside of a curved roadway, any public transit stop or school site;
 - h. That no CMB will be placed within 3 metres of a municipal boulevard tree;
 - i. That all new CMB sites avoid locations on the inside of a curve of a road to enable site lines past stopped vehicles;
 - j. That all new CMB sites avoid locations in proximity to public transit stops in order to reduce any potential for operational conflicts;
 - k. That all new CMB sites avoid locations in proximity to schools to reduce the potential of operational conflicts during peak times;
 - l. That no CMB site be located within a sight line of a stop or yield controlled intersection, to ensure that views from intersections are not obscured by the stopped vehicles.

INTRODUCTION

At the February 23, 2015 meeting of Council, the Town's Government Relations Advisor delivered a presentation which summarized Canada Post's program to phase out door-to-door residential mail delivery in favour of delivery to Community Mailboxes (CMBs). The presentation introduced the initiative, provided a high level overview of issues, reactions from other stakeholders and Canada Post's approach. Two options were also provided for Council's consideration. Following the presentation and questions from members of Council, the following resolution was passed:

1. *That the item be referred back to staff with direction to conduct a full analysis on matters including the placement of CMBs in established neighbourhoods, implications on lighting requirements, liability, parking infringement, maintenance, and associated costs, as well as options for the Town to recover costs associated with this project through PILs or other methods; and*

2. *That following this analysis, staff bring forward a report with a formal recommended resolution for Council's consideration.*

The purpose of this report is to respond to Council's February 23, 2015 resolution and to assess the implications of the conversion for Ajax.

BACKGROUND

Canada Post Corporation (Canada Post) was originally established as a branch of the federal government. On October 16, 1981, the *Canada Post Corporation Act* came into effect which changed its status to a Crown corporation. Canada Post provided service to 15.7 million addresses and delivered more than 9 billion items in 2014. Door-to-door delivery is provided by 15,000 letter carriers. In 2004, it was estimated that 65% of Canada Post's expenses were from salaries and benefits.

Five Point Action Plan

In December 11, 2013 Canada Post released its Five Point Action Plan (the Plan) to restructure the delivery of postal service across Canada. According to the Plan, Canada Post has a mandate to fund its operations with revenues from the sale of its products and services, rather than through taxes. Canada Post has posted significant financial losses. The Plan refers to an April 2013, Conference Board of Canada study that projected a financial loss of close to \$1 billion by 2020 unless Canada Post made fundamental changes to its business. In response to these projections, the Plan outlined a series of initiatives to be undertaken by Canada Post, summarized below.

Community Mailboxes

According to the Plan, the remaining one third of Canadian households that receive mail at the door will be converted to CMB delivery by 2018. This change would not impact households that already receive mail and parcels through existing CMBs, grouped or lobby mailboxes or rural mailboxes. The forecasted financial savings from this initiative alone was reported to be \$400-\$500 million annually.

New Pricing for Letters

The Plan stated that on March 31, 2014 a new tiered pricing structure was introduced for letters mailed within Canada. The majority of Canadians now pay \$1.00 per stamp.

Postal Franchises

The Plan indicated that Canada Post will partner with local retailers to locate within their establishments. It also stated that Canada Post will continue to align its corporate post offices to customer traffic patterns.

Streamlining Operations

According to the Plan, Canada Post will change its internal operations to improve efficiencies in the flow of parcels and mail. These changes are driven by technology (i.e. faster computerized sorting equipment), consolidation (i.e. processing mail and parcels in a central location) and providing more delivery employees with fuel-efficient vehicles, so the same employee can deliver both mail and parcels.

Labour Costs

The Plan also stated that Canada Post is changing its business model to require fewer employees through attrition and collective bargaining over time. Canada Post expects nearly 15,000 employees to retire or leave the company from 2013 to 2018. Canada Post will also take steps to address the sustainability of its pension plan.

The Plan is reported to return Canada Post to financial sustainability by 2019 with an estimated combined savings of of \$700 million to \$900 million per year, not including savings expected from restructuring the pension, and through future collective bargaining.

DISCUSSION:

Staff have undertaken a review of existing CMB locations as noted below.

Existing Distribution of Community Mailboxes in Ajax

With some exceptions, CMBs have been provided within new residential developments since the early 1980's. CMBs are in place at approximately 500 locations in Ajax (see Figure 1). Areas served by CMBs include all urban residential neighbourhoods in Ward 2, the vast majority of Ward 1 excluding parts of Pickering Village, but only portions of Wards 3 and 4.

Of this total, 30 are within municipal parks and open space areas, with the balance provided within boulevards of public road allowances. It is noted that approximately half (250) of the existing CMB locations are adjacent to a municipal sidewalk.

Table 1 uses 2011 census data to compare the characteristics of neighbourhoods within Ajax served by CMBs with areas that have home delivery service. It is expected that the 2016 census figures will reveal a greater proportion of the Ajax population served by CMBs than the figures shown.

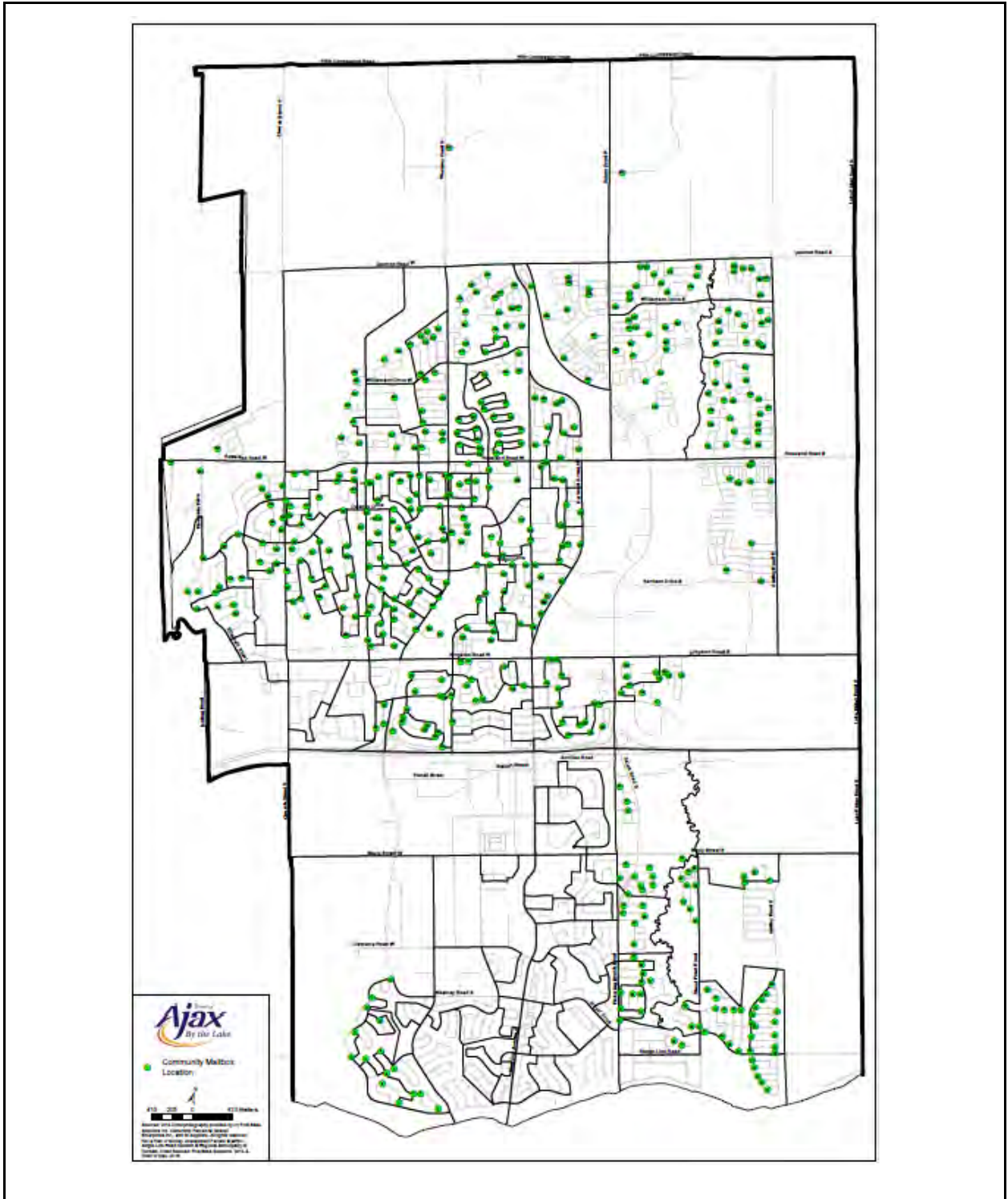
Table 1: Comparison of Areas Served by CMBs and Areas Receiving Door-to-Door Service

	Areas currently served by CMBs	Areas currently receiving door-to-door home postal delivery
Total Dwellings*	26,065	8,086
Population	86,270	20,110
Median Population Age	36	45
Total Residents age 65+	5,570	3,240
Mean Dwelling Age	1994	1965

*Statistics exclude apartment buildings - figures are approximate

Based on the figures within Table 1, the following high level observations can be made:

- Over 73% of Ajax dwellings, comprising over 78% of Ajax residents are served by CMBs;
- Nearly 24% of Ajax dwellings, comprising 19% of Ajax residents, receive door-to-door mail delivery service;
- Approximately 37% of Ajax's senior population (i.e. not those residing in apartment buildings) will be affected by the conversion to CMB's.



Changes to Canada Post Home Delivery Service

September 24, 2015

Figure 1
Existing Community Mailbox Locations

Town of Ajax
Planning and Development Services



Process for Conversion to Community Mailbox Delivery

Staff met with representatives of Canada Post on July 15, 2015 to obtain an understanding of its process and to obtain an understanding of Canada Post's implementation plans and schedule. According to representatives of Canada Post, the process for converting to CMBs in Ajax for those areas currently receiving door-to-door service is expected to commence in 3 years. The following is the process that Canada Post will follow:

1. The process starts with Canada Post officials requesting a meeting with the Mayor, prior to the announcement. Information and presentation materials are provided at the meeting, and senior planning or other staff usually attend. Canada Post may also provide information in the media regarding the conversion to CMBs before the CMB announcement is formally made.
2. Candidate locations are provided to municipal staff for review and comment. It is Canada Post's experience in other municipalities that a greater number of smaller sites, distributed more frequently throughout the community tends to be favoured by residents. Canada Post representatives have indicated that the company will consult with municipalities, but municipalities not the approval authority for CMB sites. CMB placement falls under the exclusive jurisdiction of Canada Post.
3. When the announcement to convert to CMBs is made, a letter is sent to the municipality and each resident being converted to CMB service notifying them of the upcoming conversion to CMB mail delivery. A survey is also included in the residents' letters.
4. Face to face visits are provided for all residents who would be adjacent to a proposed CMB location. Three attempts are made to obtain a face to face visit, following which a door knocker is provided to obtain contact from the affected resident.
5. The overall process, from the announcement of the conversion to CMBs to completion is would take place over a one year period. Once installed, each delivery address would be provided with 3 keys. Canada Post will allow keys to be copied, should a household require additional keys.

Description of Community Mailboxes

Canada Post representatives indicated that not more than three (3) CMBs would be located on any one site. Based on these figures, it should be expected that about 150-200 new CMB sites will be located in those parts of Ajax that currently receive door-to-door mail service.

Canada Post will be installing the third generation of CMBs. These new boxes have been installed in some new developments within Ajax.

Each CMB contains mailboxes that serve 16 separate postal addresses. Each CMB also contains a slot for outgoing mail, and two larger boxes designed to hold incoming deliveries of parcel mail. According to Canada Post, each mail slot can hold up to 6 weeks of mail.



The CMBs are constructed of steel. There are two pedestal styles, one constructed of steel and bolted to a concrete pad, while the other is a pre-cast concrete pedestal.

A service number will be provided at the top of each CMB for residents to contact if there are maintenance or other issues. Each CMB will have a unique identifier number.

According to Canada Post, three different graphic styles of anti-graffiti wrap are available that can be applied. Canada Post will allow the municipality to select the graphic style of wrap it prefers.

The overall height of a CMB is 1.638 metres (5'4½").

ISSUES

Current Levels of Service

Although the Town has received occasional complaints and inquiries regarding accessibility, snow removal and graffiti on existing CMB's, these installations are the full responsibility of Canada Post. The Town does not assume any responsibility for maintaining CMB locations. The Town's responsibility is for the removal of snow along roads and sidewalks. The CMB site itself is Canada Post's responsibility.

Siting Considerations

The technical review of each proposed CMB location would be undertaken by Engineering staff. Typical considerations deal with utility coordination in terms of the proximity of available light standards and ensuring adequate distance from fixtures such as fire hydrants, telecommunication pedestals and signs. Adequate distance will be sought from boulevard trees to minimize impacts.

Locations within road allowances that are next to flankage yards are preferred by Canada Post, as they are not facing a residential front door. Canada Post will also consider locations next to parks and open space areas or trailheads. From staff's experience, these locations should not be allowed to accommodate a higher number of CMBs, since this would increase the risk of litter. Waterfront open space areas should be avoided.

Siting options, based on the context of each proposed CMB is illustrated in Figure 2.

i. Traffic and Parking

CMBs will be located within the municipal road allowance, next to the travelled portion of the road. Residents who drive, to the CMB to receive their mail would stop their vehicle alongside the CMB for a short time. In order to ensure that the flow of traffic or turning movements at intersections are not unduly affected, staff recommend avoiding sites along arterial or collector roads.

From a traffic perspective, arterial road locations will be avoided, and locations along collector roads will be minimized wherever possible so as to not impede traffic flows. Staff will review locations to ensure that sight lines are not interfered with, and will review for compliance with existing traffic controls.

Three CMBs on a steel pedestal and precast platform, facing a public sidewalk, backing onto adjacent private property.



Three CMBs on a steel pedestal and precast platform, facing the public sidewalk, and backing onto the abutting public road.




Three CMBs on a steel pedestal facing the public road, accessed by a curb cut and on a concrete platform.



Three CMBs on a precast pedestal in a new development area.



<p>Changes to Canada Post Home Delivery Service</p> <p>September 21, 2015</p>	<p>Figure 2</p> <p>Community Mailbox Siting Options</p> <p><i>(images from Canada Post)</i></p>	<p>Town of Ajax Planning and Development Services</p> 
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Canada Post representatives have advised that it will not place CMBs in “No Stopping” zones. However, they have also advised CMBs could be placed in No Parking zones, as loading activities are permitted under the HTA in No Parking zones. They reference the *Highway Traffic Act*, R.S.O. 1990 c. H8, “park” or “parking”, when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

In terms of CMB siting, the following additional criteria should also be followed:

- Avoid sites on the inside of a curve of a road to enable site lines past stopped vehicles;
- Avoid locations in proximity to public transit stops in order to reduce any potential for operational conflicts;
- Avoid locations in proximity to schools to reduce the potential of operational conflicts during peak times.
- CMB site should not be located within a sight line of a stop or yield controlled intersection since driver views to traffic turning left at the intersection beyond would be obscured by stopped vehicles.

ii. Accessibility

Although Canada Post is a Crown corporation, its representatives have indicated that they will meet provincial *Accessibility for Ontarians with Disabilities Act (AODA)* criteria. According to the AODA, the intent of the requirements for walkways is to provide minimum standards of accessibility to make sure they are safe and useable for all pedestrians, including people using mobility devices and caregivers with strollers.

The consistent use of minimum requirements will support the mobility needs of people with disabilities and promote better health and safety outcomes for all pedestrians. In this respect, CMB locations should respect the exterior barrier-free path of travel criteria in the Design of Public Spaces (DOPS) manual - Sections 80.23 – 80.29. Some of these criteria include the following:

- i. exterior paths of travel should have a minimum clear width of 1500 mm;
- ii. the surface must be firm, stable, slip resistant and constructed of concrete;
- iii. a maximum running slope and cross slope should be not more than 1:20;
- iv. a CMB site should be situated away from sewer grates that could impede small wheels, canes or other mobility devices;
- v. where curb cuts are proposed, that it have a minimum clear width of 1200 mm, exclusive of any flared sides, that the running slope of the curb ramp must, be a maximum of 1:8, where elevation is less than 75 mm, and be a maximum of 1:10, where elevation is 75 mm or greater and 200 mm or less with a maximum cross slope of the curb ramp must be no more than 1:50.

New CMBs should face an adjacent sidewalk wherever possible to provide off-road, safer, clear and level access for pedestrians. Adhering to the DOPS criteria would also provide for appropriate widths, paved/level surface, etc. to the mailboxes to facilitate accessibility by those in mobility devices.

However, as is experienced at numerous locations within Ajax already, some CMBs will be in locations where there is no abutting sidewalk. In the older parts of Ajax, there are locations with no sidewalks on either side of the street. These locations include:

- The area of wartime houses between Harwood Avenue and Knapton Avenue, north of Highway 401 and the area between Glynn Road and Birch Crescent, east of Harwood Avenue;
- Areas generally east of Pickering Village, east of Mill Street and west of Rotherglen Road, south of Lincoln Street;
- Areas in Pickering Beach between Pickering Beach Road and Shoal Point Road, south of Beachview Street. These roads are also constructed to a rural standard with soft shoulders and drainage ditches.

This may pose challenges for persons with disabilities, older adults and people with strollers as pedestrians are forced to access the box from the travelled portion of the roadway.

A number of older existing CMBs are accessed from curb cuts and some locations have heaving old precast pavers that can impede access for those with mobility challenges. However, Canada Post representatives have indicated that new CMBs will be bolted to concrete pads.

Canada Post representatives have indicated that the company has consulted with the Canadian National Institute for the Blind (CNIB), the March of Dimes and the Canadian Human Rights Tribunal as part of its process. They noted that at the onset of the CMB conversion process, affected residents will receive a package asking them to self-identify if they have any accessibility issues. Canada Post will make arrangements to address their concerns, which will vary depending upon the individual's condition. Responses may include:

- Providing a larger key to the mailbox;
- Providing a slide-out tray within the mailbox;
- Making arrangements with the individual's prescription provider to enable mail pick-up at this alternate location;
- Arrangements for home delivery if there are no other options.

iii. Lighting

It is Canada Post's practice to site new CMBs within 10 metres of a municipal light standard wherever possible. This is satisfactory to ensure that adequate light is provided.

iv. Utility Coordination

As part of the Town's review of candidate sites, staff will review proposed installation sites to ensure that there are no conflicts with existing services and infrastructure in place within the existing road allowance including gas mains, telecommunications, sewers, water, electrical, lighting and drainage works.

Maintenance

Canada Post has acknowledged that it is fully responsible for maintaining each CMB location. As very visible installations, CMBs should not detract from the character of neighbourhoods. However, there have been instances in Ajax where existing CMBs appear to be functional, but are poorly maintained from an aesthetic perspective.

i. Graffiti

CMBs have been the target of graffiti in some locations, creating an “eyesore” within the neighbourhood. In addition and in most cases, CMBs have been targeted by businesses with advertising placards and stickers, which again diminishes the character of the neighbourhood. The orientation of a CMB, where its back would face the street is another factor that provides opportunities for the placement of placards.

In response, Canada Post representatives have advised that the new CMB designs have an anti-graffiti coating which makes them easier to clean. In addition, Canada Post representative have indicated that the new CMBs have a service telephone number and a box identifier number affixed to each CMB and that residents should call the service telephone number to advise of any service, damage, vandalism or other concerns with the CMB.

ii. Snow Removal

Canada Post assumes all responsibility regarding snow and windrow removal on CMB sites (only the area in front of the CMB itself). Canada Post will dispatch for snow removal once the accumulated snow from any snowfall event exceeds 5 cm. Canada Post is also responsible for clearing of windrows after snowplows have cleared the abutting roads if the windrow is in front of the CMB itself.

iii. Litter

In terms of litter, Canada Post representatives have indicated that the company will not provide refuse or recycling containers, since it is in the business of delivering mail at a fee on behalf of advertisers and others to residential customers. Canada Post prefers that its delivered mail be taken home. Its representatives have indicated that the provision of recycling containers close to CMB sites would simply encourage residents to immediately discard their flyers and advertisement mail at the CMBs.

The Region of Durham is the contract provider for waste management and recycling in the Region. The Region does not currently offer a litter pick-up service associated with CMB locations.

There has been some incidences of increased litter in the vicinity of CMBs in Ajax. Although the CMB itself may not be the cause of litter, there is a greater risk of litter taking place with CMBs than with home delivery as residents may choose to simply and carelessly discard bulky advertising mail than to responsibly carry it home and then dispose of it there. The risk of incidence of litter is increased when a large number of CMBs are sited together.

In other jurisdictions, municipalities have incurred the expense of providing recycling pick-up services in proximity of CMBs. For example, as part of Markham’s anti-litter campaign, and based on requests from many Markham residents, the City have placed 1,500 large mail recycling boxes by every CMB in that community to reduce litter found at CMB locations. The mailbox recyclables are collected by the City’s contractor once a week when residential pick-up occurs.

The City of Brampton provides a waste pick up service at CMBs. A specialized recycling container has been provided by the municipality near mailbox locations in order to deal with litter. It has been reported that these containers cost approximately \$300 each.

A pilot project to introduce recycling boxes at CMBs in Vaughan was abandoned.

In response to concerns regarding litter, Canada Post's representatives have indicated that residents may also simply place a request to Canada Post to opt out of receiving ad mail.

Municipal Liability

Canada Post assumes 100% liability for all of its CMB sites. This includes the CMB itself, the pedestal and the concrete pad.

Community Mailbox Installation Agreement

As part of the approval of the new installations, the Town and Canada Post would enter into a Community Mailbox Installation Agreement (CMBIA) to deal with CMBs, related site improvements and maintenance. A standard CMBIA is provided within Attachment 1 that identifies Canada Post's obligations regarding CMB sites and equipment, including:

- Installing, erecting and relocating CMBs only at specific locations on roadways under the jurisdiction of the municipality;
- Maintaining CMBs including concrete slabs, access pads, landscaping and without limitation, general upkeep and litter control on a regular basis;
- Providing for snow clearing of areas next to the CMBs, provided that no snow be placed on the traveled portion of any roadway or sidewalk by Canada Post or its contractor;
- To indemnify and save harmless the municipality from any and all claims for injury or damage relating to the CMB except for those arising out of negligence of the municipality;

This Agreement also states that the CMB area is not to be used for any other use, including the placement of signs, other structures or equipment such as newspaper, advertising flyer, or courier boxes and receptacles.

Other Jurisdictions/Stakeholders

Numerous comments have been issued from municipalities, interest groups, the Canadian Union of Postal Workers, as well as commissions and stakeholders from across the country opposing Canada Post's plans to phase out its remaining door-to-door home delivery in favour of CMB's. In general, the comments relate to accessibility, litter, traffic, maintenance and other issues as noted in this report.

Hamilton

A judgment was delivered on June 11, 2015 with respect to City of Hamilton By-law 15-091. At issue in the Court Judgment is whether or not a municipality is acting within its authority or power in enacting a by-law which profoundly affects the operation of a federal Crown corporation. The Ontario Superior Court indicated the following in its ruling:

- Section 91(5) of the *Constitution Act 1867* gives the federal government exclusive jurisdiction with respect to certain matters, one of which is the operation of a postal service.
- Canada Post Corporation was established as a Crown corporation in 1981 under the *Canada Post Corporation Act*. While exercising its mandate, the corporation is to have regard to "the need to conduct its operation on a self-sustaining financial basis while providing a standard of service that will meet the needs of the people of Canada and that is similar with respect to communities of the same size" (Section 5 (2) (b) of the *Act*).

- Subsection 19 (p) of the Act allows for regulations with respect to “the closure of post offices, the termination of rural routes and the termination of letter carrier routes”.
- Hamilton’s By-law 15-091 “regulates” the location of mailboxes...which directly encroaches upon the exclusive domain of Canada Post and is *ultra vires* the City’s jurisdiction.

Canada Post’s challenge to the by-law was successful, and the By-law was ruled to have no effect on Canada Post and its operations to convert to CMBs. The City of Hamilton has subsequently appealed the Ruling to the Ontario Court of Appeal. The Town subsequently received a letter from the City of Hamilton dated July 16, 2015 requesting support by means of a financial contribution in support of its appeal (See Attachment 2).

Montreal

The *Commission sur le développement social et la diversité montréalaise* prepared and submitted a report to its Municipal Council on February 23, 2015 entitled “*Impact on the people of Montreal of Canada Post’s decision to eliminate door-to-door mail delivery in urban communities*” (the Montreal Report). The Montreal Report was prepared in response to a Montreal Council resolution asking Canada Post to suspend its decision and followed a local public consultation process to identify issues. The Report articulates the Commission’s position recommending that the City oppose Canada Post’s decision. Many of the issues that were reported to be experienced in Montreal, as raised in the Montreal Report can be summarized broadly as follows:

- i. The installation of CMBs on public land would be difficult in Montreal’s densely populated built environment;
- ii. Any action taken on public land falls under municipal jurisdiction. The introduction of CMBs would have an impact on traffic, parking, cleaning and snow removal from sidewalks, graffiti removal and public works in general;
 - a. The program would encourage people to use their vehicles which would not reduce greenhouse gas emissions and adds nothing to the urban aesthetic;
 - b. CMBs would be accessible 24 hours a day, and public safety (particularly for seniors and people with functional limitations) should be considered. There is increased potential for illicit activities and greater risk of assault and crime in addition to raising issues around accessibility, lighting and safety/security;
 - c. There is the potential for increased traffic and higher risk of accidents.
- iii. According to the Montreal Report, the conversion to CMBs would be hardest felt by the most vulnerable populations, namely seniors with disabilities.
- iv. Due to the number of mailboxes that would be required, how could they be installed in a way that would fit in with the neighbourhood?
- v. Concerns were raised about impacts to the quality of life of Montrealers and is contrary to its universal accessibility policy.
- vi. Concerns were noted in the Montreal Report that Canada Post did not hold a full public consultation program.
- vii. Concerns were noted about job losses to postal workers and the loss of their presence as a comfort to older or vulnerable members of society.

Federation of Canadian Municipalities

On March 9, 2014, FCM's National Board of Directors met in Thunder Bay to discuss, among other issues, Canada Post's *Five Point Action Plan*. As a result of these discussions, FCM adopted three principles to guide discussions between Canada Post and local governments about this issue:

- **Meaningful Consultations:** Land-use planning, service delivery and right-of-way management is unique in each city and community across the country. A one-size-fits all approach will not work for every municipality. Canada Post must work with every local government individually to ensure meaningful consultation on the location of community mailboxes meets the needs of the community.
- **Partnerships:** Servicing municipal infrastructure is the responsibility of local governments. Yet municipalities must not inherit the mandate of maintaining federally owned community mailboxes. Either Canada Post must work with the local government to develop agreeable processes to maintain this infrastructure or Canada Post must compensate local governments for this work.
- **Congruence with Municipal Planning:** As much as possible, the changes to door-to-door mail delivery must align with local strategies and processes aimed at fostering and supporting age/disability-friendly communities. Unique strategies must be developed in partnership with local governments and/or individuals.

On April 1, 2014 Deepak Chopra, President and Chief Executive Officer of Canada Post, responded to these principles in a letter to FCM saying, "We reviewed the FCM's Principles for Community Consultation of the *Five-Point Action Plan*. We are confident that when it comes to the consultation, cost, and accessibility of CMBs, our views align."

Canadian Union of Postal Workers (CUPW)

On July 2, 2015 a letter was sent from CUPW to the Mayor which enclosed a report entitled "*The Implications of Converting Home Mail Delivery to Community Mailboxes: The Canadian Experience*", prepared by two members of CUPW. The report provides a critique of the overall CMB conversions initiative including: Canada Post's Five-Point Action Plan; the public consultation process; opposition by various municipalities; political parties and other organizations. It also highlights issues addressed within this report including: service for those with disabilities or mobility issues; litter; snow removal; maintenance and other matters.

Other Comments

Comments from other interest groups and municipalities in opposition to the conversion to CMBs have been received from the Canadian Association of Retired Persons and numerous municipalities.

FINANCIAL IMPLICATIONS:

Staff have investigated the financial implications of the proposed conversion to CMBs, with a view of not increasing current municipal service levels to service these new locations. In this respect, the only costs that the Town would incur as a result of the conversion to CMBs would be the actual review exercise of each of the CMB sites.

Canada Post has indicated that it will pay the Town a one-time review fee of \$50.00 per CMB location, consistent with its approach in other municipalities. Given the proposed scope of 150-200 locations, it is estimated that the fees would amount to between \$7,500 and \$10,000. Given the level of effort associated with the review of each proposed site, staff view this payment as satisfactory.

COMMUNICATION ISSUES:

On May 20, 2015, two representatives from Canada Post delivered a presentation to Accessibility Advisory Committee. The comments from the Committee are highlighted within this report. They indicated that the phasing out of door-to-door mail delivery in Ajax is anticipated to occur in the next 3-4 years. On July 13, 2015 two representatives from Canada Post met with Planning and Engineering staff to provide an overview of the proposed CMB conversion program.

Once the conversion program commences, Canada Post will be fully responsible for the public consultation program. Communications staff will closely monitor this initiative as it proceeds.

CONCLUSION:

On February 23, 2015 staff were requested to report back to Council with a proposed resolution regarding Canada Post's CMB conversion program. This report is intended to respond to that direction.

Gary Muller, MCIP, RPP
Manager of Planning

Paul Allore, MCIP, RPP
Director of Planning and Development Services

Attachments:

1. Standard Community Mailbox Installation Agreement
2. Letter dated July 16, 2015 from the City of Hamilton

COMMUNITY MAILBOX INSTALLATION AGREEMENT

THIS AGREEMENT made this _____ day of _____ 201_ .

BETWEEN

(Hereinafter called the “Municipality”)

AND

CANADA POST CORPORATION
(Hereinafter called “Canada Post”)

WHEREAS pursuant to the *Canada Post Corporation Act*, Canada Post was established as Agent of Her Majesty to, inter alia, establish and operate a postal service for the collection, transmission and delivery of mail and to provide such products and services as are, in the opinion of Canada Post, necessary or incidental to such postal service;

AND WHEREAS the Mail Receptacles Regulations, made pursuant to the *Canada Post Corporation Act* with the approval of the Governor in Council, authorize Canada Post to install, erect or relocate, or cause to be installed, erected or relocated in any public roadway, any receptacle or device to be used for the collection, delivery or storage of mail;

AND WHEREAS Canada Post desires to install, erect and relocate, when necessary, such receptacles or devices, commonly referred to as “Community Mailboxes”, at specific convenient locations on public roadways within the Municipality, title to which is vested in the Municipality;

AND WHEREAS the title to the public roadways is vested in the Municipality;

AND WHEREAS the Parties hereto desire to enter into an Agreement governing Community Mailbox site selection, liability, maintenance, repair, replacement, removal and relocation;

NOW THEREFORE THIS AGREEMENT WITNESSETH that the Municipality and Canada Post, each in consideration of the execution of this Agreement by the other, mutually agree as follows:

1. In this Agreement:

- (a) “Council” shall mean the Council of The Corporation of the Municipality of _____ ;
- (b) “Municipal Official” shall mean the _____ ;
[title of Municipal Official]
- (c) “Municipality” shall mean The Corporation of _____ ;
- (d) “Roadway” shall include public road allowances, highways, streets, lanes, walkways, sidewalks, and boulevards within the jurisdiction of the Municipality;
- (e) “Utility” shall include [list all utilities currently in road allowance] or such other public or private utility companies permitted by the Municipality to use the roadway.

2. Subject to the terms and conditions herein contained, Canada Post shall:

- (a) install, erect and relocate, when it deems necessary, Community Mailboxes only at specific locations on roadways within the Municipality, the suitability of which sites having been established in accordance with Canada Post’s location criteria and subsequently reviewed and approved by the Municipal Official (which review will be expeditious and which approval shall not unreasonably be withheld) in accordance with the details which are attached hereto as Schedule “A”, which Schedule shall form part of the Agreement;
- (b) at its expense, satisfactorily maintain such Community Mailboxes, including concrete slabs and access pads, landscaping and Community Mailbox sites and including, without limitation, general upkeep and litter control on a regular basis;
- (c) provide, at its own expense, for snow clearing of the areas adjacent to the Community Mailboxes to provide access thereto during the winter for the public; provided, however, that no snow shall be placed on any traveled portion of the roadway or sidewalk by Canada Post or its contractor;
- (d) indemnify and save harmless the Municipality from and against all claims for injury or damage by whomsoever made, brought or prosecuted, in any manner based upon, arising out of or in any way attributable to the construction, installation, maintenance or use of the Community Mailboxes, except those arising out of the negligence of the Municipality;
- (e) assume all loss, injury or damage and risk of loss, injury or damage to any works of the Municipality or that of any public utility which may be in, on, over or under the roadway, at the location of the Community Mailboxes, arising out of the construction, maintenance or repair of the said Community Mailboxes, except for that arising out of negligence of the Municipality or any public utility.

3. Should the Municipal Official not approve the suitability of any site for the installation, erection or relocation of Community Mailboxes or should the Municipal Official, in future, desire that any Community Mailbox erected or installed by Canada Post upon a roadway pursuant to the terms of this Agreement, be relocated, the Municipal Official shall immediately so notify Canada Post in writing and such notice shall set forth the reasons for such disapproval or desire for relocation. Forthwith upon receipt of such notice, Canada Post and the Municipal Official shall work together in good faith to expeditiously resolve the Municipality's concerns and objectives in this regard and, if required, select an alternative location meeting the approval of the Parties as herein provided. Upon removal of any Community Mailbox from the roadway, Canada Post shall satisfactorily restore the affected portion of the roadway to a standard equivalent to the condition of the roadways in its vicinity, and upon failure of Canada Post to restore the affected portion of the roadway, the Municipality, upon advance notice in writing to Canada Post, may do so at the expense of Canada Post which undertakes and agrees to pay to the Municipality such expenses (including supervisory and clerical work) on demand.
4. Canada Post may at any time, at its sole discretion and for any reason, give notice in writing to the Municipal Official of its intention to remove any or all of the Community Mailboxes from the roadways. Upon removal of any or all Community Mailboxes from the roadways, Canada Post shall satisfactorily restore the affected portion of the roadways to a standard equivalent to the condition of the roadways in its vicinity, and upon failure of Canada Post to restore the affected portion of the roadways, the Municipality, upon advance notice in writing to Canada Post, may do so at the expense of Canada Post which undertakes and agrees to pay to the Municipality such expenses (including supervisory and clerical work) on demand. All notices in writing referred to herein shall be conclusively deemed to have been received three (3) days after the date of mailing.
5. Canada Post acknowledges and agrees that the Municipality is the owner of and has jurisdiction over the roadways within the Municipality affected by this Agreement and that the Municipality reserves the right to use the roadway at or on which a Community Mailbox is located for the purposes of constructing and maintaining therein sewers, water mains, electric light and power conduits and cables, telephone conduits, gas lines and all other services and appliances, whether existing or placed therein in the future, and whether under its control or the control of a public utility or other government authority.
6. If, in the event of an emergency, it becomes necessary for Canada Post to do work on, across or along any roadways without consultation with the Municipal Official, then Canada Post shall, as soon as reasonably possible, provide the Municipal Official with details of the emergency and the work done in response thereto. In such emergency situations, Canada Post shall expeditiously restore the roadway to a condition as near as reasonably possible to the condition it was prior to the start of any such work. Upon failure of Canada Post to so restore the roadway, then the Municipality may do so and charge the cost of doing so back to Canada Post. Restoration includes but is not limited to any required repair to the roadway concerned by reason of any settlement of the original restoration work by Canada Post.
7. If, in the event of an emergency, it becomes necessary for the Municipality or other utility to work at any location of a Community Mailbox without the permission of Canada Post, the Municipality shall, as soon as reasonably possible or within 24 hours notice to the

Municipality by the utility, provide Canada Post with details of the emergency and the work done in response thereto. In such situations the Municipality or the utility, as the case may be, shall temporarily relocate and anchor any such Community Mailbox in as close proximity to its original site as reasonably possible, having regard to the temporary nature of the relocation to facilitate its continued use in a reasonable and safe manner. The Municipality or the utility, as the case may be, shall expeditiously restore the Community Mailbox location to a condition as near reasonably possible to the condition prior to the start of any such work.

- 8. Canada Post shall, at its own cost and expense, cause any and all liens or privileges registered pursuant to applicable laws relating to construction liens or privileges on municipal property for labour, services or material alleged to have been furnished or to have been charged by or for Canada Post or anyone on its behalf on the roadways or any improvements or facilities therein or thereon, to be paid, satisfied, released, cancelled and vacated within thirty (30) days after the Municipality shall have sent to Canada Post written notice by prepaid post of any claim for such lien or privilege. Provided, however, that in the event of a bona fide dispute by Canada Post of the validity or correctness of any claim for any such lien or privilege, Canada Post shall not be bound by the foregoing but shall be entitled to defend against the same in any proceedings brought in respect thereof after first paying into court the amount claimed and such costs as the court may direct and registering all such documents as may be necessary to discharge such lien or privilege, or providing such other security in respect of such claim as will result in the discharge of such lien or privilege. In respect to such liens or privileges, Canada Post in addition hereby covenants and agrees to indemnify and keep indemnified the Municipality of all liability or judgments arising out of any liens or privileges registered as a result of the construction of a Community Mailbox and its related facilities by Canada Post, its contractors, subcontractors, material suppliers and workers.

- 9. Any notice required to be given to the Municipality hereunder shall be sufficiently given personally or delivered or sent by prepaid priority courier addressed to:

and any such notice, if mailed, shall be deemed to have been received by the Municipality on the second business day after the date on which it shall have been so mailed.

Any notice required to be given to Canada Post hereunder shall be sufficiently given personally or delivered or sent by prepaid courier addressed to:

CANADA POST CORPORATION

and any such notice, if mailed, shall be deemed to have been received by Canada Post on the second business day after the date on which it shall have been so mailed.

- 10. This Agreement incorporates all the terms and conditions governing the installation, erection and relocation of Community Mailboxes on roadways within the Municipality and there is no representation or collateral agreement affecting this Agreement other than as expressed herein in writing.
- 11. This Agreement may not be assigned or transferred by either party without the prior written consent of the other party.
- 12. This Agreement shall be binding upon the Parties hereto, their successors and assigns.

IN WITNESS WHEREOF the Parties have caused their respective corporate seals to be hereto affixed as attested by the hands of their respective proper officers in that behalf the day of the year first above written.

[Municipality]

Per:

Per:

CANADA POST CORPORATION

Per:

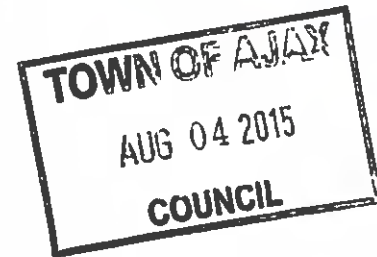
SCHEDULE "A"

**STANDARDS AND GUIDELINES
FOR THE INSTALLATION OF COMMUNITY MAILBOXES**



July 16th, 2015

Mayor Steve Parish
65 Harwood Ave. S.
Ajax, ON
L1S 2H9



To the Mayor and Members of Council:

As you may know, on 15 April 2015, the City of Hamilton passed a Roads–Equipment Installation By-law regulating the installation of equipment on, in and under its road allowance, including the community mailboxes being installed by Canada Post as it eliminates home delivery.

Canada Post's challenge to the By-law, an application to Ontario's Superior Court, has been successful. On 24 June 2015, the City's Council recommended that this decision be appealed to the Ontario Court of Appeal. In making their recommendation, they considered an opinion provided by the Honourable Ian Binnie, which is attached to this email. Mr. Binnie's firm of Lenczner Slaght has been retained.

The City of Hamilton's position, in short, is that municipalities have the authority to reasonably regulate their road allowance, and can apply minimum standards to the community mailboxes which ensure the protection of persons and property without conflicting with Canada Post's authority to determine how the mail is delivered.

On 25 June 2015, the Federation of Canadian Municipalities decided to seek intervenor status on the appeal. In doing so, FCM states that it is not questioning Canada Post's policy decision to eliminate door-to-door mail delivery, but is supporting municipalities' rights and duties to manage the road allowance for the benefit of all users.

We are asking for your support in this appeal by means of a financial contribution.

Any questions you have should be directed to Janice Atwood-Petkovski, City Solicitor, 905-546-2424 ext.4636, Janice.Atwood-Petkovski@hamilton.ca. We would appreciate your early response. Thank you for your serious consideration of this matter.

Sincerely,

Fred Eisenberger
Mayor

Attachments

Hamilton Roads – Equipment Installation By-Law

<http://www2.hamilton.ca/NR/rdonlyres/89365AF5-8ECE-4DC5-B26C-3FD4588F0B37/0/15091.pdf>

Ontario Superior Court Decision

<https://www.canlii.org/en/on/onsc/doc/2015/2015onsc3615/2015onsc3615.html?searchUriHash=AAAAQAUY2FuYWRhIHVr3QqoGFtaWx0b24AAAAAAQ&resultIndex=1>

Bill No. 091

CITY OF HAMILTON

BY-LAW NO. 15-091

To Regulate the Installation of Equipment on Roads and to Delete portions of The Corporation of the City of Hamilton By-law No. 86-77 and The Regional Municipality of Hamilton-Wentworth By-law No. R77-109.

WHEREAS sections 9, 9 and 10 of the *Municipal Act, 2001* authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 4, 5, 6, 8 and 10 of subsection 10(2) authorize by-laws respecting public assets of the municipality, the economic, social and environmental well-being of City, the safety and well-being of persons, the protection of persons and property and structures;

AND WHEREAS the City of Hamilton is responsible for ensuring that:

- persons are protected from injury;
- property is protected from damage; and
- disruption is minimized for those using the road as well as for abutting properties,

when work is carried out and equipment is installed on, in or under its roads;

AND WHEREAS the *Municipal Act, 2001* authorizes the City of Hamilton, amongst other things, to delegate its authority, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

PART 1 - DEFINITIONS

1.1 In this By-law:

"City" means the municipality of the City of Hamilton or the geographic area of the City of Hamilton as the context requires;
"Director" means the Director of Engineering Services of the Public Works Department for the City and his or her designate or successor;

"emergency work" means work on existing equipment required to reduce or eliminate a situation or an impending situation that constitutes a danger that could result in serious harm to persons or substantial damage to property, including the loss of an essential service or damage to other infrastructure/equipment;

"equipment" includes underground conduits and pipes, cabinets, poles, towers, anchors, guy wires, brackets, cross arms, insulators, foundations, overhead and underground conductors, wires, lines, cables and transformers, access nodes, ancillary appliances and fittings and reasonably required associated protective installations;

"Officer" means a person appointed by Council, by the Director, or under this By-law, to administer or enforce this By-law and includes a person employed by the City whose duties are to enforce this By-law;

"permit" means a permit issued under Part 4 of this By-law to do work as set out in Appendix M of the Roads – Equipment Installation Manual;

"Permit Application Office" means an office set out in Appendix A of the Roads – Equipment Installation Manual;

"permit holder" means a person to whom a permit has been issued and includes persons doing work on behalf of the permit holder;

"person" includes any individual, firm, association, partnership, corporation, company or organization of any kind;

"road" means a road under the jurisdiction of the City and includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

"Roads – Equipment Installation Manual" means the Roads – Equipment Installation Manual as approved by the Director from time to time; and

"work" means work on equipment that affects any road and includes any excavation, or installation, repair, replacement or extension of equipment on, in or under a road;

To Regulate the Installation of Equipment on Roads and to Delete portions of The Corporation of the City of Hamilton By-law No. 86-77 and The Regional Municipality of Hamilton-Wentworth By-law No. 77-109

PART 2 - APPLICATION OF BY-LAW

- 2.1 This By-law applies to all roads.
- 2.2 This By-law does not apply to any work which is carried out by the City, its employees, agents or contractors.
- 2.3 The Director may waive the application of all or part of this By-law if he or she is satisfied that the work is adequately regulated by an agreement with the City or another form of approval given by the City.
- 2.4 Nothing in this By-law is to be construed as permitting anything which is prohibited under federal or provincial legislation, and where there is a conflict in this respect between federal or provincial legislation and this By-law, the federal or provincial legislation prevails.

PART 3 - GENERAL PROHIBITIONS

- 3.1(1) No person shall undertake any work without first obtaining a permit in accordance with this By-law and the Roads – Equipment Installation Manual.
(2) Despite subsection 3.1(1), emergency work may be undertaken without first obtaining a permit if the Permit Application Office is notified no later than 48 hours after the emergency work is commenced and a permit is applied for as soon as possible after the Permit Application Office is notified.
- 3.2 No permit holder shall carry out or permit the carrying of work that is not in compliance with this By-law, the Roads – Equipment Installation Manual and all conditions of any permit issued under this By-law.
- 3.3 When undertaking work, the permit holder shall produce a copy of the permit to the Director or an Officer upon request.
- 3.4 Every person undertaking work shall comply with all applicable statutes, regulations, standards, codes, by-laws, rules and similar requirements.
- 3.5 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law or the Roads – Equipment Installation Manual.
- 3.6 No person shall provide false or inaccurate information in an application for a permit issued under this By-law or in any document or thing required to be submitted by this By-law or the Roads – Equipment Installation Manual.

To Regulate the Installation of Equipment on Roads and to Delete portions of The Corporation of the City of Hamilton By-law No. 86-77 and The Regional Municipality of Hamilton-Wentworth By-law No. 77-109

PART 4 - MORATORIUM - EQUIPMENT ACCESSED BY THE PUBLIC

- 4.1 The purpose of Part 4 is to temporarily stop work with respect to the installation of equipment accessed by the public (community mailboxes and any similar equipment) while the Director develops appropriate standards to be added to the Roads – Equipment Installation Manual and takes all other necessary steps for the processing of these permits.
Temporarily stopping this work will ensure that the installation of large numbers of community mailboxes by Canada Post Corporation in established neighbourhoods is regulated in accordance with appropriate standards.
- 4.2 From the date this By-law comes into force until 120 days after the day on which Canada Post Corporation pays for the first 500 permits for community mailboxes:
 - (a) no person shall undertake any work to install community mailboxes;
 - (b) the Director shall not consider an application or issue a permit with respect to the installation of community mailboxes.
- 4.3 Paragraph 4.2(b) applies even if an application with respect to the installation of community mailboxes was made before this By-law came into force.

PART 5 - PERMIT APPLICATION

- 5.1 A person applying for a permit shall submit a completed application to the Director that is in accordance with Chapter 4 of the Roads – Equipment Installation Manual and includes:
 - (a) the name, municipal address, telephone number and email address of the person responsible for the work and:
 - (i) the name, position, telephone number and email address of an individual contact, available at all times while the permit is in effect, for that person;
 - (ii) the name(s), telephone number(s) and email address(es) of the most senior field personnel of that person or of their agent, servant, employee, subcontractor or licensee assigned to oversee the work;
 - (b) a description of the type, purpose and location of the work including the name(s) of the road(s) and the nearest municipal address(es);
 - (c) the scheduled starting date of the work and length of time estimated to complete the work;
 - (d) any proposed lane closure, road closure or sidewalk closure;

enforcement of this By-law and the applicable sections of the *Municipal Act, 2001*.

- 7.5 The Director may assign duties or delegate tasks under this By-law to be carried out in the Director's absence or otherwise.
- 7.6 All information submitted under this By-law, including all information submitted for any permit issued under this By-law, may be made available to any member of the public subject to the *Municipal Freedom of Information and Protection of Privacy Act*, if requested.

Fees

- 7.7 All fees referred to in this By-law, including fees for services provided, shall be as set out in the City's User Fees and Charges By-law, or as otherwise set and approved by Council from time to time.

Entry and Inspections

- 7.8 An Officer may enter on land at any reasonable time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) an order or other requirement made under this By-law;
 - (b) a condition of a permit issued under this By-law; or
 - (c) an order made under section 431 of the *Municipal Act, 2001*.
- 7.9 An Officer, for the purposes of the inspection under section 7.8 and in accordance with the conditions set out in section 438 of the *Municipal Act, 2001*, may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information in writing or otherwise as required by an Officer from any person concerning a matter related to the inspection;
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 7.10 An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out in that section, where he or she

has been prevented or is likely to be prevented from carrying out an inspection under section 7.8.

Orders and Other Documents Including Delivery

- 7.11 If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the property on which the contravention occurred to discontinue the contravening activity.
- 7.12 An order under section 7.11 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the premises on which the contravention occurred; and
 - (b) the date or dates by which there must be compliance with the order, which may be of immediate effect should the Officer determine that the circumstances warrant.
- 7.13 If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who has contravened this By-law or who caused or permitted the contravention or the owner or occupier of a premises on which the contravention occurred to do work to correct the contravention.
- 7.14 An order under section 7.13 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the premises on which the contravention occurred;
 - (b) the work to be completed which may include but is not limited to requiring that prior to performing any work, all necessary permits or other approvals be applied for and obtained;
 - (c) the date or dates by which the work must be completed; and
 - (d) notice that if the order is not complied with, then the work may be done at the expense of the person ordered to do the work.
- 7.15 An order under section 7.11 or 7.13 may be given by contacting a permit holder in writing or by email in accordance with the information provided on the permit application or, if there is no permit application, by contacting the person the Director determines to be responsible for the work personally or by registered mail at their last known address.

- 7.16 Where a time frame is set out in an order or other document for carrying out any action, an Officer may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the Officer.

City Carrying Out Work

- 7.17 Where a person does not comply with a direction or a requirement, including an order or a condition of a permit under this By-law to do a matter or thing, the Director, with such assistance by others as may be required, may carry out such direction, requirement or order at the person's expense.
- 7.18 Where the costs of doing a matter or thing under section 7.17 are estimated to be:
- (a) up to but not including \$100,000, the Director may proceed without further approval and in accordance with the City's Procurement Policy; or
 - (b) \$100,000 or greater, the Director may proceed with approval of an authorized person or of Council and in accordance with the City's Procurement Policy.
- 7.19 The City may recover the costs of doing a matter or thing under section 7.17 by means of any one or more of:
- (a) bringing an action;
 - (b) adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an annual interest rate of 15 per cent commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full;
 - (c) realizing on security provided for this purpose; or
 - (d) charging a fee as set out in the City's User Fees and Charges By-law or as otherwise set and approved by Council from time to time.
- 7.20 The amount of the City's costs, including interest to the date payment is made in full, constitutes a lien upon the land, upon the registration of a notice of lien upon the land.

PART 8 - PENALTIES

- 8.1 Every person other than a corporation who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first offence and not more than \$25,000 for a subsequent offence.
- 8.2 Every corporation that contravenes any provision of this By-law is guilty of an offence and upon conviction is liable for every day or part thereof upon which

such offence occurs or continues, to a fine of not more than \$50,000 for a first offence and not more than \$100,000 for a subsequent offence.

- 8.3 Any person who contravenes an order made under this By-law, or an officer or director of a corporation who knowingly concurs in such a contravention by the corporation, is guilty of a continuing offence and upon conviction is liable to a daily fine or penalty of a maximum of \$10,000 for each day or part of a day that the offence continues, and despite section 8.1 and section 8.2, the total of all the daily fines imposed for an offence is not limited by the fine amounts listed in those sections.
- 8.4 Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under sections 8.1, 8.2 and 8.3, to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
- 8.5 Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 8.6 Where any person contravenes any provision of this By-law, such person shall be responsible for all costs incurred by the City related to the contravention.

PART 9 - GENERAL PROVISIONS

- 9.1 This By-law may be referred to as the Hamilton Roads - Equipment Installation By-law or the Roads - Equipment Installation By-law.
- 9.2 If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the intention of Council that the remainder of this By-law shall continue to be in force.

PART 10 - DELETIONS, TRANSITION AND ENACTMENT

- 10.1 Sections 8, 10, 12, 13 and 14 of The Corporation of The City of Hamilton By-law No. 86-77, section 8, 10, 12, 13 and 14 of The Regional Municipality of Hamilton-Wentworth By-law No. R77-109 are repealed.

TOWN OF AJAX REPORT



REPORT TO: General Government Committee

SUBMITTED BY: Martin de Rond, Director of Legislative and Information Service/Clerk

PREPARED BY: Nicole Wellsbury, Manager of Legislative Services/Deputy Clerk

SUBJECT: Proposed Revisions to Council Procedure By-law and Meeting Management Processes

WARD(S): N/A

DATE OF MEETING: Sept 24, 2015

REFERENCE: **Bylaw 140-2007, Council Rules of Procedure**

RECOMMENDATION:

1. That the report titled “Proposed Revisions to Council Procedure By-law and Meeting Management Processes” be received for information; and,
2. That a public meeting be held on the Proposed Procedure By-law at the October 26, 2015 Council Meeting.

BACKGROUND:

The Town’s current Council Procedure By-law underwent its last substantial review in 2007. Some minor updates were made in 2014. The municipal governance landscape has changed significantly since 2007. There is a heightened demand for transparency and openness in decision-making. The ways in which the public accesses Town materials such as public notices and agendas, meeting minutes and videos, and reports of interest has moved primarily into the online sphere.

In Ajax, several internal changes have affected the way that the Town does business. For example, meeting materials are now distributed by e-mail, and Council and senior staff consume and annotate their agendas electronically. Thresholds for Contract Awards were changed in 2013, giving staff greater authority to approve certain awards, one of several factors that has contributed to smaller agendas and shorter meetings.

These factors, among others necessitated a comprehensive meeting management and Council Procedure By-law Review to ensure that the Town’s governance processes reflect modern realities.

DISCUSSION:

Proposed Changes to Meeting Calendars and Agenda Distribution Schedules

Meeting Calendars

The Town of Ajax currently operates on a “two week cycle” where CAP, GGC and Council each meet twice per month. Staff are proposing that the Town adopt a monthly cycle where CAP, GGC, and Council each meet only once per month on the 1st, 2nd and 3rd Mondays of the month. (A similar option where meetings fall on Tuesdays has also been provided). Meeting locations and would remain the same, and GGC will occur on Monday (or Tuesday) afternoons.

The rationale supporting this change is as follows:

- **The length of Ajax meetings and number of agenda items has steadily declined** in recent years (in part due to higher thresholds for contract awards requiring Council approval, fewer development applications as the Town approaches build-out, and an experienced Council that operates with considerable efficiency). Often, meetings are so short that they simply don't warrant the time or effort required for all members and senior staff to attend.
- **CAP Meetings are regularly cancelled** due to lack of agenda items.
- Many **comparable municipalities operate successfully on either a rolling 3-week cycle or monthly cycle** (e.g. Pickering, Oakville).

The expected implications of this change are as follows:

- ✓ Fewer meetings (about half as many)
- ✓ More efficient use of time for senior staff and others who attend Council/Committee meetings
- ✓ Helps to relieve existing pressures resulting from limited Town Hall meeting space
- ✓ Simplifies agenda publication processes – agendas would always be published on Tuesdays
- ✗ Longer meetings
- ✗ Leaner schedule will necessitate July meetings
- ✗ Longer timeframe for staff to obtain Council approvals
- ✗ Could potentially necessitate the calling of more ‘special meetings’ of Council
- ✗ From time to time, reports intended for GGC or CAP may go directly to Council due to time limitations

It is also proposed that Open GGC Meetings be scheduled for 1:30 p.m., with the in-camera meeting to follow. This will provide members with a fixed and consistent start time, and will ensure that in-camera discussion and debate is not rushed or cut short.

Schedule Implications for Members of Council

Members of Council should be aware that the proposed schedule will result in longer, but more substantive meetings. Members should typically ensure that they are available from 1:30 p.m. until 5:00 p.m. for GGC meetings. Additionally, though meetings will not be regularly scheduled for the 4th Monday of each month, members should be aware of the possibility for ‘Special Meetings’ to be scheduled on those days or evenings, if circumstances should warrant it. Finally, Council must be aware that meetings will now run until the second week of July with little opportunity to begin the summer recess any sooner.

Advancing distribution/publication date for Agendas

Historically, the Town has published agendas three days in advance of the meeting date. This was sensible in the world of paper agendas, as GGC agendas were made ready for Councillor pick-up at Town Hall as they arrived for Monday CAP, and Council agenda packages were ready for Councillors to pick up on Thursdays when they came to Town Hall to attend GGC. This pattern is no longer relevant given the move to electronic agenda distribution. Furthermore, to publish agendas three days in advance of the meeting is simply no longer in line with municipal best practices and does not adequately provide for openness and transparency.

Staff are proposing that agenda publishing schedules be advanced so that agendas are published six days in advance of meetings. (This change is recommended regardless of whether Council approves the move to a monthly meeting schedule).

Public Access to Meetings

Staff are pursuing various technology enhancements which will provide for higher quality audio and video of GGC meetings, and possibly the recording and online posting of all Council and CAP meetings.

Proposed Changes to Council Procedure Bylaw

The existing Procedure By-law has been substantially re-written, however, the format and conduct of Council and Standing Committee meetings remains largely unchanged. In most sections, language has been modernized and simplified, and provisions which no longer seem to apply in Council's day to day governance have been removed. Provisions have been added to enhance the accessibility and transparency of meetings, but such changes will have little noticeable impact on meetings. Below is a summary of the most noteworthy changes:

Section	Notes
Definitions	This section was substantially re-written and expanded for sake of clarity. Added definitions include but are not limited to: Petition, Quorum, Point of order, Substantive Reports, to adjourn, to amend, etc. main motion, majority, Mayor, Rules of Procedure, Secondary Motion, two thirds
Principles of the Procedure By-law	New section – establishes the key purposes and principles underlying the rules of procedure and the Town's governance framework. Generally, it is established that the principles of openness, transparency, and accountability to the public guide the Town's decision making process.
Duties	Expanded Sec. 4, "Duties" to better describe the duties of members and senior staff, and to add a section governing the expectations and behavior of meeting attendees.
Remote Meeting Attendance	Provisions have been added to permit members to attend meetings remotely (by video and teleconference) for reasons of disability, and in extreme circumstances when they cannot attend in person. This provision is not intended to permit remote attendance with any regularity, or in the case where a member has scheduled vacation or absence during a normally scheduled meeting.
Council Order of Business	Two seldom used categories within the Council Order of Business, "Other Business" and "Question Period" are

	<p>proposed to be removed, with an aim to further streamline agendas. Members may raise new business or business not covered in the agenda under “New Business” or through the Notice of Motion process, and guests wishing to speak at a meeting may do so through the Delegation process, or without Notice through a suspension of the rules by Council (for which Council has traditionally been very accommodating).</p> <p>The revised Order of Business is as follows:</p> <p>Call to Order Disclosure of Pecuniary Interest Minutes from previous meeting(s) Delegations/Presentations Correspondence Committee Reports Departmental Reports Regional Councillors’ Reports Business Arising from Notice of Motion By-laws Notice of Motion New Business/Announcements Confirming Bylaw Adjournment</p>
In Camera items	Provisions have been added to be more transparent about matters being discussed in camera. Council is encouraged to rise and report on decisions made in camera (where possible), staff are encouraged to include a corresponding open session report for any in-camera report (where possible), and a process has been added to provide for the annual release of in-camera decisions/reports if they are no longer sensitive.
Delegations and Presentations	Clarification of the difference between ‘delegations’ and ‘presentations’. All delegations are given five minutes to speak, but persons granted ‘presentation’ status by the Clerk may be permitted to speak for longer, typically for ten minutes (e.g. town staff, presenters from other governments)
Petitions	A section has been added to provide guidelines for persons wishing to submit a petition to Council
Standing Committee Reports	Committee Chairs are now asked to provide a brief verbal summary at Council of recent standing committee meetings. Currently, it is not especially evident to members of the public what Council is approving when it passes the GGC & CAP reports in quick, single motions. This will take a form similar to the way that Regional Councillors report on notable Regional matters, at Council.
‘Suspending the Rules’, Reconsideration, and members petitioning for a special meeting now require ‘two thirds’ support	Two thirds support required to suspend the rules, to reconsider a matter, and for members to petition the Clerk for a Special Meeting (rather than the current simple majority). It is felt that a higher threshold should be required to suspend rules which exist for purposes of transparency, consistency and fairness; a greater level of consensus should be required to do so. This change brings the by-law into consistency with most other PBLs, and Robert’s Rules of Order.

Agenda publication & Notice Provisions	Sec 8, "Agenda Distribution, Notice and Cancellation provisions" has been added to clearly define publishing timeframes for agendas, and processes for the calling and cancellation of meetings. Agendas are now proposed to be published six days in advance of a meeting rather than the current three. The revisions also clarify the authority of the Clerk to cancel meetings where it is evident that quorum will not be met, or where no agenda items are forecasted.
Recording of Meetings	Permits attendees to record meetings with the permission of the Chair, provided they are not disruptive. This has always been the practice of the Town, and is now proposed to be codified in the by-law.
Appendix: Public Notice Policy	The Public Notice Policy has been updated based on revisions to the <i>Municipal Act</i> which occurred in 2008, removing statutory notice requirements for various actions. The revised policy continues to mandate that the Town provide Notice even for actions that do not require notice under the <i>Act</i> , and provides a more consistent baseline in this regard. The policy now recognizes the website as a key tool for the provision of Notice.

FINANCIAL IMPLICATIONS:

The proposed changes to the Procedure By-law would have limited financial implications. Fewer monthly meetings may result in marginal cost savings related to staff time.

Any related technology enhancements required for the recording of meetings will be included in the Information technology capital & operating budget submissions for 2016.

COMMUNICATION ISSUES:

Legislative Services staff have worked in consultation with Department Heads to ensure the proposed changes will not adversely affect the ability of staff to obtain approvals in a timely manner. Rogers Cable has also confirmed that the proposed changes (in the "Monday" option only) will not adversely affect their ability to broadcast Council meetings. The Town's Accessibility Advisory Committee was also consulted on September 16th regarding various provisions of the Procedure By-law and accessibility of the Town's meetings generally.

The Town's Public Notice Policy requires that a public meeting be held in order to amend the Procedure By-law, and that notice be published in the newspaper 14 days prior to the public meeting. The public meeting is tentatively scheduled for the October 26 Council meeting, and public notice will occur at least two weeks in advance.

CONCLUSION:

The attached Procedure By-law and other changes proposed within this report are intended to modernize, streamline and improve the town's governance framework. Staff will continue to refine the by-law based on feedback received in the coming weeks, and at the public meeting in October. Staff will present a final By-law to Council for consideration in late November or early December. It is proposed that the new by-law would take effect January 1, 2016.

ATTACHMENTS:

ATT-1: Proposed 2016 Meeting Schedules based on Monthly Cycle

ATT-2: Proposed Procedure By-law & Public Notice Policy

ATT-3: Example of "Release of In-Camera Decisions" report

Nicole Wellsbury – Manager of Legislative Services/Deputy Clerk

Martin de Rond – Director of Legislative & Information Services Clerk

Proposed 2016 Meeting Schedule based on Monthly Cycle (1st, 2nd, 3rd Mondays of each month)

Notes:

- GGC Meetings will begin at 1:30 p.m. in the River Plate Room
- February 8th: GGC will be held at 1:30 p.m. in River Plate; CAP will be held at 7 p.m. in Council Chambers

January						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29					

March						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

August						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
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Holidays 2016

Jan 1	New Year's Day	May 23	Victoria Day	Oct 10	Thanksgiving Day
Feb 8	Family Day	Jul 1	Canada Day	Dec 25	Christmas Day
Mar 25	Good Friday	Aug 1	Civic Holiday	Dec 26	Boxing Day (observed)
Mar 28	Easter Monday	Sept 5	Labour Day	March Break March 14 to 18	

-  Budget
-  CAP
-  GGC
-  Council
-  Statutory Holidays

Proposed 2016 Meeting Schedule based on Monthly Cycle (1st, 2nd, 3rd Tuesdays of each month)

Notes:

- GGC Meetings will begin at 1:30 p.m. in the River Plate Room
- February 9th: GGC will be held at 1:30 p.m. in River Plate; CAP will be held at 7 p.m. in Council Chambers

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December						
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-  Budget
-  CAP
-  GGC
-  Council
-  Statutory Holidays

THE CORPORATION OF THE TOWN OF AJAX

BY-LAW NUMBER XX-201X

Being a by-law to govern the proceedings of Council and Standing Committees of Council

WHEREAS section 238 (2) of the Municipal Act, 2001 as amended requires Council to pass a procedure by-law governing the calling, place and proceedings of meetings;

NOW THEREFORE the Council of the Corporation of the Town of Ajax hereby enacts as follows:

1. That "Appendix A" to this By-law be approved as the rules to govern the proceedings of Council & Standing Committees;
2. The short title of this By-Law is the "Procedural By-Law," "Procedure By-law" or the "Rules of Procedure";
3. By-law 47-2014 shall be repealed;
4. By-law 140-2007 shall be repealed;
5. This By-law shall come into force and take effect on January 1, 2016.

READ a first and second this
xx day of xx, 2015

READ a third time and passed this
xx day of xx, 2015

Mayor

D-Clerk

Table of Contents

1.	DEFINITIONS	4
2.	APPLICATION / SUSPENDING THE RULES.....	6
3.	PRINCIPLES OF THE PROCEDURE BY-LAW	6
4.	DUTIES.....	6
	Council.....	6
	Mayor/Standing Committee Chair.....	7
	Clerk	7
	Chief Administrative Officer (CAO)	7
	Department Heads.....	7
	Meeting Attendees	8
5.	GENERAL RULES	8
	Appointment of Acting Mayor	8
	Quorum	8
	Remote Meeting Attendance.....	8
	In Camera Meetings/ Openness and Transparency.....	9
	Disclosure of Pecuniary Interest	9
	Delegations at Council & Standing Committees	10
	Presentations	10
	Conduct of Delegates & Presenters	11
	Petitions	11
6.	COUNCIL.....	11
	Inaugural Meeting.....	11
	Regular Meetings	11
	Order of Business.....	12
	Call to Order.....	12
	Minutes	12
	Delegations, Presentations	12
	Correspondence.....	12
	Committee Reports.....	13
	Departmental Reports	13
	Regional Councillors’ Reports	13
	Business Arising from Notice of Motion	13
	By-laws	13
	Notice of Motion.....	14
	New Business/Announcements	14
	Special Meetings of Council	14
	Emergency Meetings	14
7.	COMMITTEES	14
	Community Affairs and Planning Committee (CAP).....	15
	General Government Committee (GGC).....	15

8.	AGENDA DISTRIBUTION, NOTICE, AND CANCELLATION PROVISIONS	16
	Agendas.....	16
	Notice - Regular Meetings	16
	Notice - Special Meetings	16
	Notice - Emergency Meetings.....	17
	Cancellation of Meetings	17
9.	RULES OF DEBATE	17
	Points of Order.....	17
	Points of Privilege	17
10.	MOTIONS	18
	Motions Without Notice	18
	Motion to Amend.....	18
	Reconsideration	19
	Single Motion.....	19
11.	VOTING	19
	Recorded Vote	19
	Tied Vote.....	19
	Dividing a Question.....	19
12.	RECORDING, BROADCASTING OR STREAMING OF MEETINGS	20

1. DEFINITIONS

In this Procedure By-law,

- 1.1. "The Act" means the Municipal Act, 2001 S.). 2001 c.25 as amended;
- 1.2. "Acting Mayor" means the member appointed to act from time to time in place and stead of the Mayor;
- 1.3. "Advisory Committee" means an ongoing Committee or task force implemented by Council by way of by-law and comprised of residents, experts, Councillors and/or Staff;
- 1.4. "Chief Administrative Officer" or "CAO" means the Chief Administrative Officer of the Town, or his/her designate;
- 1.5. "Clerk" means the Clerk of the Town, or his/her designate;
- 1.6. "Committee" means any subcommittee of Council or similar entity; typically refers to General Government Committee or Community Affairs and Planning Committee;
- 1.7. "Committee Report" means a report of all actions taken by a Committee with respect to a particular agenda;
- 1.8. "Council" means the Council of the Town ;
- 1.9. "Chair" means the Chair of a Committee or Council who presides over a meeting;
- 1.10. "Community Affairs and Planning Committee" or "CAP" means a Standing Committee of Council comprised of all members of Council;
- 1.11. "Confirming by-law" means a by-law passed for the purpose of giving general effect to a previous decision or proceeding of Council;
- 1.12. "consent agenda" means the portion of an agenda that may be approved by a single motion, without debate;
- 1.13. "day" includes any day in a calendar year, including weekends and holidays;
- 1.14. "Department Head" means a Town employee who is the head of a department of the Town ;
- 1.15. "friendly amendment" means the motion under debate is amended with the consent of the mover and seconder, and without the requirement for an amending motion to be made;
- 1.16. "General Government Committee" or "GGC" means a Standing Committee of Council comprised of all members of Council;
- 1.17. "in camera" means a meeting, or portion thereof, closed to the public;
- 1.18. "main motion" means any motion which brings business before Council and/or Committee. Main motions yield to all secondary motions.
- 1.19. "majority" means more than half, or;
 - If 7 members present: 4
 - If 6 members present: 4
 - If 5 members present: 3
 - If 4 members present: 3
- 1.20. "Mayor" means the Mayor as the Head of Council, or in the absence of the Mayor, the Acting Mayor, or in the absence of both, another Member of Council appointed to preside over a Meeting;
- 1.21. "Majority vote" means an affirmative vote by the majority of members present and voting at a Meeting;

- 1.22. "Member" means a member of Council or a Standing Committee;
- 1.23. "Meeting" means any regular, special, or other legally constituted meeting of Council or a Standing Committee;
- 1.24. "pecuniary interest" has the same meaning as the term has in the *Municipal Conflict of Interest Act*, R.S.O. 1990 c. M. 50 (the MCI Act); as amended or replaced from time to time.
- 1.25. "petition" means a formal written request that appeals to Council with respect to a particular issue as set out in Sections 5.36-5.38 of this by-law;
- 1.26. "point of order" means a motion drawing attention to an infraction of this Procedure By-law;
- 1.27. "quorum" means the number of Members required for the legal conduct of the business of Council or a Committee. In the case of Meetings, quorum is five (5) members.
- 1.28. "recorded vote" means the taking of a written record of the name and the vote of each member who votes on a question;
- 1.29. "Rules of Procedure" means the rules and regulations governing the calling, place, proceedings of a Meeting as provided for in this by-law. The Rules of Procedure may also be referred to as the "Procedural By-law";
- 1.30. "secondary motion" means any privileged, incidental, or subsidiary motion concerning the manner or time of consideration of any matter before Council/Committee as opposed to the substance thereof;
- 1.31. "Standing Committee" means any subcommittee of Council or similar entity; typically refers to General Government Committee or Community Affairs and Planning Committee;
- 1.32. "substantive reports" means a report, either verbal or written whereby Staff are required to gather data/information and perform an analysis of such data/information in order to draw a conclusion and possible action based on the analysis;
- 1.33. "to adjourn" means to end a meeting;
- 1.34. "to amend" means to alter a motion in a germane manner;
- 1.35. "to call the vote" means to stop debate and immediately proceed to vote on the motion;
- 1.36. "to defer" means to postpone all discussion on a matter until a future date or time, one which established as part of the motion;
- 1.37. "to receive" means to acknowledge the receipt of a matter before Council or a Standing Committee, with no expectation of any future action being taken;
- 1.38. "to recess" means to suspend a Meeting for a specified length of time;
- 1.39. "to refer" means to direct a matter under discussion by Council or a Standing Committee to Staff or another Committee for further consideration or review;
- 1.40. "to table" means to postpone a matter without setting a definite date for future discussion of a matter;
- 1.41. "Town" or "Municipality" means The Corporation of the Town of Ajax;
- 1.42. "Two thirds of the Members present" means two-thirds of the Members in attendance at a Meeting, and not disqualified from voting on a particular matter. Calculation of two thirds is accomplished by dividing the number of Members present by three and multiplying by two. Two thirds

in respect of seven Members shall be five
in respect of six Members shall be four

in respect of five Members shall be four, and;
in respect of four Members shall be three.

2. APPLICATION / SUSPENDING THE RULES

- 2.1. The Rules of Procedure contained in this by-law shall be observed in all proceedings of Council and Standing Committees, and shall be the rules and regulations for the order and dispatch of business;
- 2.2. The rules and regulations herein may be suspended by a two-thirds majority vote of the Members present unless otherwise provided for in any Act, and with the following exceptions:
 - 2.2.1. Provisions for quorum;
 - 2.2.2. Provisions for unanimous consent from Members in order to add an unscheduled item to a Special meeting agenda;
 - 2.2.3. Provisions for Open Meetings.
- 2.3. In any case for which provision is not made herein, the procedure to be followed shall be determined by a majority vote of the Members present.

3. PRINCIPLES OF THE PROCEDURE BY-LAW

- 3.1. The principles of openness, transparency, and accountability to the public guide the Town's decision making process. In the context of Council and other Committee proceedings, this is accomplished by:
 - 3.1.1. Ensuring the decision-making process is understood by the public and other stakeholders;
 - 3.1.2. Providing access to information and opportunities for input by the public and other stakeholders consistent with the requirements of this by-law and other statutory requirements;
 - 3.1.3. Exercising and respecting individual and collective roles and responsibilities provided for in this Procedure By-law and other statutory requirements;
- 3.2. The following principles govern Council and Committee meetings:
 - 3.2.1. The majority of Members have the right to decide;
 - 3.2.2. The minority of Members have the right to be heard;
 - 3.2.3. All Members have the right to information to help make decisions, unless otherwise prevented by law;
 - 3.2.4. All Members have a right to an efficient meeting;
 - 3.2.5. All Members have the right to be treated with respect and courtesy, and;
 - 3.2.6. All Members have equal rights, privileges and obligations.

4. DUTIES

Council

- 4.1. The primary objective of Council shall be to practice and demonstrate excellence in local governance. All business addressed at Council shall be acted upon by the Members as to how that business addresses or corresponds to the public interest.
- 4.2. Members shall come prepared to every Meeting by having read all the material supplied, including agendas and Staff reports, to facilitate discussion and determination of any necessary actions.
- 4.3. Members shall:
 - 4.3.1. Vote on all motions put to a vote;
 - 4.3.2. Respect the Rules of Procedure in this by-law and comply with the Chair's rulings;
 - 4.3.3. Comply with the Ajax Council Code of Conduct;

- 4.3.4. Respect the confidentiality of matters discussed in in-camera Meetings and not disclose the subject or substance of these discussions unless authorized to do so.

Mayor/Standing Committee Chair

- 4.4. The Mayor/Chair shall serve as the presiding officer for the Meeting, announce the business before Council/Committee and its order, and rule on procedural matters.
- 4.5. The Mayor/Chair shall recognize Members who wish to speak, and determine the order in which they are allowed to speak.
- 4.6. The Mayor/Chair shall receive and submit, in the proper manner, all motions presented by the Members and to put to vote all questions, which are duly moved, and to announce the results of all such votes.
- 4.7. The Mayor/Chair may speak and/or vote on any question, but if they wish to make a motion, they shall first leave the Chair by designating another Member to act in their stead until they resume the Chair.
- 4.8. The Mayor/Chair shall enforce, as necessary, the observance of order and decorum among Members, delegates, and visitors, and shall have the right to expel any person for improper conduct or disruption of the Meeting.

Clerk

- 4.9. The Clerk shall attend or cause a designate to attend all Meetings of Council and Standing Committees to take minutes and/or keep a record of all proceedings.
- 4.10. The Clerk shall ensure that Standing Committee Reports are put forward in such a way that the decisions contained therein can be considered by Council.
- 4.11. The Clerk shall be responsible for the management and coordination of Meeting agendas and related resolutions, by-laws, correspondence and records, and allow for public access to the same in accordance with the *Act*, the *Municipal Freedom of Information and Protection of Privacy Act R.S.O. 1990 c. M. 56* and other pertinent legislation.
- 4.12. The Clerk, when requested, shall provide advice on matters of procedure.

Chief Administrative Officer (CAO)

- 4.13. The CAO shall assist Council to discharge responsibilities, and in a non-partisan matter, aid Members in such a way that they are able to carry out their duties.
- 4.14. The CAO shall review, or cause to be reviewed, all substantive reports and recommendations prior to their submission to Council or Standing Committee, to ensure that they accurately reflect the goals and objectives of the Town.
- 4.15. The CAO shall attend all Council Meetings, and when invited or when deemed necessary to do so, shall attend or cause a designate to attend Standing Committee Meetings.

Department Heads

- 4.16. Department Heads shall assist the CAO in the discharge of his/her duties and in the development of strategies for the implementation of the policies of Council.
- 4.17. Department Heads shall review all reports and recommendations emanating from their departments to ensure accuracy and propriety.
- 4.18. Department Heads shall attend or cause a designate to attend all Council Meetings, and when invited or when deemed necessary to do so, shall attend or cause a designate to attend Standing Committee Meetings.
- 4.19. Department Heads shall be encouraged to provide Council/Standing Committee their professional opinion with respect to the effectiveness of particular Council

policies or programs and to identify any possible improvements thereto but shall avoid becoming involved in Council's policymaking role.

Meeting Attendees

- 4.20. No persons, other than Council Members and Town Staff, are permitted to approach the area where Council and Staff are seated unless invited by the Chair to do so.
- 4.21. Attendees will submit all materials for Council or Standing Committees through the Clerk.
- 4.22. Attendees will maintain order and not heckle or engage in conversations, display placards or props, or engage in any behavior that may be considered disruptive.
- 4.23. Attendees shall ensure that all personal digital devices are turned off or set to a silent mode during the Meeting.
- 4.24. Attendees may use cameras, and/or recording, broadcasting or streaming devices respectfully, during any Council or Standing Committee Meeting that is open to the public, but shall cease to use the device if directed to do so by the Chair.

5. GENERAL RULES

Appointment of Acting Mayor

- 5.1. Council shall, by way of by-law, appoint a Member of the Council to act from time to time in the place of the Mayor when the Mayor is absent from the municipality or absent through illness, and while so acting, such Member has and may exercise all the rights, powers, and authority of the Mayor.
- 5.2. Council may, by way of by-law and with the consent of the Mayor, appoint a Member to act in the place of the Mayor on any board, commission, or other body of which the Mayor is a member by virtue of office under any Act.

Quorum

- 5.3. A quorum of Council or a Standing Committee shall be more than 50% of the Members of Council/the Committee.
- 5.4. If a quorum is not present within fifteen minutes after the time appointed for a Meeting, the Clerk or designate shall record the names of the Members present and the Meeting shall stand adjourned until the date of the next regular Meeting or other Meeting called in accordance with the provisions of this by-law.
- 5.5. Where there is an insufficient number of voting Members to constitute a quorum due to a provision of the *Municipal Conflict of Interest Act*, the remaining Members of Council constitute quorum provided that such number is not less than two (2).
- 5.6. Members are encouraged to notify the Clerk in advance of the Meeting when the Member is aware that he/she will be absent from any Meeting of Council or a Standing Committee.

Remote Meeting Attendance

- 5.7. A Member may be permitted by resolution of Council or Standing Committee to attend a Meeting remotely via video or audio teleconference, provided that the Clerk is able to arrange for the necessary technology, and provided that one of the following circumstances applies:
 - 5.7.1. The Meeting is a special or emergency Meeting of Council or a Standing Committee, and the Member is not able to attend in person for reason of being away from the municipality; or
 - 5.7.2. The Member cannot attend the Meeting in person for reason of injury or disability.

- 5.8. Should a Member be permitted to attend a Meeting remotely, the Member shall have the same rights and responsibilities as if he or she were in physical attendance, including the right to vote.

In Camera Meetings/ Openness and Transparency

- 5.9. All proceedings of Council and Standing Committees shall be open to the public, except where a matter meets one or more of the criteria listed in Section 239(2) and 239 (3.1) of the *Act*. In such a case, Council may choose to consider the matter in camera, but is not required to.
- 5.10. A Meeting shall be held in camera if: the subject matter being considered is a request under the *Municipal Freedom of Information and Protection of Privacy Act*, if Council is the head of an institution for the purposes of that Act; or if the Meeting is regarding an ongoing Ombudsman investigation respecting the municipality, a local board or a municipally-controlled corporation.
- 5.11. Before holding a Meeting or part of a Meeting that is to be closed to the public, Council or the Standing Committee must state by resolution,
- 5.11.1. The fact of the holding of an in-camera Meeting;
 - 5.11.2. The general nature of the matter to be considered at the in-camera Meeting;
 - 5.11.3. The Municipal Act provision that permits the item to be considered in camera.
- 5.12. The Clerk shall advise the Chair, if in his/her opinion, the issue (or portion thereof) being discussed at an in camera Meeting is not appropriate in accordance with the terms of the *Act* and in accordance with the provisions of this by-law.
- 5.13. Voting shall not be permitted in camera except when the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality or persons retained under contract with the municipality.
- 5.14. Where appropriate and where it does not conflict with the best interests of the municipality, Council/Committee shall rise and report any decisions made in camera immediately upon reconvening in Open Session.
- 5.15. When appropriate, Staff shall be encouraged to prepare an "open" report to supplement the in camera report, which shall contain non-confidential information on the matter that is to be discussed in camera.
- 5.16. The Clerk shall maintain an annual log of all reports and resolutions considered in camera, and on an annual basis, shall conduct a review of the items with the CAO and Department Heads to determine which items are no longer sensitive and/or confidential. The Clerk shall prepare an Annual Report of all incamera items approved for public release, and shall post said report on the Town website. Items identified for release shall qualify for 'routine disclosure' under the Town's freedom of information practices.

Disclosure of Pecuniary Interest

- 5.17. All Members shall govern themselves at any Meeting in accordance with *the MCIA* and the *Ajax Council Code of Conduct* respecting any disclosure of pecuniary interest. It is the responsibility of the Member to identify and disclose any pecuniary interest. Members shall not request the Clerk or any other municipal officer, including the Town's solicitor to provide advice or comment on whether a Member has a pecuniary interest.
- 5.18. The Member shall disclose the pecuniary interest including the general nature thereof, prior to any consideration of the matter and shall not take part in the discussion of, or vote on any question in respect to the matter and shall not attempt in any way, whether before, during or after the Meeting, to influence the voting on any such question.

- 5.19. Where the Meeting is not open to the public, in addition to declaring the conflict, the Member shall immediately leave the Meeting or the part of the Meeting during which the matter is under consideration.
- 5.20. Where a Member is absent from a Meeting which includes a matter on which they have a pecuniary interest, the Member shall disclose this interest at the next Meeting they attend.
- 5.21. The disclosure of pecuniary interest shall be recorded in the minutes of the Meeting, and where the Meeting was open to the public, the general nature of such disclosure.

Delegations at Council & Standing Committees

- 5.22. Persons desiring to verbally present information on matters of fact or to make a request to Council shall give notice, including the subject of their address, to the Clerk no later than noon ten days prior to the Meeting.
- 5.23. Individuals wishing to appear as a delegation may be encouraged by a Member or a Staff person to consider resolving an issue or concern with Staff in lieu of, or prior to, submitting a request for delegation.
- 5.24. Notwithstanding Section 5.22, a person wishing to present information is not required to give written notice nor be listed on the agenda with respect to a matter before the Community Affairs and Planning Committee for which the public has been invited to make comment, or has been given notice of the Meeting under the *Planning Act* R.S.O. 1990 c. P. 13 (the "Planning Act") or any other legislation or regulation, as required.
- 5.25. Notwithstanding Section 5.22, no person shall be permitted to speak to Council requesting consideration of a matter that is before the Community Affairs and Planning Committee for a zoning by-law amendment, official plan amendment or any other matter requiring a public meeting under the *Planning Act*, or any other legislation or regulation prior to the date of the scheduled statutory public meeting. Also, no person shall be permitted to speak to Council on a matter that has been the subject of a statutory public meeting and where Council has not yet decided the matter.
- 5.26. Delegations shall be permitted to speak on a matter only once and be limited to speak for no more than five minutes for individual delegations, or ten minutes for group delegations. Where there are numerous delegates taking the same position on a matter, they are encouraged to select a spokesperson to present their views. Delegations are encouraged not to repeat information presented by an earlier delegation.
- 5.27. Members shall be permitted to ask questions of delegates but shall not enter into debate with such persons.
- 5.28. Delegations will typically be heard prior to presentations.

Presentations

- 5.29. From time to time, Town Staff and certain persons from partner organizations, other government bodies, and dignitaries, may be granted presentation status from the Clerk in order to inform Members of matters of considerable significance to the Town.
- 5.30. Persons must request and be granted presentation status from the Clerk by noon ten days prior to the Council or Committee Meeting.
- 5.31. Presenters will typically be granted ten minutes for their presentation, and may be granted additional time at the discretion of Council or the Committee.
- 5.32. Where possible, presentations from outside individuals or groups will be heard prior to presentations from Town Staff.

Conduct of Delegates & Presenters

- 5.33. Persons presenting to Council or a Standing Committee shall not:
- 5.33.1. Speak disrespectfully of any person;
 - 5.33.2. Use offensive words;
 - 5.33.3. Speak on any subject other than the subject for which they have received approval to address Council/Committee;
 - 5.33.4. Disobey the decision of the Mayor/Chair or Council/Committee;
 - 5.33.5. Enter into cross-debate with other delegates/presenters, Town Staff, Members, or the Chair.
- 5.34. The Mayor/Chair, with the assistance of the Clerk, shall determine a logical and fair speaking order for the presenter(s). The decision of the Mayor/Chair under this section is final.
- 5.35. Delegates/presenters will not be permitted to assume any unused time allocated to another delegation or presentation.

Petitions

- 5.36. All petitions presented to Council shall be provided to the Clerk by noon ten days prior to the Meeting for circulation with the Meeting agenda.
- 5.37. Petitions to be presented to Council must contain a concise, clearly worded and respectful request that Council take, or refrain from taking, some sort of action in response to an alleged grievance. Petitions without such a request (i.e. documents consisting solely of statements of opinion or statements of grievance) cannot be accepted as petitions. The action sought must fall within Council's jurisdiction. A petition pertaining to a matter falling outside of Council's authority to act — a matter under the jurisdiction of a provincial or federal government, for example — cannot be presented to Council.
- 5.38. When a petition consists of more than one sheet of signatures and addresses, each succeeding page is to contain an indication of the subject matter of the petition so that petitioners are made fully aware of the nature of the document they are supporting.

6. COUNCIL

Inaugural Meeting

- 6.1. Following a regular municipal election, the inaugural Meeting shall be held no later than 31 days after the new term of office commences, on such a date, at such time and place as chosen by the Mayor-elect in consultation with the Clerk.

Regular Meetings

- 6.2. All regular Meetings of Council shall be held at Town Hall, 65 Harwood Avenue S, in the Council Chambers, on the third Monday of each month, starting at 7:00 p.m. in the evening unless such a day is a public or civic holiday in which case the Council shall meet at the same hour on the following day. No regular Meetings of Council will be scheduled for the month of August.
- 6.3. Where the Mayor considers it necessary because of exceptional circumstances to change the date and/or time of a regularly scheduled Meeting of Council, he or she shall direct the Clerk to ascertain the views of the Members concerning the proposed change.
- 6.4. Where the Clerk ascertains that a majority of the Members have no objection to the proposed change, he or she shall notify the Mayor and give notice of the change to all Members and to the public expeditiously.

Order of Business

- 6.5. The Clerk shall prepare and cause to be circulated for the use of Members at Meetings of Council, an agenda listing the Order of Business, as follows:

- Call to Order
- Disclosure of Pecuniary Interest
- Minutes from previous meeting(s)
- Delegations/Presentations
- Correspondence
- Committee Reports
- Departmental Reports
- Regional Councillors' Reports
- Business Arising from Notice of Motion
- By-laws
- Notice of Motion
- New Business/Announcements
- Confirming Bylaw
- Adjournment

- 6.6. All business shall be taken up in the order in which it appears on the agenda unless otherwise decided by general consent of the Members present.

Call to Order

- 6.7. As soon after the hour fixed for holding the Meeting of the Council as a quorum is present, the Mayor shall take the Chair and call the Members to order.
- 6.8. If the Mayor does not attend a Meeting of Council within five minutes after the time appointed, the Clerk shall request that the Acting Mayor call the Meeting to order whom shall preside until the arrival of the Mayor.
- 6.9. The Mayor or Acting Mayor may, during a Meeting, appoint a Member as Presiding Member to preside over a Meeting.
- 6.10. While presiding over a Meeting of Council, a Member appointed as Acting Mayor or Presiding Member has and may exercise all the rights, powers, and authority of the Mayor under this by-law.

Minutes

- 6.11. The Clerk shall cause minutes to be taken of each Meeting of Council, which shall include:
- 6.11.1. The place, date and time of Meeting;
 - 6.11.2. The names of the presiding officer or officers and the record of attendance of the Members; should a Member enter after the commencement of a Meeting or leave prior to adjournment, the time shall be noted;
 - 6.11.3. All other proceedings without note or comment.
- 6.12. Minutes of the last regular Meeting of Council and of all Special Council Meetings held subsequent to the last regular Meeting, shall be included in the agenda and may be adopted by Council without having been read aloud at the Meeting at which the question of their adoption is considered.

Delegations, Presentations

- 6.13. Persons desiring to verbally present information or make a request to Council may do so as per Sections 5.22 to 5.28 of this by-law.

Correspondence

- 6.14. Every written communication intended for presentation to Council must be legibly written, typed, or printed, signed by at least one person, and delivered to the Clerk not later than noon ten days prior to the regular Meeting of Council.

- 6.15. Items of correspondence included in the agenda, may include recommendations from Staff related to the matter.
- 6.16. Certain items of correspondence not requesting or requiring any action by Council may be circulated by the Clerk to Members of Council, the CAO, and applicable Staff for their information, and will form a part of the Clerk's records.
- 6.17. If in the opinion of the Clerk, the correspondence contains any obscene or improper content or language, addresses a matter that has already been decided by Council, or does not bear sufficient relevance to local governance or matters affecting or of interest to the Town, the Clerk at his/her discretion may exclude the item from the agenda.
- 6.18. A motion directing Staff to undertake certain action with respect to any item of correspondence shall be in order provided it is moved and seconded.
- 6.19. A motion to adopt or endorse the correspondence will be in order when all Members have concluded their questions on the items of correspondence.

Committee Reports

- 6.20. The following reports to Council will be listed on the agenda:
 - 6.20.1. Community Affairs and Planning Committee
 - 6.20.2. General Government Committee
 - 6.20.3. Summary of Advisory Committee Decisions
 - 6.20.4. Departmental Reports
- 6.21. Committee Reports may be dealt with by a single resolution for each report listed in the agenda; or, any Member may request that one or more recommendations contained in the report be separated and dealt with individually.
- 6.22. The Chairs of CAP and GGC Meetings for which reports are being presented shall deliver a brief verbal report to Council and the public on the respective Meeting that took place that month, and any notable recommendations contained within the report being put forward to Council for approval.

Departmental Reports

- 6.23. The 'Departmental Reports' portion of the agenda shall include any Staff report that due to timing, urgency, expediency, or public importance, must be considered by Council without first being presented to one of the Standing Committees. From time to time, it may also include a report from the Ajax Library.

Regional Councillors' Reports

- 6.24. The Regional Councillors may report to Council, either in writing or verbally, on any business at Regional Council or its committees. These reports, if in writing, shall be circulated with the agenda.

Business Arising from Notice of Motion

- 6.25. A Notice of Motion properly presented at a previous Council Meeting, as per Sections 6.28-6.31, shall be listed and circulated in the agenda, and shall be dealt with at this time.

By-laws

- 6.26. By-laws shall be introduced upon motion by a Member, and any number of by-laws may be introduced together in one motion. Council shall, at the request of a Member, deal separately with any by-law.
- 6.27. By-laws which have been passed by the Council shall be numbered, dated and sealed with the seal of the Town and signed by the Mayor and Clerk, or their designates, and shall be retained under the control of the Clerk.

Notice of Motion

- 6.28. Motions introducing new matters, except for motions listed under Section 10.8, shall be given in writing and signed by the mover either:
- 6.28.1. at a Meeting of Council, but shall not be debated until the next regular Meeting of Council; or
 - 6.28.2. delivered to the Clerk not later than noon ten days prior to the date of the Meeting at which the motion is to be introduced and debated.
- 6.29. Where notice of motion has been given, the motion shall be printed in the agenda, under "Business Arising from Notice of Motion" for the next regular Meeting of Council and for each succeeding Meeting until the motion is considered or otherwise disposed of.
- 6.30. When a Member's notice of motion has been called from the Chair at two successive Meetings and not proceeded with, it shall be removed from the agenda unless Council decides otherwise.
- 6.31. Notwithstanding anything contained in this section, a motion introducing new matters may be introduced without notice by suspension of the rules.

New Business/Announcements

- 6.32. A period will be allowed for Members to bring matters of public interest or community interest before Council for information. Each member shall be limited to five minutes, and statements shall not be intentionally controversial in nature.

Special Meetings of Council

- 6.33. In addition to regular Meetings, the Mayor may at any time summon a special Meeting of Council by giving direction to the Clerk stating the date, time, and purpose of the special Meeting.
- 6.34. Upon receipt of the petition of two third of the Members, the Clerk shall summon a special Meeting for the purpose and at the date and time identified in the petition.
- 6.35. Notice of special Meetings shall be given as per Section 8 of this by-law.
- 6.35.1. No business other than that indicated on the written notice shall be considered at the special Meeting except with the unanimous consent of all Members present and voting at such Meeting.
 - 6.35.2. All special Meetings of Council shall be held at the location of the last regular Meeting of Council, unless an alternative is specified in the notice of the Meeting.

Emergency Meetings

- 6.36. Notwithstanding any other provision of this by-law, an emergency Meeting may be held, without written notice, to deal with an emergency or extraordinary situation, provided that an attempt has been made by the Clerk or designate to notify the Members about the Meeting as soon as possible and in the most expedient manner available.
- 6.37. No business except business dealing directly with the emergency or extraordinary situation shall be transacted at the emergency Meeting.

7. COMMITTEES

- 7.1. The Mayor shall be an ex-officio member of all Standing, Special, and Advisory Committees of Council but is not eligible to be appointed as Chair.
- 7.2. There shall be two Standing Committees of Council, namely: The Community Affairs and Planning Committee and The General Government Committee.
- 7.2.1. All members of Council shall be appointed to all Standing Committees;

- 7.2.2. Standing Committees shall report to Council on all matters connected with their mandate or referred to them by the Council and shall recommend such action as they deem necessary;.
- 7.2.3. The record of the proceedings of the Standing Committees will be in the form of a report to Council which shall contain;
 - a. The commencement time of the Meeting.
 - b. 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.
 - c. Any disclosure of pecuniary interest by any Member.
 - d. A record of each item before the Committee for consideration.
 - e. Recommendations to Council based on the items before the Committee for consideration.

Community Affairs and Planning Committee (CAP)

- 7.3. The Community Affairs and Planning Committee is mandated with holding statutory public meetings required under the Planning Act or other legislation or regulations , any other matter deemed to require public consultation, and such other matters as may be referred to the Committee by Council.
- 7.4. CAP shall be chaired by the two Regional Councillors on an alternating basis for the term of Council. In the absence of the designated Chair, the other Regional Councillor will Chair. In the event that both Regional Councillors are absent, the Members present shall appoint a presiding Member who shall preside over the Meeting, or until the arrival of one of the Regional Councillors.
- 7.5. CAP shall meet in the Council Chambers on the first Monday of each month starting at 7:00 in the evening unless such a day is a public or civic holiday in which case the Committee shall meet at the same hour on the next following day which is not a holiday. No regular Meeting will be scheduled for the month of August.
- 7.6. The Clerk or a designate shall be the secretary of the Committee, and shall prepare and circulate an agenda for each Meeting listing the Order of Business as follows:
 - Call to Order
 - Disclosure of Pecuniary Interest
 - Minutes from previous meeting(s)
 - Public Meetings
 - Presentations/Reports
 - Adjournment
- 7.7. All business shall be taken up in the order in which it appears on the agenda unless otherwise allowed by general consent of the Committee or decided by vote of the majority of the Members present.
- 7.8. The Clerk or a designate shall cause minutes to be taken of the Committee Meeting.
- 7.9. The “public meetings” portion of the agenda includes the holding of public meetings required under the Planning Act, or any other legislation or regulation, to obtain public comment on an application or other matter. Other matters for which Council, the Standing Committee or Staff have deemed it expedient to invite public comment may also be addressed at this time.

General Government Committee (GGC)

- 7.10. The General Government Committee shall be chaired by one of the four Ward Councillors, alternating monthly for the term of Council. A Vice-Chair shall also be listed on each agenda to act in the absence of the Chair.
- 7.11. The GGC makes recommendations to Council on levels of service and operational policy and budgetary matters. This Committee is also responsible for establishing corporate policy, and for all personnel matters, including the grievance process.

- 7.12. The GGC shall meet in the River Plate room in Town Hall on the second Monday of each month starting at 1:30 in the afternoon unless such a day is a public or civic holiday in which case the Committee shall meet at the same hour on the next following day, which is not a holiday. A scheduled in camera session of the GGC may follow after the open meeting.
- 7.13. The Clerk or an employee of the Town designated by the Clerk shall be secretary of the GGC and they shall prepare and cause to be circulated for the use of the Members at the regular Meetings of the GGC, and agenda listing the Order of Business, as follows:
 - Call to Order
 - Disclosure of pecuniary interest
 - In-camera agenda
 - Consent agenda
 - Presentation/Discussion agenda
 - Adjournment
- 7.14. Any item on the consent agenda may be separated upon request of any Member, and addressed in advance of the discussion agenda.
- 7.15. Members are encouraged to provide at least two hours notice to the Clerk or designate of items intended to be separated, such that the necessary staff can be made available.
- 7.16. Persons wishing to verbally speak to a matter that is scheduled for consideration at GGC may do so as per Sections 5.22 to 5.28 of this by-law.

8. AGENDA DISTRIBUTION, NOTICE, AND CANCELLATION PROVISIONS

Agendas

- 8.1. Meeting agendas will be published on the Town website and distributed to Members and Department Heads by e-mail six days in advance of the Meeting.
- 8.2. Late/separate circulations and addendum agendas are to be avoided wherever possible. However, where necessary, addendum items will be circulated to Members by electronic mail and posted on the Town website as soon as possible.
- 8.3. Lack of sufficient notice or late agenda distribution shall not affect the validity of holding a Meeting or any action taken thereat where all Members are present at the Meeting, or where any Member or Members who are absent consent to the holding of such a Meeting and so inform the Clerk.

Notice - Regular Meetings

- 8.4. The Clerk gives notice of a Regular Meeting of Council or a Standing Committee by:
 - 8.4.1. Publishing an agenda on the Town website six days in advance of the scheduled Meeting.
 - 8.4.2. Sending the Meeting agenda, and an in camera Meeting agenda if required, to Members six days in advance of the scheduled Meeting.
 - 8.4.3. When possible, including a list of upcoming Council & Standing Committee Meetings in a local newspaper.

Notice - Special Meetings

- 8.5. The Clerk gives notice of a special Meeting of Council or a Standing Committee as follows:
 - 8.5.1. The Clerk shall give all Members notice of a special Meeting of Council/Committee at least twenty-four hours before the time appointed for such Meeting, by electronic mail, and publish an agenda as soon as possible.

- 8.5.2. Notice of the Meeting shall be provided to the public on the Town website as soon as practicable, and a Notice shall be posted at the main entrance of Town Hall.
- 8.5.3. All special Meeting notices shall indicate the nature of the business to be considered at the special Meeting, and the date, time, and place of the Meeting.

Notice - Emergency Meetings

- 8.6. In the event of an emergency Council Meeting, notice is not required, however, the Clerk will attempt to notify Members and the public about the Meeting and publish the agenda as soon as possible and in the most expedient manner available.

Cancellation of Meetings

- 8.7. A regular, special, or emergency Meeting of Council or a Standing Committee may be cancelled in any of the following circumstances:
 - 8.7.1. If the Clerk discerns in advance that quorum will not be achieved;
 - 8.7.2. If the Meeting is cancelled by Council or Committee resolution;
 - 8.7.3. Where the Meeting is not required as deemed by the Mayor and/or Clerk due to a lack of forecasted agenda items.
- 8.8. The Clerk shall give notice of any Meeting cancellation on the Town website and through the Town's local newspaper, where practicable. A notice of cancellation shall also be posted at the main entrance of the Town Hall.

9. RULES OF DEBATE

- 9.1. The Mayor/Chair shall preserve order and decorum and decide questions of order.
- 9.2. When two or more Members desire to speak, the Mayor/Chair shall designate the Member who has the floor.
- 9.3. No Member shall be deemed to have precedence or seniority over any other Member;
- 9.4. Before speaking to a question or motion, a Member shall be acknowledged by the Mayor/Chair;
- 9.5. When a Member is speaking, no other Member shall interrupt that Member except to raise a point of order;
- 9.6. No Member shall speak more than twice to the same question, but a reply may be made by the Member who has presented the motion;
- 9.7. No Member shall speak to the same question for longer than five minutes;
- 9.8. A Member may ask a question for the purpose of obtaining information related to the matter under discussion;

Points of Order

- 9.9. A Member may call attention to a violation of the Rules of Procedure by stating the point of order to the Mayor/Chair succinctly, and the Mayor/Chair shall then decide upon the point of order and advise the Members of his/her decision.
- 9.10. A Member may immediately appeal the Mayor/Chair's decision to the Council/Committee. The Council/Committee shall hear the reason for the appeal from the appellant and the reason for the decision from the Mayor/Chair, and shall decide the question without debate. The decision of the Council/Committee is final.

Points of Privilege

- 9.11. Where the Member considers that his or her integrity or the integrity of Council as a whole has been impugned, he or she may draw attention to the matter.

- 9.12. A point of privilege shall take precedence over other matters, but the Members shall not be permitted to enter into any argument or introduce any motion related to the point of privilege.
- 9.13. When the Mayor/Chair considers that the integrity of the CAO or a member of Town Staff has been impugned or questioned, the Mayor/Chair may permit the CAO or a Department Head to make a statement to Council or the Committee.
- 9.14. A Member may immediately appeal the Mayor/Chair's decision on a point of privilege to the Council/Committee. The Council/Committee shall hear the reason for the appeal from the appellant and the reason for the decision from the Mayor/Chair, and shall decide the question without debate. The decision of the Council/Committee is final.

10. MOTIONS

- 10.1. Except as otherwise provided in this by-law, all motions must be duly moved and seconded before the Mayor/Chair can put the question or motion on the floor for consideration, and should be in writing to ensure that all Members are fully aware of the motion to be voted on;
- 10.2. Notwithstanding clause 10.1, a motion presented in General Government Committee need not be in writing nor require a seconder.
- 10.3. When a motion is presented orally, it shall be stated by the Mayor/Chair before debate.
- 10.4. A motion which is printed in the agenda as either a separate item or as part of a report, need not be read in its entirety unless requested to do so by a Member but shall be deemed as read for the purposes of introducing the motion.
- 10.5. After a motion is read or stated by the Mayor/Chair it shall be deemed to be in possession of Council/Committee, but may be withdrawn by the mover at any time before decision or amendment.
- 10.6. A motion in respect of a matter which is beyond the jurisdiction of Council shall not be in order.
- 10.7. A motion properly before Council/Committee for decision must receive disposition before any other substantive motion can be received.

Motions Without Notice

- 10.8. The following matters and motions may be introduced orally without written notice and are to be decided without debate:
 - 10.8.1. a point of order;
 - 10.8.2. a point of privilege;
 - 10.8.3. a motion to adjourn;
 - 10.8.4. a motion to refer without direction or instructions;
 - 10.8.5. a motion to defer;
 - 10.8.6. a motion to suspend the Rules of Procedure;
 - 10.8.7. a motion to table the question without direction or instructions;
 - 10.8.8. a motion to vote on the question;
 - 10.8.9. a motion to divide the question;
 - 10.8.10. a motion to recess.
- 10.9. The following motions may be introduced without notice, but shall be in writing and signed by the mover and seconder:
 - 10.9.1. a motion to amend;
 - 10.9.2. a motion to refer with direction or instructions.

Motion to Amend

- 10.10. Only one motion to amend the main motion shall be allowed at one time.

- 10.10.1. Only one motion to amend a motion to amend the main motion shall be allowed at one time.
- 10.10.2. The amendment to the amendment, if any, shall be voted on first, then if no other amendment is presented, the amendment shall be voted on next, then if no other amendment is introduced, the main motion, or if any amendment has carried, the main motion as amended, shall be put to a vote.

Reconsideration

- 10.11. A substantive resolution, by-law, question or matter may be reconsidered, but only if two thirds of Members present agree to such reconsideration by resolution.
 - 10.11.1. Debate on a motion for reconsideration shall be confined to reasons for or against reconsideration;
 - 10.11.2. If a motion to reconsider is decided in the affirmative at a Meeting, then consideration of the original matter shall become the next order of business.
 - 10.11.3. A vote to reconsider shall not be considered, on a particular matter, more than once in a twelve-month period.

Single Motion

- 10.12. One or more items on an agenda may be adopted in a single motion.

11. VOTING

- 11.1. Every Member present at a Meeting, when a question is put, shall vote thereon unless disqualified to vote on the question. All votes shall be by show of hands except where a recorded vote is requested by any Member.
- 11.2. If a Member does not vote when a question is put, he or she shall be deemed to have voted in the negative, except where the Member is disqualified from voting.
- 11.3. A Member not in their seat when the question is called by the Mayor/Chair is not entitled to vote on that question.
- 11.4. Immediately preceding the taking of the vote, the Mayor/Chair shall state the question in the form introduced.
- 11.5. The Mayor/Chair shall announce the result of every vote.
- 11.6. If a Member disagrees with the announcement of the Mayor/Chair that a motion is carried or lost, he/she may immediately after the declaration by the Mayor/Chair, state their objection to the declaration and request that a recorded vote be taken on the question.

Recorded Vote

- 11.7. When a recorded vote is requested by a Member, or is otherwise required, the Clerk shall record the name and vote of every Member on the question, commencing with the Member who made the request and then all other Members, alphabetically, until all Members have voted. The Mayor/Chair shall vote last.

Tied Vote

- 11.8. Any question on which there is an equality of votes shall be deemed to have been decided in the negative.

Dividing a Question

- 11.9. A motion containing distinct proposals shall be divided upon an affirmative vote of a majority of Members present and voting, and each proposal shall be voted on separately.

12. RECORDING, BROADCASTING OR STREAMING OF MEETINGS

- 12.1 All Meetings may be audio or video recorded, broadcast, and/or streamed publically by the Town, except for in camera meetings;
- 12.2 Attendees may record Meetings, except for in camera Meetings, provided that their doing so is not disruptive to the Meeting or to other attendees.
- 12.3 Meeting attendees using their own recording, broadcasting and/or streaming devices are encouraged to inform the Clerk or Recording Secretary to ensure attendees at the Meeting are notified.

Appendix B to Procedure By-law **XX-2016**

“Town of Ajax Public Notice Policy”

Purpose & Application:

This policy is to establish public notice provisions for matters directly affecting the public that are prescribed by legislation or deemed by the Town to warrant public notice.

Where notice provisions are prescribed for by statute or in another Town by-law, those notice provisions shall prevail over this policy.

Nothing in this policy shall prevent the Town from exceeding the notice provisions as set out in this policy.

Procedure:

1. Requirement for Notice

Where a municipality is required to give public notice under a provision of the *Municipal Act, 2001*, public notice in the form, manner and at the times specified in this policy is considered adequate to give reasonable notice under the provision in the absence of specific procedures prescribed by legislation. This policy also establishes policies for the provision of public notice for certain actions not requiring notice under provincial statutes.

All public notices issued under this policy may also be posted on the Town of Ajax website for the notice periods specified in this policy, or in the absence of a specified notice period, for two weeks prior to any public meeting held with respect to a *Municipal Act, 2001* matter. In calculating the notice period, the day of giving notice is excluded, and the day of consideration by Council is included.

For the purposes of giving notice by mail, municipal assessment records shall be used unless otherwise prescribed by legislation, or unless the circumstances warrant some other means of determining who shall receive notice.

2. Content of Notice

At a minimum, unless otherwise specified in the *Municipal Act, 2001*, a notice of the intention to pass a by-law or notice of public meeting, shall include the following components:

- Identification of the authority under which the notice is being given;
- A description of the purpose of the meeting or the purpose and effect of the proposed bylaw;
- The date, time and location of the meeting at which the matter will be considered;
- A description of how and where comments and/or objections can be made;
- Contact information for the purpose of submitting written comments prior to the meeting, including any submission deadlines; and
- If applicable, a key map or description of the lands affected by the proposal.

4. Notice of Subsequent Meetings

If a decision is not made at the meeting specified in the public notice, no additional notice shall be required for subsequent meetings if a statement is made at the meeting specifying the date of the subsequent meeting, and the time and place of such meeting.

5. Emergency Notice Procedure

If a matter arises, which in the opinion of the Chief Administrative Officer, in consultation with the Mayor, is considered to be urgent or of a time sensitive nature, or which could affect the health or well-being of the citizens of the Town of Ajax, or if a State of Emergency is declared, or if so advised by a Provincial Ministry, the public notice provisions may be waived and the Clerk shall make his/her best efforts to provide as much notice as reasonable under the circumstances.

No notice shall be required under this policy, where the provision of notice will interfere with the ability of Council to conduct business with respect to a matter permitted for a closed session under Section 239 of the Municipal Act 2001.

Schedule 1: Notice Requirements Section Numbers refer to the Municipal Act, 2001.

Subject	Public Notice	Given by	Required by Statute
By-law to: <ul style="list-style-type: none"> • Permanently close a road [Sec. 34 (1)] • Permanently alter a highway that might deprive someone of access to their own land [Sec. 34 (2)] • Designating a highway as a controlled-access highway and prohibiting the construction or use of a private road, entrance, gate or other structure as a means of access to the highway [Sec. 36 (3)] • Naming a highway or changing the name of a highway.[Sec. 47] • Intending to close a private road [Sec. 37 (1)] 	<ul style="list-style-type: none"> • Notice in Newspaper at least once, at least 14 days prior to consideration of by-law, and; • Website posting for 14 consecutive days prior to consideration of by-law 	Clerk	No
Naming or changing the name of a private road. [Sec 48]	Naming a private road: <ul style="list-style-type: none"> • Website posting 14 days in advance by-law consideration. Changing the name of a private road: <ul style="list-style-type: none"> • Written notice to applicable residents/ businesses, and; • Website posting 4 weeks prior to consideration of by-law. 	Clerk	Yes
Passing a licensing by-law. [Sec 150]	<ul style="list-style-type: none"> • Publish notice once in Newspaper 14 days prior to public meeting, and; • Notice on website for 14 days prior to public meeting; and, • Written notice to current license-holders 14 days prior to public meeting. 	Clerk	No
Council votes on whether to support or oppose a restructuring proposal. [Sec 173(3)]	<ul style="list-style-type: none"> • Publish notice once in Newspaper 14 days prior to public meeting, and; • Notice on website for 14 days prior to public meeting; 	Clerk	Yes

	<p>and,</p> <ul style="list-style-type: none"> • Notice by mail to persons prescribed by Minister, 14 days prior to consideration of by-law 		
Council proposes to dissolve or make changes to a local board. [Sec 216 (1)]	<ul style="list-style-type: none"> • Written notice once or by mail to the local board 14 days prior to consideration of the by-law. 	Clerk	No
Council proposes to pass a by-law to make changes to the composition of Council. [Sec 217]	<ul style="list-style-type: none"> • Publish notice once in Newspaper 14 days prior to public meeting, and; • Notice on website for 14 days prior to public meeting; 	Clerk	No
New Procedure By-law [Sec. 238]	<ul style="list-style-type: none"> • Publish notice once in Newspaper 14 days prior to public meeting, and; • Notice on website for 14 days prior to public meeting; 	Clerk	No
Council proposes to pass a by-law dissolving or re-dividing wards. [Sec 222]	<ul style="list-style-type: none"> • Publish notice once in Newspaper 14 days prior to public meeting, and; • Notice on website for 14 days prior to public meeting; • **Within 15 days after by-law is passed, publish notice on web and in Newspaper of the passing of the by-law, specifying the last date for filing a notice of appeal 	Clerk	No <i>(**notice only required after the by-law is passed)</i>
Passing a by-law to change the name of the municipality [Sec 187]	<ul style="list-style-type: none"> • Publish notice once in Newspaper 14 days prior to public meeting, and; • Notice on website for 14 days prior to public meeting; 	Clerk	No
Tax sale of seized personal property. [Sec 351]	<ul style="list-style-type: none"> • Publish notice once in Newspaper 14 days prior to public auction. 	Treasurer	Yes

Town of Ajax Report

Release of In-Camera Council/GGC Decisions
for Sept 1, 2016 to July 1, 2017



Meeting Date	Subject	Resolution Passed (N/A = not approved for release)	Resolution released?	Full Report approved for release?
Sept 5, 2016, GGC	2014-2018 Committee Appointments	<p><i>(Passed in option session after in-camera discussion)</i></p> <p>That the following individuals be appointed to the Environmental Advisory Committee with a term to expire February 28, 2019:</p> <p>John Doe Wayne Gretzky John A. Macdonald Jennifer Lopez</p>	Y	Y
Sept 5 GGC	Confidential Property Matter	N/A	N	N
Sept 19 GGC	Duffin Creek Water Pollution Control Plant Outfall Environmental Assessment Update	<p>That the revised work plan and additional funding required to undertake Part 2 of Council's strategy for the remainder of the Outfall EA set out in this report be approved;</p> <p>That staff be directed to provide an update on the Outfall EA and expenditures in early Fall 2015</p>	N	N
Nov 3 GGC	Contract Award - Consulting Services	N/A	N	N
Dec 6 Special Council	Confidential Matter Related to C.U.P.E. Contract Negotiations	<p><i>(Passed in option session after in-camera discussion)</i></p> <p>That the C.U.P.E. contract changes be approved, and that the collective agreement be renewed effective April 1, 2014 to March 31, 2017.</p>	Y	N
Jan 6 GGC	Surplus Road Allowance on Rossland Road	[information only - no resolution passed]	N/A	Y

TOWN OF AJAX REPORT



REPORT TO: General Government Committee

SUBMITTED BY: Martin de Rond
Director of Legislative and Information Services/Clerk

PREPARED BY: Nicole Wellsbury
Manager of Legislative Services/Deputy Clerk

SUBJECT: **Council Code of Conduct Update**

WARD(S): N/A

DATE OF MEETING: Sept 24, 2015

REFERENCE: Town of Ajax Bylaw 90-2013 - A By-law to establish a Code of Conduct for Members of Council

RECOMMENDATION:

- 1. That the report entitled “Council Code of Conduct update” be received for information;**
- 2. That a public meeting on the proposed revised Council Code of Conduct & Complaints Protocol, be held at the October 26, 2015 Council Meeting.**

BACKGROUND:

In October 2013, Council passed By-law 90-2013 to establish a strengthened Code of Conduct for Members of Council. The previous Code was silent on a complaint protocol and enforcement and did not explicitly provide for the engagement of an Integrity Commissioner. The Code of Conduct helps to ensure that members of Council share a common basis of acceptable conduct, and provides a supplement to the legislative parameters within which members must operate. A Code of Conduct helps to demonstrate a greater degree of accountable, transparent, and ethical decision making, and acts as a tool to increase public trust and clarify ethical standards.

In October of 2015, the Town received its first complaint in respect to the Council Code of Conduct, and an Integrity Commissioner was retained to investigate and report on the matter. Following his investigation, the Integrity Commissioner was requested to provide any comments he may have on necessary or desirable improvements to the Ajax Code of Conduct. The Integrity Commissioner concluded that the existing Code is “very well constructed and comprehensive”, but did suggest a number of improvements aimed primarily at making the Code more succinct, clearer, and easier to enforce.

DISCUSSION:

As part of this review, staff reviewed a variety of potential Code updates and improvements. The following is a summary of the material changes being proposed as a result of recommendations from the Integrity Commissioner, and desirable improvements identified by staff since the introduction of the new Code of Conduct nearly two years ago.

Formatting

The Integrity Commissioner recommended a number of formatting changes with an aim to “endow [the Code] with authority and substance.” Staff concur with the suggestions, and the minor formatting changes (e.g. adding a cover page & table of contents, presenting the different sections in simple paragraph format) have been applied in ATT-2.

Deletions

Generally, the Integrity Commissioner recommended that the Town’s Code should not re-state or include matters that are covered by Provincial Law, but should be restricted to matters of conduct not covered in other laws, regulations or policies. To limit the Code in this respect will make it clearer and easier to enforce. Other portions of the Code which do not specifically deal with the conduct of members were recommended to be separated out and re-positioned elsewhere. For these reasons, the following are proposed to be deleted or re-positioned:

- Delete certain definitions (e.g. Clerk, Pecuniary Interest, and other terms defined under Provincial Acts);
- Delete Sec. 5 – Roles and Obligations (re-stated portions of Municipal Act);
- Delete Sec. 7 – Open, Transparent Government (covered in other laws, policies);
- Delete Sec 8. – Customer Service Excellence (these matters are covered in other sections including “Disreputable Conduct” section);
- Delete Sec. 10 – Conflict of Interest/Pecuniary Interest (covered by Provincial legislation)
- Remove Complaint Procedures (this has been separated from the Code and presented as a standalone procedure)
- Remove Sections 17 e) - Records & Review, 18 - Interpretation , and 19 – Regular Review *(these sections have instead been included in the body of the covering by-law which approves the Code)*

All of the above changes are supported by staff and have been applied in ATT-2.

Amendments/Additions

The following amendments/additions were recommended by the Integrity Commissioner and are supported by staff:

- Sec. 12 – renamed from “Council/Staff Working Relationships” to “**Conduct Respecting Staff**” – the focus should be on identifying bad conduct toward staff, as opposed to describing the ideal working relationship;
- Sec. 13 – “**Use of Town Property**” – created a separation between Use of Town Property generally, and Election Campaign Work;
- Sec 15. – renamed from “General Conduct” to “**Discreditable Conduct**” – a better descriptor of the conduct to be avoided;
- *New section – “**Business Relations**” – captures a common problem at the municipal level not covered by Municipal Conflict of Interest Act (MCIA);
- *New section – “**Conduct Regarding Current & Prospective Employment**” - captures a common problem at the municipal level not covered by MCIA;

- *New section – “**Reprisals and Obstruction**” – given the nature of the Code and investigations under it, this is a helpful ‘obstruction of justice’ clause;
- New Section – “**Adherence to Town By-laws, Policies & Procedures**” – states simply that Members shall encourage public respect for, and are required to obey the spirit and intent of, all Town by-laws, policies and procedures.

Penalties

Under the Municipal Act, there are two penalties available for municipalities to impose on a member where an Integrity Commissioner has found that there was a contravention of the Code:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

Upon review of the Ajax Code of Conduct, the Integrity Commissioner recommended that the following section be added to the Town’s Code:

The Integrity Commissioner may also recommend that Council or a local board take the following actions:

1. *Removal from membership of a Committee or a local board;*
2. *Removal as Chair of a Committee or local board;*
3. *Repayment or reimbursement of moneys received;*
4. *Return of property or reimbursement of its value; or*
5. *A request for an apology to Council, the complainant, or both.*

The Town is not recommending that this section be added, as a previous Ontario Divisional Court Ruling (*Magder v. Ford*) called into question whether such penalties are permitted, and whether Councils have the authority to apply penalties in relation to a Code violation beyond the two specified in the Act. Although adding the above noted clause would provide Council with a larger menu of penalty options in the event of a Code violation, staff feel that to impose a penalty other than the two specified in the Act could potentially result in a legal challenge.

This is the only recommendation of the Integrity Commissioner that staff are not recommending be adopted by the Town.

Integrity Commissioner

Mid-to-large sized municipalities with Codes of Conduct tend to have an Integrity Commissioner on retainer (e.g. Newmarket, Mississauga, Brampton, Ottawa, Hamilton, Guelph). Such an arrangement typically consists of an annual retainer fee ranging anywhere from \$5,000 to \$25,000 depending on the range of services included in the retainer (which could include services such as responding to periodic inquiries or research requests from staff, providing advice to Council members, conducting Council training, etc.), plus an hourly rate for any formal investigations and written report preparation.

Notwithstanding the norm among comparable municipalities, it remains staff’s view that the hiring of an Integrity Commissioner as a part-time or on-retainer position would be difficult to justify in Ajax at this time. To date, and since the Town’s initial introduction of a Council Code of Conduct in 2004, the Town has received only one Code of Conduct complaint. There has not been a demonstrated demand from members of Council for regular advice on Code of Conduct matters

or other matters of ethics. Therefore, it is recommended that the Town continue with its practice of engaging an Integrity Commissioner on an “as-needed” basis only.

Generally, Ajax is thought to have a culture that commands a high degree of respect and congeniality in interactions amongst members of Council, and between members of Council, the public, and staff. Staff will continue to monitor costs associated with contracted or “one-off” Integrity Commissioner work and the demand for such services, and will re-evaluate the need for an on-retainer Integrity Commissioner on an annual basis during operating budget preparation.

Six week/Six month provisions

The current Code of Conduct states that, “Complaints must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurring. No action will be taken on a complaint received beyond these deadlines;” The purpose of this provision is to provide a degree of fairness to the accused member. It would, for example, be unreasonable for a member to defend an indiscretion or a behavior which occurred many years before, and may be even be difficult for the member to recollect in detail; memories fade, records and notes are destroyed or lost, and there should be a certain onus and duty upon the complainant to come forward with complaints as immediately as possible. This clause also limits the ability of complainants to submit complaints opportunistically (for example, leading up to a municipal election), rather than immediately or shortly after the complainant becomes aware of the alleged violation.

Following the Winter 2015 Code of Conduct Investigation, some members of the public expressed that they believe it is unreasonable for an average resident to be aware of the six week/six month time lines, and that this clause could potentially allow members to evade penalties based on what some see as a ‘technicality’. The six week/six month provision is common among comparably-sized municipalities to Ajax including for example, Richmond Hill and Barrie. Similarly, the *Municipal Conflict of Interest Act* requires complainants to apply to a judge regarding an alleged violation of the Act within 6 weeks of becoming aware of the contravention. Such a limitation is in fact quite common.

When asked to specifically address the validity and fairness of this provision, the Integrity Commissioner felt that it is an important provision that should remain within the Code as is. Staff are in agreement with this position and are recommending that this provision remain unchanged.

FINANCIAL IMPLICATIONS:

There are no financial implications directly associated with this Code of Conduct update.

COMMUNICATION ISSUES:

Though not legislatively required, staff believe that it is appropriate to hold a public meeting on the revised Code given the scope of the changes being recommended. Pending GGC approval, a public meeting will be scheduled for the October 26th Council meeting.

CONCLUSION:

Ajax’s strong Council Code of Conduct, and willingness to continually review and update it to remain in line with industry best practices, demonstrates the Town’s commitment to a high standard of ethical and interpersonal conduct in the public service. The changes recommended in the proposed bylaw support the town’s efforts to keep pace with the ever-growing demand for accountability, transparency and good governance.

ATTACHMENTS:

ATT-1: By-law xx-2015 - New Council Code of Conduct (Covering By-law)

ATT-2: REVISED Council Code of Conduct

ATT-3: Code of Conduct Complaint Procedure

ATT-4: Code of Conduct Complaint Form

Nicole Wellsbury – Manager of Legislative Services/Deputy Clerk

Martin de Rond – Director of Legislative and Information Services/Clerk

THE CORPORATION OF THE TOWN OF AJAX

BY-LAW NUMBER xx-2015

Being a By-law to establish a Code of Conduct for Members of Council

WHEREAS the *Municipal Act, 2001* authorizes municipalities to establish a Code of Conduct for Members of Council;

AND WHEREAS the establishment of a Code of Conduct for Members of Council is consistent with the principles of transparent and accountable local government;

NOW THEREFORE, the Council of the Corporation of the Town of Ajax enacts as follows:

1. That the attached Appendices to Bylaw xx-2015 form part of this by-law;
2. That the attached Appendices to Bylaw xx-2015 be commonly referred to as the "Council Member Code of Conduct";
3. That the Council Code of Conduct be reviewed at least every five years, with such review to include a written report providing a review of best practices among Ontario municipalities and recommending any changes, if necessary, to the Ajax Council Code of Conduct. Should substantive changes be recommended, a public meeting will be scheduled to invite comment on the entire Code of Conduct prior to passing thereof.
4. That the Clerk maintain a comprehensive record of all formal complaints submitted with respect to the Council Code of Conduct, and the details and decisions associated with each complaint.
 - a. In rendering any judgment or decision with respect to a Code of Conduct complaint or violation, the Clerk, Council and the Integrity Commissioner (where applicable) shall consult the comprehensive record of formal complaints and decisions rendered with a view to maintaining consistency in the application of the Code.
5. That By-law 90-2013 be rescinded; and
6. That this by-law come into force and take effect immediately upon the final passing thereof.

READ a first and second time **this xx day of xx, 2015**

READ a third and time and passed **this xx day of xx, 2015.**

Mayor

D-Clerk



**CODE OF CONDUCT
FOR MEMBERS OF COUNCIL
TOWN OF AJAX**

**CODE OF CONDUCT
FOR MEMBERS OF COUNCIL
TOWN OF AJAX**

Contents

I. PREAMBLE	3
II. STATUTORY PROVISIONS REGARDING CONDUCT	3
III. DEFINITIONS	3
IV. APPLICATION	4
V. COMMUNICATIONS AND MEDIA RELATIONS	4
VI. CONFIDENTIAL INFORMATION	4
VII. GIFTS AND BENEFITS	5
VIII. CONDUCT RESPECTING STAFF	6
IX. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES	6
X. ELECTION CAMPAIGN WORK	6
XI. IMPROPER USE OF INFLUENCE	6
XII. DISCREDITABLE CONDUCT	7
XIII. BUSINESS RELATIONS	7
XIV. CONDUCT REGARDING CURRENT & PROSPECTIVE EMPLOYMENT	7
XV. REPRISALS AND OBSTRUCTION	7
XVI. FAILURE TO ADHERE TO TOWN BY-LAWS, POLICIES AND PROCEDURES	8
XVII. COMPLIANCE, ENFORCEMENT AND PENALTIES	8
XVIII. COMPLAINT TIMING AND PROTOCOL	8

I. PREAMBLE

The *Code of Conduct* for Council serves as a guide to Members of Council in the individual conduct of their official duties, helping to ensure that the Members share a common basis for acceptable conduct. It also serves to protect the public interest and encourage high ethical standards among the Members. The Code represents general standards; it supplements, but does not replace Members' roles, responsibilities, actions, and behaviors required by various statutes, by-laws and policies. The Code does not replace personal values or ethics held by individual Members.

The *Code of Conduct* identifies the public's expectations of the Members and establishes guidelines for appropriate behavior. The key principles that underlie the *Code of Conduct* are as follows:

1. Members shall serve and be seen to serve their constituents in a conscientious and diligent manner;
2. Members shall perform their functions with integrity, accountability, and transparency, avoiding the improper use of the influence of their office, and conflicts of interest, both real and apparent;
3. Members shall perform their duties of office in a manner that promotes public confidence and will bear close public scrutiny; and
4. Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, Town Council, or other regulatory authorities.

II. STATUTORY PROVISIONS REGARDING CONDUCT

The *Code of Conduct* is supplemental to the existing statutes governing the conduct of Members, including, but not limited to, the following:

1. *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
2. *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended;
3. *Municipal Elections Act, 1996*, S.O. 1996, c. 32, as amended;
4. *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended; and
5. The *Criminal Code of Canada*, R.S.C., 1985, c. C-46, as amended.

III. DEFINITIONS

In the *Code of Conduct*:

“confidential” means:

- (a) Information in the possession of, or received in confidence by the Town, that the Town is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*;

- (b) A matter that has been debated or discussed at a meeting of council closed to the public, unless the matter is subsequently discussed in Open Council, or it is authorized to be released by Council;
- (c) Reports of consultants, draft documents and internal communications, which, if disclosed may prejudice the reputation of the Town, its officers and employees, or its effective operation; and
- (d) Information concerning litigation, negotiation, or personnel matters.

“**employee**” means a person employed by the Town of Ajax, including those on a personal services contract and volunteers, but does not include Members.

“**family member**” means:

- (a) spouse, including but not limited to common-law spouse and same-sex partner;
- (b) child, mother, father, sibling, grandchild, grandparent, aunt, uncle, niece or nephew;
- (c) parent-in-law or sibling-in-law;
- (d) step-parent, step-sibling, or step-child;
- (e) parent or child in a relationship where the role of the parent has been assumed; or
- (f) any person who lives with the Member on a permanent basis.

The terms “**child**”, “**parent**”, and “**spouse**” shall have the same meanings as in the *Municipal Conflict of Interest Act*.

IV. APPLICATION

This *Code of Conduct* applies to all members of Council, including the Mayor.

V. COMMUNICATIONS AND MEDIA RELATIONS

Members will show respect for Council’s decision-making process, accurately communicate the decisions of Council, even if they disagree with the decision of Council, and acknowledge that information related to decisions and resolutions of Council will normally be communicated to the community by the Council as a whole, or the Mayor as Head of Council, or his or her designate.

VI. CONFIDENTIAL INFORMATION

Members have access to confidential information by virtue of their position with the Town of Ajax.

No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law, or authorized by Council to do so;

No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.

No Member shall disclose the content of a matter that has been discussed at or the substance of deliberations of an in-camera meeting, except for content that has been authorized by Council to be released to the public;

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

VII. GIFTS AND BENEFITS

In order to preserve the image and integrity of the Town of Ajax, business gifts to Members are discouraged. The Town recognizes that moderate hospitality is an accepted courtesy of a business relationship. However, Members should not accept any gift, benefit, service, entertainment or hospitality which could be seen to compromise their decision on a matter or create any obligation or special consideration by an individual, group or organization.

There will be no solicitation of gifts, benefits, services or hospitality in recognition of the fulfillment of the Member's official duties.

If the refusal of any gift or act of hospitality will strain the Town's business relationship, the Mayor or Chief Administrative Officer may accept it on behalf of the municipality with the appropriate acknowledgment.

Generally, the Mayor or Chief Administrative Officer will be the official recipient of those gifts afforded to the Town for ceremonial, symbolic, protocol or official business purposes. Members will turn over such a gift to the Mayor or Chief Administrative Officer. Wherever possible, ceremonial, symbolic, protocol or official business gifts should be presented at a meeting of Council.

This section does not preclude Members from accepting:

- (a) Token gifts, souvenirs, mementos, or hospitality received in recognition for service on a committee, for speaking at an event, or for representing the Town at an event;
- (b) Political contributions that are otherwise offered, accepted, and reported in accordance with the *Municipal Elections Act* or other applicable law;
- (c) Food and beverages at meetings, banquets, receptions, ceremonies, or similar events;
- (d) Food, lodging, transportation, entertainment provided by other levels of government, by other local governments, or by local government boards or commissions;
- (e) A stipend from a board or commission that the Councillor serves on as a result of an appointment by Council;
- (f) Reimbursement of reasonable expenses incurred in the performance of their office, and the performance of activities connected with municipal associations;
- (g) Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office; or
- (h) Services provided without compensation by persons volunteering their time for an election campaign.

Members will be required to exercise their personal judgment of the provisions within this section.

VIII. CONDUCT RESPECTING STAFF

Members are elected legislators and representatives of their constituents. Staff are ultimately accountable to the Chief Administrative Officer, and are responsible for implementing the decisions of Council, and ensuring the efficient and effective operation of municipal services;

Members are expected at all times to treat staff with respect, professionalism and courtesy. Members who contact staff shall ensure that their request is within the employee's realm of responsibility, approved work plan, or available resources.

Members and staff will work cooperatively based on shared values of honesty, trust, mutual respect, and leadership for continuous improvement;

Members shall be respectful of the fact that staff are charged with making recommendations that reflect their professional expertise and corporate perspective without undue influence from any individual Member or group of Members.

IX. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES

No Member shall use for personal purposes, or permit the use of, Town property, facilities, equipment, supplies, services, staff or other resources (for example, Town-owned materials, websites, Council transportation delivery services and Members of Council expense budgets) for activities other than the business of the Town.

Nor should any Member obtain financial gain from the use or sale of Town-developed intellectual property, computer programs, technical innovations, or other items capable of being patented. All such property remains the exclusive property of the Town.

No Member shall use information gained in the execution of his or her duties that is not available to the general public for any purpose other than his or her official duties.

X. ELECTION CAMPAIGN WORK

Town property and resources, including facilities, purchasing provisions, equipment, supplies, and services will not be used for any election campaign activities.

No Member shall use the services of persons for campaign related activities during hours in which those persons receive any compensation from the Town.

All Members are expected to comply with the *Municipal Elections Act*, 1996, and the Town of Ajax Corporate Operating Procedure 076, "Use of Corporate Resources for Election Purposes".

XI. IMPROPER USE OF INFLUENCE

No Member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Examples of prohibited conduct include the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, a family member, or associate (business or otherwise). This would include attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a Member's supposed influence within Council in return for present actions or inaction.

For the purposes of this section, "private advantage" does not include a matter:

- (a) That is of general application;
- (b) That affects a Member or her/his family member or associate as one of a broad class of persons; or
- (c) That concerns the remuneration or benefits of a Member as authorized by Council.

XII. DISCREDITABLE CONDUCT

As a representative of the Town, every Member has the duty and responsibility to treat members of the public, one another and staff, appropriately and without abuse, bullying, or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.

A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member, any member of staff, or any member of the public. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.

During Council and Standing Committee meetings, Members shall conduct themselves with decorum and in accordance with the Town's Procedural By-law.

XIII. BUSINESS RELATIONS

No Member shall act as a paid agent before Council, its committees, or any agency, board or commission of the Town, except in compliance with the terms of the *Municipal Conflict of Interest Act*.

A Member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

XIV. CONDUCT REGARDING CURRENT & PROSPECTIVE EMPLOYMENT

No Member shall allow the prospect of his or her future employment by a person or entity to influence the performance of his or her duties to the Town.

XV. REPRISALS AND OBSTRUCTION

Members should respect the integrity of the *Code of Conduct* and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone providing information to the Integrity Commissioner is prohibited.

No Member shall obstruct the Integrity Commissioner in the carrying out of his or her responsibilities by, for example, destroying documents or erasing electronic communications.

XVI. FAILURE TO ADHERE TO TOWN BY-LAWS, POLICIES AND PROCEDURES

Members shall encourage public respect for, and are required to obey the spirit and intent of, all Town by-laws, policies and procedures.

XVII. COMPLIANCE, ENFORCEMENT AND PENALTIES

All Members shall be aware of and comply with this Code.

Members are accountable to the public through the election process. Between elections, they may become disqualified and lose their seat if convicted of an offence under the *Criminal Code of Canada*, or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*, or if convicted of a corrupt practice under the *Municipal Elections Act*.

In addition, subsection 223.4 (5) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes Council to impose either of two penalties on a member of Council following a report by the Integrity Commissioner that, in his or her opinion, the Member has contravened the Code of Conduct:

1. A reprimand; or
2. Suspension of the remuneration paid to the Member in respect of his or her services as a member of council for a period up to 90 days.

XVIII. COMPLAINT TIMING AND PROTOCOL

Any individual, including members of the public, town employees, and Members who has reasonable grounds to believe that a Member has breached a provision of the Code, may proceed with a complaint.

Complaints must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurring.

The *Code of Conduct Complaint Protocol for Members of Council* is available at the Town's offices and on its website.



**TOWN OF AJAX COUNCIL CODE OF CONDUCT:
COMPLAINT PROCEDURE**

1. Preamble

Any individual, including members of the public, Town employees, and Members who has reasonable grounds to believe that a Member has breached a provision of the Code, may proceed with a complaint. Complaints must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurring. No action will be taken on a complaint received beyond these deadlines.

Complainants are strongly encouraged to initially pursue the informal complaint process set out in the section below as a means of stopping and remedying a behavior or activity that is prohibited by the Code of Conduct. However, a complainant does not have to pursue the informal complaint process section prior to pursuing the formal complaint process.

2. Procedure – Informal Complaint

Any individual who has identified or witnessed behavior or activity by a Member that appears to be in contravention of the Code may address their concerns in the following manner:

- i. Advise the Member that their behavior or activity appears to contravene the Code;
- ii. Encourage the Member to stop the prohibited behavior or activity;
- iii. If applicable, confirm to the Member your satisfaction or dissatisfaction with the response received to the concern identified;
- iv. Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information including steps taken to resolve the matter;
- v. If not satisfied with the response received through the informal process, an individual may proceed with a formal complaint through the Town Clerk as outlined in the following section.

3. Procedure – Formal Complaint

Any individual who has identified or witnessed behavior or activity by a Member that appears to be in contravention of the Code may address their concerns through the following formal complaint procedure:

- i. All formal complaints must be made using the Town's Complaints Form and shall be dated and signed by the complainant, and filed with the Town Clerk;
- ii. The complainant must include an explanation as to why the issue raised may be a contravention of the Code and any evidence in support of the allegation must be included with the Complaints Form. Any witnesses in support of the allegation must be identified on the Form;
- iii. The Complaint Form must identify the name of the Member alleged to have breached the Code, the section(s) of the Code allegedly contravened, the date,

- time, and location of the alleged contravention and any other information as required on the Form;
- iv. Upon receipt of a formal complaint, the Clerk shall assess the complaint to determine whether (a) it can be resolved without the engagement of an integrity commissioner, and/or (b) whether the complaint violates another piece of legislation and should be dealt with outside of the Code; if neither applies, the Clerk shall arrange for the engagement of an integrity commissioner to handle the complaint;
 - v. If upon review, the Clerk is of the opinion that the complaint is frivolous, vexatious or not made in good faith, the Clerk will not proceed with engaging an Integrity Commissioner, and shall communicate this position in writing to the complainant and the Member identified on the Complaint Form.

4. Response to Complaints outside of jurisdiction

If the complaint received by the Clerk is deemed not to be a complaint with respect to non-compliance with the Code, the Clerk shall advise the complainant in writing as follows:

- i. Criminal Matter – if the complaint is an allegation of a criminal nature consistent with the Criminal Code of Canada, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;
- ii. Municipal Conflict of Interest – If the complaint is an allegation with respect to matters under the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with their own legal counsel;
- iii. Municipal Freedom of Information and Protection of Privacy – if the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the Clerk shall have the matter reviewed under that Act;
- iv. Other – if the matter is covered by other policies or legislation, the complainant will be advised and directed to proceed in a manner as considered appropriate by the Clerk.

5. Procedure – Complaints to be handled by Integrity Commissioner

Should the Clerk determine that a complaint requires engagement of an Integrity Commissioner, the following process shall be followed:

- i. The Clerk shall engage a qualified and reputable integrity commissioner of his/her choosing, and refer the matter to him/her;
- ii. If upon review of the complaint, the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious, or not made in good faith, or that there are insufficient grounds for an investigation, the Integrity Commissioner will not

conduct an investigation and shall communicate this position in writing to the complainant and the member identified in the formal complaint.

- iii. If at any time, following the receipt of a formal complaint or during the investigation process, the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the member agree, efforts may be made to achieve an informal resolution.
- iv. If the Integrity Commissioner determines that a formal investigation is required, he/she shall proceed with an investigation, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under the *Public Inquiries Act*.
- v. The Integrity Commissioner will provide a copy of the complaint to the member who is the subject of the complaint, with a request that a written response to the allegation be provided to the Integrity Commissioner.
- vi. During an investigation, the Integrity Commissioner may review any submitted materials, speak to anyone, enter any Town work location relevant to the complaint, and access and examine any other documents or electronic materials necessary to complete the investigation.

6. Report and Findings

- i. The Integrity Commissioner may make interim reports to the General Government Committee if necessary. Upon completion of the investigation, the Integrity Commissioner shall present a Final report to the General Government Committee outlining the findings of the investigation, the terms of any resolution, and any recommended action including but not limited to the imposition of penalties. At this time, any member of Council, including the member who is the subject of the complaint, shall have an opportunity to address and speak to the report submitted by the Integrity Commissioner.
- ii. In the event of a violation, an Integrity Commissioner may recommend that Council impose either or both of the following two penalties specified under Sec. 223.4 (5) of the *Municipal Act*: a reprimand, and the suspension of remuneration paid for his/her services for a period up to 90 days.
- iii. Council shall have the sole authority to impose or not impose the penalties recommended by an Integrity Commissioner.

Complaint Form/Affidavit



AFFIDAVIT OF _____ [Full Name].

I, _____ [Full Name], of the City/Town, etc. of _____ [Municipality of Residence] in the Province of Ontario,

MAKE OATH AND SAY/AFFIRM:

1. I have personal knowledge of the facts as set out in this affidavit, because [*Insert reasons, e.g. I work for.... I attended a meeting at which....*]:

2. I have reasonable and probable grounds to believe that a member of the Town of Ajax Council, _____ [*specify name of member*], **has contravened section(s)** _____ [*specify sections*] **of the Code of Conduct for**

Members of Council, the particulars of which are as follows:

[*Set out the statements of fact in consecutively numbered paragraphs in the space provided, with each paragraph confined as far as possible to a particular statement of fact. If more space is required, please use the attached Schedule "A" form. If you wish to include exhibits/evidence to support this complaint, please refer to the exhibits as Exhibit "A", "B", etc. and attach them to this affidavit.*]

This affidavit is made for the purpose of requesting that this matter be reviewed and for no other purpose.

Sworn (or affirmed) before me at the

_____ [City/Town],

In the province of Ontario, on

_____ [date]

_____ [commissioner's signature]

A commissioner for taking affidavits,

Affix Commissioner's stamp here.

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)
_____ [Complainant's signature]

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

