



## **COMMITTEE OF THE WHOLE AGENDA**

**Monday, September 20, 2021, 6:00 PM**

**Council Chambers**

**2021 Division Road N**

**Kingsville, Ontario N9Y 2Y9**

**Pages**

### **A. CALL TO ORDER**

In light of the ongoing COVID-19 pandemic, this Committee of the Whole meeting is being held electronically. Members will meet via electronic participation. Members of the public can view the meeting at [www.kingsville.ca/meetings](http://www.kingsville.ca/meetings) and select the VIDEO icon.

### **B. NOMINATION AND ELECTION OF VICE CHAIR**

### **C. DISCLOSURE OF PECUNIARY INTEREST**

When a member of Council has any pecuniary interest, direct or indirect, in any matter which is the subject of consideration at this Meeting of Council (or that was the subject of consideration at the previous Meeting of Council at which the member was not in attendance), the member shall disclose the pecuniary interest and its general nature, prior to any consideration of the matter.

### **D. STAFF REPORTS**

#### **1. Albuna Townline Road South Unopened Road Allowance**

**1**

G. A. Plancke, Director of Infrastructure and Engineering

### **E. PRESENTATIONS/DELEGATIONS**

SEE: Staff Report D.1 in respect to delegations 1 through 8 both inclusive.

- 1. Solicitor Frank Ricci, representing abutting landowners of 86 Townline Road South, Leamington**
- 2. Solicitor Ryan Solcz, representing Tim and Patricia Wilson, residents of 3071 Centennial Drive, Leamington (geographic region of Kingsville)**
- 3. Ian Musgrave, 3066 Centennial Crescent, and Alison Postma, Resident, representing a group of residents residing on Centennial Crescent,**

Leamington (geographic region of Kingsville) who are members of the Lot 34 Owners Association

4. Reiner Neumann, 12 Longbeach Drive, Leamington
5. Nikolaus Lutsch, 88 Townline Road South, Leamington
6. Frank Hawkins, 3075 Centennial Crescent
7. Mike Nedzelski, 3073 Centennial Crescent

**F. CLOSED SESSION**

Pursuant to Subsection 239(2) of the *Municipal Act, 2001*, Council will enter into Closed Session to address the following items:

- i) Subsection 239(2)(f) [advice that is subject to solicitor-client privilege, including communications necessary for that purpose] RE: Albuna Townline Road;
- ii) Subsection 239(2)(b) [personal matters about an identifiable individual] RE: Kingsville Highland Games Committee--Selection of members to fill vacancies
- ii) Subsection 239(2)(b) [personal matters about an identifiable individual], being a report of J. Galea, Manager of Human Resources in regard to a municipal employee

**G. RISE FROM CLOSED SESSION**

**H. STAFF REPORTS**

1. Discussion re: Draft Proposed Procedure By-law

J. Norton, CAO

**I. COUNCIL QUESTIONS / STAFF REPLIES**

**J. ADJOURNMENT**



2021 Division Road North  
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**Date:** July 26, 2021

**To:** Committee of the Whole

**Author:** G.A. Plancke / Director of Infrastructure & Engineering

**RE:** Albuna Townline Road South Unopened Road Allowance

**Report No.:** IED 2021- 33

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## RECOMMENDED ACTION

That Council approve Bylaw 2021-76 A by-law to restrict the public use of unopened road allowances, highways, street, alleys and lanes in the Town of Kingsville and that Council provide direction to administration with respect to use the Albuna Townline South Unopened Road Allowance.

## BACKGROUND

Road Allowances are typically 66-foot (20m) strips of land either made by a Crown surveyor and shown on an original Town survey or identified in a registered plan of subdivision. Generally speaking, there are four types of road allowances:

Type	Description
Opened and Assumed	A public road.
Opened and Unassumed	Typically, a road under development and not yet owned by the municipality.
Unopened	A public strip of land reserved for the future development of a road.
Closed	The closing of a public road through the passing of a By-law. The municipality can retain the property or convey it to abutting property owners.

Albuna Townline Road south of Centennial Crescent is an unopened road allowance that borders Kingsville and Leamington (See Map in Appendix A). It is 66 feet ( 20m) wide by approximately 830 feet (253m) in length and terminates at Lake Erie. The property steeply declines as it approaches the water with an abrupt 15-foot (4.5m) drop at the lake. A majority of the road allowance is unmaintained and exists in a naturalized state.

In 1988, the Township of Gosfield South (Kingsville) entered into an agreement with three (3) property owners in the Township of Mersea (Leamington), granting them a right-of-way along the first 332.1 feet (101m) of the unopened road allowance. They constructed a paved laneway, which they use as an access point for their homes. Provisions within the agreement specify that these property owners must maintain this portion of the right-of-way at their own expense.

Several residents (Referenced as Lot 34 Owners) in the nearby subdivision own a 1/37<sup>th</sup> share of vacant waterfront property in the vicinity of the unopened road allowance. Included within the purchase agreement for the undivided 1/37 interest in Lot 34, is an easement to access the land through an easement off Centennial Drive. However, these residents have been using the road allowance as the primary access to their property. (See attached Map in Appendix A).

Recently, these two parties have disagreed on access rights to use the Town-owned unopened road allowance. Kingsville residents have brought their concerns to administration and are requesting that Town Council grant access.

## **DISCUSSION**

Generally speaking, the public has right of access to, over, and along unopened road allowances. However, this right of access does not carry with it the right to make improvements or alterations to the land without consent from the Corporation. Some municipalities have adopted by-laws limiting the modification of unimproved unopened road allowances to minimize liability claims and demands that such unopened road allowances be improved and maintained at the expense of general taxpayers.

In this case, both parties have made alterations within this road allowance without permission from the Town. In fact, this dispute escalated when trees were fallen by one party to block a rudimentary walking path constructed within the road allowance by the other party. The Town has many unmaintained unopened road allowances and properties. To discourage residents from making alterations without consent from the Town, administration is recommending that Council place restrictions on their use by the public. (Appendix B).

Concerning the request from the owners of Lot 34 to use this road allowance to access their property, several things should be considered:

- Lot 34 does not directly abut the road allowance, meaning the owners have to travel over private property to access their beach lot.
- The Town is under no legal obligation to provide beach access to the water because there is a readily established alternative. In this case, the owners of Lot 34 have deeded access through an easement off Centennial Drive (Appendix A). While it may be costly to establish an entry point through this easement, case law states that the Town is only obligated to allow public access if it is impossible to build alternate access at another location.

- There are liability concerns if the Town implicitly or explicitly allows the use of the unopened road allowance by the Centennial Residents. The property is overgrown, and there are significant grade changes as it approaches Lake Erie. O.Reg 413/12: Integrated Accessibility Standards states that beach access routes should be constructed with edge protection and have a maximum clear running slope of 1:10 (Attached in Appendix C). The pathway constructed by the owners of Lot 34 does not meet any of these standards. As such, there are legitimate risks associated with allowing residents to use this property in its current unmaintained state.

#### Options for Councils Consideration:

##### 1) Open the road allowance

Open the road allowance and allow public access to the beachfront. This would require the construction of a switchback trail that meanders down the embankment. Allowing the public to travel over the right-of-way granted to the Leamington residents could nullify the maintenance provisions within the agreement. Meaning the Town could become responsible for upkeep of the entire road allowance, in addition to the trail.

##### 2) Close the road allowance

An unopened road allowance, such as that on Albuna Townline Road S, as defined by the Municipal Act, is technically a 'Highway.' A highway under the municipality's jurisdiction, and Council has the legal authority to close it if there is no present or anticipated future public use. The Town could convey the land to abutting property owners or retain ownership of the property and restrict the public's common law right of passage over it.

##### 3) Easement Agreement

The Town could enter into an agreement with the residents who own Lot 34, granting them a right-of-way through the road allowance to the beach. The contract should include provisions indemnifying the Town from personal injury and/or property damage claims. Furthermore, the applicants should be required to acknowledge in writing that the Town assumes no responsibility whatsoever to construct and/or maintain that portion of the road allowance.

Lot 34 owners would have to travel through the existing right-of-way granted to the Leamington properties. This may nullify the original agreement between the Leamington residents and Kingsville, and absolve them of their responsibility to maintain that portion of the road allowance.

Council should also be reminded that there is a geographic gap between the end of the unopened road allowance and Lot 34. The road allowance does not provide direct

access to the property, making it necessary for residents to cross private property to access their beach lot.

## LINK TO STRATEGIC PLAN

To promote a safe community.

## Link to Council 2021-2022 Priorities

☒ No direct link to Council priorities

## FINANCIAL CONSIDERATIONS

Options	Estimated Costs	Risk and Liability
Open	<ul style="list-style-type: none"><li>- \$461,750.00 quote provided for the construction of a switchback trail meeting AODA standards.</li><li>- On-going operational costs for maintenance of the pathway and property.</li></ul>	Highest
Close	<ul style="list-style-type: none"><li>- \$250.00 for installation of no trespassing signs.</li></ul>	Lowest
Agreement	<ul style="list-style-type: none"><li>- Costs for surveying the property and drafting the agreement to be paid for by the requestors.</li><li>- Potential operational costs associated with maintaining the laneway should the existing agreement with the Leamington residents become invalid.</li></ul>	Medium

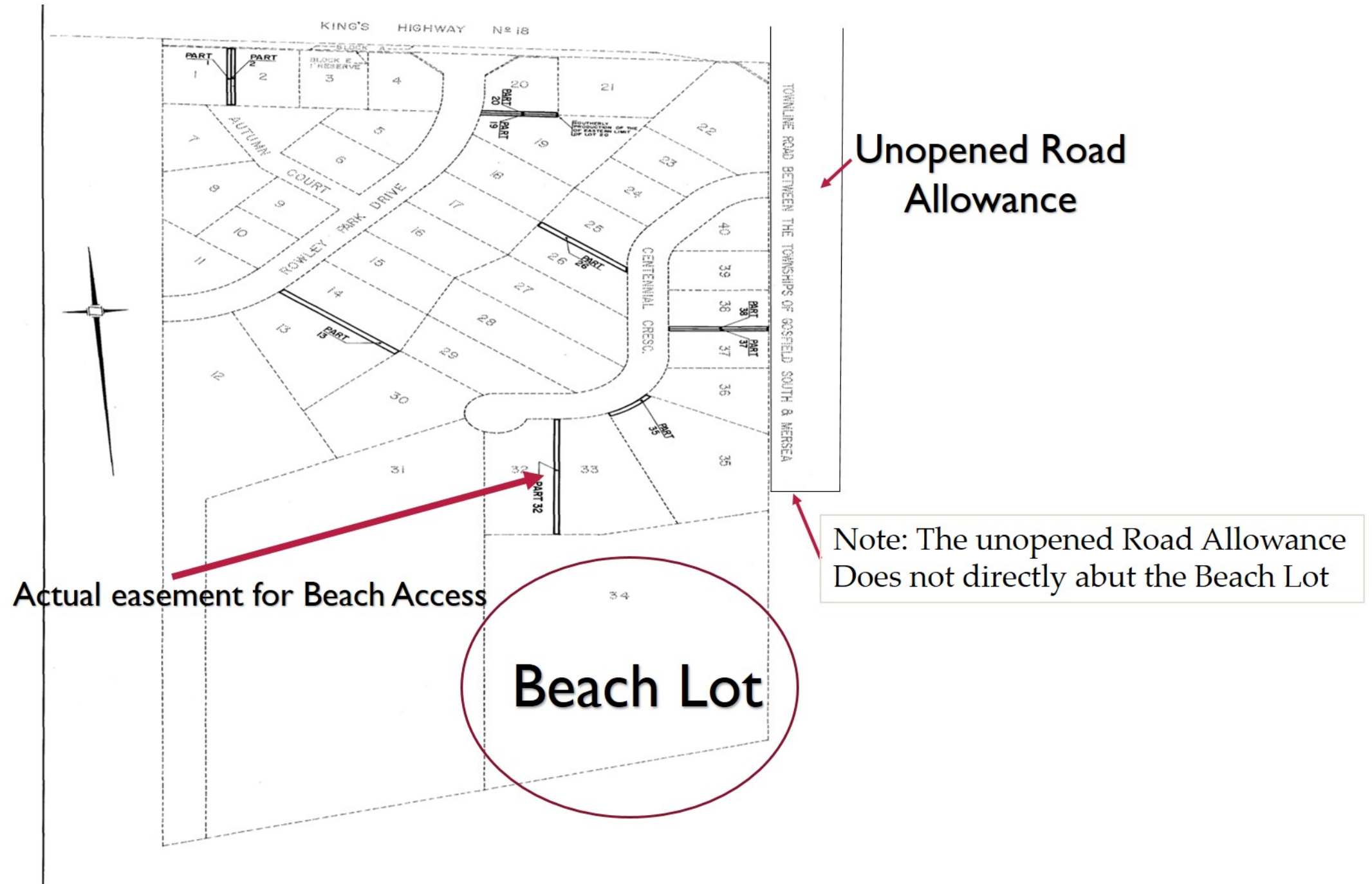
## CONSULTATIONS

Town Solicitor  
Infrastructure and Engineering Department

Respectfully Submitted,

*G.A. Plancke*

G.A. Plancke, Civil Eng. Tech (Env.)  
Director of Municipal Services



# THE CORPORATION OF THE TOWN OF KINGSVILLE

## BY-LAW 76 - 2021

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**Being a By-law to restrict the public's use of unopened road allowances, highways, streets, alleys and lanes in the Town of Kingsville**

**WHEREAS** sections 8 and 9 of the *Municipal Act, 2001* S.O. 2001 c. 25, as amended, (the "Act") provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority conferred upon a municipality to govern its affairs as it considers appropriate;

**AND WHEREAS** the Corporation is the registered owner of a number of unopened road allowances, highways, streets, alleys and lanes by virtue of the registration of numerous old registered plans of division;

**AND WHEREAS** Section 35 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended grants a municipality the authority to pass a by-law removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by an owner of land abutting a highway;

**AND WHEREAS** it is deemed expedient to restrict the public's use of its unopened road allowances, highways, streets, alleys and lanes as set out in this by-law;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:**

1. In this by-law

- (1) "Corporation" shall mean the Corporation of the Town of Kingsville;
- (2) "Council" shall mean the Council of the Corporation
- (3) "highway" shall include all road allowances made by the Crown Surveyors, and all road allowances, highways, streets, alleys and lanes shown on any registered plan of subdivision within the Town of Kingsville;
- (4) "motorized vehicle" shall include any vehicle that is powered by anything other than human power, and without limitation shall include any motor vehicle, motorcycle, motorbike, all terrain vehicle, scooter, snowmobile, and any other similar vehicle;
- (5) "Town of Kingsville" shall mean the geographic area of the Town of Kingsville

2. No person shall enter onto or use any unopened or unassumed highway within the Town of Kingsville with a motorized vehicle of an kind unless;

- (1) That person has obtained the express written permission of Council; and
- (2) That person has entered into a signed written agreement with the Corporation regarding the terms and conditions required by Council for the use of the unopened or unassumed highway as identified therein, the costs of which agreement and any other costs; expenses or fees set out in the agreement shall be borne by the person seeking permission from Council.



(3) No person shall make any alterations or changes to any unopened or unassumed highway, and without limiting the generality of the foregoing no person shall:

(1) Remove or clear any trees or vegetation from;

(2) Plan any trees or vegetation on;

(3) Remove or grade any obstruction, natural or otherwise, on;

(4) Place any obstruction of any kind on;

(5) Place any dirt, fill, matter or material of any kind whatsoever on;

(6) Grade the surface of;

(7) Construct any items on; or

(8) Make any alterations or changes to permit the passage of pedestrians or motorized vehicles on;

any unopened or unassumed highway within the Town of Kingsville unless that person has entered into a signed written agreement with the Corporation regarding the terms and conditions required by Council for the use of the unopened or unassumed highway as identified therein, the costs of which agreement and any other costs, expenses or fees set out in the agreement shall be borne by the person seeking permission from Council.

3. Any person who contravenes any of the provision of this By-law is guilty of an offence, and is liable, upon conviction, to a fine of not more than \$5,000.00 for each offence, which is recoverable pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c.33, as amended.

4. This By-Law comes into force and takes effect on the day of the final passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this xx day of xx, 2021.**

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**MAYOR, Nelson Santos**

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**ACTING CLERK, Sandra Kitchen**

### AODA: TECHNICAL REQUIREMENTS FOR BEACH ACCESS ROUTES

#### Technical requirements for beach access routes, general

**80.10** Obligated organizations shall ensure that beach access routes that they construct or redevelop, and that they intend to maintain, meet the following technical requirements:

1. A beach access route must have a minimum clear width of 1,000 mm.
2. A beach access route must have a clear height that provides a minimum head room clearance of 2,100 mm above the beach access route.
3. The surface of a beach access route must be firm and stable.
4. Where the surface area of a beach access route is constructed, that is where the surface area is not natural, the surface area must meet the following requirements:
  - i. The maximum cross slope of the beach access route must be no more than 1:50.
  - ii. The surface area must have a 1:2 bevel at changes in level between 6 mm and 13 mm.
  - iii. The surface area must have a maximum running slope of 1:10 at changes in level between 14 mm and 200 mm.
  - iv. The surface area must have a ramp that meets the requirements of section 80.13 where there are changes in level greater than 200 mm.
  - v. Any openings in the surface of the beach access route must not allow passage of an object with a diameter of more than 20 mm.
  - vi. Any elongated openings in the beach access route must be oriented approximately perpendicular to the direction of travel.
5. The maximum cross slope of a beach access route where the surface is not constructed must be the minimum slope required for drainage.
6. The maximum running slope of a beach access route is 1:10.
7. The entrance to a beach access route must have a minimum clear opening of 1,000 mm, whether the entrance includes a gate, bollard or other entrance design.



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To: Committee of the Whole  
Author: J. Norton, CAO  
Date: September 15, 2021  
Subject: Draft Procedure By-law

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See attached Draft Procedure By-law for discussion.

/sjk

Appendix “A” – Procedure By-law

1. Definitions

1.1. For the purpose of this by-law the following definitions are applicable:

- a) “**Act**” means the *Municipal Act, 2001*, S.O. 2001 c.25, as may be amended from time to time;
- b) “**CAO**” means the Chief Administrative Officer of the Municipality, or their designate;
- c) “**Chair**” means the Mayor, the Deputy Mayor or other Member who may be presiding over a Meeting in accordance with this By-law, as the case may be;
- d) “**Clerk**” means the Clerk of the Municipality as appointed by Council, or their designate;
- e) “**Council**” means the Council of the Municipality;
- f) “**Council Chambers**” means the Council Chambers at the offices of the Municipality located at 2021 Division Road North, Kingsville, Ontario;
- g) “**Committee**” means any advisory or other committee, including Committee of the Whole, which is established by Council to deal with specific matters that Council deems appropriate;
- h) “**Committee of the Whole**” means an advisory committee comprised of all Members of Council that directly reports, and makes recommendations, to Council;
- i) “**Electronic Participation**” means participation in a Meeting by means of telecommunication instruments including but not limited to telephone and video conferencing;
- j) “**Emergency**” means circumstances which, in the opinion of the Mayor, are considered to be of an urgent or time sensitive nature, and which may affect the health, safety or physical security of residents of the Municipality;
- k) “**Holiday**” means:

New Year’s Day	Labour Day
Family Day	Thanksgiving Day
Good Friday	Remembrance Day
Easter Monday	December 24
Victoria Day	Christmas Day
Canada Day	Boxing Day
Civic Holiday	December 31
- l) “**Mayor**” means the Head of Council and the Chief Executive Officer of the Municipality.
- m) “**Meeting**” unless otherwise specified, means any Regular, Special or other meeting of a Council or Committee or either of them where:
  - i. A quorum of Members is present, and
  - ii. Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the Council, or Committee;
- n) “**Member**” means a member of Council or a Committee, as the case may be;
- o) “**Municipality**” means The Corporation of the Town of Kingsville.
- p) “**Notice of Motion**” means advance written notice to Members regarding a matter on which Council will be asked to take a position.

- q) **“Quorum”** means, subject to the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M. 50, as amended, a majority of the whole number of the Members;
- r) **“Point of Order”** means a motion drawing attention to an infraction of this By-law;
- s) **“Point of Privilege”** means a matter that a Member considers to impugn his or her integrity or the integrity of Council;
- t) **“Rules of Order”** means the rules of order as set out starting at Section 8 of this By-law;
- u) **“Staff”** means an officer or employee of the Municipality;

## 2. General Provisions

- 2.1. The procedures contained in this By-law shall be observed in all proceedings of Council and shall be the procedures for the dispatch of business by Council and, unless specifically provided, with the necessary modifications shall apply to all meetings of Committees.
- 2.2. Issues arising in proceedings of Council not specifically governed by the provisions of this By-law shall be resolved by resort to Robert’s Rules of Order, as revised from time to time.
- 2.3. Except as otherwise provided for in this By-law, any provision in this By-law which is not mandatory under the *Act* or any statute may be suspended by a two-thirds vote of Council or Committee, as the case may be.
- 2.4. Unless a contrary intention appears in this By-law, words in the singular include the plural.

## 3. Meetings

### Inaugural Meeting

- 3.1. The inaugural meeting of the Council after a regular municipal election shall be held on the 1st Monday in December at 6:00 p.m.

### Regular Meetings

- 3.2. Regular Meetings of Council shall be held at 6:00 p.m. on the second and fourth Mondays of each month. Only one Regular Meeting shall be scheduled in the months of December, July and August.
- 3.3. When the day for a Regular Meeting of Council is a Holiday, the Council shall, unless the Council decides otherwise, meet at the same hour on the next following day which is not a Holiday.

### Special Meetings

- 3.4. The Mayor may, at any time, call a Special Meeting.
- 3.5. Upon receipt of a petition of a majority of Members of Council by the Clerk, the Clerk shall call a Special Meeting for the purpose and at the time and date mentioned in the petition.
- 3.6. The Special Meeting shall be held no sooner than 48 hours following the calling of the Meeting by the Mayor or the Clerk, as the case may be.

### Emergency Meetings

- 3.7. Notwithstanding any other provision in this By-law, a Meeting may be called in an Emergency by the Mayor, without advanced written notice. The Clerk will notify Members, the CAO, applicable staff and the public about the Meeting as soon as possible, using any method that is reasonable in the circumstances.

- 3.8. The notification of the Emergency Meeting shall include a description of the business to be transacted at the meeting. Lack of receipt of the notice of the Emergency Meeting shall not affect the validity of the meeting or any action taken at the meeting.
- 3.9. Since the public may not have been given adequate notice of the Emergency Meeting, given the emergent nature of the reason for the meeting, the Clerk shall immediately after the meeting, or as soon as practicable, notify the public of the reasons for the meeting in as much as the reasons and content of the meeting can be disclosed.

### **Place of Meetings**

- 3.10. Unless otherwise specified in a notice of meeting, or in the case of an Emergency, Meetings shall be held at the Council Chambers.

### **Notice of Meetings**

- 3.11. Notice of Meetings shall be given in the following manner:
- a) posted on the Municipality's website;
  - b) posted on the Municipality's social media page(s);
  - c) posted on the electronic sign and/or the bulletin board at Town Hall; and
  - d) electronically distributed to those members of the public that have subscribed on the Municipality's website to receive notifications of council matters.
- 3.12. On or before December 31 each year, a listing of all Regular Meetings of Council for the following year shall be posted for public viewing in accordance with paragraph 3.11.
- 3.13. In the case of a Special Meeting, the meeting notice shall include a description of the business to be transacted at the meeting and shall be made available for public viewing in accordance with paragraph 3.11 as soon as possible after the calling of the Special Meeting, and before the holding of the Special Meeting.
- 3.14. In the case of a Meeting conducted electronically, the meeting notice shall include sufficient information as to provide the public with means to electronically observe the open session part of the Meeting.

### **Open and Closed Meetings, Confidential Information**

- 3.15. All Meetings shall be open to the public.
- 3.16. No Member shall divulge any information to any person that pertains to any aspect of any discussion or direction of Council that was given or provided at a Closed Meeting of Council.
- 3.17. Notwithstanding paragraph 3.15, a meeting or part of a meeting may be closed to the public only in accordance with the provisions of the *Act*.
- 3.18. Before all or part of a meeting is closed to the public, the Council, Local Board or Committee shall state by resolution:
- a) the fact of the holding of the closed meeting, and
  - b) the general nature of the matter to be considered at the closed meeting;
- 3.19. Voting may take place in Closed Session only if the vote is for:
- a) A procedural matter; or
  - b) For giving directions or instructions to officers, employees, or agents of the Municipality or Committee.

### **Presiding Over Meetings**

- 3.20. The Mayor shall preside as Chair at all Meetings, however, when the Mayor is delayed, absent, refuses or is unable to act, or the office is vacant, the Deputy Mayor shall act in the place of the Mayor.

- 3.21. When both the Mayor and Deputy Mayor are absent or are unable to act, or the offices are vacant, the Members may, by resolution, appoint a Member from amongst themselves for the purpose of the Member presiding as Chair over a Meeting.
- 3.22. The duties of the Chair shall be as follows:
- a) to call the Meeting to order;
  - b) to announce the business before Council in the order in which it is to be acted upon;
  - c) when two or more Members seek to address Council, designate the Member who may speak first;
  - d) to receive and submit, in the proper manner, all motions presented by the Members;
  - e) to call upon Staff when they have recommendations or advice on a matter at issue before Council;
  - f) to put to a vote all questions which are moved and seconded, or necessarily arise in the course of the proceedings, and to announce the result;
  - g) to decline to put to a vote motions which are contrary to the procedures as set out in this By-law;
  - h) to enforce the Rules of Order and conduct of Members' behaviour which disrupts the order and decorum of the Meeting;
  - i) to call by name any Members breaching the Rules of Order thereby ordering the Member to vacate their seat;
  - j) decide questions on the Rules of Order, including Points of Order, Points of Privilege, and rulings or procedures set out in this By-law, stating reasons for the decision;
  - k) to inform the Council when necessary or when referred to for the purpose, on a Rule of Order or procedure under this By-law;
  - l) to represent and support the Council, declaring its will and implicitly obeying its decisions in all things;
  - m) to ensure that the decisions of Council are in conformity with the laws and By-laws governing the activities of the Municipality;
  - n) to adjourn the Meeting without question in the case of grave disorder; and
  - o) to expel any person for improper conduct at a Meeting, which includes, but is not limited to, conduct obstructing the deliberations or proper action of Council.

### **Call to Order and Adjournment**

- 3.23. At or after the hour fixed for holding of the Meeting, if there is a Quorum present, the Chair shall call the Meeting to order.
- 3.24. If there is no Quorum present one half hour after the time fixed for holding of the Meeting, the Clerk shall record the names of the Members present and the Meeting shall stand adjourned until the next Regular Meeting or until a Special Meeting is called.
- 3.25. Meetings shall stand adjourned at 10:00 p.m. Any business items not yet completed shall be added to the following Regular Meeting, or a Special Meeting called for that purpose.
- 3.26. Notwithstanding section 3.25, a Meeting may continue for one hour past 10:00 p.m. upon a two-thirds resolution of Council. Any continuation of the Meeting past 11:00 p.m. shall require a unanimous resolution of Council.

## **4. Electronic Participation in Meetings**

- 4.1. Notwithstanding any other provision in this By-law, a Meeting may be conducted electronically. The Clerk, in consultation with the CAO and/or Mayor, shall determine the method and technology used for a meeting in which Members meet via Electronic

Participation. Such determination shall be based on the resources available at the time, the prevailing circumstances of the Meeting, and any other factors that support the holding of an electronic meeting.

- 4.2. A Member participating in a Meeting electronically shall:
  - a) Be counted for the purposes of determining Quorum;
  - b) Log into the Meeting in advance of the start time to establish the necessary electronic connection before the Meeting is scheduled to begin;
  - c) Ensure that their camera is on, as may be applicable;
  - d) Mute their electronic device when they are not speaking;
  - e) Inform the Chair about their intention to leave the meeting either on a temporary or permanent basis; and,
  - f) Have the same voting rights as if they were participating in the meeting in person.
- 4.3. When a Meeting is “in person” (normally held at Council Chambers) a Member may make a request to participate electronically in a Meeting, subject to the following rules:
  - a) The Member must provide the request in advance to the Clerk.
  - b) A Member may not participate electronically in an “in-person” Meeting under this Section more than three times in a calendar year, without Council authorization.
  - c) The Clerk shall determine the method of Electronic Participation of the Member after considering the resources available to both the Town and the Member, and any other factors necessary to give effect to the request.
- 4.4. Members participating electronically in a Meeting closed to the public must ensure that they are participating from a location that ensures the privacy and confidentiality of the closed meeting discussion.
- 4.5. The Chair shall rule on and determine the applicable in-meeting processes as may be adapted to a Meeting with Electronic Participation, which processes shall be consistent with this By-law and in accordance with the *Act*.
- 4.6. In the case of a loss of connection, or any connection issue, which impedes the ability of a Member to participate in the Meeting in real time, provided Quorum is maintained, the Meeting will continue. The Member may attempt to reconnect to the Meeting. Any attempts by Staff to reconnect the Member will be made without causing a disruption to the Meeting. A Member who is unable to connect electronically to a Meeting will not be able to participate or vote, shall be noted in the minutes as “not present” for that portion of the Meeting in which they are unable to connect, and any vote taken during a Member’s absence shall be valid.
- 4.7. Any policies of the Town governing the recording and/or broadcasting of Council Meetings shall apply, with the necessary modifications, to Meetings conducted electronically.
- 4.8. The Clerk may, from time to time, establish or amend procedures related to Electronic Participation, provided that such procedures do not conflict with the provisions of this By-law.

## **5. Agendas and Materials**

- 5.1. The Clerk shall prepare an agenda for Meetings of Council. The Clerk’s designate shall prepare an agenda for Meetings of Committees, as may be applicable.
- 5.2. The Clerk shall prepare an agenda outlining the order of business in a form that best allows for the most efficient and effective conduct of business and which may take the following format:

Call to Order  
Land Acknowledgement



Moment of Silence and Reflection and National Anthem  
 Amendments to the Agenda  
 Disclosure of Pecuniary Interest  
 Presentations  
 Delegations  
 Matters Subject to Notice  
 Consent Agenda  
 Staff Reports  
 Business / Correspondence – Action Required  
 Notices of Motion  
 Unfinished Business and Announcements  
 Reading of By-Laws and Confirmatory Bylaws (together, unless a member of  
 Council asks for separation)  
 Adjournment

- 5.2.1 Closed Session will be scheduled at any time in the meeting deemed prudent and necessary.
- 5.3. Notwithstanding the order of business listed above, modifications to the order of business, or to the matters to be included may be affected without requiring amendments to this By-law.
- 5.4. Insofar as is practicable, agendas together with all relevant materials, shall be made available to Members on the fifth day, excluding Holidays, prior to a Meeting. In the event such day falls on a Saturday or Sunday, the day prior that is not a Saturday, Sunday or Holiday; or, in the event a Special Meeting is called within a shorter time frame, as soon as possible following the calling of the Meeting, as the case may be.
- 5.5. If a member wishes to make any additions to the Agenda, those additions shall be forwarded to the Clerk at least 7 days before the Meeting.
- 5.6. Agendas delivered to Members shall contain the recommendations of Staff following each item or group of items, as may be appropriate.
- 5.7. The CAO shall have the right to provide general advice and recommendations to Council.
- 5.8. The Senior Management Team shall have the right to advise Council with respect to their area of responsibility, including rights and obligations which may be of a professional nature (i.e. professional advice of a financial, legal, engineering, health and safety nature, etc.)

### **Consent Agenda**

- 5.9. The Clerk shall list items on the Consent Agenda, in his/her sole discretion, that he/she thinks should be listed on the agenda under the heading "Consent Agenda". For example, items listed in the "Consent Agenda" shall include Staff information reports which do not require a decision, Staff reports with recommendations which are considered minor or non-controversial, minutes of previous meetings, minutes of committees, adoption of accounts, and business correspondence.
- 5.10. If a Member wishes to speak to an item on the Consent Agenda, or wishes to amend a recommendation of any item(s) listed on the Consent Agenda, the Member shall request the item(s) be removed for subsequent consideration.
- 5.11. All of the items on the Consent Agenda which have not been removed from the Consent Agenda by a Member will be adopted by one motion for approval. The approval of this section has the same effect as if each item in this section was approved by Council separately and the Clerk shall record in the minutes that each item was approved, or received for information, as the case may be.
- 5.12. Any item(s) removed from the Consent Agenda shall then be spoken to by the requesting Member and then, subject to any amendments, the recommendation(s) shall be voted upon.

## 6. Delegations and Presentations

- 6.1. Any person, group, corporation or organization, not being a Member or Staff, that wishes to appear before Council to present general information or to make a request of Council shall submit a written request to the Clerk, in accordance with the process established by the Clerk. The request shall include the details of the matter to be presented and any material they would like distributed to Council.
- 6.2. The Clerk shall ask delegations if they wish to make a written delegation to Council instead of speaking to Council. In such an instance, the written delegation will be distributed to Council in advance of the Meeting and during the Meeting the Clerk shall verbally note to Council that written delegations have been received and indicate the names of the persons listed on the delegation. The written delegation shall be entered into the minutes without the need for a motion to receive.
- 6.3. Timelines for registration for a delegation shall be:
  - a) For an item on the agenda: Registration with the Clerk by 11am on the day of the Meeting.
  - b) For an item not listed on the agenda: Registration with the Clerk 14 days prior to the Meeting and provide in writing that which they intend to say to Council. The CAO shall determine if an administrative written or verbal report will follow the submission.
- 6.4. The Clerk, in consultation with the Mayor and CAO, may decline to grant a request to appear before Council if it is apparent that the subject matter is not suitable for discussion at a Meeting or the content is outside the jurisdiction of Council.
- 6.5. Where the Clerk anticipates the total time limit for all delegations (not including presentations) shall be 30 minutes, the Clerk may defer delegations and matters to a later Council meeting date and/or reduce the time limits allotted for speaking for each delegation. The Clerk shall consult with the Mayor and CAO before making any such decision and the Clerk shall notify Council of any such decisions at the beginning of the Meeting.
- 6.6. If a delegation has previously presented the same or similar content at a Committee of the Whole meeting, then the delegation shall not be permitted to speak at a Council meeting unless the person making the delegation has new or additional information.
- 6.7. The time limits allotted to delegations shall be strictly enforced. The Clerk shall set a timer at the commencement of the delegation's presentation. At the conclusion of the allotted time, the Clerk shall inform Council and the speaker that the time limit has been exhausted. Time limits shall be:
  - a) Items not on the agenda: 5 minutes
  - b) Items on the agenda: 5 minutes
  - c) Matters subject to notice: up to 10 minutes
  - d) Presentations: up to 20 minutes
- 6.8. Upon the completion of a delegation, Members may ask questions for clarification only. Members shall not enter into debate with the delegation. Delegations may not ask questions of Council or Staff. The total time limit for follow up questions and answers shall be 5 minutes but can be extended at the discretion of the Chair. The Clerk shall set a timer and inform Council when the time limit has been exhausted.
- 6.9. The Chair may curtail or stop any delegation and the person(s) appearing shall withdraw and may not challenge the decision of the Chair.
- 6.10. Where there are numerous delegations taking the same position on a matter, delegates are encouraged to select a spokesperson to speak on behalf of the group.
- 6.11. Delegations are not permitted to assume any unused time allocated to another delegation.
- 6.12. Delegations shall not:
  - a) Speak disrespectfully of any person.

- b) Use offensive words.
  - c) Speak on any subject other than the subject for which they have received approval to address Council.
  - d) Disobey a decision of the Chair or Council.
  - e) Enter into cross-debate with other delegations, Staff, Members, or the Chair.
- 6.13. From time to time, certain persons from partner and external organizations, other government bodies, and dignitaries, may be granted presentation status in order to inform Members of matters of considerable significance to the Town. The Mayor, CAO and Clerk shall determine who is given presentation status.

## **7. Committee of the Whole**

- 7.1. Notwithstanding the provisions in this By-law, the Chair may relax the procedural rules to allow for the efficient and effective dispatch of business by the Committee and to facilitate informal discussion as between the public, Staff and the Members, including but not limited to relaxing the rules related to delegation speaking time and registration.
- 7.2. Meetings shall be held at 6:00 p.m. in Council Chambers on the third Monday of each month. There shall be no regularly scheduled Meeting during the months of March, July, August, and December. Special Meetings shall be at the call of the Chair.
- 7.3. Meetings of Committee of the Whole shall be chaired by the Deputy Mayor.
- 7.4. Meetings will be open to the public unless closed in accordance with the provisions of the *Act*.

### **Committee Appointments**

- 7.5. The Committee of the Whole, during a Meeting closed to the public in accordance with the *Act*, shall review submissions received in response to a call for committee applications, and shall make recommendations to Council regarding appointments to Committees.
- 7.6. The Human Resources Manager will conduct reference checks as may be necessary and bring recommendations to Council.

## **8. Rules of Order**

- 8.1. At a Meeting, no person shall:
  - a) speak on any subject other than the subject in debate, or, in the case of a delegation, the issue raised in the written request to appear as a delegation;
  - b) use offensive words or derogatory language;
  - c) speak disrespectfully of any person;
  - d) address a Member or Council without permission of the Chair;
  - e) disturb a Member, Staff or member of the public by engaging in any behaviour which disrupts the order and decorum of the Meeting; or
  - f) resist the Rules of Order or disobey the decisions of the Chair on the Rules of Order or a procedure as set out in this By-law.
- 8.2. All persons in attendance at a Meeting, including Staff and Members, shall ensure that all personal digital devices are turned off or set to a silent mode during a Meeting.
- 8.3. Following the decision of the Chair, the Council, if appealed to, shall decide the question without debate and its decision shall be final. The Chair, without leaving the chair, shall ask, "Shall the decision of the Chair be sustained?" A tie or majority vote sustains the decision of the Chair. A negative vote reverses the decision of the Chair.

- 8.4. A Member may raise a Point of Privilege at any time during a Meeting. When a Point of Privilege is raised, it shall be considered and decided by the Chair without debate. When the Point of Privilege has been decided in the affirmative, and if a breach of a Member's privileges or that of the assembly has occurred, action should be taken or initiated by the Chair to resolve the situation.

## **9. Conduct of Members**

- 9.1. Without limiting the obligations of a Member to observe the Rules of Order and those obligations as set out in that Section, at a Meeting no Member shall:
- a) address a Member or Council unless through the Chair and only when recognized to do so;
  - b) interrupt the Member who has the floor except to raise a question on a Rule of Order, Point of Privilege or procedure set out in this By-law;
  - c) having committed a breach of any Rule of Order or provision of this section and being ordered to vacate by the Chair, in the absence of an apology offered to Council at the same Meeting, retake their seat, until the next Meeting.
- 9.2. Members shall act at all times in a manner that will enhance public trust and confidence in local government and shall govern themselves in accordance with:
- a) the Declaration of Office; and
  - b) the Code of Conduct for Members of Council and Members Appointed by Council as amended from time to time.
- 9.3. No Member shall be absent from Meetings for three successive months without being authorized to do so by resolution.

## **10. Motions**

### **Generally**

- 10.1. A motion must be formally seconded before the question can be put or a motion recorded in the minutes.
- 10.2. Schedule A to this By-law is a table titled "Table of Rules Relating to Motions" summarizing the ranking and characteristics of various motions.
- 10.3. When a motion is presented to Council in writing it shall be read, or, if it is an oral motion, stated by the Chair.
- 10.4. If the Chair desires to move or second a motion, the Chair shall vacate his or her seat and sections 3.20 and 3.21 shall apply, as the case may be. The Chair who stepped down to participate on an item of business, may not retake the presiding position until the item of business has been disposed of.
- 10.5. After a motion is read or stated by the Chair, it shall be deemed to be in possession of Council but may, with the permission of Council be withdrawn at any time before the question being put to a vote.
- 10.6. No Member may speak more than once to the same question without the consent of the Chair.
- 10.7. When a question is under debate, no motion shall be received except a motion as follows (requires a seconder):
- a) to refer the question (debatable);
  - b) to amend (debatable);
  - c) to defer indefinitely (debatable);
  - d) to defer to a certain time (debatable);

- e) to adjourn (not debatable); and
- f) that the vote now be taken (not debatable).

10.8. The following motions are not debatable:

- a) to adjourn;
- b) to close, limit or extend debate;
- c) to suspend any provision of this By-law in accordance with section 5; and
- d) that the vote be taken.

### **Motion to Amend**

10.9. A motion to amend:

- a) is debatable, if the motion to be amended is debatable;
- b) is amendable;
- c) shall be relevant and not contrary to the principle of the issue or motion under consideration; and
- d) shall be voted on in the reverse order in which it is moved.

10.10. Only one amendment can be presented to the main motion at one time and only one amendment can be presented to an amendment at one time, but when a sub-amendment has been disposed of, another may be introduced, and when an amendment has been decided, another may be introduced.

10.11. Notwithstanding sections 10.9 and 10.10 a “friendly” amendment may be made with the consent of the mover and seconder.

### **Motion to Postpone to a Certain Time**

10.12. A motion to postpone to a certain time is a motion requesting that consideration of a pending question be delayed to a specific day, meeting or hour or following the occurrence of a specific event. When the item is brought back for discussion, it shall be placed on the Agenda in the Unfinished Business segment of the Agenda and shall have priority over all other matters discussed in that segment.

10.13. A motion to postpone to a certain time shall:

- a) Include a fixed date for the question to come back for consideration; and
- b) Be made while the main motion or an amendment is on the floor, and takes precedence over that motion or amendment.

### **Motion to Reconsider**

10.14. A motion to reconsider is a motion that proposes to amend or cancel a previous decision of Council, whether in exact form or in substance or intent. The Clerk shall decide if the matter is in substance or intent and the decision of the Clerk shall be final.

10.15. The following motions cannot be reconsidered:

- a) to defer indefinitely;
- b) to adjourn;
- c) to recess;

- d) to suspend any provision of this By-law in accordance with section 2.3; and
  - e) to reconsider.
- 10.16. If the action approved in the original motion cannot be reversed, the motion cannot be reconsidered.
- 10.17. Subject to sections 10.18 to 9.19, after any question has been decided by Council, any Member who was present and who voted in the majority may, at the meeting in which the question was dealt with or in any subsequent meeting of Council, move for the reconsideration thereof.
- 10.18. No discussion of the main question which is proposed for reconsideration shall be allowed until the motion to reconsider has been adopted.
- 10.19. If a motion to reconsider is decided in the affirmative, reconsideration shall become the next order of business and debate on the question to be reconsidered shall proceed.
- 10.20. A motion to reconsider:
- a) is debatable;
  - b) is not amendable; and
  - c) requires a two-thirds vote of Council, regardless of the vote necessary to adopt the motion to be reconsidered.
- 10.21. Notwithstanding Paragraph 2.3 of this By-law, the rules as related to a Motion to Reconsider cannot be suspended.
- 10.22. No question upon which a Motion to Reconsider has been voted on shall be reconsidered more than once within a period of 24 months following the date that the Motion to Reconsider was voted on.
- 10.23. A motion to reconsider suspends action of the motion to which it applies until the motion to reconsider has been decided.
- 10.24. When a question is brought before a succeeding Council, it shall be deemed to be new business and not a matter of reconsideration.

## **11. Notice of Motion**

- 11.1. Notices of Motion shall:
- a) be in writing; and
  - b) include the name of the mover.
- 11.2. Notices of Motion shall be given in writing to the Clerk not later seven (7) days prior to the next regular meeting so that the matter may be included in the Council agenda package for consideration and debate at the upcoming Council Meeting.
- 11.3. Notwithstanding section 11.2, a Notice of Motion may be introduced during a Meeting, where it will be read out to the Members, and will be recorded in the Minutes. Unless otherwise specified, the Notice of Motion will be placed on the agenda for the next Meeting, or the agenda of a Special Meeting called for that purpose.
- 11.4. Where a Motion is time sensitive or in an emergency situation, Council may allow a Motion to be debated and voted upon during the same Meeting at which it is introduced. In such an instance, a two-thirds vote is required to bring the matter to the table for debate and voting.

## **12. Voting**

- 12.1. Immediately prior to voting on a motion, the Chair shall state the question in the precise form it is to be recorded in the minutes, including any amendments to the question.

- 12.2. Every Member, including the Chair, present at a Meeting, when a question is put, shall vote unless prohibited by statute. If a Member is prohibited from voting, the Clerk shall record the name of the Member and the reason for same.
- 12.3. When an electronic voting system is available, every Member present and participating in a vote on a motion, excluding those motions referred to in subsections a) and b) below, shall vote electronically:
  - a) Motion to Recess
  - b) Motion to Adjourn
  - c) Motion to receive items for information, and
  - d) Adoption of by-laws.
- 12.4. When an electronic voting system is used for a vote, the results shall be recorded in the Minutes.
- 12.5. If a Member errs when submitting their vote and wishes to change the record of the vote in the minutes, the Member must bring the error to the Chair's attention immediately before the next item on the agenda is announced.
- 12.6. The Chair shall, upon request of a Member, divide the question and the vote upon each proposal shall be taken separately. When a series of independent main motions has been moved for decision, any member may demand that one or more of the main motions be separated and voted on separately. The Chair shall allow the separation of the motions.
- 12.7. Except where expressly provided in statute, any question on which there is an equality of votes shall be deemed to be lost.
- 12.8. No vote shall be taken by ballot or any other method of secret voting and every vote so taken are of no effect.
- 12.9. If a Member is present at a Meeting and does not vote on a question, the Member shall be deemed to have voted in the negative, except where the Member has not voted because they are prohibited by statute.
- 12.10. Where an electronic voting system is not available and a Member requests, before or after the vote, that the vote be recorded, each Member present, except a Member who has declared a pecuniary interest, shall be called upon by the Clerk in alphabetical or reverse alphabetical order (by last name), to announce their vote openly. The Mayor shall be called upon last. The Clerk shall record each vote and the Chair shall announce the result of the vote.
- 12.11. On an unrecorded vote, the manner of determining the decision on a motion shall be at the discretion of the Chair and may be by voice, show of hands, standing or otherwise.

### **13. By-Laws**

- 13.1. No by-law, except a by-law to confirm the proceedings of Council, shall be presented to Council unless the subject matter thereof has been considered and approved by Council.
- 13.2. No by-law shall be introduced except upon motion by a Member specifying the title of the by-law.
- 13.3. Every by-law when introduced shall be in typewritten form and shall contain no blanks except such as may be required to conform to accepted procedure or to comply with provisions of any statute and shall be complete with the exception of the number and date thereof.
- 13.4. Council may refer any proposed by-law to a Local Board, Committee, Staff or other person or organization for review and comment.

- 13.5. Unless specified otherwise by statute, a by-law may be read a first, second and third and final time at the same Meeting.
- 13.6. A by-law shall include the date of each reading.
- 13.7. Every by-law enacted by the Council shall be numbered and dated and shall be sealed under the seal of the Municipality and shall be signed by the Clerk and Chair.
- 13.8. A by-law to confirm the proceedings shall be the final by-law adopted by Council at each Meeting.

#### **14. Record of Meetings**

- 14.1. The Municipality, a Local Board or a Committee shall record, without note or comment, all resolutions, decisions and other proceedings at a Meeting, whether it is closed to the public or not, and shall, when doing so, include the following:
  - a) the place, date and time of the Meetings; and
  - b) the names of the Chair, Minute-taker and the record of the attendance of the Members.
- 14.2. The record required by section 14.1 shall be made by:
  - (a) the Clerk, if the Meeting is a meeting of Council; or
  - (b) an assigned Staff person, if the Meeting is a meeting of a Local Board or Committee.

#### **15. Identification and Declaration of Pecuniary Interest**

- 15.1. It is the responsibility of each Member at a Meeting to identify any conflict of interest / pecuniary interest, as set out in the *Municipal Conflict of Interest Act*, in any matter that is the subject of consideration at the Meeting.
- 15.2. Where a Member, either on their own behalf or while acting for, by, with or through another, has any conflict of interest / pecuniary interest, direct or indirect, in any matter and is present at a Meeting at which the matter is the subject of consideration, the member,
  - a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
  - b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
  - c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.

and, where the Meeting is not open to the public, in addition to complying with the aforementioned requirements, the Member shall forthwith leave the Meeting or the part of the Meeting during which the matter is under consideration.
- 15.3. Where the interest of a Member has not been disclosed as required by reason of the Member's absence from a Meeting, the Member shall disclose the interest and otherwise comply with aforementioned requirements at the next Meeting attended by the Member.

#### **16. Repeal and Coming Into Force**

- 16.1. By-law [INSERT BY-LAW #], and all subsequent amendments are hereby repealed.
- 16.2. This By-law shall come into force upon third reading and being finally passed.



**READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this X day of MONTH, 2021.**

\_\_\_\_\_  
**MAYOR, Nelson Santos**

\_\_\_\_\_  
**CLERK, NAME**

Schedule A to By-law XX-2021

Rules Relating to Motions

Motions that are Ranked

Order of Preference	In Order when the Member has Floor	Must be Seconded	Is Amendable	Is Debatable	Vote Required for Adoption
Adjourn	No	Yes	No	No	Majority
Recess (while business is pending)	No	Yes	Yes	No	Majority
Recess (while no business is pending)	No	Yes	Yes	Yes	Majority
Question of Privilege	Yes	Yes*	No	No	No Vote (Chair decides)
Postpone Definitely	No	Yes	Yes	Yes	Majority
Refer	No	Yes	Yes	Yes	Majority
Amend	No	Yes	Yes	Yes	Majority
Postpone Indefinitely	No	Yes	No	Yes	Majority
Main Motion	No	Yes	Yes	Yes	Majority

Motions Not Ranked

Order of Preference	In Order when the Member has Floor	Must be Seconded	Is Amendable	Is Debatable	Vote Required for Adoption
Point of Order	Yes	No	No	No	No Vote (Ruled on by the Chair)
Appeal the Decision	No	Yes	No	Yes	50% vote sustains the Chair
Divide the Question	No	Yes	Yes	No	Majority