

## REGULAR COUNCIL REVISED AGENDA

**C-08/2020 - Regular Council**

**Monday, May 4, 2020**

**5:30 PM**

**Town of Pelham Municipal Office - Council Chambers**

**20 Pelham Town Square, Fonthill**

During this unprecedented global pandemic, Novel Coronavirus COVID-19, the Town of Pelham Council will continue to convene meetings in compliance with Provincial directives. Attendance by most Members of Council will be electronic. Public access to meetings will be provided via Livestream

[www.youtube.com/townofpelham/live](http://www.youtube.com/townofpelham/live) and subsequent publication to the Town's website at [www.pelham.ca](http://www.pelham.ca).

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1. Call to Order and Declaration of Quorum
2. Approval of Agenda
3. Disclosure of Pecuniary Interests and General Nature Thereof
4. Hearing of Presentation, Delegations, Regional Report
  - 4.1 Presentations
    - 4.1.1 COVID-19 Update
      - Emergency Operations Centre Update - R. Lymburner, - Community Emergency Management Co-Ordinator/Fire Chief (Verbal Update)
    - 4.1.1.1 Events and Festivals Update, 2020-0064-

## **Recreation**

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12.	New Business	
12.1	Appointment of Member of Council to Town Advisory Committees	
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**13. Presentation and Consideration of By-Laws**

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1. By-law #4231(2020) - Being a by-law to amend By-law No. 4107(2019), as Amended by By-Law 4217 (2020) being a by-law to govern the proceedings of the Town of Pelham Council, its Committees, the conduct of its members and the calling of meetings, to provide for Electronic Meetings During a Declared Emergency for the Conduct of Committee of Adjustment Meetings.
2. By-law #4199(2020)- Being a By-law prohibiting and regulating Signs, and regulating the placing of Signs upon highways and Buildings, and to Repeal and Replace By-law 3310(2012) as amended by 3548(2014) and 3884(2017).
3. By-law #4232(2020) - Being a By-law to amend by-law #4223(2020) known as the Town of Pelham Open Air Burning By-law to incorporate an Administrative Municipal Penalty System (AMPS) in regard to Offences and Penalties.
4. By-law #4233(2020) - Being a by-law to amend by-law #97-2010 known as the Town of Pelham Dog Control By-law to incorporate an Administrative Municipal Penalty System (AMPS) in regard to Offences.

**14. Motions and Notices of Motion**

**15. Matters for Committee of the Whole or Policy and Priorities Committee**

**16. Matters Arising Out of Committee of the Whole or Policy and Priorities Committee**

**17. Resolution to Move to In Camera**

Section 239(2)(d) - labour relations and employee negotiations - Covid 19

**18. Rise From In Camera**

**19. Confirming By-Law**

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**20. Adjournment**



**Subject:** Events and Festivals update**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2020 - 0064; and that recommendations within be accepted.**

**Background:**

The purpose of this report is to update Council on the status of various community festivals and events. Staff have met with most municipal and community committees throughout the COVID-19 pandemic and ultimately arrived at the status recommendations below.

**Analysis:****Kinsmen Home & Garden Show** April 2 – 5

Staff met with the Kinsmen Members in mid March and the Kinsmen Club agreed to cancel their annual Home & Garden show.

**Annual Easter Egg Hunt** April 11<sup>th</sup>

The Annual Easter Egg hunt, held in Centennial Park was cancelled.

**Pelham Art Festival** May 7 – 10

On March 18<sup>th</sup> the Pelham Art Festival Committee sent notification the 2020 Art Festival would be cancelled due to OVID-19.

**Pelham Farmers Market** May 7 – October (proposed June 11 – October 8)

Staff have been working with the Farmers Market Committee in conjunction with Niagara Public Health. The Farmers Market Committee is requesting permission to open commencing June 11 and run through to October under the following Public Health recommendations and guidelines:

- On site market and online orders for pick up
- Area designated for easy accessible area for order pick up
- No on site food preparation or cooking permitted, food will be handled only by vendor
- No drinks or items will be sold that will promote "hanging around"
- Controlled access to only permit limited numbers from entering

- Arrows to be painted on ground to direct flow of attendees
- Currently 13 vendors will be allowed (normally 26) and will be spaced 6 ft apart
- No non-profit booths allowed and no reusable bags will be permitted
- Hand wash and/or sanitation stations will be at entrance and within market
- Public Health will approve final layout of Market area
- Pelham Farmers Market website is being modified to accept online orders.

The Farmers Market Committee will adjust operating procedures as Public Health regulations permit, through the Province reopening guidelines. A draft layout of the market is attached.

### **Pelham Supper Market** Mid June – September

Local Pelham restaurants/vendors will be meeting on Tuesday April 28 to discuss, although at this time no food preparations can be prepared on site as well as social gatherings. Staff is recommending that Supper Market be cancelled until there is a significant change in the Public Health regulations and changes in social gathering numbers. Staff are aware that the business community is suffering and would prefer to see some form of Supper Market occur, even if delayed. Staff will report back to Council when and if the restrictions are lifted during the summer.

### **Bandshell Concerts** Mid June to Sept. (Proposed July 2 – September 10)

Staff have had telephone conversations with the Chair of the Bandshell Committee regarding the cancellation of the Bandshell Concerts for the 2020 season due to restriction of large gatherings. Please refer to attached email received from the Committee dated April 25 requesting permission to commence the Fonthill Bandshell Summer Concert Series on July 2<sup>nd</sup>, weekly to September 10<sup>th</sup>. Under the current restrictions, large gatherings are not allowed and according to the Provincial Reopening announcement, "Large public gatherings such as concerts and sporting events will continue to be restricted for the foreseeable future." On an average Thursday evenings attendance is between 2,500-4,500 people.

Staff is recommending the concert series be cancelled until there is a significant change in Public Health restrictions and changes in social gathering numbers. The best information available from the Province is that there is no anticipated return to large gatherings in 2020. This concert series, while popular, is solely for cultural and entertainment purposes and constitutes an unreasonable risk to public health and safety at this time. Cancellation can effectively be achieved by withholding permission to use Town property.

### **Fenwick Lions Carnival & Parade** May 22 – 24

The Fenwick Lions Club have cancelled the Carnival and Parade.

**Fenwick Lions Fish Frys** Normally Friday Easter – Thanksgiving

The Fish Frys are served out of the Centennial Park concession, on a take-out basis. Staff have suggested the Club to contact with Public Health regarding an operating procedure that could allow them to operate the Fish Fry on Fridays. Staff will update Council if the Club decides to commence the Fish Fry events. It is anticipated that this is an activity that can ultimately be accommodated.

**Shorthills Strawberry Festival** June 14

Chief Lymburner has confirmed the Strawberry Festival has been cancelled.

**Canada Day Celebration** July 1

Staff have met with the Canada Day Celebration organizing Committee and have agreed to cancel the actual event. In lieu, and as with many Municipalities across the Province, Staff is working on a Virtual Canada Day event with other Niagara municipalities including the Niagara Parks Commission. Activities that can be done safely will be encouraged throughout the Region, i.e. house decoration; singing of the National Anthem at the same time, etc. Staff have been involved with a teleconference with the Ministry of Canadian Affairs regarding the annual Canada Day grant and it sounds like we may still receive funding for a Virtual Canada Day event. Further information will be forwarded to Council as developments proceed.

**Pelham Summerfest** July 16 - 19

Pelham Summerfest Committee met on April 22 and decided that Summerfest 2020 will be cancelled due to current COVID-19 pandemic and public health concerns.

**Christmas In Pelham** December

Staff will continue to plan for Christmas In Pelham keeping in mind the phasing of reopening. An update will be prepared in the fall.

**Financial Considerations:**

There will be both revenues foregone and costs avoided as a result of the foregoing cancellations. Estimates and details will be included in the Town's first major financial update report on Coronavirus costs, which will be provided to Council at the May 19, 2020 meeting.

**Alternatives Reviewed:**

Pursuant to Provincial Regulations, there are no practical alternatives to cancellation for most of these events.

**Strategic Plan Relationship: Build Strong Communities and Cultural Assets**

Pelham is known for its events and festivals. Cancellations are difficult anytime, and the entire community looks forward to the day that we can gather again and celebrate.

**Consultation:**

Municipal Committees; Service Clubs; Event organizers

**Other Pertinent Reports/Attachments:**

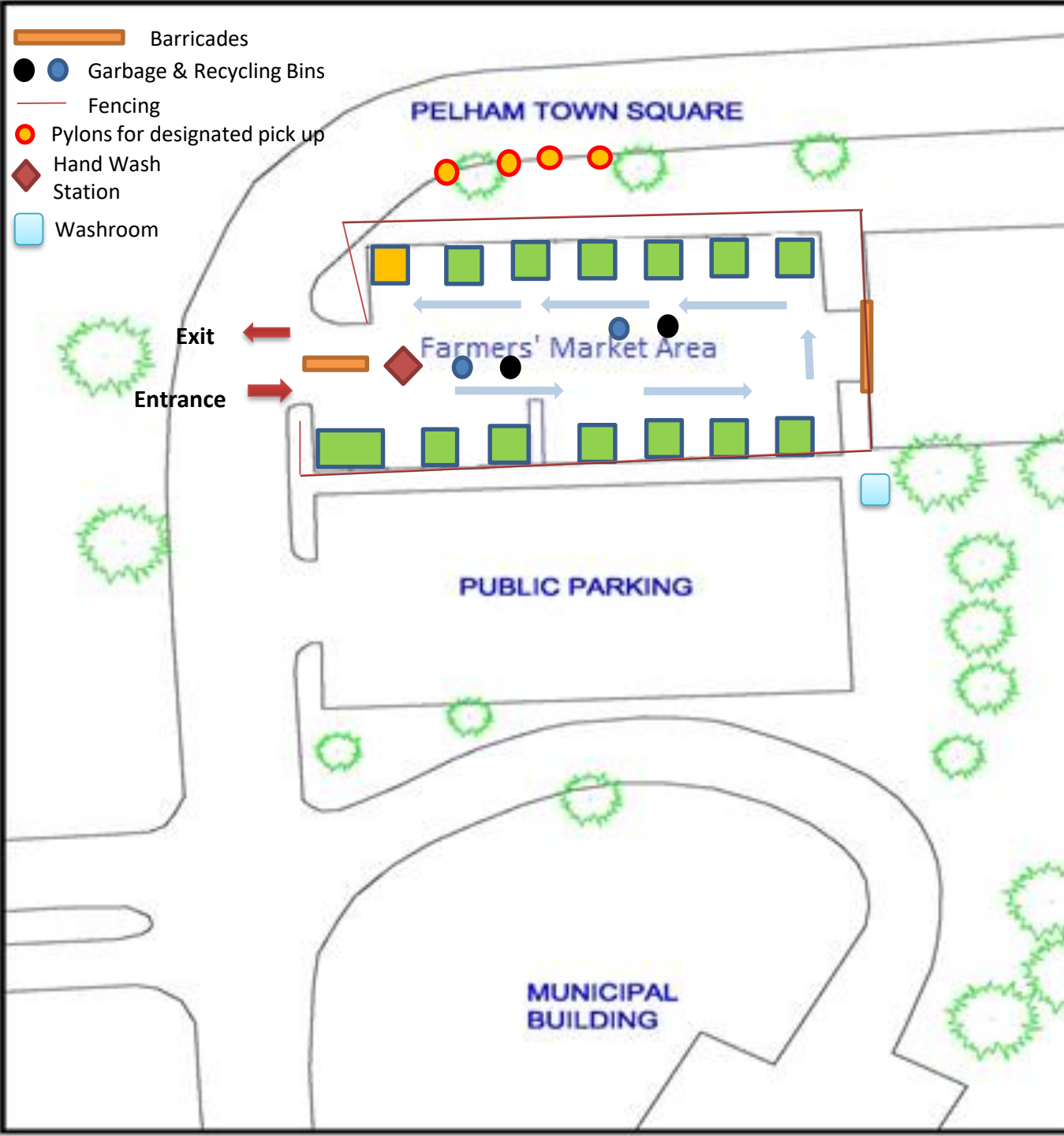
Pelham Farmers Market layout  
Fonthill Bandshell Concert Committee email

**Prepared and Recommended by:**

Vickie vanRavenswaay, RRFA  
Director of Recreation, Culture and Wellness

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer



## Vickie vanRavenswaay

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**From:** Gayle Baltjes-Bazinet <gayle.baltjes@gmail.com>  
**Sent:** Saturday, April 25, 2020 12:50 PM  
**To:** Vickie vanRavenswaay  
**Subject:** reply

Dear Mayor, Councillors and Town staff,

Further to our conversations with our board members and Town staff, we wish to convey our continued hope to present the Fonthill Bandshell Summer Concert Series in 2020 commencing Thursday July 2nd, ending Thursday September 10th contingent on the guidelines as established by the provincial public health and health Canada in the coming weeks.

In our discussions with Ms. VanRavenswaay, we understand that it is unlikely that the suppermarket will be able to be a part of the Thursday night experience this season which would allow any patrons to the bandshell concerts to spread out through the entire park, maintaining social distance measure which we anticipate will still be in place, though hopefully loosened slightly from our current tight restrictions.

We feel that our volunteers, with the help and guidance from Town staff and public health, will be able to monitor the set up of patrons chairs, and patron interaction to ensure the safety of all. Our volunteers are prepared to be in attendance all day Thursdays to set the example, establish protocol, police the park and ensure everyone's health and safety.

The Fonthill Bandshell volunteers do not wish to cancel the events at this point. We are optimistic that the Niagara area continues to work toward planking that curve, and that soon we will be able to resume visiting with friends and a more regular routine. We strongly recommend against making any decisions yet that would negate the events.

Our community needs something to look forward. Pelham has been hit particularly hard by the virus and everyone is reeling over the loss of Mike, and are worried about the many other members of our community suffering from COVID19 at this time. The summer concert series and farmers market, albeit differently run and laid out this summer as it might potentially be, will re-gain that sense of community that people are longing for at this point.

Sincerely,

Gayle Baltjes, Chairperson

on behalf of all the Fonthill Bandshell Concert Committee members

**Subject:** Town of Pelham Business Continuity Update  
#2**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2020-0066-CAO, for information.**

**Background:**

This report is provided so as to update Council on the various changes and evolution to service provision by the Town as the Coronavirus pandemic enters (at least) its sixth week. Council will recall that in October, 2019, it approved an updated Emergency Management Plan. The Town also has a brief default Business Continuity Document. More importantly, Council was provided with specific plans for business operational continuity in a report on Tuesday, March 17, 2020. Pelham was the first Niagara municipality to provide a written document to its council with any meaningful detail on virus-related impacts to operations.

This report is meant to constitute a further update on various Town operations as service capacity, health information and public expectations have evolved with respect to the Coronavirus.

For the sake of time expediency, and so as allow this document to be made public, this report will not review all of the requisite analytical steps that were applied, such as taking leadership, assigning leads, identification of essential services, identification of staffing needs, development of the plan, education and training of staff. As previous reports, press releases and media coverage have all indicated, these activities are occurring on a weekly, and in some cases daily basis. The materials below are grouped by Department, for administrative simplicity. There is no significance to the order in which they are presented.

**Analysis:****Office of the CAO**

The CAO continues to work primarily from home, with periodic weekly attendance for limited time durations at Town Hall. All significant meetings occur by Skype,

Zoom or teleconference. Apart from some documents which require signature, virtually all tasks can be conducted remotely. Improvements in the Town's capacity and utilization of electronic signatures has been identified as an area for future improvement.

## **Essential Services**

Human Resources Services have been in high demand. The Town has now laid off thirty (30) staff, transferred four (4) employees from RCW to Public Works and deferred 34 seasonal and student hires. In addition to conducting layoffs, this business area has been supporting various management initiatives and responding to a higher than normal volume of staff inquiries. The CAO provides daily command, control, communication and leadership functions and is the alternate to the Fire Chief as Commander of the Emergency Operations Centre. The CAO and Fire Chief are avoiding physical interaction so as to maximize the chance that at least one of them will remain healthy throughout this pandemic. One staff member from the Office of the CAO accepted an offer of voluntary layoff.

## **Clerks Department**

The Town Clerk will continue daily participation in EOC meetings, either teleconference or physical attendance.

## **Current Operations:**

**Working From Home:** Staff in this department continue to be highly productive while working from home. Physical attendance at Town Hall has been limited, on an as required basis. The Administrative Assistant is also supporting the Mayor/CAO. She attends Town Hall regularly to prepare documents for signature, etc.

**Communications and Public Relations:** This function has been productive in the work-from-home model with limited attendance at Town Hall. Staff focus continues to be COVID-19 related, but has also taken the lead on producing a large volume of materials pertaining to the gypsy moth. When time has been tight the Administrative Assistant has provided capable back-up in provision of these critical services.

**Council and Committee Meetings:** The Clerk and/or Deputy Clerk will continue to facilitate meetings of Council. Electronic attendance via Zoom continues to work well and protects all stakeholders, including Council, staff and the general public. Until the Province approves of larger group gatherings, this approach must



continue.

**Plans for Future Service Provision:** When reopening occurs, it is anticipated that staff will stagger their returns. When physical meetings resume, everyone entering Town Hall and/or Council chambers should be required to do a full self-assessment to prevent a spike in cases and to protect safety of all. Hand sanitizer will be available and required as anyone enters the Chamber. Prior to meetings, additional cleaning will occur such as all chairs and surfaces being wiped with disinfectant, including tables, arm rests, podium, microphones, etc.

**Committee of Adjustment:** Clerk staff are working toward convening C of A electronically; recent amendments to the *Planning Act* allowed municipalities to push the pause button so the main focus will be to ensure service to applicants and to avoid a huge onslaught once full operations recommence.

**Person-to-Person Counter Interactions:** It is recommended that returning to providing personal service for Commissioner and issuance of burial permits resume on an appointment basis. Prior to anyone arriving at town hall for this purpose, a self-assessment is recommended and Clerks staff will meet only at counter with glass screen/barrier. Staff will use their own pens so as to limit contact and potential contamination.

**Issuance of Marriage Licenses:** Marriage Licence issuance will be by appointment only and will occur at the reception area with physical/glass screening. Self-assessment for all persons will be required. It is mandatory when issuing a licence that at least one party of the marriage attend in person, and the issuer must view identification for each party. Precautionary measures may be needed for this service.

**Small-Scale Weddings:** Again, depending on Provincial guidelines for group size, the Clerk and/or Deputy Clerk could conduct civil marriage ceremonies on a small scale. It would be recommended that the gathering include the officiant, the couple and two witnesses, five people in total. If weather permits, ceremonies can be held in the bandshell in Peace Park, and other “guests” could physically distance on the benches to enhance the experience for the wedding couple.

**Lottery Licensing:** Lottery groups are anxious to move forward with their fundraising initiatives. Staff can begin interactions with these groups again in the same manner as noted above.

**Council Vacancy:** The direction Council determines at today’s meeting will weigh heavily on the Clerks Department. If a by-election is mandated, special provisions

will need to be put in place for working at Town Hall as this will be an “all hands on deck” requirement for this Team. There have been no lay-offs in this Department.

## **Community Planning and Development Department**

As per the overall default Continuity Plan, the Department has identified all services that it provides, ranked them as being “Essential”, “Key” and “Non-Essential”, prioritized and directed resources accordingly. For the past three weeks, two Building Inspection staff who have training and experience as Municipal Law Enforcement Officers (“By-Law”), and were previously appointed by Council as part of the Town’s proactive approach, have been spending significant numbers of hours each week supporting the Town’s bylaw enforcement function. The exact number of hours worked at this task varies, however the Town has committed to have staff either directly working or on call seven days per week, and thus far has been able to meet this commitment. The Province’s direction that municipal staff were to function as first responders for non-compliance of physical isolation directives was not foreseen and has been a significant demand upon Town resources.

### **Essential Services**

- Participate in daily EOC teleconference meeting and SLT meetings (Director)
- Processing development applications that contribute to local economy.
- Receipt of new development applications.
- Preparing recommendation reports to Council on development applications that support the local economy for Council consideration.
- Schedule and conduct building inspection services for structures that have permits issued.
- Process and undertake plans review function for new building permit applications that are being received.

### **Key Services**

- Responding to public inquiries on planning via email and telephone call.
- Hosting By-monthly Pre-Consultation meetings with Town Departments, agencies, applicants and consultants.
- Respond to email and telephone inquiries on building permit related matters.
- Submit monthly reports to Region, MPAC, and CMHC.
- Processes paperwork for payment of Regional and School Board Development Charges
- Open new files for building permits applications and development applications
- Conduct research on policy related matters and work on reports for Council consideration on policy matters.
- Prepare public notices and coordinate with Clerks Staff.
- Circulation of documents to agencies and public.

- Participate in and minute CCC meetings.
- Liaise with legal.
- Investigate and respond to inquiries of building without permit.
- Investigate and coordinate municipal drain maintenance requests.

### **Non Essential Services**

- Maintain files.
- Respond to inquiries that are not time sensitive.
- Working with Clerk's Staff regarding mechanisms and protocols to host public meetings.
- Daily check in calls with Staff and weekly project coordination meetings with Staff.

### **How Staff Operates**

- All staff have the ability to work remotely from home and maintain business continuity.
- All Planning and Building applications are received and processed electronically.
- Meetings are via Zoom or teleconference.
- Pre-screening done at time of booking building inspections and day of inspection.
- Building Inspections are being done maintaining physical distancing and sanitizing afterwards. - All Planning Staff are working from home.
- The majority of Building Staff are working from home.
- The CBO and Senior Building Inspector come into the office to retrieve physical files needed for inspections and to meet with applicants who are making payments as needed.
- The CBO, Senior Building Inspector and Building Inspector are designated as Municipal Law Enforcement Officers and are available to assist By-law Staff with By-law enforcement matters should this be required.

This Department is working on specific standards for service provision times regarding building inspections, permit review, etc. which will be communicated in a future report. There have been no lay-offs in this Department.

### **Fire and Bylaw**

**Essential Services:** all services provided by these Departments are designated essential. Fire prevention has nothing new to update from the last report. The fire prevention officer is taking on some extra roles to assist other departments, such as signage, delivery of material, cleaning and hall maintenance of fire vehicles and equipment. Bylaw has both officers working 6 days per week and carrying a cell phone for on call purposes 7 days per week until 8pm at night, calls after this time are either sent to the NRP or go to voice mail to be answered the following day. Two staff from the Building Department are serving to augment this staff

compliment. The seasonal hire has been deferred until the best way to deploy the person's services is determined. The Town retains the capacity to bring this person on if the volume increases or staff become ill.

Fire administration is covered by one person who has been working 6 days a week to keep up on additional duties due to emergency management operational cycle. This role can be performed remotely if needed. Other admin duties can be covered by the remaining staff.

The Fire Chief also acts as the CEMC, the regional fire coordinator and is part of the Region's EOC. The alternate CEMC can be take over the EOC duties and there are a few chiefs who can take on the other roles. The Fire Chief can also fill in as Fire prevention officer and a bylaw officer if needed.

Suppression is operating at full strength and is able to respond to all incidents. However, response to medical incidents has been altered to better protect fire fighters. Overall call volumes are down which should result in a savings in the operating budget at year's end.

Fireworks are banned during the virus outbreak. There are currently no fire bans in the Town of Pelham.

As the emergency group develops a recovery plan and begins to implement this plan the work loads of bylaw will increase relative to the plan put in place. There have been ten (10) layoffs in this Department (all crossing guards).

## **Recreation, Culture and Wellness Department**

**Essential Services:** At the MCC refrigeration and HVAC equipment must be monitored and maintained daily, with checks being performed 4-6 times a day. For Pelham Transit – staff schedule on demand daily appointments as required. Keys are left with facility operators. Sanitization of the bus occurs twice per day. RCW staff are supporting Town Hall by providing additional cleaning services at Town Hall twice per day.

**Key Services:** Programmers either work from home or in office on staggered shifts. Culture & Community Enhancement –Implementation of Farmer's Market; Thursday Night experience; New Horizon Grant – Seniors Say it virtual programming, Virtual Canada Day Celebration and Pelham Unites initiative, summer camps; aquatics; Pelham Support Network; Seniors social contact; Virtual seniors programming Seniors Programmer & ActiveNet registrations & facilities rentals – assisting with ongoing Senior Active Living designation program requirements;

registration and facility rentals.

**Duliban Rink** – the ice had never previously been removed since opening – removal of ice, dry surface, check for floor cracks and glycol leaks, clean boards, glass and benches, repair tuflex flooring. Training has occurred for new operators & attendants on glass removal & installation. Cimco scheduled maintenance repair while ice is removed have all been completed. – Finishing painting of walls in pad area and dressing rooms.

**Accipiter Rink** - Installation of new doors on pad (contractor) - Remove stains on concrete in stands and seal concrete floor to prevent future staining. Staff are Sanitizing and cleaning seating as well as preparing for removal of ice prior to new ice technology being installed (which will be the subject of a report on May 4, 2020). Maintenance activities are occurring on the dry surface: checks for floor cracks and glycol leaks; cleaning boards, glass and benches; repairing the flooring near the benches - Cimco maintenance repair while ice is removed (if required).

**Old Pelham Town Hall** - Cleaning/Disinfecting/Organizing – hall, tables, chairs, kitchen, drywall repairs, painting interior walls, cleaning and buffing flooring, gluing down loose tiles.

**Non-Essential Services:** all traditional, planned programming at the MCC has been cancelled indefinitely. In the weeks to come it is anticipated that a clearer picture will develop as to potential to begin re-opening, and which services can and cannot be provided in that context. With the early removal of ice, maintenance work and closing of the MCC, the majority of staff associated with direct service provision have been laid off.

**Pool** - Drain; Pressure wash – Pool, concrete deck, Pool house exterior, sidewalks - Paint pool basin; Paint exterior pool house or remove graffiti; Install – signs, ladders, plumbing; Fill pool with water when necessary; Clean interior pool house, change rooms, public washrooms; Paint Fonthill sign with any extra pool paint; Startup – pumps, boiler, filters, chlorinator - Other tasks being performed: (facility attendants– staggered shifts) - Gymnasium – thorough cleaning and sanitization nearing completion - Drywall patching, repair and painting throughout the building 75% complete - Window cleaning indoor and outdoor 75% complete - Equipment Room; RCW Storage; & receiving room – reorganization and cleaning.

The majority of the Town's layoffs have occurred in this Department. To date layoffs have been a combination of voluntary and involuntary. Four staff with the appropriate skill sets and aptitudes have accepted temporary transfers to the Public Works Department to cover absences amongst full time staff and to perform work

in lieu of the seasonal workforce. Layoffs at present include 8 customer service staff, 4 rink attendants, 3 facilities support staff, 2 facilities attendants, 1 rental associate, for a total of eighteen staff members.

## **Public Works**

**Essential Services:** The vast majority of tasks performed by Public Works are deemed essential by the Province. Specific categorization can be found in the two attachments to this report. The Operations Department has continued to provide the basic municipal services related to the Water Distribution and Wastewater Collection System, the road network, cemetery operations and the trail system while effectively protecting municipal staff. This has been achieved by the following:

- the leasing of additional vehicles. Two additional vehicles plus an off road side-by-side have been retained. Staff are currently sourcing 2 more vehicles for a total compliment of four vehicles plus the side-by-side) allowing for the implementation of a one person per vehicle policy;
- splitting staff into two alternating 10 hour shifts working 6 days a week (Monday through Saturday);
- supplying additional disinfection supplies to facilities and vehicles; and
- increasing the level and frequency of cleaning and disinfecting of staff areas and vehicles (including contracted cleaning services at the Tice Road Operations Facility on Sundays prior to the start of the new work week).

The Roads Department will continue to undertake activities related to meeting the minimum maintenance standards (MMS) as legislated by the Province. These activities will include, but are not limited to the following:

- performing daily road patrols;
- completing the maintenance of roads including patching of potholes;
- performing regulatory sign repair;
- complete cleaning and clearing of catch basins and culverts to mitigate the risk of flooding during major storm events;
- undertaking rural site line clearing of brush at critical intersections within the town; and
- completing the removal of animal carcasses from road surfaces.

While the works completed to date have been focused primarily on the maintenance of critical infrastructure relating to the protection of public health and safety, the warmer weather will place additional demands on staff to maintain green spaces, parks and trails. In addition, it is important for Beautification staff to maintain a minimum level of service with respect to grounds maintenance so that staff are able to respond to recovery efforts more easily when 'normality' returns, and people can once again enjoy our outdoor amenities.

Minor maintenance will be undertaken during the "Response Phase" of the pandemic to ensure that green spaces and park facilities are not neglected to the point where recovery would be difficult and costly. For instance, grass cutting will be performed at a reduced frequency and be kept to a maximum height of 6" to reduce the proliferation of weeds and ticks. In general, staff estimate that the frequency of cutting will be reduced from twice per week to once per week with trimming being undertaken once every two weeks in the majority of green spaces and park lands.

Additionally, baseball diamond infields will be groomed to protect the playing surfaces and remove weeds which would be labour intensive, as well as, requiring additional costs to remove if allowed to spread out of control.

Plant materials for the annual flower beds were reserved and purchased well in advance of the pandemic, but their delivery has been placed on hold until Provincial restrictions are relaxed or lifted. The materials will be stored at the supplier's green house until such time that staff are able to complete the work. Further, in order to reduce the work required for future planting and maintenance of the beds, and while keeping a minimum aesthetic standard, the horticultural beds will be periodically mulched and turned over by Staff. In addition, hanging baskets were also ordered and committed to prior to the COVID-19 pandemic. The locations of the hanging baskets are generally located within the Fonthill and Fenwick Downtown Business Areas. The installation of the baskets will go forward as planned as the transition to self-watering baskets allows them to be maintained with less effort and can easily be accommodated with the reduction in the summer staff compliment.

Cemeteries will continue to be maintained as well; however, the level of service will be reduced in accordance with the minimum requirements for grass cutting and ground maintenance described above. The level of service with respect to cutting and trimming will be reduced from once per week at each cemetery location to once every 1.5 to 2 weeks depending on the growth experienced. In addition, Staff will continue to undertake funeral services and burials in the cemeteries while respecting the new provincial guidelines of 10 or less attendees at each service.

By continuing to maintain critical infrastructure including green spaces, parks and horticultural features, Public Works is poised to transition into the recovery phase quickly and efficiently in step with the lifting and eventual removal of Provincial restrictions related to the COVID-19 Pandemic.

The Engineering Department is currently managing Levels of Service with some minor amendments to the delivery of the required service. The Planning & Building

requests are being maintained with a slight delay in replying to Site Plan, Subdivision and Development reviews mainly due to the inability to access documents retained within the Municipal Facilities. Staff continue to coordinate scheduled times to attend the office in order to review and retrieve documents required to undertake these reviews. In addition, field inspections for assumptions of subdivisions and developments as well as completing Line of Credit Reductions are being deferred at the moment as this process requires a number of people to walk the development at the same time to complete the inspections prior to final sign-off.

Engineering Staff continue to complete Contract Administration and inspection duties on capital projects that are currently in design and in construction. Staff are able to proceed with the formulation of tenders and RFPs for projects so that the department is ready to begin construction and maintenance activities as soon as Provincial restrictions are reduced or lifted. Engineering Staff are working closely with the Town's Procurement Staff to develop contract specifications and clauses that will allow Tenders and RFPs to be released with the expectation that unless the project is considered essential by Town Staff they will not proceed until such time that the Province determines it is safe to do so.

Currently, the only project currently under construction that has been determined to be essential is the continuation of the Pelham Street North Reconstruction project since this project contains critical underground infrastructure related to water and wastewater systems and was started prior to the notice to suspend non-essential business.

The Climate Change Coordinator is completing tasks in accordance with the FCM's Milestone Reporting requirements.

Attached please see the LOS spreadsheets for Public Works including the various Operations Departments and the Engineering Department.

### **Corporate Services Department:**

Corporate Services has identified a number of functions which can be done, at least in part, from home. Home-based and remote logins have now been tested for most staff. Specifically, the following arrangements have been made:

#### **Essential Services:**

**Payroll:** The Payroll Clerk has a laptop installed with on-line access to the Town's finance system and can run payroll from home. The HR Consultant is the Payroll Clerk's back up and also has on-line access from home. Both the Treasurer and



Deputy Treasurer can approve bank files electronically from home if required.

**Information Technology:** The IT Manager has home access to all computer networks and can monitor the systems from home. The Part-time IT person can back up the IT manager, if required. IT team has been supporting all staff working from home and on-line Council meetings.

**Collection of Taxes and Water Billing Payments:** These payments can be received with on-line banking, paying at the bank, through regular mail and telephone banking. The next due date for taxes is April 30 and all bills have been sent out. A larger drop box for mail and cheque payments has been installed so more people can drop off cheques. Some residents have been inquiring whether the Town will extend the waiving of interest and penalties beyond April 30. They have been directed to establishing pre-authorized payments which will spread their payments over 10 or 12 months. The residents have responded positively to this. The website has been updated to provide this message as soon as one logs into the website.

**Accounts Payable:** All invoices are current. The Payroll Clerk is the back up to the Accounts Payable Clerk. He can process payments in her absence. The Accounts Payable Clerk is set up to do all her A/P processing at home. All invoice authorization is now electronic.

**Procurement:** The Purchasing Clerk can process Purchase Orders from home if required. The Administrative Assistant is being trained as the back-up to Procurement. The Town uses e-Solutions software for Procurement which is 100% on-line for requests and submissions. Procurement is continuing and RFPs are being generated for capital projects stating that the awarding and commencement of these projects will start after the pandemic restrictions are lifted by the Province.

**2019 Financial Statements and Audit:** The Audit has been completed by Deloitte remotely. It required a lot more work by staff by it was completed on time. The Consolidated Audited F/S will be presented to the Audit Committee on May 7 and then approved by Council on May 19. Staff are working on the Financial Information Return (FIR) which is due by May 31, 2020 to the Ministry. We are on target to have this submitted on time.

## **Financial:**

Financial issues are not the focus of this Report. On May 19, 2020 the Treasurer will present a comprehensive analysis to Council which illustrates revenue shortfalls

(primarily in the RCW Department), impact upon taxation and water collections, the value of public works projects foregone, projected savings associated with layoffs, miscellaneous costs such as increased cleaning, vehicle leasing, etc. This report will allow Council to generally assess the financial impact of the Coronavirus pandemic upon Town operations (to date) and provide any further direction that it sees fit to give.

**Alternatives Reviewed:**

N/a

**Strategic Plan Relationship: Strong Organization**

This report addresses management's efforts to protect the health and safety of staff while maintaining service levels and organizational capacity as much as possible.

**Consultation:**

The entire senior leadership team and the Co-ordinator of Human Resources contributed to the drafting of this report.

**Other Pertinent Reports/Attachments:**

Operations and Development Engineering Proposed Service Levels (2 documents).

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

Town of Pelham Operaitons: COVID-19 Service Levels  
Operations Division : Beautification

Staffing Levels	Planned			COVID-19				
	FTE	Student	Total	FTE	Student	Total	%Compliment	
Parks	1	5	6	1	3	4	66.7	
Horticulture	1	2	3	1	0	1	33.3	
Forestry/Trail	1	1	2	1	3	4	200.0	
Cemetery	1	2	3	1	1	2	66.7	
		Division total	14			Division Total	11	78.6

\*Increase for trail maintenance

Service		Normal	Covid
Sportsfields (Soccer / Baseball)	Irrigation	Yes	No
	Fertilize	No	No
	Sports Fields - Grass	2" to 3" height - 2 cuts per week max	3" to 6" height - 1 cut every 1.5 weeks
	Perimeter Grass	2" to 4" height - 1 cut per week	3" to 6" height - 1 cut every 1.5 weeks
	Soccer Field Lining	Once per Week	Suspended
	Baseball Infield	Groomed and lined for every game. No service for practice	Suspended
	Inspection	Weekly	Monthly
General Maintenance	Winter Turf Damage	Winter Kill & Vandalism - repairs completed in May	Suspended
	Trail Washout	Check & Repair as required	Check & Repair as required
	Repairs to benches, picnic tables, fencing, graffiti, litter	As required	As time and labour allows
	Litter/Receptacle Service	Service Parks and Public Request Response	Service Parks and Public Request Response
Turf Maintenance	East Fonthill Municipal Land	Vacant Land Cut Twice Annually	Suspended
	Passive Parks	2" to 4" height - 1 cut per week	3" to 6" height - 1 cut every 1.5 weeks
	Facilitiy Grounds	2" to 4" height - 1 cut per week	3" to 6" height - 1 cut every 1.5 weeks
	Trails	2" to 4" height - 1 cut per	3" to 6" height - 1 cut
	Neighbourhool Parks	2" to 4" height - 1 cut per week	3" to 6" height - 1 cut every 1.5 weeks
Line Trimming	East Fonthill Municipal Land	Not Currently Completed	Suspended
	Passive Parks	Weekly	Once every 2 weeks
	Facilitiy Grounds	Weekly	Once every 2 weeks
	Trails	Twice Annually	Once every 2 weeks
	Neighbourhool Parks	Weekly	Once every 2 weeks
Brush Cutting Trail Sides / Right of Ways	Steve Bauer Trail	Every 2 years or as required	Suspended
	Gerry Berkhout Trail	Every 2 years or as required	Suspended
	East Fonthill Trail System	Not Currently Completed	Not Currently Completed

Town of Pelham Operaitons: COVID-19 Service Levels

Operations Division : Beautification

Trails	Inspection	Twice Annually - Spring & Fall	Monthly
	Trail Grooming	Not Currently Completed	Monthly - Stone Chip Trails only
Horticulture	Primary Beds (DBA's)	Plant in June, Weeded by-weekly, Water every 2 days	Planting is Suspended, Weeded by-weekly
	Secondary Beds (Parks)	Plant in June, Weeded by-weekly, Water every 2 days	Planting is Suspended, Weeded by-weekly
	Hanging Baskets	Installed in June, Water every 3-4 days	Installed in June, Water every 3-4 days
	Indoor Plants	No Service	No Service
	Facilities Grounds	Hedge trimming as required, annual planting in June, weeded by-weekly	Planting is Suspended, hedge trimming as required, weeded as required
	Boulevard Gardens & Features	Hedge trimming / perenial maintenance as required, weeded by-weekly	Hedge trimming as required, weeding as required
Play Grounds & Hard Courts	Monitor Closures	Not a typical operation	Weekly
	Equipment Inspection (csa)	Monthly	Play Ground Equipment Closed - Monitoring only
	Equipment Repair	As required	As required
	Turf Repair	Annually through contract	Suspended - Service Provider is closed
Cemetery	Burials / Creamations	As Required	As Required
	Turf Mowing	2" to 4" height, 1 cut per week	By-Weekly
	Line Trimming	Weekly	By-Weekly
Forestry	Service Response	Elevations, deadwooding as per request. Aesthetic pruning prioritized lower	Safety related works completed. Aesthetic pruning suspended
	Block Pruning	Annual pruning as per program based on tree maturity and condition	Suspended
	Inspections	On Request	On Request
	Tree Planting	Annual Fall Program	No change
	Tree Inventory, Regular Inspection	Planned program start up 2020-21	Suspended
Contracted grass cutting	Storm Ponds	Cut top perimeter only - 6" - 8" grass height	Cut top perimeter only - 6" - 8" grass height
	Facility Grounds, Other	2" - 4" grass height	Maintain as per contract

**Town of Pelham Operaitons: COVID-19 Service Levels**  
**Operations Division : Engineering**

Staffing Levels	Planned			COVID-19			
	FTE	Contract	Total	FTE	Contract	Total	% Compliment
Eng. Tech's	2		2	2		2	100%
CC Coordinator		1	1		1	1	100%
		Division total	3			Division Total	100%

Service		Normal	Covid
Building and Planning Department	Lot Grading Plans	yes	yes
	Pre-Con Meetings	yes	yes
	Site Plan Application Review	2 weeks review	3-4 weeks review
	Subdivision Application Review	2 weeks review	3-4 weeks review
	Development Agreements	2 weeks review	3-4 weeks review
	Site Inspection	Daily	as required
Committee of Adjustment	Application Review	weekly	postponed
	Prepare Comments	weekly	postponed
Field Inspections	Assumptions	as required	every 2 months
	LC Reduction	as required	every 2 months
	Securities Release or Reductions	as required	every 2 months
	Operating PM	weekly	as required
Temp Works Permits	Utility Providers	weekly	weekly
	Resident or Contractor	weekly	None being issued
Engineering In-House	Council Reports	weekly	as required
	Current Budget Review	bi-weekly	monthly
	Study Reports, Data, Results	Weekly	monthly
	Mapping, GIS	Weekly	monthly
	Water Model Updates	3 months	3 months
	Wastewater Model Updates	3 months	3 months
	Field work and Investigations	daily	weekly
	Surveying	monthly	none at this time
	Tenders, RFQ's, RFP's	weekly	weekly
	Capital PM	daily	daily
	Phone calls & emails from Residents	daily	daily
	Events Support	as required	none
	DWQMS Support	as required	as required
	Various Outside Committee Support	quarterly	none at this time
	Unopened Road Allowance Request	as required	as required
	Managing Contractor Services	as required	as required

**Town of Pelham Operations: COVID-19 Service Levels**  
**Operations Division : Fleet & Facilities**

Staffing Levels	Planned			COVID-19			
	FTE	24hrs	Total	FTE	24hrs	Total	% Compliment
Facilities	1	1	2	1	1	2	100%
Fleet	1	0	1	1	0	1	100%
		Division total	3		Division Total		100%

	Service	Normal	Covid
Fleet (41 vehicles & 41 pieces of equipment)	General Maintenance	Daily	Weekly
	Annual Safety	Monthly	Twice Weekly
	Repairs	Daily	Quarterly
	Winter Fleet Preparation/decommission	Annually	Quarterly
	Summer Fleet Preparation/Decommission	Annually	Quarterly
	Preventative Maintenance HVAC	Weekly	Monthly
Facilities Maintenance (14 Facilities)	Building Repairs / Maintenance	As per request/daily	Spring & Fall
	Plumbing Winterizing	Annually	Weekly - Identified Locations
	Building inspection/monitoring	Weekly	As Requested
	Painting	As planned	Annually as per NFPA
	Improvement projects	As requested	On hold

Town of Pelham Operaitons: COVID-19 Service Levels

Operations Division : Roads

Staffing Levels	Planned			COVID-19			
	FTE	Student	Total	Shift	Student	Total	% Compliment
Operators	5	0	5	Shift 1	0	2	40%
		Division total		Shift 2	0	3	60%

Service		Normal	Covid
Roads Maintenance	Road Patrolling	As per MMS	As per MMS
	Pothole Repair	As per MMS	As per MMS
	Shoulder Drop-offs / Washouts	As per MMS	As per MMS
	Road Base Repair/Asphalt Restoration	Annual program compelted through contract	Tender in development - Not considered an Essential Contract
	Winter Maintenance	As per MMS/Policy S08-13/ Winter Operations Plan	Not anticipated to be impacted
	Winter Damage Repair	Completed in annually in May	According to staff availability - delay likely
	Driveway Culvert Replacement	As Required/Damaged/Failing	As Required/Damaged/Failing
	Road Crossing Culvert Replacement	As Required/Damaged/Failing	As Required/Damaged/Failing
	New Driveway Culvert Installation	As per policy(s) S801-07 & S801-08	Suspended
	Catch Basin Clearing	Pre-rain event as per priority clearing list	Pre-rain event as per priority clearing list
	Culvert Flushing	As Requested	As Requested
	Road Crossing Culvert Inspection >1m diameter	Every 4 years	Suspended
	Roadside Ditching	Annual program compelted through contract	Completed on an as needed basis for emergency drainage
	Sign Retro-Reflectivity Inspection	By-annually (2021)	No impact
	Sign Repair	As per MMS	As per MMS
	Roadside Mowing	Twice Annually (Spring/Fall) as per contract	Twice Annually (Spring/Fall) as per contract
	Roadside Garbage	Within 48hrs	Within 48hrs
	Carcass Pickup	Within 8hrs of notification	Max 24hrs depending on location and size
	Street light Inspections	Inspected Annually	No impact
	Street light repairs	As identified through inpsection or public request	On Hold - No service provider
	Catchbasin Sump Cleaning	Annual program compelted through contract	Normally completed in late summer / fall
	Catchbasin/Maintenance Hole Repair	As Required	As Required
	Public Requests for Service	Non-Emergency requests scheduled as per staff	According to staff availability
Sidewalk Maintenance	Sidewalk Inspections	Annually as per MMS	Scheduled in May
	Sidewalk Repair/Grinding	As identified through inspection or public request	As Requested/Required per MMS
	Sidewalk/Concrete Repair	Annual program compelted through contract	Tender ready, however is on hold until restrictions are lifted by the Province

Town of Pelham Operaitons: COVID-19 Service Levels

Operations Division : Water/Wastewater

Staffing Levels	Planned			COVID-19			
	FTE	Student	Total	Shift	Student	Total	% Compliment
Operators	3	2	5	Shift 1	0	2	40%
		Division total		Shift 2	0	1	20%
				Division Total			60%

	Service	Normal	Covid
Water Quality	Bacteriological Sampling	Weekly	Weekly
	Chlorine Residual Sampling	Twice Weekly	Twice Weekly
	TMH Sampling	Quaterly	Quaterly
	HAA Sampling	Quarterly	Quarterly
	Lead Sampling	Quarterly	Quarterly
	Pressure Monitoring	Monthly	Monthly
	System Flushing (dead-ends)	Spring & Fall	Spring & Fall
	Flushing for Water Quality	Weekly - Identified Locations	Weekly - Identified Locations
	Water Quality Complaint Colour/Odor/Pressure	As Requested	As Requested
General System Maintenance	Hydrant Inspection	Annually as per NFPA	Annually as per NFPA
	Hydrant Painting	Not currently provided - planned in 2020 using water	On hold
	Hydrant Repairs	As identified through inspection program	As identified through inspection program
	Watermain Valve Exercise	1/4 of all valves exercised annually	On hold - to be completed in fall
	Watermain Valve Repair	As identified through exercise program	As identified through exercise program
	Water Shutoffs	As per public request	As per public request
	Water Shut-off Repair	If required	If required
	Meter Reading	Bi-Monthly	Bi-Monthly
	Meter Repair	As per water billing clerk	On hold
Wastewater System Maintenance	Sanitary Sewer Flushing	Monthly - Indentified locations	Monthly - Indentified locations
	Sanitary Sewer Repair	As identifed through inpsection or public request	As identifed through inpsection or public request
	Sanitary Sewer CCTV/Flushing	Annual program compelted through contract	Annual program compelted through contract
	Sewer Lateral Clearing/Cameraing	Not provided	Not provided



## REQUEST TO APPEAR BEFORE COUNCIL FOR THE TOWN OF PELHAM

NAME: Tim Nohara

ADDRESS: PO Box 366, Fonthill, ON

POSTAL CODE: L0S 1E0

TELEPHONE #: 905-329-1875

E-MAIL ADDRESS: tnohara@accipiterradar.com

The Council Chambers Is equipped with a laptop and projector. Please Check your audio/visual needs:

☐ Laptop    ☐ Speaker    ☐ Internet Connection

PLEASE INDICATE THE DATE OF THE COUNCIL MEETING YOU WISH TO ATTEND AS A DELEGATION:

 Regular Council: 1<sup>st</sup> and 3<sup>rd</sup> Monday of the month; 5:30 p.m. (except summer schedule)

DATE: Monday May 4th, 2020

Please identify the desired action of Council that you are seeking on this issue:

1. To direct this delegation to a Policy & Priorities Committee Meeting immediately following this Council Meeting; and
2. To receive the draft Official Plan & Zoning Bylaw Amendments & draft MPC Report from the Cannabis Control Committee (CCC) as information for review.
3. Alternatively, if item 1 is not possible, then to receive the information in item 2 and refer the information to Policy & Priorities Committee for review.

I have never spoken on this issue before. Key points of my deputation are as follows:

**(Written presentation must accompany the request)**

Note: my expectation is that attendance will be done electronically:

1. To provide Council with a brief verbal update on the progress the CCC has made concerning the proposed Official Plan & Zoning Bylaw Amendments
2. To introduce the draft Official Plan Amendment (OPA), draft Zoning Bylaw Amendment (ZBA) and draft Report prepared by Meridian Planning Consultants (MPC)
3. To provide an opportunity for Councillors to ask questions of CCC Tim Nohara and/or MPC's Nick McDonald
4. The draft MPC OPA, MPC ZBA, & Report are attached and will be referred to during this CCC update to Council

In accordance with the Procedure By-law, Requests to Appear before Council with respect to a matter already on Council's Agenda shall submit a written request to the Clerk no later than 12:00 noon, eight business days prior to the meeting of Council. Delegation requests to address Council on matters not already on the Agenda of Council must be submitted at least fourteen (14) days before the date and time of the Meeting of Council. Delegations shall only be heard at regular Meetings of Council, unless specifically invited by Council to a Meeting of a Committee of Council.

**All requests must include a copy of the presentation materials as detailed in the deputation protocol. Failure to provide the required information on time will result in a deferral or denial. Delegations are limited to ten (10) minutes.**

I have read and understand the deputation protocol included with this form; and, that the information contained on this form, including any attachments, will become public documents and listed on Town Meeting Agendas and on the Town's website.

I also understand that presentation materials must be submitted with this deputation form. Electronic presentations must be e-mailed to [NJBozzato@pelham.ca](mailto:NJBozzato@pelham.ca) in accordance with the deadlines outlined above.



*Tim J. Nohara*  
 Signature

19 April 2020

Date

## DEPUTATION PROTOCOLS:

The Town of Pelham is an Open, Welcoming and Inviting Community, committed to supporting the strategic theme of ensuring that we are an Engaged and Integrated Community. To assist in achieving this goal, a Deputation Protocol has been developed to allow residents to make their views known to Council, based on the requirements of the Town of Pelham Procedural By-law. The views of interested citizens are valued and input is welcome, along with comments and constructive suggestions. Council must consider a large number of issues and concerns at any given time, thus the following protocol is observed:

	<ul style="list-style-type: none"> <li>✓ Please provide Clerk with a full copy of your presentation to be included on the agenda for the meeting. Failure to provide this will result in your request not being included.</li> <li>✓ Please arrive at the meeting by 5:15 p.m.</li> </ul>
	<ul style="list-style-type: none"> <li>✓ When called upon, please proceed immediately to the podium.</li> <li>✓ Please keep your presentation brief and to the point. <b>The maximum allowable time is 10 minutes.</b></li> <li>✓ Please, only discuss the matters indicated on your submission and present in a respectful, temperate manner.</li> <li>✓ If appearing as a group, please designate a <b>spokesperson.</b></li> </ul>
	<ul style="list-style-type: none"> <li>✓ Upon completion of your presentation, please remain in position to allow for questions from Council members.</li> </ul>
 <b>In Addition</b>	<ul style="list-style-type: none"> <li>✓ Thank you for participating in this public meeting process.</li> <li>✓ Your submission will form part of the public record on this matter.</li> </ul>

This form may contain personal information as defined under the Municipal Freedom of Information and Protection of Privacy Act. This information is collected under the legal authority of the Municipal Act, S.O. 2001 c.25, as amended and may be publicly released. Questions should be directed to the Clerk, 905.892.2607, ext. 315.

*The Town of Pelham – The most vibrant, creative and caring community in Niagara!*

**AMENDMENT NO. XX**  
**TO THE OFFICIAL PLAN (2014)**  
**FOR THE**  
**CORPORATION FOR THE TOWN OF PELHAM**

## **CONTENTS**

### **PART “A” – THE PREAMBLE**

Section 1: Title and Components

Section 2: Purpose of this Amendment

Section 3: Location of the Amendment

Section 4: Basis of the Amendment

### **PART “B” – THE AMENDMENT**

Introductory Statement

Details of the Amendment

## **PART “A” – THE PREAMBLE**

### **SECTION 1 – TITLE AND COMPONENTS**

This document was approved in accordance with Section 17 and 21 of the Planning Act, R.S.O. 1990, as amended and shall be known as Amendment No. \_\_\_\_\_ to the Official Plan adopted by By-law No. 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014, for the Town of Pelham Planning Area.

Part “A”, the Preamble does not constitute part of this Amendment.

Part “B”, the Amendment, consisting of the following text constitutes Amendment No. \_\_\_\_\_ to the Official Plan adopted by By-law 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014 for the Town of Pelham Planning Area.

### **SECTION 2 – PURPOSE OF THIS AMENDMENT**

The purpose of the Official Plan Amendment is to establish policies in the Town of Pelham Official Plan to control the location of cannabis-related uses and industrial hemp-related uses and set out the factors to be considered when establishing these uses in the Town.

### **SECTION 3 – LOCATION OF THE AMENDMENT**

The lands that are subject to this Amendment are those that are in the Good General Agricultural Area and the Industrial Area designations as identified on Schedule A: Town of Pelham Land Use Plan.

### **SECTION 4 – BASIS OF THE AMENDMENT**

On April 13, 2017, the Government of Canada introduced Bill C-45 (the Cannabis Act) in the House of Commons. Based in large part on the advice provided by the Task Force on Cannabis Legalization and Regulation, the Cannabis Act created the foundation for a comprehensive national framework to provide restricted access to regulated cannabis, and to control its production, distribution, sale, importation, exportation, and possession. Following parliamentary review, the

Cannabis Act received royal assent on June 21, 2018 and it became law on October 17, 2018.

The Federal Cannabis Regulation SOR-2018-144 and the Industrial Hemp Regulation also came into effect on October 17, 2018. These two Regulations are part of a series of regulations that are intended to implement the Cannabis Act.

The indoor cultivation and processing of cannabis is anticipated to occur within greenhouse or industrial type buildings that can be larger than other similar buildings used for other purposes. As a consequence of the type of product being grown and processed in indoor facilities and the sizes of these facilities, the potential for adverse effects primarily from odour is significant. In this regard, it is anticipated that new indoor cannabis-related uses and industrial hemp-related uses will be required to be set back a significant distance from sensitive uses and from each other to mitigate against potential adverse effects. Setbacks are also required for outdoor cultivation as well, based on best practices.

The need for setbacks for cannabis-related uses and industrial hemp-related uses from other uses is consistent with Section 1.2.6.1 of the Provincial Policy Statement (2020), which states the following:

*"Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures."*

By virtue of the use of the word 'shall' in the above policy, this requirement to avoid any potential adverse effects is mandatory. A cannabis-related use and an industrial hemp-related use is considered to be a major facility as defined by the Provincial Policy Statement (2020) since any use, including a use that is carried out outdoors, which may require separation from sensitive land uses is considered to be a major facility.

Given the above, this Amendment does the following:

1. This Amendment establishes a Cannabis Overlay designation that applies to the Good General Agricultural designation and the Industrial designation as identified on Schedule A: Land Use Plan of the Town of Pelham Official Plan.

For lands within the Cannabis Overlay, cannabis-related uses and industrial hemp-related uses (indoor and outdoor) are permitted, subject to certain criteria being satisfied, including the establishment of appropriate setbacks to avoid, minimize and mitigate adverse effects. In order to trigger the consideration of the criteria, this Amendment establishes the requirement for a zoning by-law amendment to establish a new cannabis-related use or industrial hemp-related use. This Amendment also indicates that Site Plan Approval would also be required for such uses.

The Cannabis Overlay designation does not include lands that are designated Specialty Agricultural in the Town of Pelham Official Plan and which are subject to the Greenbelt Plan. The Cannabis Overlay will not apply in this designation primarily because of a combination of topography that is unique to the Greenbelt Plan and its relationship to odour concerns. In other words, the adverse effects from odour from cannabis-related uses and industrial hemp-related uses would be very difficult to avoid, minimize and mitigate as a consequence. This means that an Official Plan Amendment would be required, in addition to a zoning by-law amendment, to permit these uses within the Specialty Agricultural designation.

2. This Amendment also identifies the studies that are required to support the establishment of a cannabis-related use or industrial hemp-related use to ensure that all potential adverse effects are studied in advance.

In this regard, required studies include an Odour Emission and Dispersion Modelling Report, Contingency Odour Mitigation Plan, Light Mitigation Plan, Contingency Light Mitigation Plan, Agricultural Impact Assessment and Traffic Impact Study. These studies would be in addition to all other required studies typically submitted as part of an application for re-zoning. The results of these studies are intended to establish the minimum setback from sensitive land uses to be included in the required site-specific zoning by-law amendment and may establish a maximum facility size for the use, if

it has been determined that the siting of the use can be supported. These studies will also establish minimum separation distances between cannabis-related uses and industrial hemp-related uses, as required.

3. This Amendment also sets out guidelines on what setbacks will be considered as a minimum if a cannabis-related use or an industrial hemp-related use is proposed through a zoning by-law amendment. These setbacks are based on best practices and knowledge of the adverse effects currently experienced by residents in the Town. Given that these setbacks are guidelines, they can be increased or decreased based on the merits of an individual application.

A supporting zoning by-law amendment has been prepared to implement this Amendment. The zoning by-law amendment indicates that cannabis-related uses and industrial hemp-related uses will not be permitted as-of-right in any zone in the Town. This will ensure that a trigger exists to require the completion of the appropriate studies and the establishment of a setback that relates specifically to the use proposed.



## **PART B – THE AMENDMENT**

All of this Part of the document entitled Part B - The Amendment consisting of the following text and schedule constitutes Amendment No. \_\_\_\_ to the Official Plan of the Town of Pelham.

### **Details of the Amendment**

The Town of Pelham Official Plan is hereby amended as follows:

1. That Section A4.2 – (Town Structure and Land Use - Rural Area Designations), be amended to include a new Section A4.2.7 – Cannabis Overlay as follows:

#### **A4.2.7 Cannabis Overlay**

Lands within the *Cannabis Overlay* apply to areas where cannabis-related uses and industrial hemp-related uses may be considered subject to meeting appropriate criteria and setback requirements.

2. That Section B2 – (Rural Area Designations), be amended by including a new Section B2.7 – Cannabis Overlay as follows:

#### **B2.7 Cannabis Overlay**

##### **B2.7.1 Purpose**

The purpose of the *Cannabis Overlay* is to establish an area in the Town where new cannabis-related uses and industrial hemp-related uses are directed, while ensuring compatibility with other land uses. For the purposes of this section, a cannabis-related use is any use that is authorized in accordance with Federal Cannabis Regulation SOR-2018-144 and an industrial hemp-related use is any use that is authorized in accordance with Federal Industrial Hemp Regulation SOR-2018-145. The policies in this section do not apply to the retail sale of cannabis.

### **B2.7.2 Location**

The *Cannabis Overlay* applies to all lands designated as *Good General Agricultural* and *Industrial* on Schedule A of this Plan. As an overlay designation, the policies of this Section are supplementary to those of the underlying land use designation and where there is a conflict between the policies of this Section and Sections B2.1 and B2.3, this Section shall prevail to the extent of any conflict.

### **B2.7.3 Permitted Uses**

Uses permitted in the *Cannabis Overlay* designation are those cannabis-related uses that are authorized by the Federal Cannabis Regulation SOR-2018-144 or Federal Industrial Hemp Regulation SOR-2018-145 subject to Sections B2.7.4 to B2.7.7 of this Plan.

Notwithstanding the above, outdoor cannabis cultivation that is authorized by the Federal Cannabis Regulation SOR-2018-144 or Federal Industrial Hemp Regulation SOR-2018-145 is not permitted within the *Industrial* designation.

### **B2.7.4 General Policies**

- a) One or more of the cannabis-related uses that are authorized by the Federal Cannabis Regulation SOR-2018-144 and industrial hemp-related uses authorized by the Federal Industrial Hemp Regulation SOR-2018-145 may be permitted subject to the passage of an amendment to the implementing zoning by-law and will, if approved through such a process, be subject to Site Plan Control in accordance with Section E1.4 of this Plan. Prior to considering the approval of a zoning by-law amendment, Council shall be satisfied that:
  - i) The proposed use will not have a negative impact on the enjoyment and privacy of residential properties in the area;
  - ii) The proposed use can be designed and sited to blend in with surrounding land uses such that the agricultural and rural character of the area is maintained, and where necessary the proposed use can be appropriately setback from sensitive uses;

- iii) The proposed use will not have a negative impact on agricultural uses in the general area and will not have an impact on normal farm practices as demonstrated by the required studies in Section B2.7.5 of this Plan;
  - iv) The impact of the noise, dust, odour, light and traffic generated by the proposed use on sensitive land uses in the area can be appropriately mitigated, as demonstrated by the required studies identified in Section B2.7.5 of this Plan;
  - v) There will be no negative impact on the quality and quantity of groundwater and surface water as a result of the taking of water and the generation of effluent;
  - vi) Adequate parking facilities are available on the lot for the proposed use;
  - vii) The proposed use can be serviced with an appropriate water supply and an appropriate means of sewage disposal;
  - viii) Stormwater management needs can be met on site;
  - ix) The signage advertising the use is to be designed and located in accordance with the Town's sign by-law;
  - x) The waste generated from the use can be appropriately managed; and,
  - xi) The proposed setback, as determined by the required studies in Section B2.7.5 of this Plan, from sensitive land uses in the area is appropriate to avoid any adverse effects.
- b) In addition to sub-section a), it must be demonstrated that any proposed cannabis-related use or industrial hemp related use other than cultivation satisfies all of the criteria below:
  - i) Is directly related to farm operations in the area;

- ii) Supports agriculture;
- iii) Benefits from being in close proximity to farm operations; and,
- iv) Provides direct products and/or services to farm operations as a primary activity.

In considering the above, regard shall be given to the Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas prepared by the Ontario Ministry of Agriculture Food and Rural Affairs in 2016.

### **B2.7.5 Specific Required Studies**

The studies listed in this Section shall be required to satisfy the study requirements of Section B2.7.4 a) iii), iv) and xi) of this Plan and peer reviews of these studies may be carried out by the municipality at no cost to the municipality. The studies listed in this section would be in addition to any of the other studies required by Section E3 of this Plan.

- a) Odour Emission and Dispersion Modelling Report
  - i) At no cost to the municipality, the proponent of the proposed cannabis-related use or industrial hemp-related use will submit a Odour Emission and Dispersion Modelling Report that is prepared by a Licensed Engineering Practitioner.
  - ii) The Odour Emission and Dispersion Modelling Report shall include a detailed odour inventory and mitigation plan fully describing the proposed air filtration systems and other mitigation measures as well as off-property odour impact predictions that take into account known impacts from other cannabis-related uses and industrial hemp-related uses in the area.
  - iii) In addition to sub-section i) above, the Odour Emission Summary and Dispersion Modelling Report must demonstrate that the proposed cannabis-related use or industrial hemp-related use achieves a standard of compliance and that two odour units will only be exceeded at any given sensitive use up

to 0.5% of the time on an annual basis as per the MECP Technical Bulletin 'Methodology for Modeling Assessment of Contaminants with 10-Minute Standards and Guidelines, September 2016'.

- iv) The Odour Emission Summary and Dispersion Modelling Report must consider co-existence adverse effects associated with drift of cannabis emissions on existing farming operations in the area and provide recommendations on an appropriate greenspace separation distance to ensure that spray drift is minimized.
- v) If the proposed cannabis-related use or industrial hemp-related use is determined not to be in compliance with sub-sections ii) and iii) additional mitigation measures must be provided.
- vi) In addition to sub-section i), the proponent of the proposed use will submit a Contingency Odour Mitigation Plan, prepared by a Licensed Engineering Practitioner that considers additional air filtration systems or other mitigation measures for use in the event of substantiated future complaints.

b) Light Mitigation Plan

- i) At no cost to the municipality, the proponent of the proposed cannabis-related use or industrial hemp-related use will submit a Light Mitigation Plan, prepared by a Licensed Engineering Practitioner that fully describes the proposed light mitigation measures and demonstrates that the proposed use will not cause light pollution, including sky glow or light trespass, onto neighbouring properties.
- ii) In addition to sub-section i), the proponent of the proposed cannabis-related use or industrial hemp-related use will also submit a Contingency Light Pollution Mitigation Plan, prepared by a Licensed Engineering Practitioner that considers additional mitigation measures and implementation timelines for use in the event of substantiated future complaints.

c) Agricultural Impact Assessment

- i) At no cost to the municipality, the proponent of the proposed cannabis-related use or industrial hemp-related use will submit an Agricultural Impact Assessment, to the satisfaction of the Town and/or the Region, that demonstrates that the proposed use will not have a negative impact on agricultural uses in the area and is compatible with normal farm practices.

d) Traffic Impact Study

- i) At no cost to the municipality, the proponent of the proposed cannabis-related use or industrial hemp-related use will submit a Traffic Impact Study, to the satisfaction of the Town and/or the Region, that demonstrates that the proposed use will not cause any traffic hazards or an unacceptable level of congestion on roads in the area.

#### **B2.7.6 Scope of Required Studies**

In recognition of the varying types and scales of cannabis-related uses or industrial hemp-related uses that may be applied for, the Town will identify the scope of the additional supporting information needed at the required pre-consultation meeting in accordance with Section E3.1 of this Plan.

#### **B2.7.7 Need for Setbacks**

- a) In recognition of the known adverse effects of odour, setbacks from uses that are considered to be sensitive will be required for any new cannabis-related use or industrial hemp-related use in the Town. In this regard, the following setback guidelines will be applied and considered when an application for a new cannabis-related use or industrial hemp-related use is proposed:
  - i) Minimum setback to the lot line of a sensitive land use - 300 to 500 metres.
  - ii) Minimum separation distance between separate indoor cannabis standard cultivation and/or standard processing

facilities and/or indoor industrial hemp facilities from each other - 4,000 metres.

- iii) Minimum separation distance between separate indoor cannabis standard cultivation and/or standard processing facilities and/or indoor industrial hemp facilities from indoor micro processing/micro cultivation facilities - 3,000 metres.
  - iv) Minimum separation distance between separate indoor cannabis micro cultivation/micro processing facilities from indoor cannabis micro/processing/micro cultivation facilities - 2,000 metres.
  - v) Minimum setback between separate outdoor cannabis cultivation operations and between outdoor cannabis or industrial hemp cultivation with any indoor cannabis-related use or industrial hemp use - 500 metres
- b) The setback guidelines established in sub-section a) will be considered during the review of an application, in conjunction with the recommendations from the completion of the required studies in Section B2.7.5, to establish the setback for a cannabis-related use or industrial hemp-related use and can be lower or higher, depending on:
- i) Size and scale of the proposed cannabis-related or industrial hemp-related use;
  - ii) Proximity and number of residential uses in the area;
  - iii) Location of the proposed cannabis-related use or industrial hemp-related use in relation to prevailing winds;
  - iv) The nature of the adverse effects that exist at the time in relation to existing cannabis-related uses; and,
  - v) The impact of topography on the dispersion of odour.
- c) It is intended that the setbacks referenced in sub-section a) be from lot line to lot line. However, different approaches can be considered through the assessment of the application based the findings of the studies required in Section B2.7.5 of this Plan.

### **B2.7.8 Existing Indoor Cannabis-Related Uses**

At the time this Amendment was prepared, two large indoor cannabis-related uses were present on lands that are not subject to the Niagara Escarpment Plan in the Town. It is a policy of this Plan to require a zoning by-law amendment in accordance with this Section B2.7 of this Plan for any additional floor area beyond what existed on the effective date of this Section B2.7 of this Plan.

There is also a smaller indoor cannabis-related use at 1760 Effingham Street on lands that are subject to the Niagara Escarpment Plan. It is also a policy of this Plan to not permit its expansion unless the requirements of Sections B2.7.4 and B2.7.5 have been met and that the setbacks set out in Section B2.7.7 have been considered through the Development Permit process administered by the Niagara Escarpment Commission.

### **B2.7.9 Implementing Zoning By-law**

Only lands that have satisfied the requirements of this Section of the Plan shall be placed in a zone that permits cannabis-related uses or industrial hemp-related uses in the implementing Zoning By-law.

3. That Section E1.4 – Site Plan Control, be amended by including a new paragraph at the end of the section as follows:

It is the intent of this Plan that Site Plan Approval will be required for all proposed cannabis-related uses and industrial hemp-related uses listed in Section B2.7.3 to the maximum extent afforded under the Planning Act, in order to proactively mitigate adverse effects where possible and to maximize compatibility with land uses in the area.

Any construction of a building or structure associated with a proposed cannabis-related use or industrial hemp-related use is subject to the Ontario Building Code and will require the submission of Mechanical and Electrical Design Specifications and Drawings for review prior to the issuance of a building permit. These specifications and drawings include those associated with air/odour filtration systems and equipment for light pollution mitigation.



4. That Schedule A – Town of Pelham: Land Use, be amended by adding the Cannabis Overlay on the map and in the legend.



# **Regulating Cannabis in the Town of Pelham**

Prepared for the Cannabis Control Committee

April 14, 2020

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## 1.0 REPORT PURPOSE

The purpose of this report is to discuss the background relied upon and the land use policies considered in developing draft Official Plan and Zoning By-law amendments dated April 7, 2020 that are intended to regulate cannabis-related uses and industrial hemp-related uses in the Town of Pelham.

These two draft amendments are attached as Appendix #1 and Appendix #2 to this report and are referred to as the Meridian Planning Consultants Official Plan Amendment ('MPC OPA') and Zoning By-law Amendment ('MPC ZBA') for the balance of this report.



### 1.1 DRAFT OFFICIAL PLAN AMENDMENT

The MPC OPA proposes to establish a Cannabis Overlay designation that applies to the Good General Agricultural designation and the Industrial designation as identified on Schedule A: Land Use Plan

of the Town of Pelham Official Plan.

For lands within the Cannabis Overlay, cannabis-related uses and industrial hemp-related uses (indoor and outdoor) would be permitted, subject to certain criteria being satisfied, including the establishment of appropriate setbacks to avoid, minimize and mitigate adverse effects.

In order to trigger the consideration of the criteria, the MPC OPA establishes the requirement for a Zoning By-law amendment to develop a new cannabis-related use or industrial hemp-related use. The MPC OPA also indicates that Site Plan Approval would also be required for such uses.

The Cannabis Overlay designation is not proposed to include lands that are designated Specialty Agricultural in the Town of Pelham Official Plan (Pelham OP) and which are subject to the Greenbelt Plan. The Cannabis Overlay will not apply in this designation primarily because of a combination of topography that is unique to the Greenbelt Plan and its relationship to odour concerns. In other words, the adverse effects from odour from cannabis-related uses and industrial hemp-related uses would be very difficult to avoid, minimize and mitigate as a consequence. This means that an Official Plan amendment would be required, in addition

to a Zoning By-law amendment, to permit these uses within the Specialty Agricultural designation.

The MPC OPA also identifies the studies that are required to support the establishment of a cannabis-related use or industrial hemp-related use to ensure that all potential adverse effects are studied in advance. In this regard, required studies include an Odour Emission and Dispersion Modelling Report, Contingency Odour Mitigation Plan, Light Mitigation Plan, Contingency Light Mitigation Plan, Agricultural Impact Assessment and Traffic Impact Study.

These studies would be in addition to all of the other required studies typically submitted as part of an application for re-zoning. The results of these studies are intended to establish the minimum setback from sensitive land uses to be included in the required site-specific Zoning By-law amendment and may establish a maximum facility size for the use, if it has been determined that the siting of the use can be supported. These studies will also establish minimum separation distances between cannabis-related uses and industrial hemp-related uses, as required.

The MPC OPA also sets out guidelines on what setbacks will be considered as a minimum if a cannabis-related use or an

industrial hemp-related use is proposed through a Zoning By-law amendment, when the aforementioned studies do not call for larger setbacks.

These setbacks are based on best practices and knowledge of the adverse effects currently experienced by residents in the Town. Given that these minimum setbacks are guidelines, they can be increased or decreased based on the merits of an individual application.

Given the known adverse effects experienced by residents of the Town, the MPC OPA lastly indicates that the expansion of existing cannabis-related uses will also require the submission of appropriate studies before they can be considered.

## **1.2 DRAFT ZONING BY-LAW AMENDMENT**

The MPC ZBA has been prepared to implement the MPC OPA. The MPC ZBA indicates that cannabis-related uses and industrial hemp-related uses will not be permitted as-of-right in any zone in the Town. This will ensure that a trigger exists to require the completion of the appropriate studies and the establishment of a setback that relates specifically to the use proposed.

The MPC ZBA establishes two new zones to be added into the Town's Zoning By-law. When a site-specific Zoning By-law amendment is proposed, one of these new zones would be applied, if the application can be supported.

The first zone is the Agricultural – Cannabis (A-CAN) zone. This zone would be applied through a site-specific Zoning By-law amendment to any cannabis-related use or industrial hemp-related use for lands that are within the Good General Agricultural designation in the Pelham OP.

The second zone is the General Industrial – Cannabis (M2-CAN) zone. This zone would also be applied through a site-specific Zoning By-law amendment to any cannabis-related use or industrial hemp-related use for lands that are within the Industrial designation in the Pelham OP.

The MPC ZBA also includes a set of new definitions for cannabis-related and industrial hemp-related uses and a definition of sensitive land use.

The definitions for cannabis-related use and industrial-hemp related use distinguish between indoor and outdoor activities that are authorized by the Cannabis Regulation and the Industrial Hemp Regulation, respectively, under the Cannabis Act.

The sensitive land use definition is the same definition that was included in the Odorous Industries Nuisance By-law 4202(2020) that was adopted by Town Council on March 23, 2020.

The MPC ZBA proposes to add the new Agricultural – Cannabis (A-CAN) zone as a subsection into the section of the Town's Zoning By-law that contains the existing Agricultural (A) Zone provisions.

In the Agricultural Cannabis (A-CAN) zone, the permitted uses include cannabis-related uses (indoor and outdoor) and industrial hemp-related uses (indoor and outdoor). Also included in this subsection are regulations that apply to the permitted uses. Some of the regulations mirror the regulations that currently apply in the Agricultural (A) zone.

However, the majority of the regulations are more restrictive than those that currently apply in the Agricultural (A) zone with these standards intended to minimize the impacts of these uses on adjacent land uses and on the broader community in terms of visual impact. These standards can be reviewed on a case-by-case basis through the review of an application for re-zoning to establish a cannabis-related or industrial hemp-related use.

The MPC ZBA also proposes to add the

new General Industrial – Cannabis (M2-CAN) zone as a subsection into the section of the Town’s Zoning By-law that contains the existing General Industrial (M2) Zone provisions.

In addition to the above, the MPC ZBA also establishes two exception zones in Sections 30-290 and 30-291 to the Town’s Zoning By-law, to address the large existing CannTrust and RedeCan operations in the Town.

These exceptions indicate that only the gross floor area that exists, respectively, on the date that the Zoning By-law amendment is passed is permitted. This effectively means that any expansion of either of the existing uses would require an approval under the Planning Act, with such an approval process requiring some form of public consultation.

It is noted that an exception is not proposed for the third existing cannabis operation as it is within the Niagara Escarpment Commission Development Control Area, as defined by Provincial Regulation, and is not subject to the Town’s Zoning By-law.

### 1.3 REPORT OUTLINE

It is noted that two other reports on regulating cannabis have already been

prepared, one by Town staff and the other by the Cannabis Control Committee.

Town staff presented the Cannabis Land Use Report, dated February 2020 to Council on February 18, 2020 (referred to hereinafter as the ‘Staff Cannabis Land Use Report’). The covering Council Report indicated that the Staff Cannabis Land Use Report serves as the review and study of land use impacts and recommends proposed policy changes and a regulatory framework for cannabis production and related land uses in the context of the Town of Pelham. In this regard, draft Official Plan and Zoning By-law amendments were attached.

Council formed an advisory committee known as the Cannabis Control Committee (CCC) to provide advice to Council, review options provided by the Town’s Community Planning and Development staff and to conduct research. As part of their updates to Council, the CCC has prepared a number of Draft Recommendation Reports to Council. On March 23, 2020, the CCC presented a 3<sup>rd</sup> Draft Recommendation Report on Managing Cannabis Nuisances in the Town of Pelham (referred to hereinafter as the ‘CCC Cannabis Report’). The CCC Cannabis Report covered similar topic areas as the Staff Cannabis Land Use Report, and included a review of regulatory



considerations, public concerns and a brief overview of the planning context. Other sections in the CCC Cannabis Report also spoke to the Odorous Industries Nuisance By-law (adopted by Council on March 23, 2020), Noise Nuisance By-law (future by-law) and Light Nuisance By-law (future by-law).

The primary focus of the CCC Cannabis Report was on how the adverse effects of odour could be dealt with specifically.

Given the above, a considerable amount of background on this planning issue already exists and for this reason, this report is intended to build upon and supplement the work already completed, with a particular focus on providing the supporting rationale for the MPC OPA and MPC ZBA.

On the basis of the above, below is a description of each of the remaining sections in this report.

**Section 2** provides a brief description of the process leading to the preparation of the MPC OPA and MPC ZBA.

**Section 3** provides a summary of the current situation and experiences of the community in the Town of Pelham and provides a summary of key elements of the Staff Cannabis Land Use Report and the

CCC Cannabis Report that were relied upon to prepare the MPC OPA and MPC ZBA.

**Section 4** reviews the Provincial, Regional and local land use policies that were considered in preparing the amendments.

**Section 5** provides a summary of the approach to regulating cannabis-related and industrial-hemp related uses.

## 2.0 BACKGROUND

On October 15, 2018, the Council for the Town of Pelham (Town) passed an Interim Control By-law (ICBL) 4046-2018 that applied to all lands within the municipality, except those that are under the Development Permit Control Area of the Niagara Escarpment Commission. In this regard, the ICBL restricted the following on any land within the Interim Control Area:

*Notwithstanding any other by-law to the contrary, no person shall within the Interim Control Area:*

- (a) Use any land, building or structure for any commercial or industrial cannabis purpose whatsoever, except for a use that lawfully existed on the date of passage of this By-law as long as it continues to be used for such purpose; or*
- (b) Be permitted to construct, alter or expand any building or structure for*



*any commercial or industrial cannabis purpose whatsoever, save and except where such construction, alteration or expansion is a continuation of a lawful use in existence on the date of passage of this By-law.*

The ICBL had the effect of restricting the use of all land within the municipality for any cannabis-related land uses for a period of one year. On September 23, 2019, the ICBL was extended to July 15, 2020. During this time, it was intended that the municipality would develop an approach to regulating cannabis.

Following the passage of the ICBL, Town planning staff began conducting research on best practices to inform an approach to regulating cannabis in the Town with the intention of bringing forward amendments to the Official Plan and Zoning By-law to implement the recommended approach.

On September 10, 2019, a statutory Public Meeting was held to consider amendments to the Town's Official Plan and Zoning By-law prepared by the Town to regulate cannabis-related uses. In addition, the following draft by-laws were presented as part of a comprehensive approach to regulating cannabis and particularly, the adverse effects from cannabis-related uses:

- A draft amended Fence By-law;
- A draft Fortification By-law;
- A draft Cannabis Nuisance By-law; and,
- A draft Odour By-law.

It was noted in the statutory Public Meeting staff report that Council had also previously made changes to the Site Plan Control By-law and was in the process of updating the Development Charges By-law that would also require development charge fees for future cannabis facilities.

As mentioned in the previous section, Council formed an advisory committee known as the Cannabis Control Committee (CCC) to provide advice to Council, review options provided by the Town's Community Planning and Development staff and to conduct research. The purpose of the CCC is as follows:

*The Town of Pelham Cannabis Control Committee shall be an advisory committee providing advice to Council on opportunities to mitigate against adverse land use impacts of cannabis production facilities and cannabis related uses in the Town.*

The CCC was charged with the following objectives:

*This Cannabis Control Committee is an*

*advisory committee that provides advice on strategies to mitigate against adverse land use impacts from cannabis production facilities including, but not limited to:*

- *Odour impacts*
- *Light impacts*
- *Traffic and parking impacts*
- *Impacts on adjacent agricultural lands and properties*
- *Stormwater management*
- *Safety, health and environmental concerns*
- *Other nuisances and loss of enjoyment*
- *Financial costs to the community*

*The Cannabis Control Committee will review options provided by staff and conduct research related to best practices of other jurisdictions to address these land use impacts and will assist with the development of appropriate land use policies, regulations and procedures for better managing the impacts of cannabis producers in the Town of Pelham.*

On January 13, 2020, the Town of Pelham retained Meridian Planning Consultants (MPC) to provide professional planning advice on the planning approach and planning instruments being proposed to regulate cannabis within the community. Since being retained, MPC:

- Reviewed all available materials including the Staff Cannabis Land Use Report (which included a draft OPA and ZBA);
- Reviewed all available materials provided by the CCC and the Town;
- Reviewed other best practices;
- Met with the CCC on March 11, 2020 and then met by phone on March 25, 2020; and,
- Prepared the MPC OPA and MPC ZBA in consultation with the CCC that is attached to this report.

It is anticipated that the MPC OPA and MPC ZBA will be circulated for public and agency comments in the spring of 2020 before being finalized. As a result of this circulation and the consideration of comments made through that process, changes may be made to the MPC OPA and MPC ZBA. If changes are made, it is anticipated that an addendum report would be prepared that provides the rationale for any changes made.

## 3.0 CURRENT SITUATION

### 3.1 OVERVIEW

There are currently three indoor cannabis operations that exist within the Town of Pelham. The two largest facilities are the RedeCan facility on Foss Road, which has an approximate floor area of 37,191 m<sup>2</sup> and the CannTrust facility on Balfour Road, which has an approximate floor area of 72,581 m<sup>2</sup>.



CannTrust Facility on Balfour Road (Source: Google)

At the time the above-mentioned operations were established, the Town's Official Plan and Zoning By-law were silent on cannabis; meaning that the uses were considered agricultural uses and permitted as such.

Because of this, and since the licence was granted at the Federal government level,

no public consultation was required.



RedeCan Facility on Foss Road under construction  
(Source: St. Catharines Standard)

As mentioned in the previous section, Town staff prepared the Staff Cannabis Land Use Report and the CCC prepared a separate CCC Cannabis Report. Both reports indicated that odours from the existing cannabis production facilities have been a consistent and recurring problem in the Town of Pelham. In addition, the Staff Cannabis Land Use Report indicated that:

*The intensity and distance of odours are greatly influenced by weather, wind conditions and also dependent on the number and type of plants, stage of growth, odour mitigation technology and building construction. The potential for odour impacts also varies significantly depending on the activities taking place. For example, a facility for propagation of cannabis plants would not be associated with significant odours while a facility that is growing plants to the flowering stage*

*and doing processing has the potential for significant odour impacts*

In addition to the above, the following was stated in the Staff Cannabis Land Use Report:

*The experience in the Town of Pelham has been that the most common odour control technologies employed by the cannabis production facilities are not effective or not consistently effective which has resulted in negative impacts to residents. Cannabis production is a new and evolving industry and a number of odour control technologies are still being tested or are being applied to cannabis for the first time. Further some of the odour control technologies being employed, such as the use of masking agents, are also offensive to sensitive uses. The technology does exist to predict odours, model the areas impacted and test odour mitigation technologies. This work is commonly done in industrial applications.*

The CCC Cannabis Report also documented the concerns raised by residents within the Town, dating back to the summer of 2018. The CCC Cannabis Report included the following summary list of concerns raised by residents of the area and these included:

- *Loss of precious specialty crop*

*agricultural lands;*

- *Skyglow causing severe light pollution;*
- *Skunk-like odour;*
- *Heavy traffic and noise disrupting their quiet country streets and neighbourhoods; and,*
- *Industrial-like facilities disrupting their picturesque country streets and neighbourhoods.*



Ventilation equipment on east side of CannTrust Facility  
(Source: Google)

Both of the reports acknowledged the unique context of the Town of Pelham. In this regard, the Town is known for its rolling topography and the presence of the Fonthill Kame and Niagara Escarpment. In turn, these features form the highest elevation in Niagara Region in a manner that influences the climate by providing a buffer from southwesterly winds. As a result, these features create a scenario that is favourable for growing of crops like tender fruit.

It is for this reason that the northern two-



thirds of the Town are subject to the Greenbelt Plan and identified as part of the Niagara Peninsula Tender Fruit and Grape Area by the Greenbelt Plan.

The Staff Cannabis Land Use Report also elaborated on the phenomenon of cold-air-runoff winds that occur when air comes in contact with the land, cools, flows and pools into lower areas. In this regard, it was noted in the report that this has a direct impact on the concentration of odours in the area as it is influenced by topography.

In addition to the above, the Staff Cannabis Land Use Report also noted that the majority of the agricultural properties in the Town are less than 40 hectares in size. Given that the majority of the agricultural properties are also the site of a dwelling, that means that there are a number sensitive receptors in the agricultural areas.

In this regard, a sensitive receptor is a residential use, school, day care, park, church, campground and community centre. The Staff Cannabis Land Use Report indicated that there are approximately 1,674 sensitive receptors in the agricultural area.

### 3.2 STAFF CANNABIS LAND USE REPORT

On February 18, 2020, Town staff presented the Staff Cannabis Land Use Report to Council.



The Staff Cannabis Land Use Report included a review of the existing regulatory framework that applies to cannabis uses. Included in this section of the Staff Cannabis Land Use Report was an overview of the Federal and Provincial permissions and requirements, personal recreational production, personal medication production, commercial licenses for cannabis and industrial hemp licenses.

The Staff Cannabis Land Use Report also provided a review of the planning policy

framework that focused on the impact of these uses on the rural agricultural area in the Town of Pelham. The following legislation was also reviewed in the report: Planning Act, Provincial Policy Statement 2014, Greenbelt Plan 2017, Niagara Escarpment Plan 2017, the Growth Plan for the Greater Golden Horseshoe 2019, the Niagara Region Official Plan 2014 and the Farming and Food Production Protection Act 1998.

In addition to the above, the Staff Cannabis Land Use Report included a municipal best practices review of 12 municipalities in Ontario and one municipality in the Province of British Columbia that had zoning provisions that apply to cannabis production. The best practices review included an overview of which zones permitted cannabis uses, identified the setbacks that apply and any other relevant provisions.

The Staff Cannabis Land Use Report also included a detailed review of the land use impacts that were considered as it related to land use compatibility. In order to deal with these impacts it was recommended that the outdoor storage, growing and production of cannabis not be permitted as-of-right as a consequence and that a site-specific Zoning By-law amendment and Site Plan Control be required for new outdoor cannabis operations. In addition,

it was recommended that a 150-metre setback from sensitive uses be established for greenhouses in the Zoning By-law as well; however, new greenhouses would not require a re-zoning if they met the standards set out in the Zoning By-law.

Below is a summary of the land use impacts reviewed in the Staff Cannabis Land Use Report and the recommendation that were developed to address them.

1. **Odour and Air Quality:** The Staff Cannabis Land Use Report noted that this is the most common land use impact being experienced in the Town and recommended that a minimum setback of 150 metres for new greenhouses from sensitive receptors be applied.
2. **Supplemental Lighting:** The Staff Cannabis Land Use Report indicated that light pollution has been a major land use impact associated with cannabis production in greenhouses. The concerns with light pollution range from a negative impact to residents enjoyment of their property in the evenings and impacts to outdoor crops. The report recommended that light mitigation systems be installed and operated to reduce off-property impacts and that a light control,

maintenance, monitoring and contingency plan be prepared where supplemental lighting is proposed.

3. **Noise:** The Staff Cannabis Land Use Report stated that cannabis cultivation activities are not generally associated with significant noise impacts, however the facilities are using natural gas generators as a primary source of power for greenhouses that has a negative impact to nearby sensitive receptors. The report recommended that a minimum setback of 150 metres for greenhouses from sensitive receptors be applied and the requirement for a noise study be determined on a case-by-case basis.
4. **Traffic:** The Staff Cannabis Land Use Report noted that cannabis production facilities have the potential to generate significant traffic depending on the type of operation, number of employees, shifts, deliveries and shipments. It was further acknowledged that the Town has received complaints that rural roads are not able to accommodate the volume of traffic associated with existing operations. The report therefore recommended that a traffic study be required as part of a complete application and that Site Plan Control

also be required.

5. **Groundwater:** The Staff Cannabis Land Use Report indicated that cannabis production facilities are generally significant water users, as water is needed for irrigation of plants, cleaning and disinfecting, processing activities and for employee use. The areas where cannabis production is permitted under current planning policies are not serviced, which means that the water supply comes from sources such as wells, ponds or cisterns. With this in mind, the report recommended that a servicing report, waste management report and Site Plan Control be required under the complete application requirements currently contained in Section E3.1 of the Official Plan.
6. **Property Value:** The Staff Cannabis Land Use Report also reviewed complaints from residents that property values were being negatively impacted by the location of cannabis production facilities. In this regard, the report referenced recent reports from REMAX and the Municipal Property Assessment Corporation (MPAC) that did not show this impact. However, the report noted that a number of recommendations have been made to

deal with land use compatibility between sensitive land uses and cannabis production facilities to address negative impacts.

7. **Agricultural Land:** The Staff Cannabis Land Use Report referenced concerns that have been raised about the loss of high quality lands to the construction of large greenhouses for cannabis production. The report recognized, from a planning perspective, that the cannabis production and processing is permitted in agricultural areas.
8. **Environmental:** The Staff Cannabis Land Use Report referenced concerns regarding the impacts on environmental or natural heritage features from the development of cannabis production facilities. The report indicated that the recommended approach to require Site Plan approval at the very least for new facilities would allow for environmental impacts to also be considered on a case-by-case basis.
9. **Changing Character in the Rural Agricultural Area:** The Staff Cannabis Land Use Report also referenced concerns about the impact of cannabis production facilities on the existing rural character. In addition to the

proposed 150 metre setback from sensitive receptors, the report also recommended the establishment of a minimum 5 metre landscaped buffer between all lots that permit or contain a sensitive land use and any required security fencing or required parking.

To summarize the proposed changes to the planning framework, the Staff Cannabis Land Use Report recommended that Official Plan policies be created to:

- Require the submission of an Odour Emission Summary, Dispersion Modelling and Mitigation Report that demonstrates no adverse effects on sensitive receptors;
- Require the submission of Odour Control, Maintenance, Monitoring and Contingency Plans;
- Address value-added agricultural uses (cannabis processing) in conformance with the Provincial Policy Statement and Niagara Region Official Plan;
- Require installation and operation of light mitigation systems that reduce off-property impacts; and,
- Require Site Plan Control.

The report also noted that other studies included in Section E.3.1 of the Town's Official Plan enable the Town to request



other studies that address noise, traffic, private servicing, waste management, groundwater and environmental impacts.

### 3.3 CANNABIS CONTROL COMMITTEE CANNABIS REPORT

The primary focus of the CCC Cannabis Report was on how the adverse effects of odour could be dealt with specifically. In this regard, the CCC relied upon the expertise of a local odour expert (Mr. Phil Girard, P.Eng) to provide knowledge on how odour problems can be predicted and the types of studies that could be completed to determine how odour can be mitigated. On this basis, Mr. Girard indicated that:

- *Odour can be quantitatively measured so that it can be managed. The “type” of smell is irrelevant.*
- *Ambient programs can be used to evaluate ongoing compliance.*
- *Industry is already required to prepare Emission Summary and Dispersion Modelling reports that demonstrate compliance with provincial limits.*
- *If a complaint arises, industry is required to develop an abatement plan.*
- *There are MECP protocols for contaminant reporting, odour sampling, analysis and modelling. The Town does*

*not have to re-invent the wheel.*

In addition to the above, it was noted in the CCC Cannabis Report that Pelham’s rolling hills geography and microclimates could cause odour to disperse along unexpected paths in comparison to other flat geographies where odour dispersion prediction is more accurate. In this regard, the rolling hills in the northern two-thirds of the Town are particularly susceptible to the adverse effects from odour.

On the basis of the above, it was recommended that an Emission Summary and Dispersion Modelling Report be prepared in accordance with the Ministry Guidelines.

The Ministry Guidelines are contained within the “Methodology for Modelling Assessment of Contaminants with 10-Minute Average Standards and Guidelines”, Sept 2016, which describes the modelling methodology used in predicting the worst-case odour levels to be expected from a facility. In this regard, the CCC Cannabis Report recommended that this methodology be used as the basis for preparing the Odour Emission Summary and Dispersion Modelling Report.

In addition to the above, a Contingency Odour Plan was also recommended at the

time that an application is made for a Zoning By-law amendment. The purpose of this plan would be to consider additional air filtration systems or other mitigation measures that could be relied upon in the event of future complaints.

### 3.4 APPROACH COMPARISON

While the CCC Cannabis Report did not include recommendations on Official Plan and zoning by-law changes, the CCC made a number of recommendations on policy approaches, with some of those approaches captured in the MPC OPA and MPC ZBA that are the subject of this report.

In this regard, below is a brief overview of the similarities and differences in the draft Official Plan and Zoning By-law amendments prepared by the Town (Town OPA and Town ZBA) and MPC:

1. The Town OPA requires a re-zoning for outdoor cannabis-related uses and industrial hemp-related uses in the Good General Agricultural and Specialty Agricultural designations. The MPC OPA requires both an Official Plan Amendment and re-zoning for outdoor cannabis-related uses in the Specialty Agricultural designation and a re-zoning only in the Good General Agricultural and Industrial designations.
2. The Town OPA and ZBA effectively permit cannabis greenhouses in the Good General Agricultural and Specialty Agricultural designations, subject to meeting a 150-metre setback from sensitive uses (or greater - setback discussed below). The MPC OPA requires both an Official Plan Amendment and re-zoning for indoor cannabis-related uses and industrial hemp-related uses in the Specialty Agricultural designation and a re-zoning only in the Good General Agricultural and Industrial designations.
3. The Town ZBA includes a 150-metre setback for a cannabis greenhouse from a sensitive land use, with that setback potentially being greater based on the recommendations of an odour impact analysis. The MPC ZBA does not include such a setback because a setback for this type of use cannot be established in advance, since the context of every application

is different. Instead, it is proposed in the MPC OPA to establish setback guidelines based on the recommendations made by the CCC and require a re-zoning, through which an appropriate setback would be determined. In this regard, the recommended minimum setback guideline for sensitive uses is 300 to 500 metres, which can be higher or lower depending on future study.

4. While the Town OPA does list the studies that would be required to support a future application, the MPC OPA spells out the requirements in much more detail. In addition, the MPC OPA adds an agricultural impact assessment and a traffic impact study to the requirements and clearly indicates that the known impacts from existing cannabis-related uses be factored into the odour analysis component.
5. The Town ZBA includes a 500-metre separation distance between cannabis greenhouses. The MPC OPA establishes a number of different separation distances based on the nature of the use that range from 500 metres to 4,000 metres for larger operations. In addition, the MPC OPA provides additional direction on how

the setback is to be measured.

6. The Town ZBA also proposed to reduce the permitted lot coverage for all greenhouses to 30% instead of 60% and to 40% instead of 70% for greenhouses that were developed in conjunction with a permitted use. The MPC ZBA reduces the lot coverage for cannabis greenhouses only to 30% since it would not be appropriate as part of a process that reviews the impacts of cannabis to make a substantial change to a standard affecting uses that are not related to cannabis in any way.
7. The MPC OPA also includes policies that require consideration of whether any cannabis-related use or industrial-hemp related use other than cultivation is an agriculture-related use as per the Provincial Policy Statement using guidelines prepared by the Province. The Town OPA does not contain such a policy requirement.

As a general comment, the inclusion of a setback in the zoning by-law as suggested in the Staff Cannabis Land Use Report is not supported since it is very likely that the setback would be too low, based on the experience of the CCC and local residents. In addition, the Town ZBA indicates that

the setback could be higher based on the submission of an odour study. In this regard, it is the opinion of MPC that a zoning by-law cannot include a standard that is subjective and open to interpretation.

## 4.0 POLICY REVIEW

The purpose of this section of the report is to provide an overview of the legislation and land use policies that were considered by MPC to support the MPC OPA and MPC ZBA.

### 4.1 THE FEDERAL CANNABIS ACT AND REGULATIONS

On April 13, 2017, the Government of Canada introduced Bill C-45 (the Cannabis Act) in the House of Commons. Based in large part on the advice provided by the Task Force on Cannabis Legalization and Regulation, the Cannabis Act created the foundation for a comprehensive national framework to provide restricted access to regulated cannabis, and to control its production, distribution, sale, importation, exportation, and possession.

Following parliamentary review, the Cannabis Act received royal assent on June 21, 2018 and it became law on October 17, 2018.

As set out in section 7 of the Cannabis Act, the purpose of the Cannabis Act is to protect public health and public safety and in particular to:

- *Protect the health of young persons by restricting their access to cannabis;*
- *Protect young persons and others from inducements to use cannabis;*
- *Provide for the legal production of cannabis to reduce illegal activities in relation to cannabis;*
- *Deter illegal activities in relation to cannabis through appropriate sanctions and enforcement measures;*
- *Reduce the burden on the criminal justice system in relation to cannabis;*
- *Provide access to a quality-controlled supply of cannabis; and,*
- *Enhance public awareness of the health risks associated with cannabis use.*

In order to achieve the above, the Cannabis Act:

- *Creates a general control framework for cannabis by establishing a series of criminal prohibitions, while providing for exceptions or authorizations to permit persons to engage in otherwise prohibited activities;*
- *Provides for the oversight and licensing of a legal cannabis supply chain;*

- *Provides for licences and that will set parameters for the operation of a legal cannabis industry;*
- *Indicates that Federal and Provincial/territorial governments will share responsibility for the oversight and licensing of the cannabis supply chain and that the federal Minister of Health will be responsible for licensing, among other activities, the production of cannabis (cultivation and processing), while Provincial and territorial governments can authorize the distribution and retail sale of cannabis in their respective jurisdictions; and,*
- *Establishes national standards to protect public health and safety through the creation of a number of legal requirements that are intended to protect against the public health and public safety risks associated with cannabis.*

The Federal Cannabis Act and Regulation SOR-2018-144 ('the Cannabis Regulation') came into effect in 2018 to legalize recreational cannabis production. There are six classes of licenses related to the production of cannabis and related activities.

In addition to the above, the Industrial Hemp Regulation SOR-2018-145 ('the Industrial Hemp Regulation') also came

into effect in October 2018. The Industrial Hemp Regulation applies to low-THC cannabis for industrial use that is grown under controlled circumstances. There is one type of license related to the production of industrial hemp and related activities.

It does not appear as if there is any requirement for local municipal support before a licence is issued. In this regard, the Regulation only appears to require an applicant to provide written notice to municipalities and others as per Section 7(1) of the Regulation reproduced below:

*Before submitting an application to the Minister for a licence for cultivation, a licence for processing or a licence for sale that authorizes the possession of cannabis, the person that intends to submit the application must provide a written notice to the following authorities in the area in which the site referred to in the application is located:*

- The local government;*
- The local fire authority; and*
- The local police force or the Royal Canadian Mounted Police detachment that is responsible for providing policing services to that area.*

In addition to the above, licence holders

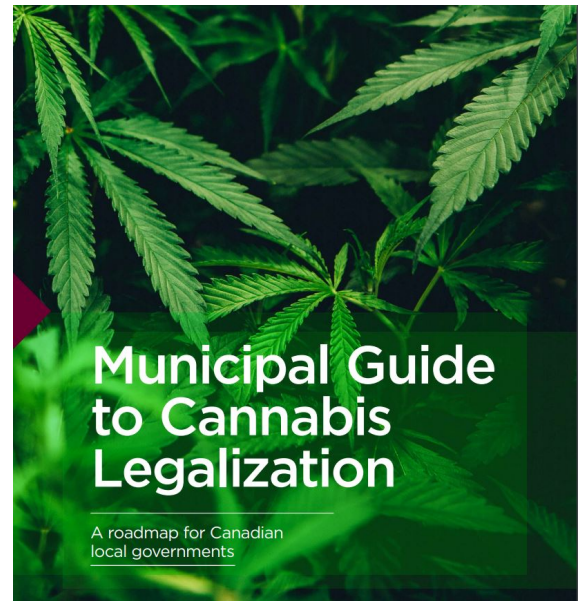
are also required to notify the local government when a new licence has been issued as per Section 35(1) of the Regulation as set out below:

*A holder of a licence for cultivation, a licence for processing or a licence for sale that authorizes the possession of cannabis must, within 30 days after the issuance, amendment, suspension, reinstatement or revocation of the licence, provide a written notice to the local authorities referred to in paragraphs 7(1)(a) to (c) in the area in which the site set out in the licence is located and provide a copy of the notice to the Minister.*

In the spring of 2018, the Federation of Canadian Municipalities (FCM) released the 'Municipal Guide to Cannabis Regulation' ('FCM Guide'). In this regard, the Guide indicates the following:

*If a business obtains a federal licence under the Cannabis Act, it will not mean that the company will not be subject to provincial/territorial or local government regulations dealing with land use management. Locally, this constitutional arrangement can provide municipalities with the authority to prohibit particular land uses. We recommend that municipalities consult their individual provincial/territorial enabling land use laws for specific direction. But generally, there is*

*no obligation for municipalities to permit cannabis cultivation in specific areas.*



Notwithstanding the above need to consult 'provincial land use laws', the FCM Guide indicates the following:

*Local governments are entitled to interpret enabling legislation broadly enough to address emerging issues and respond effectively to community objectives. However, they cannot extend its scope beyond what the wording of the legislation can reasonably bear. Some enabling legislation across Canada may allow local governments to deal with particular uses on a "conditional use" or "direct control" basis, which might be particularly appropriate in the case of new land use activities (such as those associated with cannabis) whose impacts are not well-*



*understood at the outset.*

It should be noted that 'conditional use' and 'direct control' are not components of Ontario's land use planning regime. In any event, the FCM Guide concludes the following:

*None of the land use activities that are expected to result from the legalization of cannabis are likely to diverge from the existing enabling legislation and interpretations noted above. The land use activities contemplated relative to the Cannabis Act are similar to activities associated with other consumable commodities such as food, beverages and tobacco.*

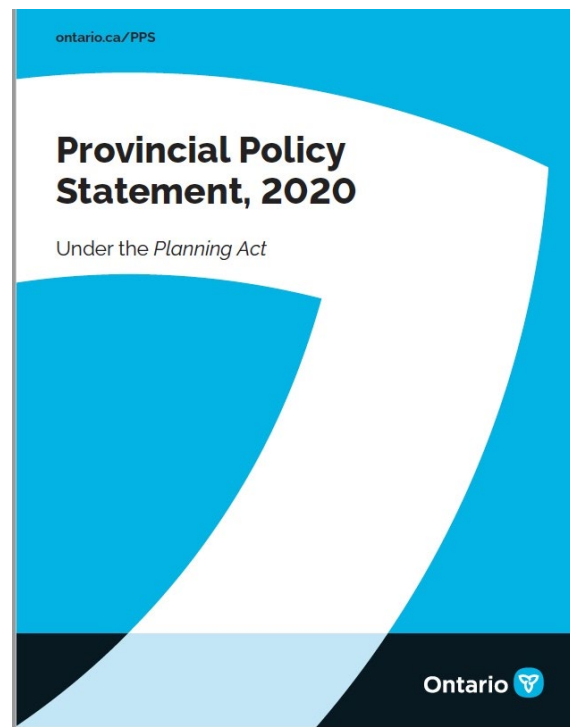
As a consequence of the above, and in the absence of other countervailing views on the matter, it is the opinion of MPC that a local municipality can regulate cannabis-related land uses much like any other land use.

This means that while there is no municipal role in the licensing process, there would still be a requirement for licence holders to comply with local zoning controls. Since local zoning controls should be based on a policy framework in an Official Plan, this means that Official Plan policies can also be enacted to control the location of the use.

## 4.2 PROVINCIAL POLICY STATEMENT 2020

The purpose of this section is to review the relevant policies in the Provincial Policy Statement that were considered in preparing the MPC OPA and MPC ZBA.

It is noted that a new Provincial Policy Statement (PPS 2020) comes into effect on May 1, 2020. In this regard, the policies contained in the PPS 2020 are reflected within this section.



### 4.2.1 Cannabis Cultivation

The MPC OPA and MPC ZBA recognize cannabis cultivation as an agricultural use. It is recognized that the Town OPA and ZBA

also do the same.

The PPS 2020 includes the following definition of 'agricultural use':

*Agricultural Use: means the growing of crops, including nursery, biomass and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.*

The PPS 2020 does not make any distinctions between the types of crops that are grown, as long as whatever is produced is harvestable, which means that the cultivation of cannabis would be an agricultural use, whether that cultivation occurs indoors or outdoors.

#### **4.2.2 Classification of Agricultural Lands in Pelham**

The PPS 2020 divides the Province into two general land use categories with one being urban 'settlement areas' and the second being 'rural area', with rural areas including rural settlement areas, rural lands, prime agricultural areas, natural

heritage features and areas and resource areas. Rural lands and prime agricultural areas are considered to be mutually exclusive, with rural lands not encompassing prime agricultural areas. Within the prime agricultural area, there exists another category - specialty crop area, where specialty crops are predominantly grown, such as tender fruits, grapes, other fruit crops, vegetable crops, greenhouse crops and crops from agriculturally developed organic soil are grown.

In the Town of Pelham, lands not within rural settlement areas and which are not subject to the Niagara Escarpment Plan are designated by the Pelham Official Plan as Specialty Agricultural (which are considered to be specialty crop areas and identified as the Niagara Peninsula Tender Fruit and Grape Area by the Greenbelt Plan) and Good General Agricultural (which is considered to be a prime agricultural area). Other lands are designated for environmental protection purposes.

Section 2.3.1 of the PPS 2020 states the following with respect to the use of land in prime agricultural areas:

*Prime agricultural areas shall be protected for long-term use for agriculture.*



The above means that prime agricultural areas shall be protected for long term use for all forms of agriculture, including the cultivation of cannabis. Section 2.3.3.2 of the PPS 2020 then states the following, which recognizes the primacy of agriculture in prime agricultural areas:

*In prime agricultural areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.*

The above means that all types, sizes and intensities of agricultural uses are permitted, and there is no distinction made in this policy on whether the crop is grown indoors or outdoors.

The MPC OPA also recognizes that the cultivation of cannabis or industrial hemp, indoors or outdoors, is an agricultural use. However, the MPC OPA requires that cannabis or industrial hemp cultivation be subject to review through a Planning Act process to ensure that the known adverse effects of cannabis or industrial hemp cultivation are assessed before the use is established.

#### **4.2.1 Land Use Compatibility**

Section 1.2.6.1 of the PPS 2020 addresses major facilities and sensitive land uses and it reads as follows:

*Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.*

The three definitions in Section 1.2.6.1 are below:

**Major facilities:** *means facilities which may require separation from sensitive land uses, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities.*

**Sensitive land uses:** *means buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care*

*centres, and educational and health facilities.*

***Adverse effects:** as defined in the Environmental Protection Act, means one or more of:*

- a) Impairment of the quality of the natural environment for any use that can be made of it;*
- b) Injury or damage to property or plant or animal life;*
- c) Harm or material discomfort to any person;*
- d) An adverse effect on the health of any person;*
- e) Impairment of the safety of any person;*
- f) Rendering any property or plant or animal life unfit for human use;*
- g) Loss of enjoyment of normal use of property; and*
- h) Interference with normal conduct of business.*

Based on the definitions above, a cannabis-related use would be considered a 'major facility'; since any 'facility' that may require separation from sensitive land uses would be considered a 'major facility' according to the definition of such.

While it is recognized that cannabis and industrial hemp cultivation is an

agricultural use, this does not mean that it cannot also be a major facility, particularly if there are known and well-documented adverse effects, as is the case in the Town of Pelham. In addition, the definition of a major facility in the PPS 2020 does not limit what a major facility is to the examples provided in the definition. Lastly, the definition does contemplate the inclusion of land uses and activities that are not carried out in a building, by including such examples as marine facilities and resource extraction activities.

The range of uses that would be considered sensitive as per the definition of 'sensitive use' in the PPS 2020 is extensive since any building, amenity area or outdoor space is sensitive if routine or normal activities occurring at reasonably expected times would experience adverse effects.

The focus of Section 1.2.6.1 of the PPS 2020 is on the adverse effects that may be experienced by a sensitive land use. Based on the definition of 'sensitive' in the PPS 2020, any use where people reside or gather, such as residential uses, schools, day care centres, educational and health facilities and other similar uses would be sensitive uses.

In addition to the above, the Ministry of Environment's (MOE) D-series guidelines

were also reviewed in detail. The D-Series guidelines assist decision makers when dealing with sensitive land uses and were designed to inform the preparation of Official Plan policies and the making of Planning Act decisions in cases where a proposed use is potentially incompatible with an existing use.

Section 3.1 of Guideline D-1 of the D-series guidelines establishes the preferred approach to dealing with adverse effects and indicates that various buffers may be used to prevent or minimize adverse effects. However, the following is clearly indicated:

*Distance is often the only effective buffer, however, and therefore adequate separation distance, based on a facility's influence area, is the preferred method of mitigating adverse effects.*

In our opinion, this means that the only effective way of 'preventing' adverse effects between a major facility and a sensitive use, in accordance with Section 1.2.6.1 of the PPS 2020, is through separation.

The following is then indicated in Section 3.2 of Guideline D-1:

*The separation distance should be sufficient to permit the functioning of the*

*two incompatible land uses without an adverse effect occurring.*

Again, this supports the principle that separation is the only effective way to prevent adverse effects in accordance with Section 1.2.6.1 of the PPS 2020.

The MPC OPA recognizes the above by requiring that a zoning by-law amendment be applied for to determine the appropriate setback for a new use on a case-by-case basis. In determining the appropriateness of the use, the supporting studies identified by the MPC OPA are appropriate and reasonable in the circumstance, given the known adverse effects experienced by residents in the Town at the present time.

#### **4.2.2 Agriculture-Related Uses**

The MPC OPA also includes a policy that requires the consideration of a number of criteria to determine whether a use related to cannabis cultivation is an agriculture-related use, which is also permitted by the PPS 2020 in prime agricultural areas. However these uses must be carefully planned so that they are compatible with agricultural uses as per Section 2.3.3.1 of the PPS 2020:

*Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding*

*agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.*

The definition of agricultural-related use in the PPS 2020 is below:

***Agriculture-Related Uses:*** means those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity.

The processing of cannabis (along with testing and research) could be considered an agriculture-related use under the PPS 2020 in prime agricultural areas, including specialty crop areas. For a use to be considered as agriculture-related, it must be a farm related commercial use and/or a farm related industrial use that satisfies all of the criteria below:

- Is directly related to farm operations in the area;
- Supports agriculture;
- Benefits from being in close proximity to farm operations; and,

- Provides direct products and/or services to farm operations as a primary activity.

In 2016, the Ontario Ministry of Agriculture Food and Rural Affairs (OMAFRA) published the Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas (OMAFRA Guidelines). The intent of the OMAFRA guidelines is described as follows:

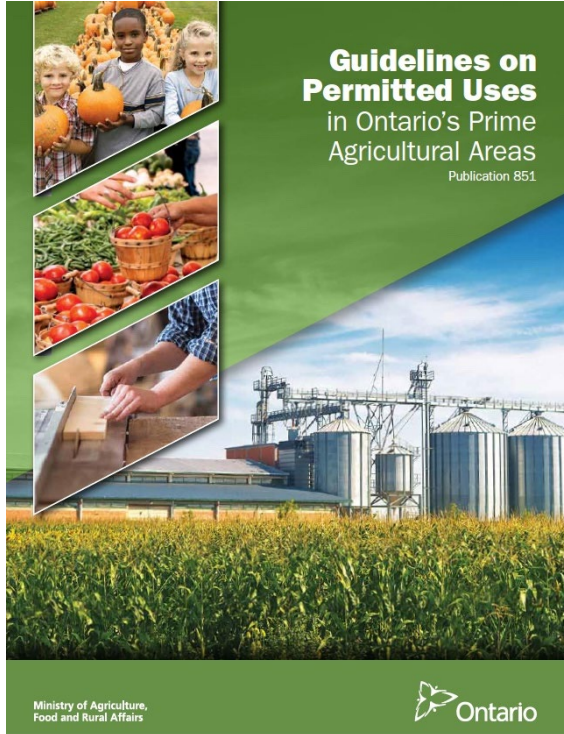
*The Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas will help municipalities; decision-makers, farmers and others interpret the policies in the Provincial Policy Statement, 2014 (PPS) on the uses that are permitted in prime agricultural areas. It comprises the provincial guidelines referred to in Policy 2.3.3.1 of the PPS.*

Section 1.1 of the OMAFRA Guidelines also states that:

*These guidelines are meant to complement, be consistent with and explain the intent of the PPS policies and definitions. Where specific parameters are proposed, they represent best practices rather than specific standards that must be met in every case.*

Section 2.2 of the OMAFRA Guidelines indicates that agriculture-related uses may

be located on farms or on separate agriculture-related commercial or industrial properties.



With respect to farm-related commercial uses, Section 2.2.1.1 of the OMAFRA Guidelines specify the following:

*Farm-related commercial uses may include uses such as retailing of agriculture-related products (e.g. farm supply co-ops, farmers' markets and retailers of value-added products like wine or cider made from produce grown in the area), livestock assembly yards and farm equipment repair shops if they meet all the criteria for the category of agriculture-related use.*

It is noted that the 'criteria' referenced above is from Table 1 of the OMAFRA Guidelines and are similar to the four parts of the definition of agriculture-related use in the PPS.

In addition to the above, the OMAFRA Guidelines provide other examples of agriculture-related uses as well and they are:

- *Apple storage and distribution centre serving apple farm operations in the area;*
- *Agricultural research centre;*
- *Farmers' market primarily selling products grown in the area;*
- *Winery using grapes grown in the area;*
- *Livestock assembly yard or stock yard serving farm operating in the area;*
- *Processing of produce grown in the area (e.g., cider-making, cherry pitting, canning, quick-freezing, packing);*
- *Abattoir processing and selling meat from animals raised in the area;*
- *Grain dryer farm operations in the area;*
- *Flour mill for grain grown in the area;*
- *Farm equipment repair shop;*
- *Auction for produce grown in the area; and,*
- *Farm input supplier (e.g., feed, seeds,*

*fertilizer (serving farm operations in the area).*

Based on the examples above, cannabis processing could be considered an agriculture-related use subject to the other criteria being satisfied. On this basis, the MPC OPA refers to these criteria and the Provincial guidelines and requires that they be satisfied when a cannabis-related use or industrial hemp-related use not involving cultivation is proposed.

Below is a brief discussion of these criteria.

In this regard, the **first criterion** to consider is whether the farm-related commercial and/or farm-related industrial use is directly related to farm operations in the area.

Section 2.2.1.3 of the OMAFRA Guidelines provide some guidance on what this means:

*Agriculture-related uses must be directly related to farms in the area, primarily providing products or services that are associated with required by or that enhance agricultural operations in the area. Directly related to means that the use should reflect the type of agricultural production in the area.*

Again there are three parts to the above,

which means that for a use to be an agriculture-related use in this context and to satisfy this criterion, it must be directly related to farms in the area and primarily provide products or services that are:

- *Associated with agricultural operations in the area; or*
- *Required by agricultural operations in the area; or*
- *Enhance agricultural operations in the area.*

It is then further indicated that the agriculture-related use should reflect the type of agricultural production in the area. The PPS 2020 and the OMAFRA Guidelines use the words 'in the area'.

Given the expectation that cannabis cultivation and cannabis processing would typically occur on one property, it is not clear how 'in the area' would be interpreted in this case.

However, it is noted that a winery is provided as an example and it is possible in some circumstances for all of the grapes to be sourced from the same property. As a consequence, there is no express prohibition in the OMAFRA Guidelines on the processing of cannabis on the same property as the cultivation of cannabis.



Notwithstanding the above, the OMAFRA Guidelines do support agriculture-related uses on separate properties in any event.

The **second criterion** to consider is whether the farm related commercial use and/or a farm related industrial use supports agriculture. This criterion does not seem to have any qualification according to the OMAFRA Guidelines and since the processing of cannabis would support the growing of cannabis, it could be argued that it supports agriculture.

The **third criterion** to consider is whether the farm related commercial use and/or a farm related industrial use benefits from being in close proximity to farm operations.

Section 2.2.1.6 of the OMAFRA Guidelines state the following:

*To meet this criterion, agriculture-related uses must benefit from or need to be located near the farm operations they serve.*

Processing at the cultivation site is a more sustainable practice as going from crop to finished product on the same site limits transportation needs and reduces waste. This practice would also be economically beneficial for the cultivator, who would then sell directly to the dispenser.

The **fourth criterion** to consider is whether the farm related commercial use and/or a farm related industrial use provides direct products and/or services to farm operations as a primary activity.

Section 2.2.1.5 of the OMAFRA Guidelines indicate the following:

*Direct products and/or services refers to uses that serve an agricultural need or create an opportunity for agriculture at any stage of the supply chain (e.g., value-added food and beverage processing and distribution or retail of agricultural commodities grown in the area).*

Cannabis processing would add value to the product grown on the same site and would therefore satisfy this criterion.

The PPS 2020 also permits on-farm diversified uses in the Prime Agricultural Area and defines such uses as follows:

*Means uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.*

In order for a use to be considered an on-farm diversified use, it would have to be

both secondary to the principal use of the property and be limited in area.

Section 2.3.1 of the OMAFRA Guidelines indicate that on-farm diversified uses must be located on a farm property that is actively used.

In the case of a cannabis processing use that is located on a property where the cannabis is cultivated, such a use would be on the same property and it would clearly be secondary, because of its limited scale in relation to the cultivated area.

This would also apply to the other types of licences and activities, particularly those that deal with testing and research, again provided cannabis was being cultivated on the same property.

### 4.3 NIAGARA REGION OFFICIAL PLAN

The Region of Niagara Official Plan (Niagara OP) applies to all lands within the Town of Pelham.

In terms of the importance of agriculture in Niagara Region, the introductory section of Section 5 of the Niagara OP states the following:

*With a unique combination of deep sandy soils and favourable microclimates,*

*Niagara's tender fruitlands are Provincially and Nationally significant. The Region also has large areas of good general agricultural lands which are suitable for the production of field crops and for livestock operations.*

*The agri-food industry in Niagara is diversified. Farmers produce a variety of crops including greenhouse flowers, fruit, vegetables, livestock and field crops. Wineries, distilleries, fruit and vegetable processors, dairies and meat packing firms process these crops adding value to their production.*

*The policies in this Plan give the unique agricultural lands (Good Grape and Good Tender Fruit Areas) the highest priority for preservation. The good general agricultural lands have the next priority for preservation. While not unique, these lands are suitable for the production of a wide range of crops and therefore are important in maintaining the agricultural industry's diversity.*

The Niagara OP includes a number of objectives in Section 5.A for agricultural and rural areas in the Region. These objectives support the preservation of agricultural land, support uses that enable farming and encourage a wide range of farm diversification. One of these objectives deals with land use conflicts as



per below:

*Objective 5.A.5 - To provide an efficient and orderly pattern of land uses in the Agricultural and Rural Areas, which lessens land use conflicts, which requires a minimum of municipal services and conserves natural resources.*

The MPC OPA is designed to achieve the above objective by requiring new cannabis-related uses and industrial-hemp related uses to carry out a number of supporting studies that consider the potential adverse effects of the use, before the use is established. Given the nature of the adverse effects currently experienced in the Town, this is much more preferable than attempting to address adverse effects after the fact.

Another objective deals with farm diversification as per below:

*Objective 5.A.8 - To encourage a wide range of farm diversification uses in appropriate locations and at a scale suitable to the farm and the agricultural area where they contribute to profitable and economically sustainable agriculture.*

The Niagara OP defines farm diversification as follows:

*Farm Diversification means a range of uses*

*that are designed to expand the range of economic opportunities available to farmers and is a generic reference to value added, agriculturally related and secondary agricultural uses that may not be directly related to the agricultural activity conducted on the farm property.*

On the basis of the above definition, farm diversification uses could be considered agriculture-related uses or on-farm diversified uses as per the PPS 2020. The MPC OPA also permits farm diversification in the form of cannabis-related uses that occur in conjunction with or accessory to cannabis cultivation, provided the use is appropriate for the area, as per the Niagara OP objective above.

In terms of what is permitted in prime agricultural areas, Section 5.B.6 of the Niagara OP indicates that the predominant use of land will be for *agriculture of all types, including livestock operations as well as associated value retention uses.*

The above policy is consistent with the PPS 2020.

Section 5.B.20 of the Niagara OP also indicates that local municipalities should define and categorize farm diversification uses and provide performance criteria and that uses that have potential to generate off site impacts will be evaluated and

assessed for compatibility with the principal agricultural operation and surrounding agricultural lands through a rezoning process that will also impose controls to mitigate the impacts.

Section 5.B.21 lists the following criteria to be considered when identifying whether or not diversification activities should be permitted in the Zoning By-law:

- a) Whether the proposed activity is more appropriately located in a nearby settlement area or in the Rural Area;*
- b) Whether the use is required on or in close proximity to the agricultural operation for it to support and complement the agricultural activity;*
- c) The extent to which the use is compatible with the existing farming operation and surrounding farming operations;*
- d) Whether the scale of the activity is appropriate to the site and the farming operation;*
- e) Whether the use is consistent with and maintains the character of the agricultural area;*
- f) The use does not generate potentially conflicting off-site impacts;*
- g) The use is limited to low water and low effluent producing uses, and the site is capable of accommodating the use on private water and private sewage*

*treatment systems;*

- h) The use does not require significant improvements to utilities or infrastructure such as roads or hydro services;*
- i) The use complies with all other applicable provisions of the Regional Official Plan.*

The policies in the MPC OPA on agriculture-related uses are consistent with the above requirements and refer to a Provincial guidance document on the issue.

#### **4.4 TOWN OF PELHAM OFFICIAL PLAN**

The Town of Pelham Official Plan 2014 (Pelham OP) applies to all lands within the Town of Pelham. Section A4.2 of the Pelham OP includes six rural area designations. Below is a review of the Good General Agricultural, Specialty Agricultural and Industrial designations.

The Good General Agricultural designation is generally applied to lands that are considered to be the prime agricultural area, as identified in the Niagara OP. Section B2.1.1 of the Pelham OP indicates that the purpose of this designation is to protect and maintain land suitable for agricultural production and permit uses which support and/or are compatible with agriculture.

Section B2.1.2 of the Pelham OP states that the principal permitted use within the Good General Agricultural designation shall be agriculture. There are also a number of other permitted uses that are considered to be agricultural-related and/or secondary uses on the basis that such uses assist in retaining or adding to agricultural products and commodities or promote agri-tourism.

Sections B2.1.3.12 and B2.2.8 of the Pelham OP also establish policies that apply to greenhouses and hoopouses, which are considered to be an agricultural use. However, the policy goes on to indicate that in the interest of ensuring compatibility, a Zoning By-law Amendment is required for greenhouses or hoopouses when:

- The lot area is less than 3 hectares; or
- The total lot coverage is greater than 30%; or,
- A retail component is proposed as an accessory use to the greenhouse or hoopouse
- Greater than 10,000 litres of water per day will be required.

Notwithstanding the above, the Town's Zoning By-law 1136 (1987) permits a lot coverage as of right in the Agricultural Zone of 60% for the greenhouse only and 70% if the greenhouse is constructed in

conjunction with any other permitted use. As a result, the current by-law does not appear to conform to the Official Plan.

The MPC ZBA proposes to reduce the lot coverage for greenhouses used for cannabis only to 30%, which would be in accordance with the Official Plan. However, the MPC OPA also requires a re-zoning to permit a cannabis greenhouse as well, for reasons already discussed.

## 5.0 CONCLUSIONS

As mentioned at the outset of this Report, the Town retained MPC to provide professional planning advice on the planning approach and planning instruments being proposed to regulate cannabis within the community. On this basis, MPC completed a review of the policy considerations to regulate cannabis uses, considered the current situation being experienced in the Town of Pelham, including adverse effects and reviewed the Staff Cannabis Land Use Report and the CCC Cannabis Report.

The Town of Pelham's unique topography and the presence of the Niagara escarpment influence climate in the area and this has a direct impact on the concentration of odour in the area. On this basis, Staff and the CCC have spent a

considerable effort in their respective background work and as documented in their respective Reports on articulating the impacts of adverse effects of existing cannabis operations that are being experienced throughout the Town.

On the basis of the above, MPC has prepared, in conjunction with the CCC, draft amendments to the Town's current planning framework to regulate cannabis related-uses and industrial hemp-related uses. In this regard, the MPC OPA sets out the studies required to assess potential adverse effects associated with the uses and establishes minimum setback guidelines to be considered in conjunction with the findings of the required studies. The MPC OPA also requires a site-specific zoning by-law amendment when a cannabis-related use or industrial-hemp related use is proposed. The MPC ZBA implements this approach by defining the use and then not permitting the use in any zone, therefore triggering the need for a re-zoning.

These policies are not intended to prohibit these uses, which for the most part are considered to be agricultural uses. Instead, the policies establish a path that can be followed by an applicant wishing to develop a cannabis-related or industrial hemp-related use in the Town, with this path based on the current experience in

the Town with respect to adverse effects.

**On the basis of the above, it is MPC's professional planning opinion that the MPC OPA and MPC ZBA are consistent with the PPS 2020 and conform to the Niagara Region Official Plan and represent good planning.**



**THE CORPORATION OF THE  
TOWN OF PELHAM  
By-law Number XXXX (2020)**

**Being a By-law passed pursuant to the provisions of  
Section 34 of *The Planning Act*, R.S.O. 1990, as amended to amend  
the Town of Pelham Zoning By-law No. 1136 (1987), as otherwise  
amended.**

**Whereas** the Council of the Corporation of the Town of Pelham has initiated an application to amend By-Law No. 1136 (1987) otherwise known as the Zoning By-Law, insofar as is necessary to establish provisions that apply to cannabis-related uses and industrial hemp-related uses in the Town of Pelham.

**And Whereas** the Council of the Corporation of the Town of Pelham conducted a public hearing in regard to this application, as required by Section 34(12) of the Planning Act, R.S. O. 1990, Chap. P. 13, as amended.

**And Whereas** the Council of the Corporation of the Town of Pelham deems it advisable to amend Zoning By-law 1136 (1987), as otherwise amended, with respect to the above described lands, and under the provisions of the Planning Act has the authority to do so.

**Now therefore** the Council of the Corporation of the Town of Pelham enacts as follows:

1. **That** Section 3.0 of this By-law No. 1136 (1987), as amended, is further amended to add the new zones and symbols as follows:

<b>Zone</b>	<b>Symbol</b>
Agricultural - Cannabis	A – CAN
General Industrial - Cannabis	M2 – CAN

2. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of definitions in Section 5.0, as follows:

- i) "Cannabis-related use - indoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that are carried out within an enclosed building or structure.
- ii) "Cannabis-related use - outdoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that only involve the growing and harvesting of cannabis outdoors.
- iii) "Industrial hemp-related use - indoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that are carried out within an enclosed building or structure.
- iv) "Industrial hemp-related use - outdoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that only involve the growing and harvesting of hemp outdoors.
- v) "Sensitive land use" means school, day care, playground, sporting venue, park, recreational area, residence, place of worship, community centre or any other place where people regularly gather or sleep.

3. **THAT** By-law 1136 (1987), as amended, is amended by the addition of parking requirements in Section 6.16 (a), as follows:

Cannabis-related uses - indoor and industrial hemp-related uses -  
indoor - 1 parking space per 100 m<sup>2</sup> (1076.39 ft<sup>2</sup>) of gross floor area

4. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 7A - Agricultural - Cannabis A-CAN Zone:

## **SECTION 7A – AGRICULTURAL CANNABIS - A-CAN ZONE**

Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply throughout the Agricultural Cannabis Zone.

### **7A.1 PERMITTED USES**

- (a) Cannabis-related Use - indoor and outdoor
- (b) Industrial Hemp-related Use - indoor and outdoor

### **7A.2 REGULATIONS FOR PERMITTED USES IN SUBSECTION 7A.1**

- (a) A retail store is not permitted as an accessory use to any of the permitted uses listed in Subsection 7A.1.
- (b) Minimum Lot Frontage for micro-processing and micro-cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 100 m
- (c) Minimum Lot Frontage for standard processing and standard cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 200 m
- (d) Minimum Lot Frontage for industrial hemp-related uses as defined and set out by the Federal Industrial Hemp Regulation SOR-2018-145 - 200 m
- (e) Minimum Lot Area for micro-processing and micro-cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 3 hectares
- (f) Minimum Lot Area for standard processing and standard cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 10 hectares

- (g) Minimum Lot Area for industrial hemp-related uses as defined and set out by the Federal Industrial Hemp Regulation SOR-2018-145 - 10 hectares
- (h) Maximum Lot Coverage - 30 percent
- (i) Minimum Front Yard - 100 metres
- (j) Minimum Side Yard or Rear Yard for micro-processing and micro cultivation uses as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 30 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 50 metres
- (k) Minimum Side Yard or Rear Yard for standard processing and standard cultivation uses as defined and set out by the Federal Cannabis Regulation SOR-2018-144 and industrial hemp-related uses as defined and set out by the Federal Industrial Hemp Regulation SOR-2018-145 - 60 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 80 metres
- (l) Minimum Exterior Side Yard - 100 metres
- (m) All greenhouses shall be located a minimum distance of 45 m from any lot line of a lot with a residential use
- (n) No storage area shall be permitted within 30 metres of a street or the lot line of an adjacent lot with a residential use



5. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 23A - General Industrial - Cannabis M2-CAN Zone

## **SECTION 23A – GENERAL INDUSTRIAL - M2-CAN ZONE**

Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply throughout the General Industrial Cannabis Zone.

### **23A.1 PERMITTED USES**

- (a) Cannabis-related Use - Indoor
- (b) Industrial Hemp-related Use - Indoor

### **23A.2 REGULATIONS FOR PERMITTED USES IN SUBSECTION 23A.1**

- (a) A retail store is not permitted as an accessory use to any of the permitted uses listed in Subsection 23A.1.
- (b) The provisions of Subsection 22.2 shall apply to all permitted uses within the General Industrial Cannabis M2-CAN Zone

6. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 30-299 - Exceptions

A-299 Notwithstanding the regulations of the Agricultural (A) zone, only the gross floor area that existed on the effective date of the zoning by-law amendment that included this section in the by-law is permitted.

7. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 30-300 - Exceptions

A-300 Notwithstanding the regulations of the Agricultural (A) zone, only the gross floor area that existed on the effective date of

the zoning by-law amendment that included this section in the by-law is permitted.

Read a first, second, and third time and finally passed this XX<sup>th</sup> day of XX, 2020.

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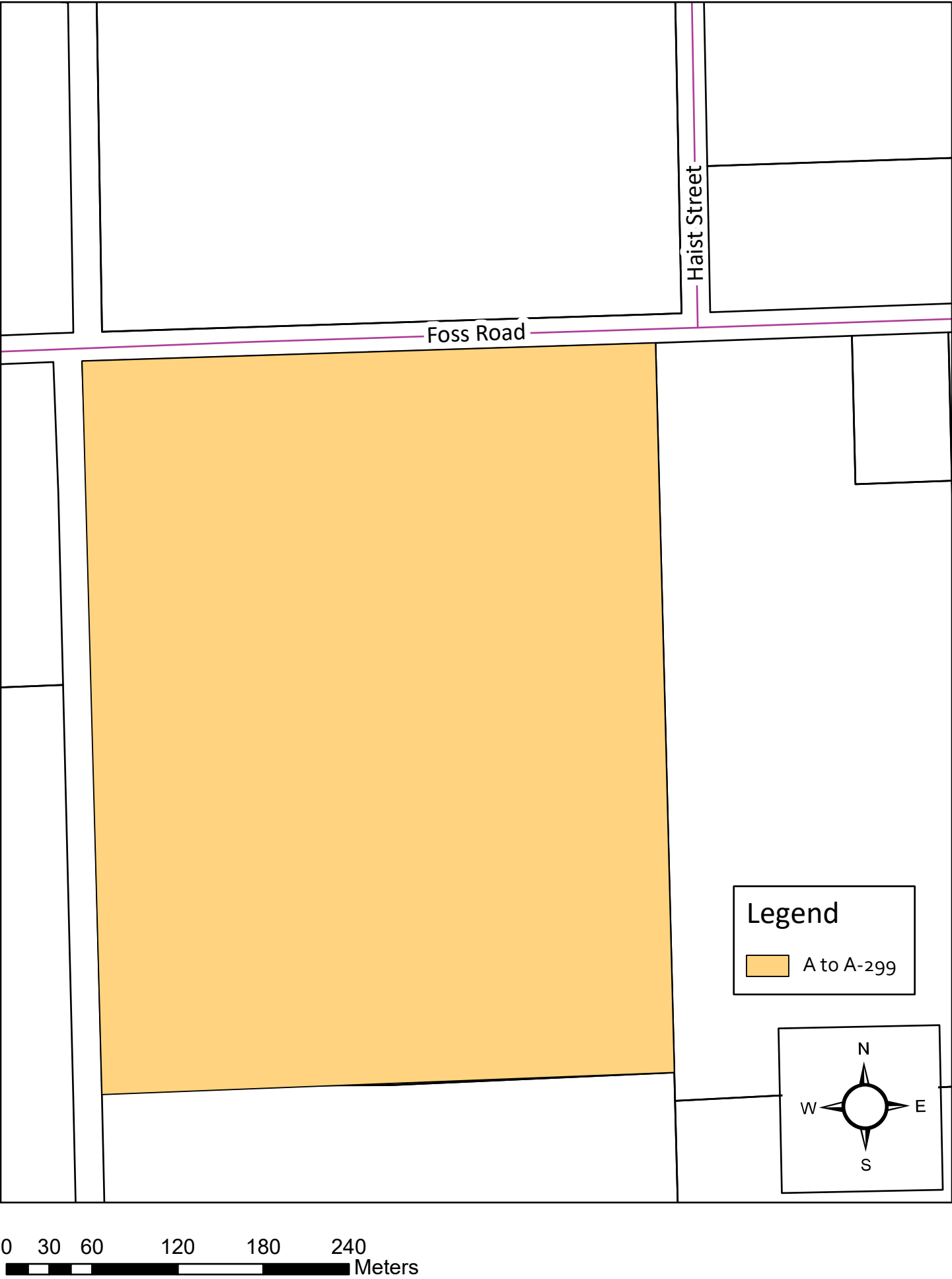
Marvin Junkin, Mayor

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Nancy J. Bozzato, Clerk

Corporate Seal

Schedule 'A'

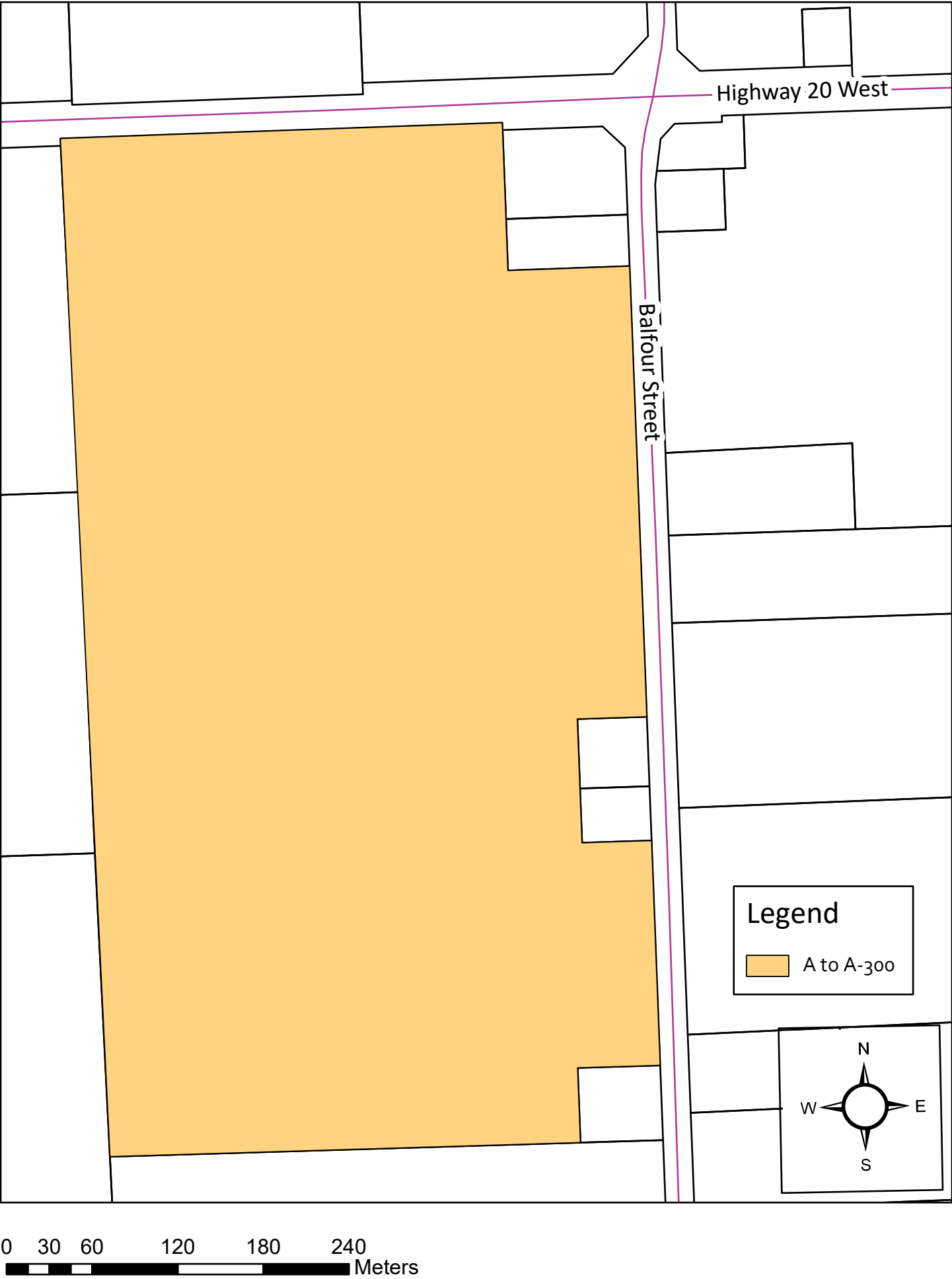


This is Schedule 'A' to By-law No. \_\_\_\_\_ (2020) passed the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Mayor: Marvin Junkin

Clerk: Nancy J. Bozzato

Schedule 'A'



This is Schedule 'A' to By-law No. \_\_\_\_\_ (2020) passed the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor: Marvin Junkin

\_\_\_\_\_  
Clerk: Nancy J. Bozzato

## **REGULAR COUNCIL MINUTES**

**Meeting #:** C-07/2020 - Regular Council  
**Date:** Monday, April 27, 2020  
**Time:** 5:30 PM  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

**Members Present:** Marvin Junkin  
Lisa Haun  
Bob Hildebrandt  
Marianne Stewart  
John Wink

**Regrets** Ron Kore

**Staff Present:** David Cribbs  
Bob Lymburner  
Marc MacDonald  
Jason Marr  
Teresa Quinlin  
Vickie vanRavenswaay  
Barbara Wiens  
Holly Willford

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

Noting that a quorum was present, the Mayor called the meeting to order at approximately 5:42 pm. All members and staff attended via electronic means.

The Mayor read remarks into the record regarding the sudden and untimely death of Councillor Mike Ciolfi.

The Mayor further mentioned the terrible loss of life in Nova Scotia.

### **2. Approval of Agenda**

**Moved By** Bob Hildebrandt

**Seconded By** Marianne Stewart

BE IT RESOLVED THAT the agenda for the April 27, 2020 Regular meeting of Council be adopted.

#### **Amendment:**

**Moved By** Bob Hildebrandt

**Seconded By** Lisa Haun

**THAT an item of new business be added to the agenda relating to Pelham Communications.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

**Amendment:**  
**Moved By** Lisa Haun  
**Seconded By** Bob Hildebrandt

**THAT an item of new business be added to the agenda relating to the Town's Emergency Management Plan.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

**Moved By** Bob Hildebrandt  
**Seconded By** Marianne Stewart

**BE IT RESOLVED THAT the agenda for the April 27, 2020 Regular meeting of Council be adopted as amended.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

**3. Disclosure of Pecuniary Interests and General Nature Thereof**

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

**4. Hearing of Presentation, Delegations, Regional Report**

**4.1 Presentations**

**4.1.1 COVID-19 Update**

Fire Chief Lymburner provided Council a verbal up-date regarding the COVID 19 pandemic numbers and how the Niagara Region and the Town of Pelham are coping.

The Fire Chief indicated the Town has now entered the third stage of this pandemic event, being the respond stage and will be eventually moving into the fourth stage being the recovery stage. He indicated the Town's Senior Leadership Team is working on what the recovery stage will look like for the Town.

The Fire Chief indicated an updated Business Continuity Plan would be coming to Council in the near future.

The Fire Chief further indicated the Town has recently received a shipping of PPE (personal protective equipment) therefore we have a good stock of masks.

He further reported there have been mental health issues in the Province being report as individuals are isolating and staying home, the Chief indicated Canadians are doing a good job staying home and encouraged people to exercise, eat health and stay in touch with family and friends.

**Moved By** Lisa Haun

**Seconded By** John Wink

**BE IT RESOLVED that Council receive the COVID-19 Up-date presentation from Town staff, for information.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

**4.2 Delegations**

**4.3 Report of Regional Councillor**

5. Adoption of Minutes

Moved By John Wink  
Seconded By Bob Hildebrandt

BE IT RESOLVED THAT the following minutes be adopted as printed, circulated and read:

1. C-06 Regular Council Minutes - April 6, 2020

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
Results	5	0
		Carried (5 to 0)

6. Business Arising from Council Minutes

None

7. Request(s) to Lift Consent Agenda Item(s) for Separate Consideration

The Mayor lifted items 8.5.2 and 8.5.6. No other items were lifted.

8. Consent Agenda Items to be Considered in Block

Moved By Lisa Haun  
Seconded By Marianne Stewart

BE IT RESOLVED THAT the Consent Agenda items as listed on the April 27th, 2020 Council Agenda be received and the recommendations contained therein be approved, as applicable, save and except Items 8.5.2 and 8.5.6

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8.3 Staff Reports of a Routine Nature for Information or Action

8.3.1 First Quarter 2020 Departmental Update Reports

8.3.1.1 Public Works Monthly Report, 2020-0057-Public Works

BE IT RESOLVED Council receives Public Works Monthly Report, 2020-0057 for information.

8.3.1.2 Fire & By-Law Services Monthly Report, 2020-0058-Fire Dept



BE IT RESOLVED Council receives Fire & By-Law Services Monthly Report, 2020-0058 for information.

#### 8.3.1.3 Recreation, Culture & Wellness Monthly Report, 2020-0059-Recreation

BE IT RESOLVED Council receives Recreation, Culture & Wellness Monthly Report, 2020-0059 for information.

#### 8.3.1.4 Corporate Services Monthly Report, 2020-0056-Corporate Services

BE IT RESOLVED Council receives Corporate Services Monthly Report, 2020-0056 for information.

#### 8.3.1.5 Clerk's Department Monthly Report, 2020-0019-Clerks

BE IT RESOLVED Council receives Clerk's Department Monthly Report, 2020-0019 for information.

#### 8.3.1.6 Community Planning & Development Monthly Report, 2020-0051-Planning

BE IT RESOLVED Council receives the Community Planning and Development Monthly Report, 2020-0051 for information.

#### 8.3.2 2020 Gypsy Moth Management Program Information, 2020-0050-Public Works

### 8.4 Action Correspondence of a Routine Nature

#### 8.4.1 Rett Syndrome Awareness Month - Proclamation Request

BE IT RESOLVED THAT Council receive the proclamation request submitted by the Ontario Rett Syndrome Association; and

THAT Council proclaim October 2020 as Rett Syndrome Awareness Month.

#### 8.4.2 National Day of Mourning - Proclamation Request

BE IT RESOLVED THAT Council receive the proclamation request submitted by Niagara Regional Labour Council;

AND THAT Council proclaim April 28, 2020 as National Day of Mourning;

AND THAT flags be lowered to half-mast to honour the lives that have been forever changed or lost as a result of work-related incident.

### 8.5 Information Correspondence Items

#### 8.5.1 Niagara Region - Considerations of City of Niagara Falls Withdrawing from Regional Waste Management Services

BE IT RESOLVED THAT Council receive correspondence from the Niagara Region dated April 3, 2020, regarding the City of Niagara Falls withdrawal from Regional Waste Management Services, for information.

8.5.2 Niagara Region - Niagara Official Plan, Consultation Details and Revised Framework

BE IT RESOLVED THAT Council receive correspondence from the Niagara Region dated April 3, 2020, regarding the Niagara Official Plan, for information.

~~8.5.3 Niagara Region – Development Applications Monitoring Report, 2019 Year End~~

~~BE IT RESOLVED THAT Council receive correspondence from the Niagara Region dated April 3, 2020 regarding the 2019 Year End Development Applications Monitoring Report, for information.— (Lifted)~~

8.5.4 Niagara Region - 2019 Employment Inventory Results Report

BE IT RESOLVED THAT Council receive correspondence from the Niagara Region dated April 3, 2020 regarding the 2019 Employment Inventory Results Report, for information.

8.5.5 Message from Ministry of Municipal Affairs and Housing re Suspension of Timelines Associated with Land Use Planning Matters

BE IT RESOLVED THAT Council receive correspondence from the Ministry of Municipal Affairs and Housing regarding the suspension of timelines associated with land use planning matters during the COVID-19 pandemic, for information.

~~8.5.6 Integrity Commissioner Annual Report~~

~~BE IT RESOLVED THAT Council receive the 2019 Annual Report provided by ADR Chambers, Integrity Commissioner Office.— (lifted)~~

8.5.7 Message from Ministry of Municipal Affairs and Housing re Labour Deployment

BE IT RESOLVED THAT Council receive correspondence from the Ministry of Municipal Affairs and Housing regarding labour deployment for municipalities during the COVID 19 pandemic, for information.

8.5.8 Niagara Region - Recent Changes to Niagara Region's Waste Management Service and Programs During COVID-19 Pandemic

BE IT RESOLVED THAT Council receive, for information, correspondence from the Region of Niagara relating to recent changes to Niagara Region's Waste Management Services and Programs during the COVID-19 Pandemic.

8.5.9 Email re: Open in Niagara Business Mapping Tool

BE IT RESOLVED THAT Council receive the email from Kelly Provost regarding the Open in Niagara Business Mapping Tool, for information.

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	

Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
<b>Carried (5 to 0)</b>		

**9. Items for Separate Consideration, if Any**

**9.1 Niagara Region - Niagara Official Plan, Consultation Details and Revised Framework**

The Mayor stated the Niagara Region will be updating their Official Plan and stated this means the Town will have to wait to see how this may impact the Town’s Official Plan. The Mayor asked if Ms. Wiens, Director of Community and Planning would like to comment. In response, Ms. Wiens indicated the Mayor is correct the Town will have to wait and see how the Region’s Official Plan will affect the Town’s. Ms. Wien’s did indicate she and the Niagara Regional Planners do meet regularly and are given information and updates at their meetings.

**Moved By** Lisa Haun  
**Seconded By** Marianne Stewart

**BE IT RESOLVED THAT Council receive correspondence from the Niagara Region dated April 3, 2020, regarding the Niagara Official Plan, for information.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
<b>Carried (5 to 0)</b>		

**9.2 Integrity Commissioner Annual Report**

The Mayor indicated the Integrity Commission has offered to speak to Council and the Mayor would like a session convened with the Integrity Commissioner in the Fall of 2020.

**Moved By** Lisa Haun  
**Seconded By** Marianne Stewart

BE IT RESOLVED THAT Council receive the 2019 Annual Report provided by ADR Chambers, Integrity Commissioner Office.

**Amendment:**  
**Moved By** Lisa Haun  
**Seconded By** Marianne Stewart

**BE IT RESOLVED THAT Council receive the 2019 Annual Report provided by ADR Chambers, Integrity Commissioner Office; and**  
**THAT staff be directed to convene a session with Mr. McDermott in the Fall of 2020.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

**10. Presentation & Consideration of Reports**

**10.1 Reports from Members of Council:**

**10.2 Staff Reports Requiring Action**

**10.2.1 Establishment of Municipal Heritage Committee, 2020-0055-Planning**

**Moved By** Bob Hildebrandt  
**Seconded By** Marianne Stewart

BE IT RESOLVED THAT Council receive Report #2020-055;  
and

THAT Council approve the Terms of Reference for the establishment of a Municipal Heritage Advisory Committee attached to this report; and

THAT Council direct staff to proceed with the advertisement for community members to apply for the Municipal Heritage Advisory Committee; and

THAT the appointment of community members to the Municipal Heritage Advisory Committee occur after the temporary provincial and municipal coronavirus COVID-19 pandemic restrictions on meetings of advisory committees has been lifted.

**Moved By** Bob Hildebrandt  
**Seconded By** Lisa Haun

**THAT Consideration of this report be deferred for consideration following the Novel Coronavirus COVID-19 pandemic.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin		X
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink		X
<b>Results</b>	<b>3</b>	<b>2</b>
<b>Carried (3 to 2)</b>		

**10.2.2      Short Term Accommodations - April 20, 2020, 2020-0049-Planning**

**Moved By** Lisa Haun  
**Seconded By** John Wink

THAT Council receive Report 2020-0049 as it pertains to Short Term Accommodations Policies and Regulations (file No. AM-12-18);

THAT the revisions made to the Official Plan and Zoning By-law since the public meeting was held are minor in nature and no further public meeting is required;

THAT Council approve the amendments to the Official Plan and Zoning By-law as well as the Licencing By-law for Bed and Breakfast Establishments and Short Term Accommodations.

**Amendment:**  
**Moved By** Lisa Haun  
**Seconded By** Bob Hildebrandt

**THAT this report be receive this report and that consideration be referred to a future Council meeting for consideration**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin		X
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink		X
<b>Results</b>	<b>3</b>	<b>2</b>

Carried (3 to 2)

11. Unfinished Business

12. New Business

12.1 Pelham Communication

Added to the agenda as an item of new business, the following motion was presented.

**Moved By** Bob Hildebrandt

**Seconded By** Lisa Haun

**BE IT RESOLVED THAT the Chief Administrative Officer be appointed as the sole spokesperson for the Town of Pelham, save and except Chief Lymburner's unfettered capacity to provide public safety information, for the duration of this pandemic and/or as decided by Council;**

**AND THAT Council must be notified of all statements made on behalf of the Town of Pelham, within 24 hours;**

**AND THAT statements made on the Town's behalf other than those on the Town's official website or by the Chief Administrative Officer or Fire Chief do not represent the Town's or this Council's official position.**

Recorded	For	Against
Marvin Junkin		X
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink		X
<b>Results</b>	<b>3</b>	<b>2</b>

Carried (3 to 2)

12.2 Town Emergency Management Plan

**Moved By** Lisa Haun

**Seconded By** Bob Hildebrandt

THAT following a municipal and regional debrief of the response to the COVID-19 Pandemic, that the Town of Pelham engage an independent Emergency Management Consultant to conduct a comprehensive program and plan review of the Town's Emergency Management Business Continuity and Crisis Communication Capacity including the actions and decisions of the Town's Emergency Control Group in response to the public health emergency. The purpose of this is to assure that the

Town's planning response and recovery plans are integrated and robust, taking into consideration Provincial best practices and areas for improvement; and that the report be available to the public;

AND FURTHER that a budget be considered for such purposes, recognizing that this may be referred to the 2021 Budget depending on the timing of the end of the Pandemic.

**Moved By** John Wink  
**Seconded By** Bob Hildebrandt

**THAT consideration of this motion be referred to the 2021 Budget Discussions.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

12.3: While not added to the agenda, Councillor Haun questioned if Council will be provided opportunity to review further the waiving of interest and penalties for tax and water payments to extend until the end of June. While a motion put by the Councillor to this effect, there was no second.

**13. Presentation and Consideration of By-Laws**

**Moved By** Bob Hildebrandt  
**Seconded By** Marianne Stewart

**BE IT RESOLVED THAT the Council of the Town of Pelham, having given due consideration to the following By-laws do now read a first, second and third time and do pass same, and THAT the Mayor and Clerk be and are hereby authorized to sign and seal the by-laws:**

- 1. By-law 4219(2020) - Being a by-law to authorize the sale of Town-owned lands to 2494557 Ontario Inc. or successors in title, the lands being described on Schedules A and B appended hereto; and to authorize the Mayor and Clerk to execute all necessary documents to complete the transaction.**
- 2. By-law 4225(2020) - Being a by-law authorizing the borrowing of money to meet current expenditures of the**

**Council of the Corporation of the Town of Pelham; And to repeal and replace By-law #4200 (2020), being a by-law authorizing borrowing.**

**3. By-law 4226(2020) - Being a By-law to Provide for Council Remuneration and Benefits for Members of Council and to Repeal and Replace Council Remuneration By-law 4062(2019).**

**4. By-law 4227(2020) - Being a by-law to authorize the execution of a site plan agreement for the lands located at Part 5 on RP 59R-16105. Summerside Blvd Inc. File No. SP-03-19**

**5. By-law 4228(2020) - A By-law to Promote and Regulate Physical Distancing during the COVID-19 Emergency and Establish a System of Administrative Penalties**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
<b>Carried (5 to 0)</b>		

**14. Motions and Notices of Motion**

**Moved By** Marianne Stewart  
**Seconded By** Bob Hildebrandt

**BE IT RESOLVED THAT Staff be directed to prepare a report for Council consideration by September 2020, to identify a range of parking options, choices and requirements that are detailed in other Niagara Official Plan documents, specifically as they pertain to new construction and infill development or intensification of use developments.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
<b>Carried (5 to 0)</b>		

**15. Matters for Committee of the Whole or Policy and Priorities Committee**



None

**16. Matters Arising Out of Committee of the Whole or Policy and Priorities Committee**

None

**17. Resolution to Move in Camera**

**Moved By** John Wink  
**Seconded By** Lisa Haun

**BE IT RESOLVED THAT** the next portion of the meeting be closed to the public in order to consider the following:

**Pursuant to *Municipal Act, 2001*, Section 239(2)(d) - labour relations and employee negotiations**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

**18. Rise From In Camera**

**Moved By** Marianne Stewart  
**Seconded By** John Wink

**BE IT RESOLVED THAT** Council adjourn the In Camera Session and that Council do now Rise With No Report.

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

**Moved By** Lisa Haun  
**Seconded By** Marianne Stewart

**BE IT RESOLVED THAT the Chief Administrative Officer be and is hereby authorized to undertake the directions provided during the In Camera meeting of April 27th, 2020.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
<b>Carried (5 to 0)</b>		

**19. Confirming By-Law**

**Moved By** John Wink  
**Seconded By** Bob Hildebrandt

**BE IT RESOLVED THAT the following By-law be read a first, second and third time and passed:**

**Being a By-law No. 4230(2020) to Adopt, Ratify and Confirm the proceedings of Council of the Town of Pelham at its Regular Meeting held on the 27th day of April, 2020.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
<b>Carried (5 to 0)</b>		

**20. Adjournment**

**Moved By** Lisa Haun  
**Seconded By** John Wink

**BE IT RESOLVED THAT this Regular Meeting of Council be adjourned until the next regular meeting scheduled for May 4, 2020 at 5:30 pm.**

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
Results	5	0
		Carried (5 to 0)

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Mayor: Marvin Junkin

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Deputy Clerk: Holly Willford

## SPECIAL COUNCIL MINUTES

**Meeting #:** SC-07-2020 Special Council  
**Date:** Monday, April 27, 2020, 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

**Members Present** Marvin Junkin  
Lisa Haun  
Bob Hildebrandt  
Marianne Stewart  
John Wink

**Regrets** Ron Kore

**Staff Present** David Cribbs  
Bob Lymburner  
Jason Marr  
Teresa Quinlin  
Vickie vanRavenswaay  
Barbara Wiens  
Holly Willford

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

Noting that a quorum was present, the Mayor called the meeting to order at approximately 4:06 pm. All participants participated electronically.

**2. Approval of the Agenda**

**Moved By** Lisa Haun

**Seconded By** John Wink

**BE IT RESOLVED THAT the agenda for the April 27th, 2020 Special Meeting of Council be adopted as circulated.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
		<b>Carried (5 to 0)</b>

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

Noting previous disclosures of pecuniary interest relating to the sale of municipal lands, Councillor Wink indicated he would not declare a pecuniary interest with respect to item two of the agenda as he felt

any options or decision made by Council going forward would not financially impact him.

**4. Resolution to Move in Camera**

**Moved By** Marianne Stewart

**Seconded By** Bob Hildebrandt

**BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider a matter under Section 239 (2) of the Municipal Act, as follows:**

**(e) - litigation or potential litigation including matters before administrative tribunals, affecting the municipality (1 item)**

**(c) - proposed or pending acquisition or disposition of land by the municipality (3 items)**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
<b>Carried (5 to 0)</b>		

**5. Rise From In Camera**

**Moved By** Bob Hildebrandt

**Seconded By** Lisa Haun

**BE IT RESOLVED THAT Council adjourn the In Camera Session and that Council do now Rise: With Report**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>
<b>Carried (5 to 0)</b>		

**Moved By** John Wink

**Seconded By** Marianne Stewart

**BE IT RESOLVED THAT the Chief Administrative Officer be and is hereby authorized to undertake the directions provided during the In Camera meeting of April 27, 2020.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	

John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>

**Carried (5 to 0)**

**6. Confirming By-law**

**Moved By** John Wink  
**Seconded By** Lisa Haun  
**BE IT RESOLVED THAT the following By-law be read a first, second and third time and passed:**  
  
**Being a By-law No. 4229(2020) to Adopt, Ratify and Confirm the proceedings of Council of the Town of Pelham at its Special Meeting held on the 27th day of April, 2020.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>

**Carried (5 to 0)**

**7. Adjournment**

**Moved By** Bob Hildebrandt  
**Seconded By** Marianne Stewart  
**BE IT RESOLVED THAT this Special Meeting of Council be adjourned until the next regular meeting scheduled for April 27, 2020 at 5:30 pm.**

<b>Recorded</b>	<b>For</b>	<b>Against</b>
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Marianne Stewart	X	
John Wink	X	
<b>Results</b>	<b>5</b>	<b>0</b>

**Carried (5 to 0)**

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Mayor Marvin Junkin

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Deputy Clerk, Holly Willford

**Whereas** the COVID-19 Pandemic has resulted in all countries taking extraordinary measures to ensure the health of their populations, and

**Whereas** the limiting to essential traffic only at the border between the United States of America (US) and Canada has undoubtedly assisted in the containment of this disease, and

**Whereas** the medical community has stated that the possibility exists for another wave of infections, and

**Whereas** the Governors of US States have been empowered to begin easing restrictions, and

**Whereas** the conduct and travel of residents, and the operation of businesses in the US States bordering Canada and beyond, has a direct impact on the potential spread of the virus by virtue of those individuals entering Canada, and

**Whereas** Canadians and Americans entering each other's countries have the potential to return home after becoming infected;

**Now therefore be it resolved,**

**That:** The Corporation of the Town of Fort Erie hereby requests the Prime Minister of Canada to continue limitation of cross-border traffic to essential traffic only, and further

**That:** The restrictions remain in place until such time that it can be demonstrated that the flattening of the outbreak curve in the United States of America is on par with the progress we are seeing in Ontario, and further

**That:** Special attention be paid to the outbreak statistics concerning border States in the eventual decision making process to return cross-border travel to pre-pandemic normalcies, and further

**That:** A copy of this resolution be circulated to The Right Honourable Justin Trudeau, Prime Minister, The Honourable Chrystia Freeland, Deputy Prime Minister, The Honourable Doug Ford, Premier of Ontario, Wayne Gates, MPP-Niagara Falls, Legislative Assembly of Ontario, Sam Oosterhoff, MPP-Niagara West-Glanbrook, Legislative Assembly of Ontario, Jennifer Stevens, MPP-St. Catharines, Jeff Burch, MPP-Niagara Centre, Dean Allison, MP-Niagara West, Chris Bittle, MP- St. Catharines, Tony Baldinelli, MP- Niagara Falls, Vance Badawey, MP, Niagara Centre, The Regional Municipality of Niagara, and all Niagara Area Local Municipalities, for their support.

**Administration**

Office of the Regional Clerk

1815 Sir Isaac Brock Way, PO Box 1042, Thorold, ON L2V 4T7

Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-687-4977

[www.niagararegion.ca](http://www.niagararegion.ca)

April 24, 2020

**Council Session CL 6-2020, April 23, 2020**

**LOCAL AREA MUNICIPALITIES**

**SENT ELECTRONICALLY**

**RE: Report CSD 8-2020 Optional Tax on Vacant Residential Units  
Minute Item 9.2 CL 6-2020, April 23, 2020**

Regional Council, at its meeting held on April 23, 2020, passed the following resolution:

That Report CSD 8-2020, dated April 23, 2020, respecting Optional Tax on Vacant Residential Units, **BE RECEIVED** and **BE CIRCULATED** to the Local Area Municipalities.

A copy of Report CSD 8-2020 is attached for your information.

Yours truly,



Ann-Marie Norio  
Regional Clerk

CLK-C 2020-142

cc: T. Harrison, Commissioner, Corporate Services  
H. Chamberlain, Director, Financial Management and Planning/Deputy Treasurer  
M. Murphy, Associate Director, Budget Planning & Strategy  
R. Fleming, Senior Revenue and Tax Analyst  
K. Beach, Executive Assistant to the Commissioner, Corporate Services



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**Subject:** Optional Tax on Vacant Residential Units

**Report to:** Regional Council

**Report date:** Thursday, April 23, 2020

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## Recommendations

1. That report CSD 8-2020 **BE RECEIVED** for information.
2. That a copy of Report CSD 8-2020 **BE CIRCULATED** to the Local Area Municipalities.

## Key Facts

- This report is to provide Regional Council with additional information regarding a St. Catharines City Council motion on implementing an optional tax on vacant residential units (“vacant homes tax”).
- Only the units classified in the residential property class (primarily RT) are eligible for a vacant property tax under the Municipal Act.
- The intent of the vacant homes tax is to encourage owners of residential units to sell or rent out secondary residences.
- The vacant homes tax does not apply to vacant residential land (i.e., no structure) nor does it apply to properties that would be included in multi-residential or non-residential property tax classes.
- Region staff consulted Area Treasurers on the vacant homes tax as they are the tax billing authority and would have much of the information required to estimate vacant unit.
- Most Area Treasurers expressed concerns with internal capacity to implement the optional tax as it would require resources to estimate the number of units that would potentially be subject to the vacant homes tax.

## Financial Considerations

There are no direct financial implications of this report as it is for information only. If Council were to consider proceeding further with considering an optional vacant homes tax, it could not take effect until the 2021 taxation year at the earliest. If implemented any net revenue generated from the tax could be reinvested into affordable housing initiatives similar to the approach adopted by Vancouver and considered by Toronto.

However, it should be noted that the cost of implementation and administration may exceed the projected revenue. At this time, there is not enough information to provide an accurate estimate of projected costs or revenue.

## **Analysis**

### **St. Catharines Motion Re: Vacant Homes Tax**

The Council of the City of St. Catharines, at its meeting held on August 12, 2019, passed the following motion:

*WHEREAS St. Catharines currently has a years-long waiting list for social housing, extremely low apartment vacancy rates, rising apartment costs, a need for more shelter spaces and transitional housing, and a residential real estate market that has seen house values grow exponentially in a short period of time; and*

*WHEREAS these factors combined have resulted in St. Catharines becoming an unaffordable place to live for many, particularly those on fixed incomes, social assistance and those who earn less than the living wage; and*

*WHEREAS jurisdictions such as British Columbia and Vancouver have successfully implemented vacant property taxes to not only collect more revenue for social housing projects, but also to encourage real estate speculators to rent out vacant homes; and*

*WHEREAS the Regional Municipality of Niagara has the authority to implement a vacant home tax in St. Catharines (and all other lower-tier municipalities within Niagara);*

*THEREFORE BE IT RESOLVED that the City of St. Catharines endorse the concept of a vacant home tax and vacant residential land tax and call upon the Niagara Region to investigate a vacant home tax that specifically:*

- Addresses vacant residential units in St. Catharines*
- Encourages turning empty St. Catharines homes into good housing for people*
- Raises revenue that will directly support affordable housing in St. Catharines*

*BE IT FURTHER RESOLVED that this resolution be circulated to the Office of the City Clerk at the Niagara Region, Niagara Region Housing, the local area municipalities and the City of St. Catharines City Treasurer / Director of Financial Management Services and the Director of Planning and Building Services. FORTHWITH*

The implementation of a vacant homes tax is an upper-tier decision, which is consistent with other areas of tax policy, and promotes a regional approach to the imposition of a tax on vacant residential units. Staff consulted with the Province and it should be noted that the legislation does not preclude the Region from implementing in select municipalities based on need in the individual communities.

### **Overview of Ontario Vacant Home Legislation**

In order to provide Council with background on the vacant homes tax, staff compiled information based on an analysis of existing legislation as well as information obtained from the Regional contact with Ontario's Ministry of Finance:

- The vacant homes tax can only be imposed once approved to do so via a Regulation of the Province.
- Once a municipality is designated by the Province for eligibility for implementing the tax, a by-law must be passed in the year to which it relates;
- The tax is to be based on the assessed value (as determined under the Assessment Act) of vacant residential units (similar to general property taxation).
- Eligible properties under the existing legislation are those that are classified in the residential property class only and excludes multi-residential and non-residential tax classes.
- A vacant homes tax by-law must satisfy the following criteria:
  - It must state the tax rate; and
  - It must state the conditions of vacancy that, if met, make a unit subject to the tax.
- A by-law may provide for such matters as Council considers appropriate, including,
  - Exemptions from the tax;
  - Rebates of tax;
  - Audit and inspection powers; and
  - Establishment and use of dispute resolution mechanisms.
- The Minister of Finance has the authority may make regulations prescribing such matters as the Minister considers necessary or desirable, including:

- Designating municipalities to which this the vacant homes tax could apply;
- Prescribing conditions and limits with respect to the imposition of a tax;
- Prescribing persons and entities who are not subject to a tax;
- Defining a “vacant unit”;
- Governing the collection of a tax;
- Governing dispute resolution.

To date, no municipality in Ontario has utilized the authority given by the Province to implement a vacant homes tax. The City of Toronto has been considering the need and ability to implement a vacant homes tax since 2017 but the results of the review have not been finalized.

### **Review of Other Municipalities**

Region staff have conducted a review of both the Vancouver and Toronto vacant homes tax reports and implementation plans. Both Vancouver and Toronto utilized aggregated/anonymized water and hydro meter data to estimate the quantity of vacant residential units in each city which has been presented below in Table 1. An estimate of vacant homes in Niagara has also been included in Table 1 based on information received from a few Area Municipalities as the Region does not have access to water and hydro billing data as both functions are completed by the Area Municipalities or the local electricity authorities. Due to privacy concerns, however, Vancouver was not able to utilize water or hydro data for the purposes of billing for the vacant homes tax. This limitation experienced by Vancouver would also be present in Niagara as well.

Table 1: Estimated Vacant Residential Units

Municipality	Total Count of Units	Estimated Vacant Units	% of Total
Toronto	752,000	15,000-28,000	2-4%
Vancouver	225,000	10,000	4%
Niagara	177,000*	1,757**	1%

\* Estimated count of residential units only (exclude multi-residential)

\*\* 76% are seasonal residences (1,341 units)

It is important to note, that only four municipalities were able to provide estimates on vacant residential units. The total residential units in these four municipalities is approximately 75 thousand (42%) of the 177 thousand residential units in Niagara. One municipality stated that they did not have any vacant units that could be identified. Two municipalities estimated minimal vacant residential units. One municipality identified a

significant number of vacant units which were primarily seasonal properties which were estimated to be vacant for approximately 6 months during offseason periods.

### **Other Implementation Considerations**

If a vacant homes tax was to be implemented, a framework would need to be developed with some of the below administrative requirements in mind:

- Public consultation and engagement approach and/or requirements prior to implementation;
- How would vacant homes be identified (mandatory declaration, self declaration, complaint based);
- Determining if the Region or Area Municipalities would administer the program (which would include billing, collections, appeals, etc.) – note that the Region does not currently have taxpayer billing capabilities;
- Determining the appropriate allocation of any net revenues or expense from the tax between Regional service areas/programs or between Region and Area Municipalities;
- Creating a complaint resolution process including audit or enforcement powers; and
- Determining an appropriate reporting approach to understand the effects (i.e., benefits or drawbacks) that the vacant homes tax will have on affordable housing.

### **Alternatives Reviewed**

No alternatives are being presented as this report is for information only. Should Council direct staff complete a more fulsome review (including additional engagement with the public and Area Municipalities) a future report to Council would be required.

### **Relationship to Council Strategic Priorities**

A vacant homes tax for Niagara may assist with retaining, protecting and increasing the supply of affordable housing stock to provide a broad range of housing to meet the needs of the community. This would only apply, however, if the vacant homes tax achieved the desired outcome of having property owners rent available units or in the event that revenues after administration costs were reallocated to affordable housing initiatives.

## Other Pertinent Reports

None.

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### Prepared by:

Rob Fleming, MBA  
Senior Tax & Revenue Analyst  
Corporate Services

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### Recommended by:

Todd Harrison, CPA, CMA  
Commissioner/Treasurer  
Corporate Services

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### Submitted by:

Ron Tripp, P.Eng.  
Acting, Chief Administrative Officer

*This report was prepared in consultation with Margaret Murphy, Associate Director, Budget Planning & Strategy, and reviewed by Helen Chamberlain, Director, Financial Management & Planning.*

## Appendices

Appendix 1	City of St. Catharines Council Motion Re: Vacant Home Tax
Appendix 2	Municipal Act – Optional Tax on Vacant Residential Units

August 26, 2019

Ann-Marie Norio  
Regional Clerk Niagara Region  
1815 Sir Isaac Brock Way, P.O. Box 1042 Thorold, ON  
L2V 4T7

Sent Via Email:  
[Ann-Marie.Norio@niagararegion.ca](mailto:Ann-Marie.Norio@niagararegion.ca)

**Re: Vacant Home Tax**

Dear Ms. Norio,

Please be advised that the Council of the City of St. Catharines, at its meeting held on August 12, 2019, passed the following motion:

WHEREAS St. Catharines currently has a years-long waiting list for social housing, extremely low apartment vacancy rates, rising apartment costs, a need for more shelter spaces and transitional housing, and a residential real estate market that has seen house values grow exponentially in a short period of time; and

WHEREAS these factors combined have resulted in St. Catharines becoming an unaffordable place to live for many, particularly those on fixed incomes, social assistance and those who earn less than the living wage; and

WHEREAS jurisdictions such as British Columbia and Vancouver have successfully implemented vacant property taxes to not only collect more revenue for social housing projects, but also to encourage real estate speculators to rent out vacant homes; and

WHEREAS the Regional Municipality of Niagara has the authority to implement a vacant home tax in St. Catharines (and all other lower-tier municipalities within Niagara);

THEREFORE BE IT RESOLVED that the City of St. Catharines endorse the concept of a vacant home tax and vacant residential land tax and call upon the Niagara Region to investigate a vacant home tax that specifically:

- Addresses vacant residential units in St. Catharines
- Encourages turning empty St. Catharines homes into good housing for people
- Raises revenue that will directly support affordable housing in St. Catharines

BE IT FURTHER RESOLVED that this resolution be circulated to the Office of the City Clerk at the Niagara Region, Niagara Region Housing, the local area municipalities and the City of St. Catharines City Treasurer / Director of Financial Management Services and the Director of Planning and Building Services. FORTHWITH

If you have any questions, please contact the Office of the City Clerk at extension 1524.



Bonnie Nistico-Dunk, City Clerk  
Legal and Clerks Services, Office of the City Clerk  
:kn



## PART IX.1

### OPTIONAL TAX ON VACANT RESIDENTIAL UNITS

#### Designated municipality

**338.1** The Minister of Finance may, by regulation, designate municipalities to which this Part applies. 2017, c. 8, Sched. 19, s. 5.

#### Section Amendments with date in force (d/m/y)

#### Power to impose tax, vacant residential units

**338.2** (1) In addition to taxes imposed under Part VIII, a designated municipality may, by by-law passed in the year to which it relates, impose a tax in the municipality on the assessed value, as determined under the *Assessment Act*, of vacant units that are classified in the residential property class and that are taxable under that Act for municipal purposes. 2017, c. 8, Sched. 19, s. 5.

#### Requirements for by-law

(2) A by-law described in subsection (1) must satisfy the following criteria:

1. It must state the tax rate.
2. It must state the conditions of vacancy that, if met, make a unit subject to the tax. 2017, c. 8, Sched. 19, s. 5.

#### Other contents of by-law

(3) A by-law described in subsection (1) may provide for such matters as the council of the municipality considers appropriate, including,

- (a) exemptions from the tax;
- (b) rebates of tax;
- (c) audit and inspection powers; and
- (d) except as otherwise provided for in the regulations, the establishment and use of dispute resolution mechanisms. 2017, c. 8, Sched. 19, s. 5.

#### Section Amendments with date in force (d/m/y)

#### Regulations re: power to impose tax

**338.3** (1) The Minister of Finance may make regulations prescribing such matters as the Minister considers necessary or desirable in relation to this Part, including,

- (a) designating municipalities to which this Part applies;
- (b) prescribing conditions and limits with respect to the imposition of a tax under a by-law made under this Part;
- (c) prescribing persons and entities who are not subject to a tax imposed under this Part;
- (d) defining "vacant unit" for the purposes of this Part;
- (e) governing the collection of a tax imposed under this Part;
- (f) prescribing provisions of this Act that apply or do not apply for the purposes of this Part and providing for such modifications to those provisions as the Minister considers appropriate;
- (g) governing the manner for apportioning an assessment that is attributable to vacant units;
- (h) governing dispute resolution. 2017, c. 8, Sched. 19, s. 5.

#### Same

(2) On the recommendation of the Minister of Finance, the Lieutenant Governor in Council may make regulations defining any word or expression used in this Part. 2017, c. 8, Sched. 19, s. 5.

**Retroactive**

(3) A regulation under this section may be retroactive to a date not earlier than January 1 of the year in which the regulation is made. 2017, c. 8, Sched. 19, s. 5.

**Conflicts**

(4) In the event of a conflict between a regulation made under this section and a provision of any Act or regulation, the regulation made under this section prevails. 2017, c. 8, Sched. 19, s. 5.

**Section Amendments with date in force (d/m/y)****Effect re: Part VIII**

**338.4** This Part does not limit the authority of a municipality under Part VIII (Municipal Taxation). 2017, c. 8, Sched. 19, s. 5.

April 24, 2020

**Council Session CL 6-2020, April 23, 2020**

***DISTRIBUTION LIST***

***SENT ELECTRONICALLY***

**RE: Report CSD 30-2020 COVID-19 Preliminary Overview of Financial Impacts  
Minute Item 9.1.1 CL 6-2020, April 23, 2020**

Regional Council, at its meeting held on April 23, 2020, passed the following resolution:

That Report CSD 30-2020, dated April 23, 2020, respecting COVID-19 Preliminary Overview of Financial Impacts, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the Regional Chair **BE DIRECTED** to lobby provincial and federal levels of government for financial assistance to support Niagara Region's COVID-19 emergency response;
2. That Niagara Region **BE DIRECTED** to participate in efforts with other municipalities seeking financial support from senior levels of government for the financial impact of the COVID-19 pandemic; and
3. That the Regional Clerk **BE DIRECTED** to forward this report to local Members of Parliament, local Members of Provincial Parliament, the Federation of Canadian Municipalities, the Association of Municipalities Ontario and the Local Area Municipalities.

A copy of Report CSD 30-2020 is attached for your information.

Yours truly,



Ann-Marie Norio

Regional Clerk

CLK-C 2020-140

Distribution List:

D. Allison, MP, Niagara West  
C. Bittle, MP, St. Catharines  
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T. Harrison, Commissioner, Corporate Services  
H. Chamberlain, Director, Financial Management and Planning/Deputy Treasurer  
M. Steele, Associate Director, Reporting and Analysis  
K. Beach, Executive Assistant to the Commissioner, Corporate Services

---

**Subject:** COVID-19 Preliminary Overview of Financial Impacts

**Report to:** Regional Council

**Report date:** Thursday, April 23, 2020

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## Recommendations

1. That the Regional Chair **BE DIRECTED** to lobby provincial and federal levels of government for financial assistance to support Niagara Region's COVID-19 emergency response; and
2. That Niagara Region **BE DIRECTED** to participate in efforts with other municipalities seeking financial support from senior levels of government for the financial impact of the COVID-19 pandemic; and
3. That the Regional Clerk **BE DIRECTED** to forward this report to local MPs, local MPPs, the Federation of Canadian Municipalities and the Association of Municipalities Ontario.

## Key Facts

- The purpose of this report is to provide an early indication of the potential financial impacts of the COVID-19 outbreak on the Niagara Region. Estimates and assumptions in this report are fluid and changing on a weekly basis.
- Staff expect that a budget adjustment related to the changes in services, incremental cost and lost revenue associated with the COVID-19 emergency response will be required. At this time, full impacts are unknown and staff will bring back a proposed budget adjustment for Council approval when more clarity around funding sources and full cost is available.
- The Region's preliminary estimate of the net cost of COVID-19 pandemic before funding announcements up to June 30, 2020 is \$9.3 million.
- Incremental costs and lost revenue estimates total \$9.6 million and may be offset by identified cost savings and mitigations of \$5.7 million for a current net budget impact \$3.9 million. The remaining \$5.4 million cost relates to already budgeted resources unavailable to work or redeployed to directly support the emergency response.
- The Region has received confirmed funding announcement of \$4.2 million in specific areas. Review of the eligible cost criteria for this funding is underway and restrictions do apply. Staff are looking for ways to fully leverage this funding and it is expected to support some costs that occur after our June 30, 2020 cost projection above.

## Financial Considerations

Given the amount of uncertainty around timelines and availability of funding sources, it is difficult at this time to quantify the full impact of individual items as well as the overall impact to the Region. That being said, staff are of the preliminary view that ultimately the pandemic will result in a 2020 operating shortfall at year-end. Discussions have commenced with respect to opportunities for cost savings across operating and capital budgets. In addition, there are certain actions that the Region could take to offset a shortfall including use of the Taxpayer Relief Reserve. Staff will provide updates to Council with respect to year-end projections and any action that may be required as more details become known.

As of December 31, 2019 the Taxpayer Relief Reserve balance was \$23.8 million which is 4.2% of gross budgeted expenditures excluding agency boards and commissions (our minimum reserve target per the reserve policy is 10% of gross budgeted operating expenses or \$56 million at December 31, 2019).

In addition, staff recommend exploring all opportunities for financial assistance from senior levels of government and will provide updates to Council on any actions being undertaken by Provincial and Federal governments as they are announced. The Province and Federal governments have delayed the release of their respective 2020/21 budgets.

## Analysis

Staff have been monitoring and assessing the potential financial impacts to the Region since the onset of the pandemic. Only two months after approving the 2020 Regional budget, a variety of operating expenditures and revenues are now expected to be impacted. While it is still too early to fully understand and quantify all of the potential impacts, some preliminary projections have been made.

To facilitate this analysis, projected costs and savings related to the pandemic have been made up to June 30, 2020

The Region has categorized impacts into 4 high-level categories

1. **Total costs supported by our approved base budget.** This category represents cost of resources unavailable to work or redeployed from their main work functions to directly support the emergency response. While the Region does have an established base budget to support these expenditures, it is important to note that the work these resources are performing during the emergency is not as originally contemplated in the base budget. This may result in delays in work plans and/or backlogs after the emergency is complete.

2. **Costs incremental to base budget.** This category represents all incremental costs over and above the approved 2020 base budget directly related to supporting the emergency.
3. **Lost revenue.** This category represents the loss of revenue that had been planned to fund the 2020 budget.
4. **Cost savings and mitigations.** This category represents identified cost savings the Region may expect to realize as a result of COVID-19 measures and managing the emergency.

The following is a summary of the financial impacts.

	Spent & Committed As of Date	Spent & committed	Projected to June 30	Total
Costs supported by our approved base budget				
EOC Dedicated Resources <sup>1</sup>	09-Apr	\$ 615,424	\$ 1,994,740	\$ 2,610,164
Lost Productivity – Staff Unable to Work <sup>2</sup>	04-Apr	443,137	1,831,633	2,274,770
Redeployed Resources <sup>3</sup>	04-Apr	86,149	356,083	442,232
<b>Total costs supported by our approved base budget</b>		<b>1,144,710</b>	<b>4,182,456</b>	<b>5,327,166</b>
Costs incremental to base budget				
Additional labour related costs <sup>4</sup>	04-Apr	748,294	3,092,949	3,841,243
Purchases made or committed <sup>5</sup>	09-Apr	1,770,942	2,104,081	3,875,023
<b>Total costs incremental to base budget</b>		<b>2,519,236</b>	<b>5,197,030</b>	<b>7,716,266</b>
<b>Lost Revenue <sup>6</sup></b>		<b>-</b>	<b>1,914,708</b>	<b>1,914,708</b>
<b>Cost savings/mitigations <sup>7</sup></b>		<b>-</b>	<b>(5,673,142)</b>	<b>(5,673,142)</b>
<b>Net cost impact before funding announcements</b>		<b>\$ 3,663,946</b>	<b>\$ 5,621,052</b>	<b>\$ 9,284,998</b>

<sup>1</sup> Assumes 100% of salary and benefit costs to any staff member fully activated in the Regional EOC, Public Health EOC, and EMS EOC.

<sup>2</sup> Staff unable to work due to self-isolation, needing to care for family members or being sick directly associated with COVID-19.

<sup>3</sup> Currently only quantified for resources redeployed to the public health call centre. Redeployment in other areas in the organization has started to occur and will be quantified in the future.

<sup>4</sup> Additional salary, benefits and overtime costs related to managing the emergency.

<sup>5</sup> Additional purchase commitments made to directly support the emergency (e.g. cleaning supplies and services, personal protective equipment, emergency shelter, screening, advertising).

<sup>6</sup> Estimated loss of expected revenue sources (e.g. rental income on owned units, transit fare revenue, business licensing revenue, development applications, parental fees, POA infraction revenue).

<sup>7</sup> Estimated cost savings and mitigations (e.g. gapping of vacant positions, reduced non-emergency repair work, travel costs, transit service costs, electricity, cancelled events).

Impacts by department can be found in Appendix 2. Some of the more significant incremental costs and lost revenue items included in the estimate are outlined below:

- **Niagara Regional Transit:** fare revenue reduction due to reduced ridership and cancellation of Niagara College on-campus spring/summer classes;
- **POA Court:** Reduced POA revenue due to lower ticket volumes and court closure, with some related expenditure savings offsets;
- **Public Health:** Increased staffing and overtime, supplies (including personal protective equipment) and cleaning costs; additional staff to support higher call volumes;
- **Paramedic Services:** Increased staffing, overtime, supplies (including personal protective equipment), and cleaning;
- **Housing:** Increased cleaning costs in common spaces; lower tenant income levels would result in higher rent subsidies at community housing units and lower rent payments at NRH units;
- **Homelessness programs:** Increased costs to support homelessness agencies, housing allowances and expenses relating to the rent, staffing, cleaning, personal protective equipment and food for a self-isolation center;
- **Children's Services:** Loss of parent fee revenue due to closure of regionally operated child care centres;
- **Seniors' Services:** Increased cleaning, staffing, security and personal protective equipment costs; and
- **Technology Services:** Additional costs relating to increased licenses to ensure sufficient capacity for staff working remotely.

Other estimated savings across multiple services and departments include:

- **Labour related savings:** not filling non-essential vacant positions.
- **Fuel:** Short/medium term savings due to significant drop in world oil and local fuel prices.
- **Niagara Regional Transit/Niagara Specialized Transit:** reduction in daily service schedules resulting from decreased demand will result in significant savings;



- **Non-emergency maintenance work:** limiting work at NRH owned units to emergencies and move-outs;
- **Operational savings:** reduced travel, meeting expenses, and conferences due to travel restrictions and cancelled events.

COVID-19 is causing an unprecedented amount of uncertainty and volatility in financial markets. Federal governments around the world are responding through both monetary policy (e.g. through the lowering of interest rates) and fiscal policy (e.g. by introducing spending and tax relief measures for residents and businesses). The impact of these measures is not yet known and as a result there is the possibility of major longer term impacts depending on the duration and severity of the pause in economic activity. The following items have been identified as potential costs or loss revenues, but have not been quantified in the analysis above due to uncertainty around them.

- **Cost of borrowing:** a lower cost of borrowing for planned 2020 debenture issues would lower the amount of debt servicing costs required in the 2021 budget;
- **Investment returns:** a lower investment rate would impact 2020 interest income and interest allocations to reserves. Also any cash flow challenges experienced as identified and discussed in CSD 31-2020 could further reduce interest income;
- **Property taxes:** the economic disruption could lead to a material increase in tax write-offs and lower net assessment growth for 2020 and into 2021;
- **Building Activity:** if construction activity is materially reduced, there would be a lower amount of supplementary taxes collected and lower assessment growth during the year and in future years. This would also lead to a reduced level of development charge collections, potentially impacting the Region's ability to fund growth-related capital projects, and potentially a reduction in development charge exemption costs;
- **Additional support to housing providers:** the economic disruption could lead to housing providers seeking additional support from NRH;
- **Recycling end markets:** the economic disruption could lead to volatility in prices for the sale of recyclables in waste management; and
- **Provincial gas tax:** the economic disruption could impact Niagara Regions gas tax allocation in 2021 and 2022 if we experience a greater decrease in ridership relative to other municipalities or if the total provincial gas tax collected declines due to less gas purchases.

In addition to the above, the Region is currently reviewing all capital projects and determining if any project deferrals are appropriate. It is important to note that deferring capital projects does not result in direct savings that could be used to mitigate the current COVID-19 financial impacts. Most capital projects are funded from previous contributions to reserves or debt issuance. The deferral of capital projects will strengthen the Region's cash flow position as further discussed in CSD 31-2020.

### Funding announcements

The Region has also received announcements for three confirmed funding sources identified below. Review of the eligible cost criteria with this funding is underway and restrictions do apply. The team is looking for ways to fully leverage this funding and it is expected to support some costs that occur after our June 30, 2020 cost projection period identified above.

Description	Funding Agency	Amount
Community Homelessness Prevention Initiative *	Ministry of Municipal Affairs and Housing	\$2,408,100
Reaching Home Funding *	Employment and Social Development Canada	1,253,271
Long-term Care Emergency Funding	Ministry of Long-term Care	600,000
		<u>\$4,261,371</u>
* Incremental funding to cover full fiscal year of April 1, 2020 to March 31, 2021		

While no formal funding announcements have been made, the Province has indicated that it plans to work with municipalities to support Children's Service operations to minimize shortfalls.

Ontario Works also expects to see a substantial increase in subsidy claim payments to Ontario Works clients based on Provincial announcements. This increase will be directly offset by additional funding from the Province.

Additionally the Province has announced it plans to defer further reductions to the public health funding formula in 2021.

### Budget Implications

As previously mentioned the full magnitude of the financial implications for the COVID-19 emergency on the Niagara Region's 2020 budget is not yet known. With that said, staff do expect the impact will require a gross budget adjustment that will exceed \$1 million requiring Council approval.

In order to avoid multiple adjustments and approvals, staff recommend that a budget adjustment will be completed once impacts, including funding announcements, are more clearly understood.

Should a funding shortfall materialize after all additional funding and cost mitigation strategies have been exhausted, Council could consider:

- An in-year budget amendment in accordance with the Budget Control Bylaw to draw on the Taxpayer Relief Reserve. This would require giving public notice.
- Making a recommendation through the year-end transfer report as per the Operating Surplus/Deficit Policy.

The decision on which approach would be recommended by staff will depend on the timing and magnitude of the required adjustment. Staff hope to be able to more fully outline the potential adjustment with the completion of the Q2 financial update report.

Staff will continue to provide Council with financial impact information in the weekly COVID-19 memo and will report back with a formal report outlining the budget adjustment prior to its completion.

## **Procurement Process**

The Region has leveraged its existing Procurement By-law where appropriate to secure goods and services that are critical to our response to COVID-19. These purchases have utilized the special circumstance provision, which provides for both:

- an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public
- an emergency as defined in the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended, or any successor legislation thereto

At the time of writing this report, the Region has executed 12 special circumstance purchases over \$10,000 for a total value of \$1.3 million. These purchases consist mainly of personal protective equipment, cleaning supplies/services, emergency shelter, and screening services. Staff will continue to rely on the special circumstance provisions in the procurement by-law on an as-required basis and report back to Council as needed.

## **Alternatives Reviewed**

Staff are working with both the area municipality treasurers within Niagara Region and with colleagues across the province (through the Ontario Regional and Single-Tier Treasurers group) to share ideas and strategies to respond to the financial and operational impacts of this pandemic.

Staff will also work with Standard and Poor's (who provide the Region's credit rating) to discuss potential implications on the ratings of the municipal sector as a whole across the country.

### **Relationship to Council Strategic Priorities**

Supporting the COVID-19 emergency response directly supports Councils strategic priority of a Healthy and Vibrant Community.

### **Other Pertinent Reports**

CSD-31 2020 Concessions to Local Area Municipalities regarding Taxes and Water Wastewater Billings

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#### **Prepared by:**

Melanie Steele, MBA CPA CA  
Associate Director, Reporting & Analysis  
Corporate Services

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#### **Recommended by:**

Todd Harrison, CPA, CMA  
Commissioner/Treasurer  
Corporate Services

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#### **Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with regional departments and EOC members, and reviewed by Helen Chamberlain, Director, Financial Management & Planning/Deputy Treasurer.*

### **Appendices**

Appendix 1                      COVID-19 Financial Impact by Department

## Appendix 1 - COVID-19 Financial Impact by Department

	Total costs supported by our approved base budget	Total costs incremental to base budget	Lost Revenue	Cost savings & mitigations	Net cost/(savings) impact before funding announcements
Corporate Administration	\$ 395,761	\$ 134,827	\$ -	\$ (199,943)	\$ 330,645
Corporate Services	466,285	389,735	166,900	(517,785)	505,135
Court Services	36,970	3,431	196,875	(103,914)	133,362
Planning	87,909	8,055	120,000	(109,207)	106,757
Niagara Regional Housing	-	86,055	600,000	(844,065)	(158,010)
Niagara Regional Police Service *	71,674	110,471	-	-	182,145
Transportation	177,362	92,361	604,933	(3,249,355)	(2,374,699)
Public Health					-
Public Health	1,405,563	1,371,691	-	-	2,777,254
Emergency Medical Services	1,384,672	1,419,631	26,000	(62,000)	2,768,303
Sub-total Public Health	2,790,235	2,791,322	26,000	(62,000)	5,545,557
Community Services					-
Childrens Services	133,360	79,939	200,000	-	413,299
Seniors Services	783,506	2,707,961	-	-	3,491,467
Social Assistance & Employment Opportuniti	126,836	5,453	-	-	132,289
Homelessness Services	18,099	1,142,788	-	-	1,160,887
Sub-total Community Services	1,061,801	3,936,141	200,000	-	5,197,942
<b>Total Levy Supported</b>	<b>5,087,997</b>	<b>7,552,398</b>	<b>1,914,708</b>	<b>(5,086,269)</b>	<b>9,468,834</b>
Waste Management	211,669	105,429	-	(63,890)	253,208
Water/Wastewater	27,500	58,439	-	(522,983)	(437,044)
<b>Total Rate Supported</b>	<b>239,169</b>	<b>163,868</b>	<b>-</b>	<b>(586,873)</b>	<b>(183,836)</b>
<b>Total</b>	<b>\$ 5,327,166</b>	<b>\$ 7,716,266</b>	<b>\$ 1,914,708</b>	<b>\$ (5,673,142)</b>	<b>\$ 9,284,998</b>

\*NRPS are preparing their onwn analysis of financial impacts they will be sharing with their board. The only costs included in the analysis above are those the Region is aware of as they are purchase order commitments or actual costs recorded in our financial system or members participating in our EOC.

April 24, 2020

**Council Session CL 6-2020, April 23, 2020**

***DISTRIBUTION LIST***

***SENT ELECTRONICALLY***

**RE: Report PDS 19-2020 2019 End of Year Growth Report  
Minute Item 9.2 CL 6-2020, April 23, 2020**

Regional Council, at its meeting held on April 23, 2020, passed the following resolution:

That Report PDS 19-2020, dated April 23, 2020, respecting 2019 End of Year Growth Report, **BE RECEIVED** and **BE CIRCULATED** to the Local Area Municipalities, the Niagara Conservation Authority, Niagara Home Builders Association, Niagara Industrial Association, and the local Chambers of Commerce and School Boards.

A copy of Report PDS 19-2020 is attached for your information.

Yours truly,



Ann-Marie Norio  
Regional Clerk

CLK-C 2020-144

Distribution List:

Local Area Municipalities

Niagara Peninsula Conservation Authority

Niagara Home Builders Association

Niagara Industrial Association

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M. Ladouceur, Conseil scolaire Viamonde  
S. Whitwell, Niagara Catholic District School Board  
A. Aazouz, Conseil Scolaire de District Catholique Centre-Sud  
G. Bowie, Planner, Planning & Development Services  
R. Mostacci, Commissioner, Planning and Development Services  
N. Oakes, Executive Assistant to the Commissioner, Planning and Development Services

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**Subject:** 2019 End Of Year Growth Report

**Report to:** Regional Council

**Report date:** Thursday, April 23, 2020

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## Recommendations

1. That Report PDS 19-2020 **BE RECEIVED** for information; and
2. That a copy of Report PDS 19-2020 **BE CIRCULATED** to the Local Area Municipalities, Niagara Peninsula Conservation Authority, Niagara Home Builders Association, Niagara Industrial Association, local Chambers of Commerce and School Boards.

## Key Facts

- The purpose of this report is to inform Planning and Economic Development Services Committee and Council about growth trends over the past 5 years.
- Niagara Region's population has increased by over 25,000 people since 2015, reaching an estimated total of 479,183 as of July 1, 2019.
- Housing Starts, Completions and Building Permits have all increased since 2015 and show a growing diversification of housing types being built.
- The average sale price of a home in Niagara Region increased 56% from 2015 to 2019, reaching \$444,500 in 2019.
- Over \$5 Billion in building permits were issued since 2015, with 2019 alone reaching nearly \$1.5 Billion.

## Financial Considerations

There are no direct financial implications associated with this report. Metrics in this report inform Niagara's financial strategies. Increased residential, commercial and industrial development in Niagara, combined with increasing property assessments, has a direct impact on revenues collected by the Region.



## **Analysis**

The Planning and Development Services department has been producing the annual growth report since 2017. Previous iterations of this report have focused on year-to-year trends throughout the Region. This report focuses on the past 5 years collectively to provide a more comprehensive analysis on growth metrics. This is possible since the Region has been collecting more detailed data over the past 5 years.

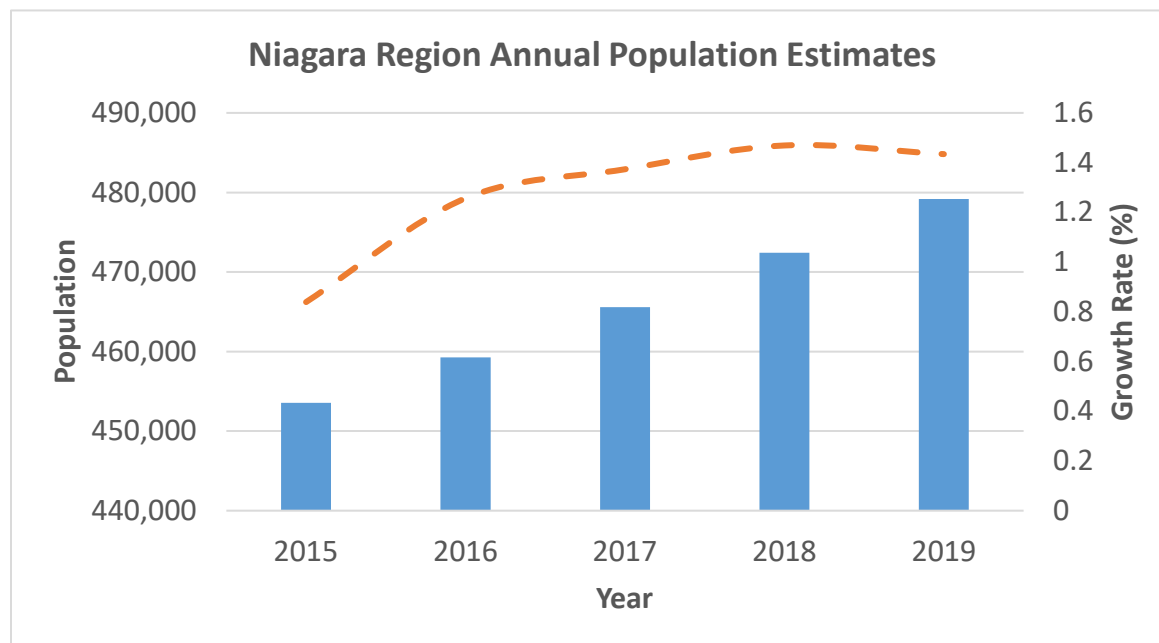
The Region has experienced significant growth across all areas set out in this report. This information is being presented as a means to update Regional Council on how growth has evolved over the last half decade and feeds directly into numerous Council Strategic Priorities.

## **Population**

### Pace of Population Growth

Both population and the pace of growth have increased significantly for Niagara since 2016. On average, the Region's population has increased by nearly 6,500 people per year since 2016, nearly double the pace of growth experienced previously between 2011 and 2016. Figure 1 provides a summary of population growth per year since 2015.

Figure 1: Niagara Region Annual Population Estimates



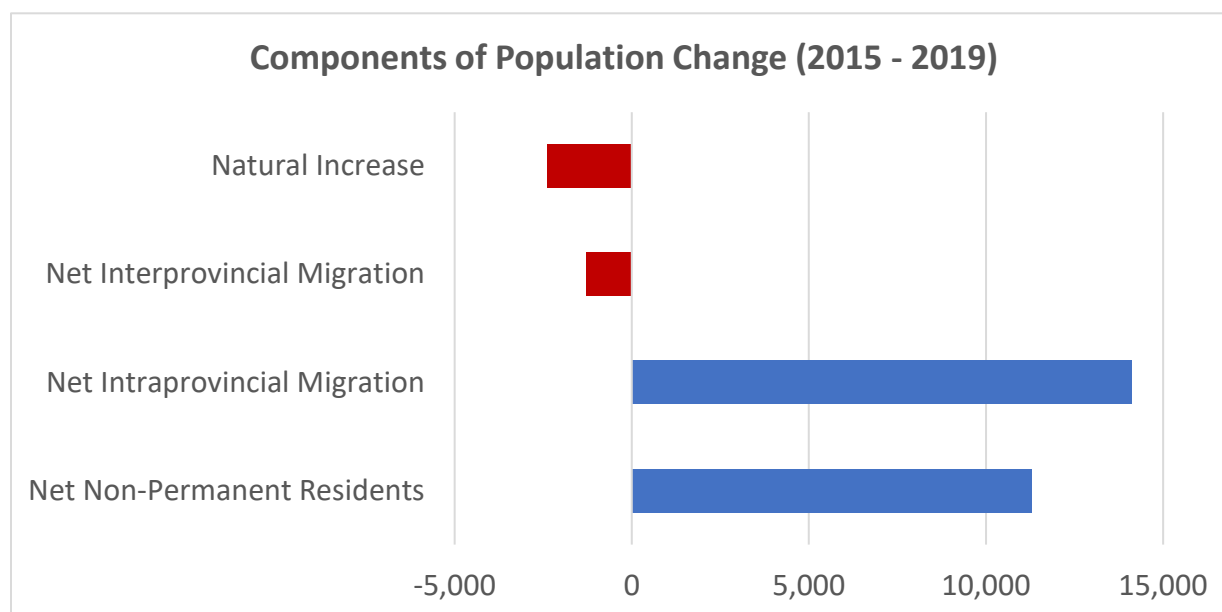
Source: Statistics Canada, Table 17-10-0140-01

While the pace of population growth may seem substantial, it is only within the last 5 years that the Niagara Region has started to match the pace contemplated in the Provincial population forecasts provided in *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019*. This is a noteworthy development as the Region must plan to achieve the forecasts set out in the *Growth Plan* and base infrastructure and development charges on the same forecasts.

### Components of Population Growth

Niagara's population growth continues to be driven entirely by international and intraprovincial migration (highlighted in figure 2).

Figure 2: Components of Population Change (2015 - 2019)



Source: Statistics Canada, Table 17-10-0140-01

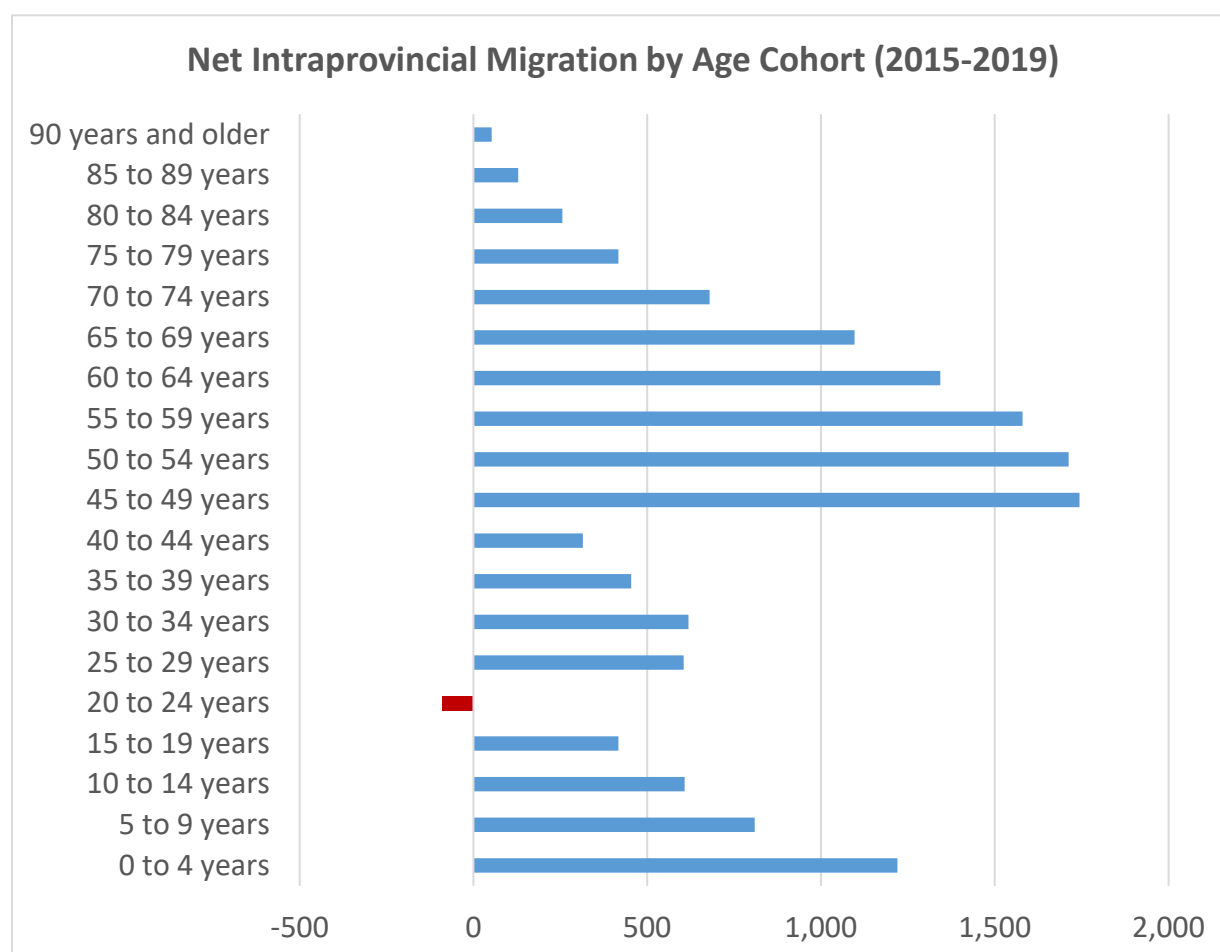
Ontario, in general, has seen a significant increase in international students over the past decade and municipalities with post-secondary institutions have received the greatest share of this growth. Since Niagara Region is home to Brock University and Niagara College, the Region has been able to capitalize on this influx.

From an intraprovincial perspective, there has been an outflow of population from Toronto and Peel Region to more affordable regions in Ontario.<sup>1</sup>

Of the population growth Niagara received through intraprovincial migration, the vast majority have been above 44 years of age. As highlighted in PDS 21-2019, the influx of a population that is generally older than the Region's current median age of 45.6 will contribute to an already aging population. Figure 3 provides a breakdown of intraprovincial migration into Niagara Region by age cohort.

<sup>1</sup> Toronto CMA Losing Existing Population of All Ages to More Affordable Regions in Ontario (link): <https://www.ryerson.ca/cur/Blog/blogentry46/>

Figure 3: Net Intraprovincial Migration by Age Cohort (2015 - 2019)



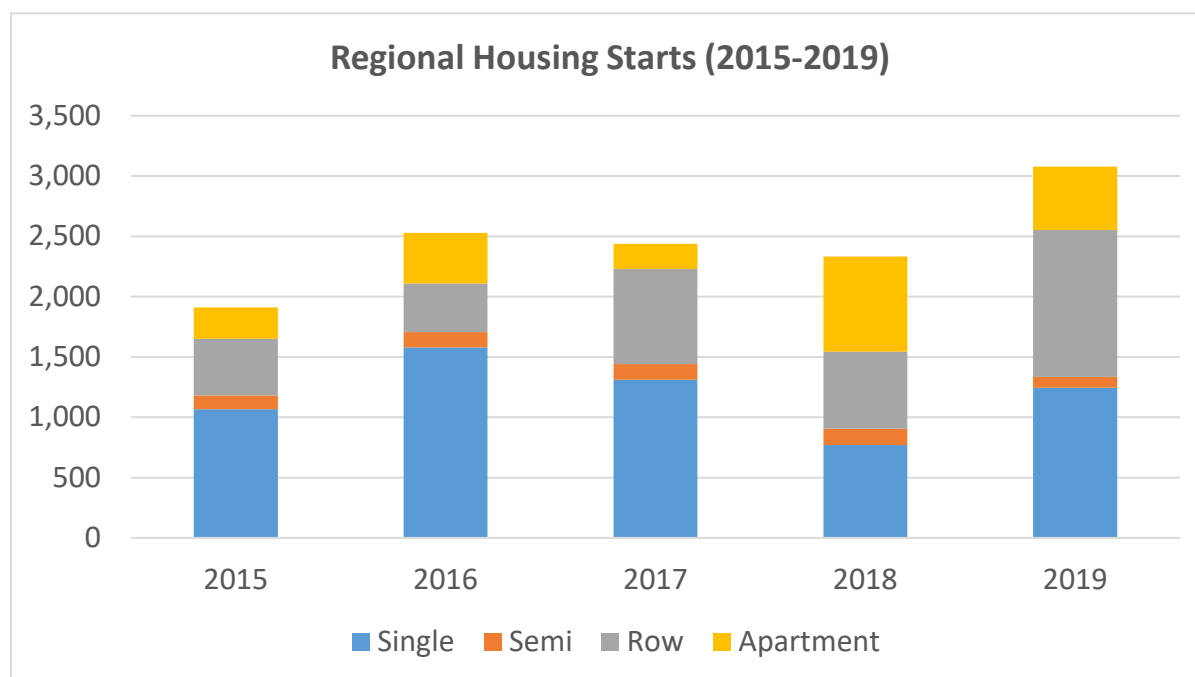
Source: Statistics Canada, Table 17-10-0140-01

### Housing Developments

Housing Starts have steadily risen over the last 5 years. In 2015, there were 1,911 starts; in 2019, there were 3,077 starts (a 61% increase). Within starts, we can also see a shifting dynamic in housing choice as single-detached housing has made up less than 50% of starts over the past 2 years.

A critical factor of meeting population forecasts in the *Growth Plan* and, importantly, achieving affordable housing targets, is Niagara's ability to offer a wider range of housing options for residents. Figure 4 provides an overview of housing starts per year by housing type.

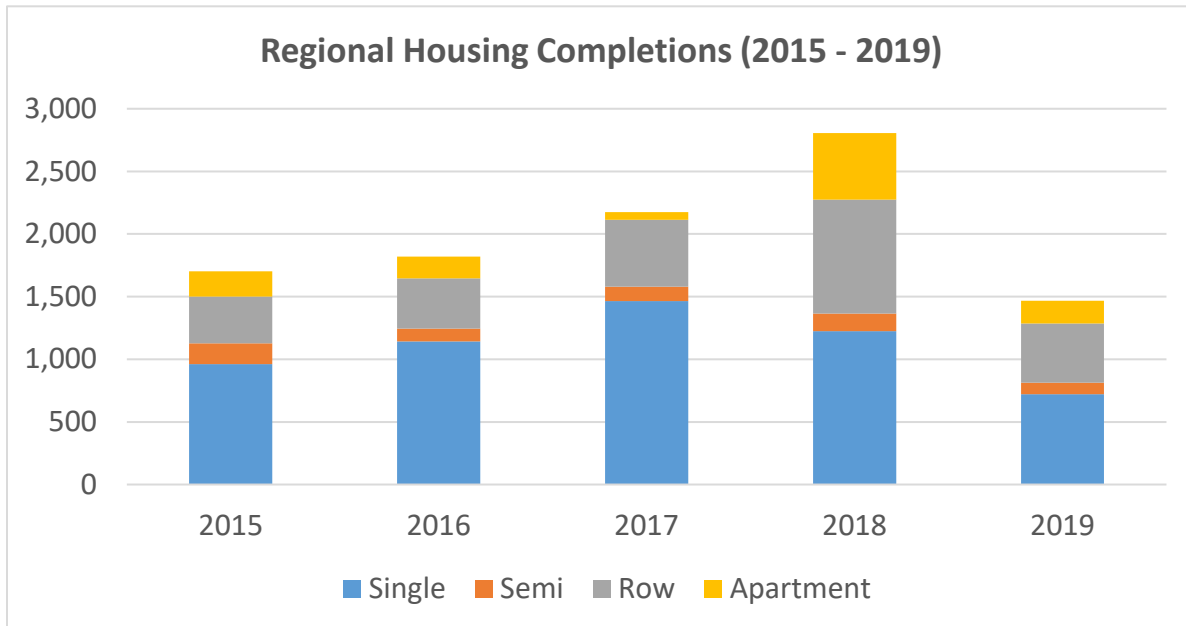
Figure 4: Regional Housing Starts (2015 - 2019)



Source: CMHC, Housing Market Information Portal

Housing completions steadily increased from 2015 to 2018 before dropping over 50% in 2019. The decline in housing completions is linked to the changing mix of housing starts as apartment developments take considerable more time to complete than single-detached and row/townhouse developments. It is anticipated that housing completions rebound in 2020 as starts that are currently under construction are complete. Figure 5 provides an overview of housing completions between 2015 and 2019.

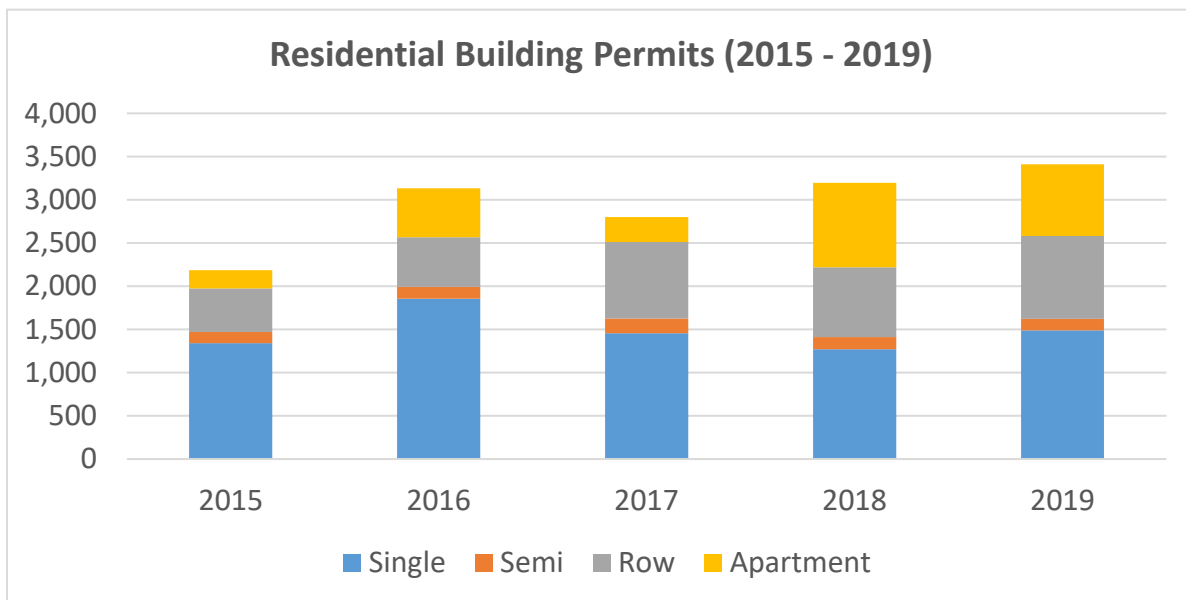
Figure 5: Regional Housing Completions (2015 - 2019)



Source: CMHC, Housing Market Information Portal

New housing units, issued by building permit, also grew consistently over the previous half decade, reaching 3,415 units in 2019. Figure 6 provides an overview of building permits (housing units) since 2015.

Figure 6: Residential Building Permits (2015 - 2019)

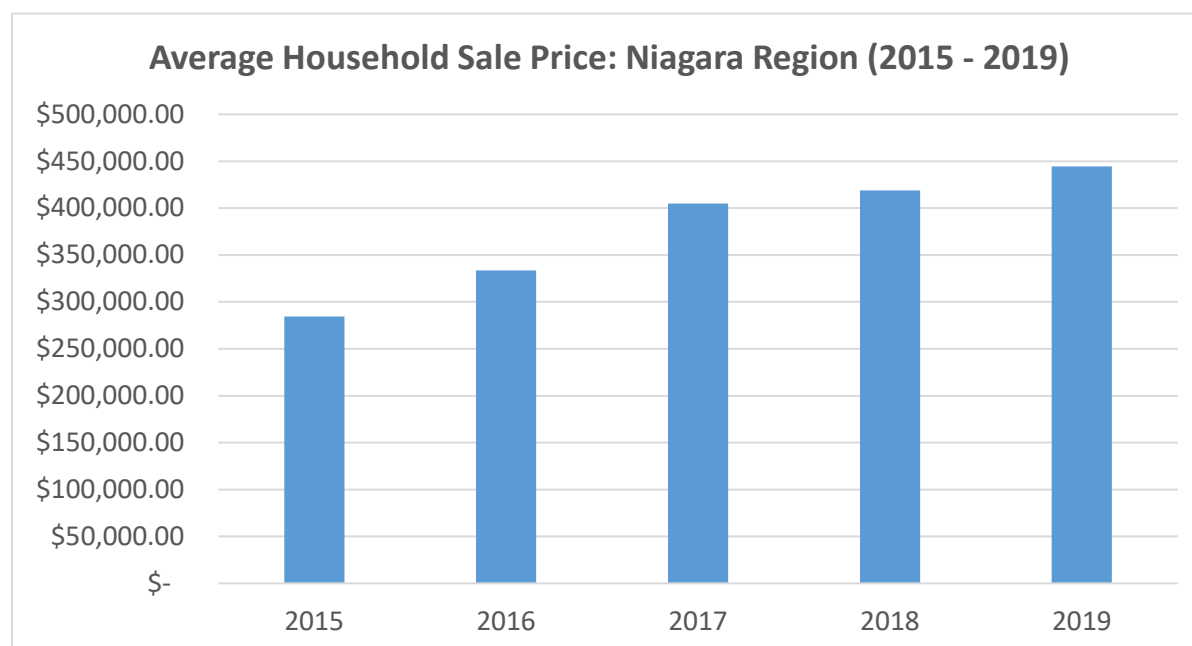


Source: Niagara Region Planning and Development Services

## Housing Market

The housing market in Niagara has been on the rise since 2015 with significant increases to average sale price in 2016 and 2017. Between 2015 and 2017, the average sale price of a home in Niagara increased nearly 40%, from \$284,000 to \$405,000. Average sale price has continued to increase in 2018 and 2019 but at a lower rate of 4% and 6% respectfully. Overall, the average sale price for a home in Niagara increased 56% from 2015 to 2019.<sup>2</sup> Figure 7 provides a breakdown of average sale price by year.

*Figure 7: Average Household Sale Price (2015 – 2019)*



Source: Niagara Association of Realtors and Realtors Association of Hamilton-Burlington

## Building Permit Values

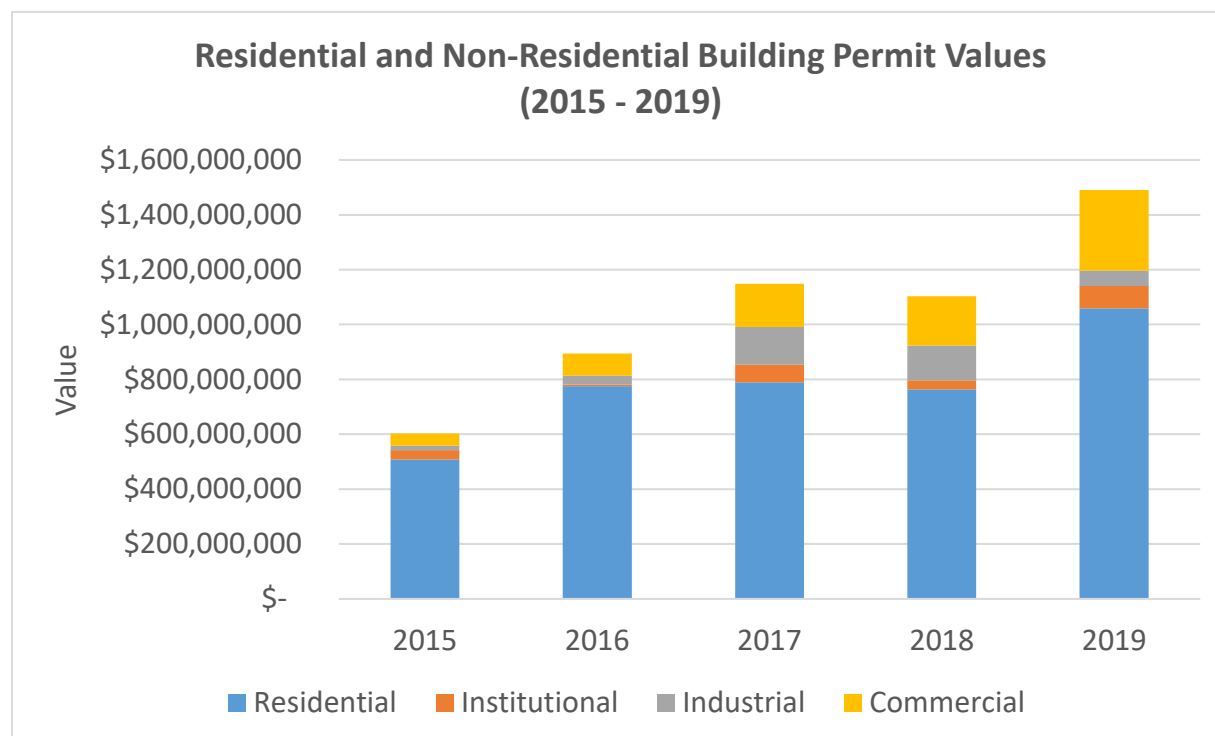
Building permit values, just like population and housing development, increased over the past 5 years, growing from \$600 million in 2015 and reaching nearly \$1.5 billion in 2019. The increased diversity of permits is particularly notable; non-residential permits

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<sup>2</sup> Average sale price for 2019 is based on the data from January 2019 to June 2019. In July 2019, the Niagara Association of Realtors changed how sale price is reported on their website, opting for an HPI Benchmark value rather than the previous reporting of average sale price.

grew from 15% in 2015 and 2016 to 30% in 2017, 2018 and 2019. The increased ratio of non-residential building permit values is more inline with the Region's Development Charges Background Study. Figure 8 provides an overview of building permit values from 2015 to 2019.

Figure 8: Residential and Non-Residential Building Permit Values (2015 - 2019)



Source: Statistics Canada Building Permit Values and Niagara Region Planning and Development Services

## Alternatives Reviewed

The scope and detail of annual growth reports will be revisited following the adoption of the forthcoming new Regional Official Plan. Future iterations of the report will provide additional metrics and commentary on the implementation of the Regional Official Plan and achievement of policy objectives and targets.

## Relationship to Council Strategic Priorities

- Supporting Businesses and Economic Growth



- This report discusses trends in population, housing and building permit values over the past 5 years. This information is important for Regional Council to have as they make decisions that impact the Regional economy.
- Healthy and Vibrant Community
  - This report highlights trends in housing sale prices that relate directly to housing affordability in Niagara.
- Responsible Growth and Infrastructure Planning
  - The population increase over the past 5 years will be a critical component in advancing Regional Transit and GO Rail Service. A greater population, as well as increased densities around proposed GO Station areas, will support development and provide greater use of the service.
  - Tracking and reporting upon residential and economic growth provides direction on maintaining existing infrastructure and assists in asset management.

### **Other Pertinent Reports**

- PDS 9-2017: Niagara Region Annual Growth Report
- PDS 25-2018: Niagara Region End of Year Growth Report 2017
- PDS 21-2019: Niagara Region End of Year Growth Report 2018

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**Prepared by:**

Greg Bowie  
Planner  
Planning and Development Services

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**Recommended by:**

Rino Mostacci, MCIP, RPP  
Commissioner  
Planning and Development Services

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**Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was reviewed by Isaiah Banach, Manager of Long Range Planning.*

April 24, 2020

**Council Session CL 6-2020, April 23, 2020**

**MINISTRY OF THE ENVIRONMENT, CONSERVATION AND PARKS  
LOCAL AREA MUNICIPALITIES**

**SENT ELECTRONICALLY**

**RE: Report PDS 13-2020 2019 Reserve Water and Wastewater Treatment  
Capacities  
Minute Item 9.2 CL 6-2020, April 23, 2020**

Regional Council, at its meeting held on April 23, 2020, passed the following resolution:

That Report PDS 13-2020, dated April 23, 2020, respecting 2019 Reserve Water and Wastewater Treatment Capacities, **BE RECEIVED** and **BE CIRCULATED** to the Ministry of the Environment, Conservation and Parks, and the Niagara Area Municipalities.

A copy of Report PDS 13-2020 is attached for your information.

Yours truly,



Ann-Marie Norio  
Regional Clerk

CLK-C 2020-143

cc: I. Stetic, Project Manager  
R. Mostacci, Commissioner, Planning & Development Services  
N. Oakes, Executive Assistant to the Commissioner, Planning & Development Services

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**Subject:** 2019 Reserve Water and Wastewater Treatment Capacities

**Report to:** Regional Council

**Report date:** Thursday, April 23, 2020

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## Recommendations

1. That this report **BE RECEIVED** for information; and
2. That a copy of this report **BE CIRCULATED** to the Ministry of the Environment, Conservation and Parks and Niagara Area Municipalities.

## Key Facts

- The purpose of this report is to inform Council of the reserve treatment capacities at Niagara's Water and Wastewater Treatment facilities. This reporting is required by the Ministry of Environment, Conservation and Parks (MECP).
- The data contained in this report assists in commenting on new development proposals and related servicing as well as planning for future treatment capacity.
- All of Niagara Water Treatment Plants (WTPs) and Wastewater Treatment Plants (WWTPs) are positioned to accept growth beyond the minimum 10 year horizon.

## Financial Considerations

This report provides Council with historical and projected treatment capacity and flow data. There are no direct financial implications in receiving this report.

The reserve treatment capacities at the water and wastewater (W&WW) facilities are considered in commenting on new development proposals and related servicing and, as a result, could result in a financial impact related to specific future applications.

## Analysis

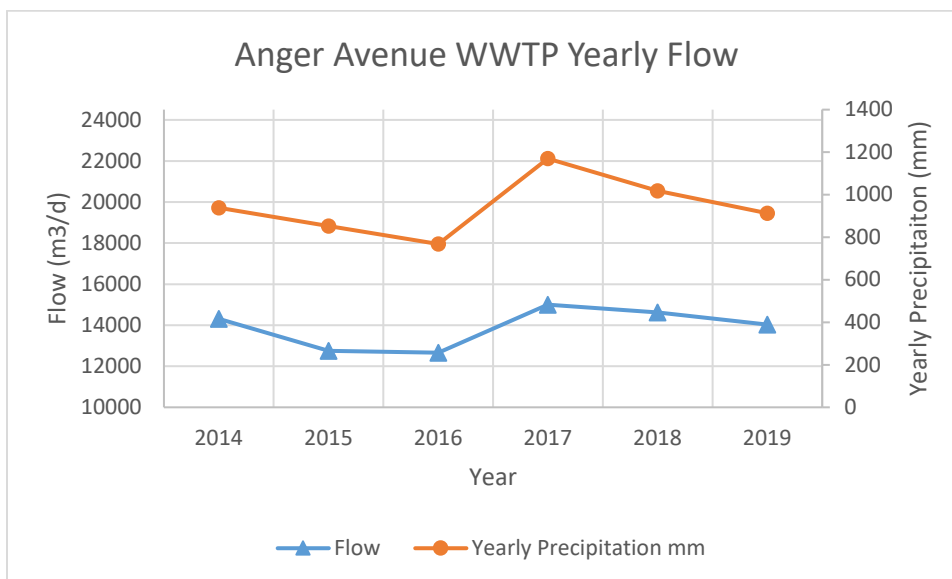
The Infrastructure Planning and Development Engineering section of Planning and Development Services Department annually reports on an assessment of the average daily W&WW flows based on the previous five years, as recorded at our various facilities compared to MECP rated capacities for the facilities. Included in the analysis are the 10-year growth projections in accordance with Niagara 2041 (*How we Grow, Flow and Go*).

A key objective of this report is to highlight potential capacity constraints and allow sufficient lead time to plan for future capacity increases through the W&WW capital programs so that development may continue unencumbered. This is a 'desktop' exercise, which compares five-year (annual) average flows to the respective MECP Environmental Compliance Approval(s), formerly known as Certificate of Approval(s) for each facility, then incorporates 10-year growth forecasts into the calculation. Ongoing phasing and staging strategy works with our local municipal partners will further refine this assessment for understanding development capacity.

This assessment does not reflect specific compliance, quality, sustainability, risk, or operational deficiencies at the treatment plants or trunk conveyance/transmission systems, which may affect the Region's ability to approve new development or permit servicing extensions.

For municipal wastewater treatment, weather is the key factor that results in peak wet weather flows, which impacts the collection and trunk sewers in both local and regional systems through "Rainfall Derived Inflow and Infiltration" (RDI&I). Even though, it is expected to record higher flows due to population growth, the annual average daily flows to the WWTPs are higher due to the wet weather flows entering the systems. Just for an example, Figure 1 illustrates a direct correlation of wastewater plant flows and yearly precipitation at Anger Avenue WWTP.

Figure 1: Correlation of Wastewater Flows with Precipitation



Wet weather flows can have substantial impact on available WWTP capacities and a direct impact on the limitations of available servicing capacity for future growth.

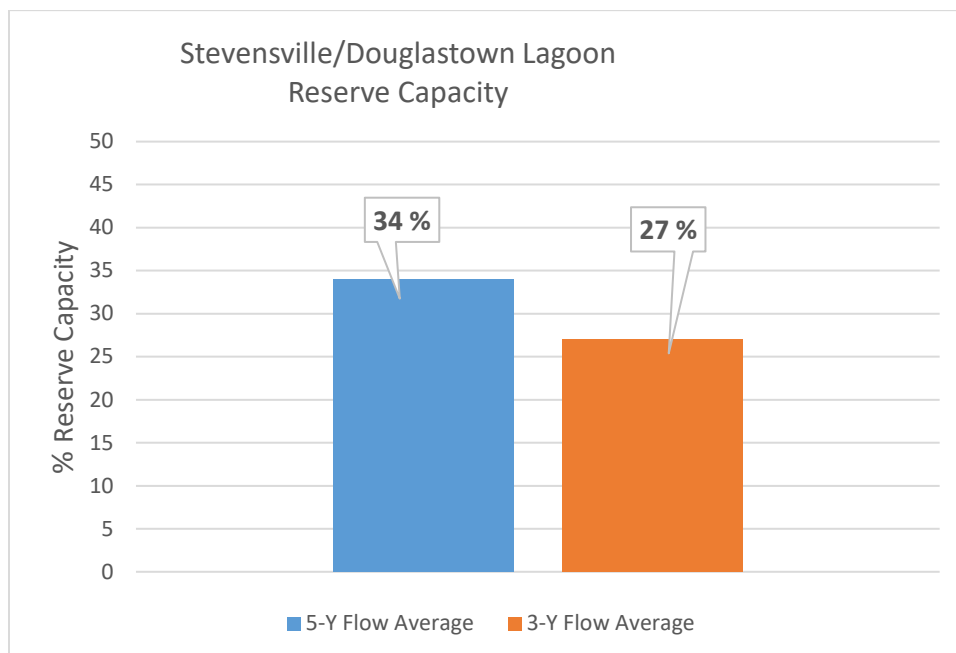
Appendix 1 and 2 provide the annual average daily flows and five year average from 2015 to 2019 for the water and wastewater treatment plants, respectively. Appendices 3 and 4 provide a summary of Niagara's six water treatment facilities and eleven wastewater treatment facilities presenting their respective reserve capacities.

It is worth noting that growth rates in recent years show a momentous increase compared to the previous trend in Niagara, which consequently may impact the way this 'desktop' exercise conducts the reserve capacity calculations.

Averaging daily flows over a five-year period versus a three-year period in calculations show a compelling difference in the resulting reserve capacities. This can create a skewed sense of a greater reserve capacity available for the future if the annual daily flows are averaged over longer period of time.

Figure 2 shows an example in a resulting reserve capacity difference for Stevensville/Douglastown Lagoon when flows are averaged over different time periods in calculations.

Figure 2: Reserve Capacity of Annual Flows Averaged over 5-Year and 3-Year



A potential change to incorporate the annual daily flows averaged over the last three-year period into the reserve capacities calculation instead of using the last five-year average presently will be discussed with the Municipal partners and the Ministry during 2020.

**At present, all of Niagara's WTPs and WWTPs are positioned to accept growth beyond the minimum 10-year period (Appendix 3 and Appendix 4).**

### **Wet Weather Management**

In order to accommodate the anticipated growth from Niagara 2041, the 2016 W&WW Master Servicing Plan (MSP) investigated capacity upgrades (upgrades to trunk sewers, pumping station capacities, etc.), upstream management (storage, peak shaving, diversion), and peak flow management (flow reduction, Inflow & infiltration (I&I) reduction projects) for every wastewater system. Based on this review, there are wet weather projects listed with identified areas for targeted I&I removal to offset the requirement to upgrade and expand more expensive infrastructure all the way to the WWTPs. It is crucial to achieve the I&I reductions in order to offset the capacity needs from growth, to protect the environment, and mitigate potential basement flooding.

The Region and Area Municipalities are continuing to work collaboratively to facilitate ongoing development throughout the region and provide the requisite servicing and capacity allocation in a responsible way to service the communities. In addition, the Region has been aiding Area Municipalities by funding the CSO Control program under the Wet Weather Management Program to support various I&I related projects and programs on the municipal side. This program has been reducing the impacts of I&I and has been a benefit to both, the Region and the Area Municipalities.

The Wet Weather Management team is working with the Development Industry including Public Works Officials, Building Officials, Developers, Consultants and Contractors to raise awareness on the wet weather management issues and potential upcoming changes to address this.

### **Alternatives Reviewed**

No alternatives were studied.

## **Relationship to Council Strategic Priorities**

The report aligns with Council's Priority of Responsible Growth and Infrastructure Planning by highlighting the reserve capacity available to growth at all Regional Water and Wastewater Treatment Facilities.

The report also provides MECP and local municipal partners operational summary and reserve capacity projections for Region's Water and Wastewater Treatment facilities.

## **Other Pertinent Reports**

- PDS 29-2019, August 7, 2019, 2018 Reserve Water and Wastewater Treatment Capacities
- PW 22-2017, May 30, 2017, 2016 Water and Wastewater Master Servicing Plan Update

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### **Prepared by:**

Ilija Stetic, B.Sc., PMP  
Project Manager  
Planning and Economic Development

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### **Recommended by:**

Rino Mostacci, MCIP, RPP  
Commissioner  
Planning and Economic Development

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### **Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with Phill Lambert, Director Planning and Development Services, John Brunet, AD Water Operations and Staff Development and Jason Oatley, Manager WW Quality & Compliance.*

## **Appendices**

Appendix 1	Annual Average Daily Flow 2015 to 2019 WTP	Page 6
Appendix 2	Annual Average Daily Flow 2015 to 2019 WWTP	Page 7
Appendix 3	Water Reserve Capacity Calculations for 2019	Page 8
Appendix 4	Wastewater Reserve Capacity Calculations for 2019	Page 9



## APPENDIX 1

## ANNUAL AVERAGE DAILY FLOW 2015 TO 2019 WATER TREATMENT PLANTS

Water Treatment Facility Location	Rated Capacity (m <sup>3</sup> /d)	Average Daily Flow (m <sup>3</sup> /d) 2015	Average Daily Flow (m <sup>3</sup> /d) 2016	Average Daily Flow (m <sup>3</sup> /d) 2017	Average Daily Flow (m <sup>3</sup> /d) 2018	Average Daily Flow (m <sup>3</sup> /d) 2019	5 Year Average Daily Flow (m <sup>3</sup> /d) 2015 to 2019
Decew Falls WTP	227,300	53,723	54,903	54,321	56,090	53,303	54,468
Grimsby WTP	44,000	16,652	15,699	14,020	14,866	14,029	15,053
Niagara Falls WTP	145,584	45,186	47,350	45,192	44,780	43,400	45,182
Port Colborne WTP	36,000	8,908	7,719	8,735	8,864	7,282	8,302
Rosehill WTP	50,026	13,182	13,148	12,388	12,862	11,188	12,554
Welland WTP	65,000	20,164	21,858	21,590	22,538	22,579	21,746

Note 1: Welland WTP rated capacity changed from 102,300 m<sup>3</sup>/d to 65,000 m<sup>3</sup>/d due to Operational constraints.

## APPENDIX 2

## ANNUAL AVERAGE DAILY FLOW 2015 TO 2019 WASTEWATER TREATMENT PLANTS

	Rated	Average	Average	Average	Average	Average	5 year
	Capacity	Daily Flow	Daily Flow	Daily Flow	Daily Flow	Daily Flow	Average
Wastewater Treatment	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	Daily Flow
Facility Location							(m <sup>3</sup> /d)
		2015	2016	2017	2018	2019	2015 to 2019
Anger Avenue WWTP	24,500	12,755	12,661	15,000	14,624	15,146	14,037
Baker Road WWTP	31,280	17,549	16,999	20,897	19,975	20,910	19,266
Crystal Beach WWTP	9,100	5,005	4,676	5,915	5,874	6,276	5,549
Niagara Falls WWTP	68,300	40,782	35,880	44,684	41,489	41,360	40,839
NOTL WWTP	8,000	3,911	4,021	4,561	4,687	5,237	4,483
Port Dalhousie WWTP	61,350	30,091	29,616	34,823	35,095	36,681	33,261
Port Weller WWTP	56,180	30,856	29,650	32,090	36,881	39,211	33,738
Queenston WWTP	500	234	278	234	198	213	231
Seaway WWTP	19,600	11,064	9,103	12,082	12,580	13,472	11,660
Stevensville/Douglastown Lagoon	2,289	1,192	1,314	1,635	1,670	1,729	1,508
Welland WWTP	54,550	32,164	29,728	35,407	34,643	37,137	33,816

## APPENDIX 3

## Regional Water Treatment Facilities Reserve Capacity Calculation for 2019

Treatment Facility	Permit To Take Water (1) (ML/D)	Rated Treatment Capacity (ML/D)	Peaking Factor (2)	Theoretical Average Day Capacity (ML/D)	90% of Average Day Capacity (3) (ML/D)	5-Year Average Day Flow (ML/D)	% of Total Capacity Used	Reserve Treatment Capacity (Based on 90%) (ML/D)	Design Flow Rate (275 l/c/d)	Reserve Serviceable Population (Equivalents)	10-Year Forecast For Population (Residential & Employment)	Surplus Population Over 10-Year Projection
DeCew Falls WTP	227.0	227.3	1.496	151.9	136.7	54.5	36%	82.2	275	298,909	30,398	268,511
Grimsby WTP	44.0	44.0	1.587	27.7	24.9	15.1	54%	9.9	275	36,000	14,771	21,229
Niagara Falls WTP	145.5	145.5	1.577	92.3	83.1	45.2	49%	37.9	275	137,818	23,782	114,036
Port Colborne WTP	45.5	36.0	1.640	22.0	19.8	8.3	38%	11.5	275	41,818	1,552	40,266
Rosehill WTP	78.0	50.0	1.482	33.7	30.3	12.6	37%	17.8	275	64,727	6,375	58,352
Welland WTP	110.0	65.0	1.486	43.7	39.3	21.7	50%	17.6	275	64,000	12,292	51,708

(1) Original MOE approved quantity of raw water permitted (Permit To Take Water).

(2) The peaking factors used are based on an average of actual flow rates of maximum day versus average day flows over the past three years at each facility.

(3) Region's W&WW MSP (GM BluePlan, 2017) requires planning process for expansion when plant capacity exceeds 80%, and expansion should be completed when capacity exceeds 90%.

## APPENDIX 4

## Regional Wastewater Treatment Facilities Reserve Capacity Calculation for 2019

Treatment Facility	MOE Plant Rated Capacity (m <sup>3</sup> /day)	90 % of Plant Capacity (1) (m <sup>3</sup> /day)	5-Year Average Daily Flow (m <sup>3</sup> /day)	% of Total Capacity Used	Reserve Treatment Capacity (Based on 90%) (m <sup>3</sup> /day)	Design Flow Rate (4) (365 L/c/d)	Reserve Serviceable Population (Equivalents)	10-Year Forecast For Population (Residential & Employment)	Surplus Population Over 10-Year Projection
Anger Avenue (Fort Erie) WWTP	24,500	22,050	14,037	57%	8,013	365	21,953	4,277	17,676
Baker Road (Grimsby) WWTP	31,280	28,152	19,266	62%	8,886	365	24,346	16,791	7,555
Crystal Beach (Fort Erie) WWTP	9,100	8,190	5,549	61%	2,641	365	7,236	1,443	5,793
Niagara Falls WWTP	68,300	61,470	40,839	60%	20,631	365	56,523	19,980	36,543
NOTL WWTP	8,000	7,200	4,483	56%	2,717	365	7,443	2,644	4,799
Port Dalhousie (St. Catharines) WWTP	61,350	55,215	33,261	54%	21,954	365	60,148	15,005	45,143
Port Weller (St. Catharines) WWTP	56,180	50,562	33,738	60%	16,824	365	46,094	10,052	36,042
Queenston (NOTL) WWTP (3)	500	450	231	46%	219	365	599	99	500
Seaway (Port Colborne) WWTP	19,600	17,640	11,660	59%	5,980	365	16,383	1,622	14,761
Stevensville/Douglastown Lagoon	2,289	2,060	1,508	66%	552	365	1,512	795	717
Welland WWTP	54,550	49,095	33,816	62%	15,279	365	41,860	12,912	28,948

(1) Region's W&WW MSP (GM BluePlan, 2017) requires planning process for expansion when plant capacity exceeds 80%, and expansion should be completed when capacity exceeds 90%.

(2) The Niagara Falls WWTP assessment includes the sewage flows from the St. David's area of Niagara-on-the-Lake.

(3) The Queenston WWTP in Niagara-on-the-Lake has a unique capacity commitment of 226 m<sup>3</sup>/d for the following properties: Niagara Parks Commission (75 m<sup>3</sup>/d), Niagara Falls Bridge Commission (63 m<sup>3</sup>/d), Shalamar Campground (38 m<sup>3</sup>/d) and Ontario Power Generation (50 m<sup>3</sup>/d). Due to these commitments and limited UAB, limited residential growth is expected within the next 10 year period within the tributary area.

(4) Design Flow Rate incorporated 90 L/c/d of extraneous flow allowance

**Cannabis Control Committee  
Town of Pelham**

**Minutes of Meeting  
Wednesday, February 5, 2020 - 5:00 p.m.  
Fire Station 1, 177 Highway 20 W, Fonthill**

**PRESENT:** Mike Cioffi, Councillor - Town of Pelham  
Tim Nohara (Chair)  
Jim Jeffs  
Bill Heska  
Jim Steele  
Louis Damm  
David Cribbs, CAO - Town of Pelham  
Barbara Wiens, Director, Community Planning & Development - Town of Pelham  
Shannon Larocque, Senior Planner, Community Planning & Development-Town of Pelham  
Jodi Legros, Administrative Assistant, Community Planning & Development-Town of Pelham  
(Secretary)

**OTHERS:** Mayor Junkin, Public (2)

**REGRETS:** John Langendoen, Carla Baxter

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**1. Declaration of Quorum**

Chair declared quorum at 5:04 pm.

**2. Approve Agenda**

T. Nohara included additional items to #4 Working Group Session, before Committee Draft Official Plan and Zoning By-law Amendment:

- i) Site Plan Control By-Law Amendment
- ii) Meridian Planning Consultant
- iii) Implementation Plan re: odourous industries nuisance by-law
- iv) Public Meeting discussion

Moved by B. Heska, seconded by J. Steele that the agenda of February 5, 2020 be approved, as amended.

CARRIED

**3. Minutes**

- Chair to provide signed minutes of December 11, 2019 and January 8, 2020 to the Secretary.
- Moved by J. Jeffs, seconded by J. Steele that the minutes of January 15, 2020 be approved, as amended.
- Moved by J. Steele, seconded by J. Jeffs that the minutes of January 29, 2020 be deferred to the next meeting date.

CARRIED

**4. Working Group Session**

- i) Site Plan Control By-law Amendment

T. Nohara distributed a one-page document for review with proposed changes to the Site Plan Control By-law 4117(2019) that the Committee wishes to bring to Council for consideration and approval. The intent is to make it clearer that site plan control applies to all cannabis and cannabis related uses, not just cannabis in greenhouses. Town staff advised the change had already been discussed previously. However T. Nohara noted that the CCC wished to approve the wording of a proposed amendment so that it could be brought to Council in the future. Discussion took place.

Moved by J. Steele, seconded by B. Heska to approve the proposed amendment to the existing Site Plan Control By-law.

CARRIED

**ii) Planning Consultant**

T. Nohara reported he had a telephone conversation with Nick McDonald and Jessica Tijanic from Meridian Planning Consultants located in Vaughan, Ontario and is working on a detailed schedule leading to a draft OPA/ZBA that N. McDonald would present to Council members at a Policy & Priorities Meeting on March 23<sup>rd</sup>. T. Nohara was also trying to lock down a date that would allow N. McDonald to attend a Cannabis Control Committee meeting in future. D. Cribbs suggested N. McDonald attend a public meeting before the committee puts drafts forward to council.

**iii) Implementation Plan re: Odourous Industries Nuisance By-law**

T. Nohara indicated the committee was looking for guidance from staff regarding the time needed for an implementation plan. D. Cribbs indicated staff would come back with guidance for our next meeting. Staff will also look at the Fees & Services By-law for possible use in collecting fees for the ambient neighbourhood monitoring program.

The committee suggested that a consultant / odour expert be hired to design the program and work with the Town to develop an RFP to undertake the ambient neighbourhood monitoring program. T. Nohara was directed to contact the Town's Purchasing Coordinator to discuss the RFP requirements.

D. Cribbs advised the committee that P. Girard should not assist committee members in writing the statement of work (SOW) if he is to be a candidate for the consulting/odour-expert contract. T. Nohara indicated that he and B. Heska, who are both professional engineers, will draft the SOW and work with the Town's Purchasing Coordinator.

**iv) Public Meeting discussion**

A discussion regarding setting a date for a second public meeting took place.

T. Nohara circulated an e-mail from Meridian Planning Consultants which notes that a second public meeting in accordance with the Planning Act is not necessary as indicated by staff. T. Nohara expressed concern on the time it would take to hold a second public meeting and trying to set that date now and advised the group that the Cannabis Control Committee can not recommend one at this time.



S. Larocque noted staff needs to see the changes that the committee is recommending. D. Cribbs also noted wanting to see our proposed OPA/ZBA changes and seek legal advice before he makes a judgement. He also noted an open house gets us partly there.

Due to disagreement between staff and the committee, D. Cribbs suggested it was best for council to make the decision on March 2<sup>nd</sup> for the need for a second public meeting. Notice requirements will be a factor in setting a date for the public meeting. B. Wiens reminded everyone that draft documents must be available at the time of notice.

B. Heska left the meeting at 6:26 pm.

v) **Committee Draft Official Plan and Zoning By-law Amendment**

T. Nohara noted the committee has multiple ideas to discuss with N. McDonald and will have something to share at the next meeting.

5. **Next meeting Date:** Wednesday, February 12, 2020 – Fire Station 1.

6. **Adjournment:**

Moved by J. Steele, seconded by L. Damm that the meeting be adjourned.

The meeting adjourned at approximately 6:34 p.m.

CARRIED

Signed by:

*Edited* Tim J. Nohara   
*By:* Tim Nohara (Chair)

  
Prepared by: Jodi Legros, Administrative Assistant  
Community Planning & Development-Town of Pelham

**Cannabis Control Committee  
Town of Pelham**

**Minutes of Meeting  
Wednesday, February 12, 2020 - 5:00 p.m.  
Fire Station 1, 177 Highway 20 W, Fonthill**

**PRESENT:** Mike Cioffi, Councillor - Town of Pelham  
Tim Nohara (**Chair**)  
Jim Jeffs  
Bill Heska  
John Langendoen  
Louis Damm  
David Cribbs, CAO - Town of Pelham  
Barbara Wiens, Director, Community Planning & Development-Town of Pelham  
Shannon Larocque, Senior Planner, Community Planning & Development-Town of Pelham  
Jodi Legros, Administrative Assistant, Community Planning & Development-Town of Pelham  
(**Secretary**)

**OTHERS:** Mayor Junkin  
Bob Lymburner, Fire Chief - Town of Pelham  
Craig Genesse, Sr. By-Law Officer - Town of Pelham  
Greg Young, By-Law Officer - Town of Pelham  
Public (1)

**REGRETS:** Jim Steele  
Carla Baxter

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**1. Declaration of Quorum**

Chair declared quorum at 5:05 pm.

**2. Approve Agenda**

Committee added review of Sullivan Mahoney letter, Land Use Report, and March 25 LPAT letter to Item 4 (Working Group Session).

Moved by L. Damm, seconded by B. Heska that the agenda of February 12, 2020 as amended, be approved.

CARRIED

**3. Minutes**

- Chair delivered signed Minutes of December 11, 2019, January 8, 2020 and January 15, 2020 to the Secretary.
- Moved by J. Jeffs, seconded by L. Damm that the minutes of January 29, 2020 be deferred to the February 26 meeting.
- Moved by J. Langendoen, seconded by J. Jeffs that the minutes of February 5, 2020 be deferred to the February 26 meeting.



CARRIED

4. **Working Group Discussion**

• **Staff Input on Implementation Plan**

B. Wiens informed the Committee staff is discussing purchasing an olfactometer and will undertake training on its use, in addition to establishing a work-step procedure from odour complaint to investigation time-frame and reporting. This will take approx. 90 days to get into place.

T. Nohara provided an update that he has contacted the Town's Purchasing Co-ordinator concerning the hiring of an odour consultant/expert.

By-law Staff provided input on complaint procedure process.

• **Committee Draft Official Plan and Zoning By-law Amendment**

The Committee handed out a sheet that provided an outline of their proposed amendments to the Official Plan and Zoning By-law. The Committee's planning consultant, Meridian, is currently reviewing the information provided by the Committee. Extensive discussion ensued.

• **Sullivan Mahoney Letter**

The Committee discussed the letter to Council received by Sullivan Mahoney that is on the February 18<sup>th</sup>, 2020 Council agenda and various interactions between CannTrust and Committee members.

• **Land Use Report**

B. Heska inquired what amendments were made. T. Nohara and J. Jeffs each noted they saw some of their comments addressed. S. Larocque confirmed changes were made in response to comments received from T. Nohara and J. Jeffs, no further changes were made.

• **March 25 LPAT Notice of Case Management Conference**

Staff explained why people received a copy of the Notice and further explained how a person can participate but as a member of the community, not as a Cannabis Control Committee member.

5. **Next meeting Date:** Wednesday, February 26, 2020 - Fire Station 1.

6. **Adjournment:**

Moved by J. Jeffs, seconded by L. Damm that the meeting be adjourned.

The meeting adjourned at approximately 6:55 p.m.

CARRIED

Signed by:

Edited By Tim Nohara  
Tim Nohara (Chair)

J Legros  
Prepared by: Jodi Legros, Administrative Assistant  
Community Planning & Development-Town of Pelham

**Cannabis Control Committee  
Town of Pelham**

**Minutes of Meeting  
Wednesday, February 26, 2020 - 5:00 p.m.  
Fire Station 1, 177 Highway 20 W, Fonthill**

**PRESENT:** Mike Cioffi, Councillor - Town of Pelham  
Tim Nohara (**Chair**)  
Jim Jeffs  
Bill Heska  
John Langendoen  
Louis Damm  
Jim Steele  
David Cribbs, CAO - Town of Pelham  
Barbara Wiens, Director, Community Planning & Development-Town of Pelham  
Shannon Larocque, Senior Planner, Community Planning & Development-Town of Pelham  
Jodi Legros, Administrative Assistant, Community Planning & Development-Town of Pelham  
(**Secretary**)

**OTHERS:** Mayor Junkin  
Bob Lymburner, Fire Chief - Town of Pelham  
Public (1)

**REGRETS:** Carla Baxter

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**1. Declaration of Quorum**

Chair declared quorum at 5:04 pm.

**2. Approve Agenda**

Committee added discussion of March 25 LPAT Conference, March 30 Court Proceeding, and Land Use Report to Item 4 (Working Group Session).

Moved by B. Heska, seconded by J. Langendoen that the agenda of February 26, 2020 as amended, be approved.

CARRIED

**3. Minutes**

- Moved by J. Jeffs, seconded by J. Steele that the minutes of January 29, 2020 be approved, as amended.
- Moved by L. Damm, seconded by J. Langendoen that the minutes of February 5 and February 12, 2020 be deferred to the next meeting.

CARRIED



4. **Working Group Discussion**

• **Committee Draft Official Plan and Zoning By-Law Amendment**

T. Nohara noted that a new schedule is being developed since the nuisance by-law has been returned to the Committee and will not return to Council until 23 March.

The Committee advised that Nick McDonald from Meridian Planning Consultants will be preparing the official plan amendment (OPA) and zoning by-law amendment (ZBA). In addition, N. McDonald will attend the March 11, 2020 Committee meeting to present the first draft of the OPA/ZBA. T. Nohara notes that based on their revised schedule, they will not have final OPA/ZBA drafts available until the end of April 2020. Staff members were concerned about the delay of drafts, as are committee members.

Discussion took place again regarding a second public meeting and when Council could be in a position to decide. B. Wiens suggested sitting down with stakeholders to discuss proposed amendments.

• **Review of Odourous Industries Nuisance By-Law (OINBL)**

The Committee reviewed revisions to the OINBL proposed by Aird & Berlis. All reference to noise, vibration and light have been removed. The draft relates to odour nuisances only. D. Cribbs, B. Lymburner and CCC members had concerns with specific amendments which were noted.

D. Cribbs requested that the draft by-law be provided in order for staff to correct the formatting of same.

• **March 25 LPAT Case Management Conference**

J. Jeffs will amend his request to attend the Case Conference to exclude his notation of being a member of the Cannabis Control Committee.

• **March 30 Court Proceedings**

D. Cribbs will advise once he receives any information relating to the court proceedings.

• **Land Use Report Comments**

T. Nohara noted that the Land Use Report has been provided to N. McDonald to provide his comments on the Recommendations to the Committee before the Committee provides its comments on the Recommendations as requested by Council.

J. Jeffs did provide several comments to staff in a correspondence on the content of the Land Use Report.

B. Wiens noted that N. McDonald had not contacted staff.

T. Nohara noted that N. McDonald had been on holidays and that he would be attending in person at our next meeting to meet and brief everyone.

5. **Next meeting Date:** Wednesday, March 11, 2020 - Fire Station 1.

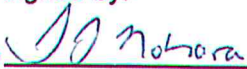
6. **Adjournment:**

Moved by J. Steele, seconded by L. Damm that the meeting be adjourned.

The meeting adjourned at approximately 6:40 p.m.

CARRIED

Signed by:

*Edited By:*   
Tim Nohara (Chair)

  
Prepared by: Jodi Legros, Administrative Assistant  
Community Planning & Development-Town of Pelham

**Cannabis Control Committee  
Town of Pelham**

**Minutes of Meeting  
Thursday, March 5, 2020 - 5:00 p.m.  
Kinsmen Room, Meridian Community Centre, Fonthill**

**PRESENT:** Mike Cioffi, Councillor - Town of Pelham  
Tim Nohara (**Chair**)  
Jim Jeffs  
Bill Heska  
John Langendoen  
Louis Damm  
Jim Steele  
Carla Baxter via telephone

Barbara Wiens, Director, Community Planning & Development-Town of Pelham

**OTHERS:** nil

**REGRETS:** David Cribbs, CAO – Town of Pelham  
Shannon Larocque, Senior Planner, Community Planning & Development – Town of Pelham  
Jodi Legros, Administrative Assistant, Community Planning & Development – Town of Pelham (Secretary)

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**1. Declaration of Quorum**

Chair declared quorum at 5:04 pm.

**2. Approve Agenda**

T. Nohara requested that Item 3 - Minutes be deferred to the next meeting, and that third draft of the Committee's Recommendation Report on Managing Cannabis Nuisances in Pelham be added to Item 4 (Working Group Session).

Moved by J. Steele seconded by L. Damm that the agenda of March 5, 2020 as amended, be approved.

CARRIED

**3. Working Group Discussion**

**Third Draft of Committee's Recommendation Report on Managing Cannabis Nuisances in the Town of Pelham**

- T. Nohara reviewed changes made to the Committee's Recommendation Report from the second draft. The changes respond to input from Aird & Berlis and comments received from CannTrust and Redecan Pharm. Grammatical and minor edits were made to pages 1, 8, 13, 27 and 34 based on the Committee's review, no substantive changes were made to the third draft of the Recommendation Report by the Committee.

**Draft Odorous Nuisance By-law**



- T. Nohara reviewed changes made to the draft Odorous Nuisance By-law as a result of the Committee's review of the input received from Aird & Berlis. Discussion occurred regarding amending item 1(c) to include the "property" as it relates to the growing of 4 plants at any one time in a dwelling or on a "property". T. Nohara noted he would raise this with Aird & Berlis.

Moved by J. Langendoen, seconded by J. Jeffs that the third draft Recommendation Report on Managing Cannabis Nuisances in the Town of Pelham (as amended during the meeting) be approved.

CARRIED.

Moved by B. Heska, seconded by J. Steel that the revised draft Odorous Industries Nuisance By-law be approved.

CARRIED.

Moved by J. Steele, seconded by J. Langendoen that the Chair of the Cannabis Control Committee (CCC) be authorized to make additional amendments to the Odorous Industries Nuisance By-law and the third draft Report on Managing Cannabis Nuisances in the Town of Pelham on behalf of the CCC that may result prior to noon March 12, 2020 following conversations with Aird and Berlis, so that the Chair can file our Delegation Package, which will include these two items, on time for the March 23, 2020 Council Meeting. CCC members reserve the right to bring a motion to any CCC meeting prior to March 23, 2020 to make further changes to these two items.

CARRIED.

4. T. Nohara updated the Committee on the work by Meridian Planning Consultants regarding the draft Official Plan and Zoning By-law amendments and indicated the consultants will be in attendance at the next meeting.
5. **Next meeting Date:** Wednesday, March 11, 2020 - Fire Station 1.
6. **Adjournment:**

Moved by B. Heska, seconded by J. Jeffs that the meeting be adjourned.

The meeting adjourned at approximately 6:30 p.m.

CARRIED

Signed by:

*Editted By: Tim Nohara*  
 By: Tim Nohara (Chair)

*J. Jeffer*  
 Prepared by: Barbara Wiens, Director  
 Community Planning & Development – Town of Pelham

**Cannabis Control Committee  
Town of Pelham**

**Minutes of Meeting  
Wednesday, March 11, 2020 - 5:00 p.m.  
Fire Station 1, 177 Highway 20 W, Fonthill**

**PRESENT:** Mike Ciolfi, Councillor - Town of Pelham  
Tim Nohara (**Chair**)  
Jim Jeffs  
John Langendoen  
Louis Damm  
Bill Heska  
Jim Steele  
David Cribbs, CAO - Town of Pelham  
Barbara Wiens, Director, Community Planning & Development - Town of Pelham  
Shannon Larocque, Senior Planner, Community Planning & Development-Town of Pelham  
Jodi Legros, Administrative Assistant, Community Planning & Development-Town of Pelham  
(**Secretary**)

**OTHERS:** Mayor Junkin, Nick McDonald (Meridian Planning Consultants)  
Media – Don Rickers, The Voice of Pelham

**REGRETS:** Carla Baxter

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**1. Declaration of Quorum**

Chair declared quorum at 5:02 pm.

**2. Approve Agenda**

Moved by J. Jeffs, seconded by B. Heska that the agenda of March 11, 2020 be approved.

CARRIED

**3. Minutes of January 29, 2020**

The Chair provided signed Minutes of January 29, 2020 to the Secretary.

CARRIED

**4. Minutes of February 5, 2020, February 12, 2020, February 26, 2020 and March 5, 2020**

Moved by J. Steele, seconded by J. Langendoen that the minutes of February 5, February 12, February 26 and March 5, 2020 be deferred to the next meeting date.

CARRIED

**5. Working Group Discussion:**



## **Meridian Planning Consultants Inc. - N. McDonald Presentation of first draft Official Plan and Zoning By Law Amendments**

N. McDonald is the land use planner retained by the Town to work with the Cannabis Control Committee to develop the Official Plan and Zoning By-Law Amendments. He introduced himself and described his 30 years of experience including the last few years with cannabis.

N. McDonald introduced his first draft Official Plan and Zoning By-Law Amendments for Pelham which he noted were incomplete, but which he wished to review with the Committee and staff to obtain input which he would use in preparing a second draft following the meeting. He explained the draft documents first, and then opened the meeting up to about 90 minutes of interactive questions, answers and discussion.

Discussions took place between N. McDonald, Committee members and staff relating to among other items: Greenbelt versus non-Greenbelt areas, indoor versus outdoor, setbacks, studies, cannabis zones, normal farm practice, micro-growers, and odour management.

The draft Zoning By-Law Amendment regulations pertaining to standards for minimum lot area, maximum lot coverage, minimum setbacks, et cetera in the new cannabis zones were discussed. J. Langendoen asked N. McDonald to confirm that these set backs and percentage of lot coverage only apply to cannabis grow ops and not to uses as greenhouse and nursery growers – which N. McDonald confirmed.

He noted that he has not yet dealt with the existing facilities that were legally established and he is looking for input from staff on existing facilities. B. Wiens took an action to provide N. McDonald with the requested information.

The Greenbelt Plan does not apply to Niagara Escarpment Plan Area, which needs to be investigated in more detail.

N. McDonald will continue to work on amendments and provide an update at the next committee meeting.

6. **Next meeting Date:** Wednesday, March 25 - Fire Station 1.

7. **Adjournment:**

Moved by J. Jeffs, seconded by J. Langendoen that the meeting be adjourned.

The meeting adjourned at approximately 6:50 p.m.

CARRIED

Signed by:

*Edited*  
*By:* Tim J. Nohara  
Tim Nohara (Chair)

J. Legros  
Prepared by: Jodi Legros, Administrative Assistant  
Community Planning & Development-Town of Pelham

**Subject: 2020 Council Vacancy – Ward One****Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2020-0060-Clerks;**

**AND THAT Council of the Town of Pelham, in accordance with section 262 of the *Municipal Act, 2001*, S.O. 2001, c. 25, hereby declares one Ward One Councillor seat for the Town of Pelham to be vacant, effective immediately;**

**AND THAT such vacancy be filled through Option # \_\_\_\_\_ as detailed herein.**

**Background:**

Section 259(1) of *The Municipal Act, 2001*, S.O. 2001, c.25 (The Act) addresses the issue of Vacant Seats. The section specifically states that the office of a member of council of a municipality becomes vacant if the member:

(a) becomes disqualified from holding the office of a member of council under section 256, 257 or 258;

(b) fails to make the declaration of office before the deadline in section 232;

(c) is absent from the meetings of council for three successive months without being authorized to do so by a resolution of council;

(d) resigns from his or her office and the resignation is effective under section 260;

(e) is appointed or elected to fill any vacancy in any other office on the same council;

(f) has his or her office declared vacant in any judicial proceeding;

(g) forfeits his or her office under this or any other Act; or

**(h) dies, whether before or after accepting office and making the prescribed declarations. 2001, c. 25, s. 259 (1).**

The Act requires that if the office of a member of council becomes vacant under section 259, the council shall at its next meeting declare the office to be vacant, except if a vacancy occurs as a result of the death of a member, the declaration may be made at either of its next two meetings. 2001, c. 25, s. 262(1).

On Monday, April 13, 2020 the Town of Pelham was advised of the sudden and unfortunate passing of Mike Ciolfi, Councillor, Ward One. The seat will be declared vacant through the recommendation as contained in this report, the second meeting.

When a vacancy on Council does occur, Council is faced with the decision on how to fill the vacant seat for the remainder of the term. The Act provides the following two options:

**263(1) Filling Vacancies** – *If a vacancy occurs in the office of a member of council, the municipality shall, subject to this section,*

*(a) fill the vacancy by appointing a person who has consented to accept the office if appointed; or*

*(b) require a by-election to be held to fill the vacancy in accordance with the Municipal Elections Act, 1996. 2001, c. 25, s. 263 (1).*

**263(5) Rules applying to filling vacancies** – *the following rules apply to filling vacancies:*

*1. Within 60 days after the day a declaration of vacancy is made with respect to the vacancy under section 262, the municipality shall,*

*i. appoint a person to fill the vacancy under subsection (1) or (4), or*

*ii. pass a by-law requiring a by-election be held to fill the vacancy under subsection (1).*

**Historical Experience in Pelham:** The Town of Pelham has experienced council vacancies previously.

- 1972 due to the death of an Alderman (now known as Councillor);
- 2008 Ward One Councillor, Malcolm Allen, elected to House of Commons;
- 2011 Ward One Councillor, Debbie Urbanowicz resigned seat;
- 2013 Ward One Councillor, W. Larry Clark resigned seat; and
- 2017 Ward One Councillor, Marvin Junkin resigned seat.

The 1972 vacancy was not filled as the regular municipal election occurred within 90 days and as such, the municipality was not required to fill the vacancy as provided in The Act.

In 2008, approximately one half of the term had lapsed and the sitting Council opted to appoint the candidate who placed third in the 2006 Municipal Election for Ward One, James Lane. Mr. Lane consented to accept that appointment and served out the remainder of the 2006-2010 term.

Subsequent to that appointment, Mr. Lane vied for a Ward One seat in both the 2010 and 2014 Municipal Elections. Following the resignation of Ms. Urbanowicz in 2011, Council directed that a by-election be conducted, at which time Richard Rybiak was elected to fulfill the remainder of the 2010-2014 term.

Mr. Lane was also a candidate in this by-election, placing second of the five candidates. When Mr. Clark resigned later during the 2010-2014 term, Mr. Lane was appointed to fill that vacancy.

Following the 2017 resignation of Mr. Junkin, Mr. Lane, who placed third in the 2014 Ward One election, was again appointed and served out the remainder of the 2014-2018 Term.

A copy of the full 2018 Election Results is appended to this report, for Council reference. Following is a summary of the 2018 election results pertaining specifically to the Ward One election:

<b>Finish</b>	<b>Candidate</b>	<b>Total Votes</b>
3	BAY, Mark	656
4	BEAMER, Sidney	487
1	CIOLFI, Mike	1,012
6	LANE, James	168
5	RYBIAK, Richard	331
2	STEWART, Marianne	946

### **Options Available to Fill the Vacancy:**

As noted above, Council has two options available under The Act to fill the vacancy, with varying alternatives for appointment options. Each option is analyzed for council consideration. A third option is also included for consideration.

- Option 1: Appointment (three appointment alternatives are outlined)
- Option 2: By-Election

### Option 3: Postpone Under Ontario Regulation 50/20

Under normal circumstances, rules applying to filling vacancies require that appointments to fill the vacancy occur within 60 days of the declaration, meaning Council must appoint by July 3, 2020. Please refer to discussion pertaining to the Provincial Order in Council 518/2020 (O.Reg. 50/20) regarding this deadline.

### **Analysis:**

#### **Appointment Process – Discussion of Options**

The Act does not set out any specific requirements relating to the appointment of an individual to fill a council vacancy, other than those relating to qualifications. In order to be considered for appointment, individuals must meet the following qualifications, as outlined in the MEA:

- Reside in or be owner/tenant of land in the municipality, or spouse
- Canadian Citizen
- At Least 18 years of age
- Not be prohibited from voting under section 17(3) of MEA or otherwise by law

Council is advised that an appointee cannot be one who is disqualified from holding office by this or any other Act. The Clerk is aware of two individuals who would not be qualified for appointment or to be a candidate in a by-election due to failure to file required documents, i.e. financial statements, resulting in a default with the penalty of ineligibility for election or appointment to any office to which the MEA applies until after the next regular municipal election. These two individuals, therefore, would not be eligible for appointment or as a candidate until the 2022 municipal election. In the event Council opts for a by-election or appointment by application, the Clerk will monitor candidates/applicants in this regard.

A further qualification applies to a by-election, under section 65(4)(2.1), wherein a candidate must have been qualified for nomination for the regular election and on the day of nomination for the by-election.

The most cost efficient and timely mechanism to fill this vacancy would be to appoint from the 2018 municipal election candidates with the next candidate being Mark Bay. Roughly as inexpensive, although somewhat longer is the option of Council interviewing potential candidates and appointing the successful applicant. Conducting a public presentation as part of that process at a Council meeting would demonstrate aptitude for public speaking and political acuity.

### **Option #1(a) – Appointment From Municipal Election Candidates:**

As outlined above, previous Pelham Councils have opted to appoint the next-place finisher in the most recent municipal election, although this process has not been exclusive given the by-election conducted in 2011. Much of the decision rationale related to the length of term remaining.

According to the certified 2018 Ward One results, the third place candidate is Mark Bay. Should Council opt to consider appointment of the third place candidate from this most recent election, the Clerk would seek written confirmation of qualification and determine if Mr. Bay has an interest in accepting the appointment. This process could result in an Oath of Office being administered as soon as May 19<sup>th</sup>, or June 1<sup>st</sup> if the appointment by-law is enacted at a separate, preceding meeting.

<b>Option #1(a) Timeline – Appointment of Next Candidate :</b>		
May 4, 2020	Regular Council	Declare Ward One Seat Vacant Recommend to Fill Vacancy with Option 1(a), Appointment of third Place Candidate
May 5, 2020	Clerk	Contact Mark Bay, Third Place Candidate; Confirm Eligibility; Complete Necessary Paperwork
May 19, 2020	Regular Council	Presentation of By-law to Appoint New Councillor
May 20, 2020	CAO/Clerk/Mayor	Orientation
June 1, 2020	Regular Council	New Councillor Takes Oath of Office
Note: Council could opt to pass appointment by-law, immediately followed by Oath of Office on May 19, 2020.		

### **Option #1(b) – Appointment by Call for Applications:**

Because The Act does not prescribe an appointment process to fill a council vacancy, Council may approve an appointment process which would permit interested, eligible persons to submit an application for appointment to Council. This open call for applications would be placed through a newspaper advertisement, augmented by publication on the Town's municipal website. The process would include an application, declaration of qualifications, and if the procedure is approved by Council, inclusion of a public meeting component to allow deputations from the applicants. This specific format is based on practices adopted throughout Ontario. Because this method was considered in 2011, draft procedures were developed. Please see Appendix #1.

This method of appointment has been used in various Ontario municipalities to fill a council vacancy, including the Town of Wasaga Beach, the Municipality of West Gray, Tay Township and the Township of Lake of Bays.

Initially, Council in 2011 considered this approach however community feedback at that time was not supportive of this method. Council then opted for a by-election, and later in the term, for a second vacancy, by appointment of the next candidate.

<b>Option #1(b) Timeline – Appointment by Application:</b>		
May 4, 2020	Regular Council	Declare Ward One Seat Vacant Recommend to Fill Vacancy with Option 1(b), Appointment by Application Process
May 19, 2020*	Regular Council	Adoption of Council Vacancy Appointment Policy
May 20, 2020	Clerk	Initiate Notice for Application for Appointment Newspaper Ad Date: May 26, 2020, June 2, 2020
June 8, 2020	Clerk	Applications Due to Clerk
June 15, 2020	Regular Council	Applicant Deputations to Council
June 22, 2020	Special Council	Presentation of By-law to Appoint New Ward One Councillor
June 23, 2020	CAO/Clerk/Mayor	Orientation
July 27, 2020	Regular Council	New Councillor Takes Oath of Office
Note: *Council could opt to convene Special Council May 11, 2020 to Adopt Vacancy Appointment Policy; moves all dates up accordingly.		

### **Option #1(c) – Direct Appointment by Council:**

As previously noted, The Act does not prescribe an appointment process. Council could appoint an eligible individual without an application process and without referencing recent election results. In the opinion of the Clerk, while this might achieve the fastest possible result, this would represent the least favourable option in terms of transparency and democracy. This method, although available, is not recommended.

<b>Option #1(c) Timeline – Appointment by Council :</b>		
May 4, 2020	Regular Council	Declare Ward One Seat Vacant Recommend to Fill Vacancy with Option 1(c), Appointment by Council
May 5, 2020	Clerk	Contact Council Nominee; Confirm Eligibility; Complete Necessary Paperwork
May 19, 2020	Regular Council	Presentation of By-law to Appoint New Councillor
May 20, 2020	CAO/Clerk/Mayor	Orientation
June 1, 2020	Regular Council	New Councillor Takes Oath of Office
Note: Council could opt to pass appointment by-law, immediately followed by Oath of Office on May 19, 2020		



## **Option #2 - By-Election:**

Council may decide to fill the vacancy by directing that a by-election be conducted. In accordance with Section 263(5) of the Municipal Act, a by-law must be enacted within sixty (60) days after the seat is declared vacant. Subsequent to the enactment of a by-election by-law, nomination day must be not less than 30 days and not more than 60 days thereafter. Voting day shall then be 45 days after nomination day.

The seat will be declared vacant May 4, 2020, so under normal circumstances, a by-election by-law would be required prior to July 3, 2020. Should the decision be made to conduct a by-election, the Clerk must set Nomination Day within 60 days of passing a by-law requiring the by-election. Please refer to the timeline chart included as Appendix 2 and 3. All dates will depend on the enactment of the by-law and as such, are subject to change.

A 30 day nomination period would set Voting Day as early as August 31, 2020. A 60 day nomination period would set Voting Day as September 28, 2020, again depending on enactment of the by-law.

Based on the 2011 by-election, the costs associated with a By-Election are estimated to be approximately \$20,000 given additional considerations relating to conducting an election during or immediately following a worldwide pandemic. Extra measures will be required to protect the health and safety of election workers, candidates and electors alike.

According to current available information, the number of eligible voters in Ward One is 4,408. During the 2011 by-election in Ward One, there were 3,642 registered electors with 805 ballots cast resulting in a voter turnout of 22%. Five candidates registered and the total cost to run the 2011 By-election amounted to approximately \$8,000, for hard costs only.

Two timeline scenarios have been prepared based on a 60 day nomination period and a 30 day nomination period, both assuming a by-law enactment date of June 15, 2020. These timelines are estimates only and will be finalized at a future date.

In anticipation of the possibility of a by-election, the Clerk has contacted various suppliers that would form an integral part of ensuring the election is conducted in the same manner as a regular municipal election, as is required in accordance with the MEA. Each provider has indicated that proposed timelines can be accommodated. If this direction is pursued, an early by-election date of August 31,

2020 presents an extremely aggressive timeline and some significant logistical challenges given the current state of emergency.

### **Considerations for Conducting a By-Election:**

When a vacancy on Council occurs, the business of the corporation must continue, uninterrupted. Council is mandated to make a decision on how the vacancy will be filled within 60 days after declaration, which declaration occurred at the May 4<sup>th</sup> Council meeting. It is the Council that is charged with determining the best method to fill the vacancy while considering factors such as time to complete the process, costs associated with implementing the selected solution, representative democracy and duration of the vacancy. Unique to Council at this time is the added layer of being amidst a worldwide declared pandemic, Novel Coronavirus COVID-19.

A Provincial Order declaring a state of emergency was issued on Tuesday, March 17, 2020, specifically relating to the pandemic. This Order provides Council with some latitude as it pertains to the statutory deadline to make a decision on whether to appoint or pass a by-law directing the Clerk to conduct a by-election within 60 days of the vacancy declaration. This Provincial Order indicates the suspension of "any limitation period" in any statute, and also the suspension of "any period of time within which a step must be taken in any proceeding" in any statute for the duration of the emergency, "subject to the discretion of the decision-maker responsible for the proceeding". In this case, the decision-maker is Council.

The Clerk, in consultation with Ontario Clerks who are in various stages of council vacancies, is of the opinion that Council has the authority to postpone the decision regarding filling the vacancy in Ward One for the duration of the declared emergency, most specifically as it relates to conducting a by-election. Also of note, under the provisions of the MEA, s. 53(1), the Clerk is authorized to amend the statutory timelines in the case of any emergency. Further, the Clerk, pursuant to s. 12(1) may provide for any matter or procedure not set out in the MEA but that is, in the clerk's opinion, necessary or desirable for conducting the election.

Subsection 11(2) of the MEA provides that the Clerk's responsibility for conducting an election includes the following:

#### ***Duties of Clerk***

- (a) preparing for the election;*
- (b) preparing for and conducting a recount in the election;*
- (c) maintaining peace and order in connection with the election; and*

*(d) in a regular election, preparing and submitting the report described in subsection 12.1(2) [relating to the identification, removal and prevention of barriers that affect electors and candidates with disabilities].*

Section 12 of the MEA allows the City Clerk to provide for any matter or procedure that is not otherwise provided for in an Act or regulation, and that is, in the Clerk's opinion, "necessary or desirable" for conducting the election, as follows:

### ***Powers of Clerk***

*12(1) A Clerk who is responsible for conducting an election may provide for any matter or procedure that,*  
*(a) is not otherwise provided for in an Act or regulation; and*  
*(b) in the Clerk's opinion, is necessary or desirable for conducting the election.*

Additionally, Section 53 of the MEA authorizes the Clerk to declare an emergency when circumstances have arisen that are likely to prevent the election from being conducted in accordance with the MEA, and further allows the Clerk to make arrangements that (s)he considers advisable for conduct of the election, as follows:

### ***Emergency***

*53(1) The Clerk may declare an emergency if he or she is of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with this Act.*

To achieve representative democracy, a by-election is optimal. Of significance however, given the current pandemic situation, this method presents the most challenges in terms of ensuring the health and safety of all stakeholders. A by-election must be conducted under the MEA in the same way as the 2018 election. This means that the Clerk would be required to schedule advance polling opportunities and conduct at least one polling station voting on election day. In Ward One during a regular election, two polling stations are utilized.

The Clerk has also considered the potential to conduct a by-election through electronic means, such as internet voting. While this option was explored in previous regular elections, it has not been recommended or fully embraced by previous Councils due to the inability to ensure an uncompromised internet connection within the rural parts of our community, many located in Ward One. This method is not recommended at this time.

Other options to minimize person-to-person contact would be through either a vote by mail or telephone voting approach. While it is recognized that the MEA states the by-election must be conducted in the same manner as the most recent regular election, the Clerk is also responsible to deliver an election in the most practicable manner in the circumstances. During a pandemic, it would be challenging to deliver an in-person election process. Some of the challenges to deliver an in-person voting opportunity for electors include the difficulty in recruiting election workers for fear of the potential to contract the virus, as well as a reduced voter turnout for the same reasons. That stated, a vote-by-mail option would require development of all new election procedures which is not practical in the circumstance. Further, there have been noted delays in postal delivery which could call into question the election process overall. While pricing is being obtained to enable the Clerk to make a decision on the best method to deliver a by-election within the expected budget allotment, it is unlikely this approach will be undertaken given the extensive work that will be required to develop new election procedures. The Town of Pelham has not conducted a vote by mail election in the past. Vote By Mail is not recommended at this time mainly due to the requirement to develop all new procedures to accommodate such an election and the cost increases.

If Council's preferred method is a by-election, specific health and safety precautions would need to be incorporated throughout the polling place to ensure that physical distancing is maintained throughout the voting process, if the pandemic is not yet concluded. Additional measures, such as purchase/rental of clear acrylic screen barriers for use between the election personnel and the electors, ensuring that only the elector touches the ballot once it has been issued, monitoring and policing the number of people permitted in a polling station at any one time, additional and stringent cleaning protocols and potential consultation with Niagara Region Public Health, etc. must all be considered. To minimize contact on the paper ballots, pricing for a ballot on demand approach is being explored which will reduce the number of people touching the ballot, as well as saving the cost of pre-printing ballots to accommodate voter turnout. Associated costs would include rental of ballot printers that are compatible with current vote counting equipment. Additional cost implications will be explored by the Clerk so as to incorporate all reasonable measures to protect election stakeholders.

Of primary concern relating to this specific council vacancy is the presence of a declared emergency, the Novel Coronavirus COVID-19 which has rapidly changed the environment to convene a polling station election. The entire population within Canada is required to adhere to physical distancing and gatherings of more than five people are prohibited.

At this time, the logistics for conducting a by-election present challenges for candidates who would need to collect the nomination signatures and campaigning door-to-door or face-to-face would be prohibited. Recruitment of election workers may also present some challenges.

The cost to conduct a by-election for Ward One is estimated at \$20,000 which would include the hard costs of equipment, supplies, advertising, etc. as well as soft costs such as labour. The funds would be drawn from the Election Reserve Fund and would result in an increased 2021 and 2022 transfer amount to ensure the necessary funds are available for the 2022 municipal election.

### **Option #3 – Defer Decision on Whether to Appoint or Elect Vacancy**

Council will need to consider a number of unique circumstances in filling the Ward One Vacancy while in the midst of a global pandemic. One option, pursuant to the Provincial Order, is to defer making the decision until there is more information about the potential re-opening of the Province, while also considering the timing of when a second wave of the virus might occur. Pursuant to The Act, under normal circumstances, Council would need to make such a determination by July 3, 2020. This timeline now has some flexibility given the Provincial Order.

The relevant portions of the Provincial Order read as follows:

*Whereas an emergency has been declared pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 at 7:30 a.m. Toronto time pursuant to section 7.0.1 of the Emergency Management and Civil Protection Act (the "Act");  
And Whereas the criteria set out in subsection 7.1 (2) of the Act have been satisfied;*

*Now Therefore, an Order is made pursuant to subsection 7.1 (2) of the Act, the terms of which Order are the following:*

- 1. Any provision of any statute, regulation, rule, by-law or order of the Government of Ontario establishing any limitation period shall be suspended for the duration of the emergency, and the suspension shall be retroactive to Monday, March 16, 2020.*
- 2. Any provision of any statute, regulation, rule, by-law or order of the Government of Ontario establishing any period of time within which any step must be taken in any*

*proceeding in Ontario, including any intended proceeding, shall, subject to the discretion of the court, tribunal or other decision-maker responsible for the proceeding, be suspended for the duration of the emergency, and the suspension shall be retroactive to Monday, March 16, 2020.*

*The duration of this Order is subject to any renewal required under subsection 7.1 (4) and, if applicable, subsection 7.1 (5) of the Act.*

Given this Provincial Order, it is the Clerk's opinion that Council has the authority to defer the decision with respect to filling the vacancy for the duration of the state of emergency. This interpretation has been taken in other areas of the Province, including Ottawa, Cambridge and Windsor, all of which were in the midst of by-elections prior to the pandemic and declaration of emergency. Each municipality is in a different stage of the by-election process, all of which began before the pandemic emerged.

The option to defer does not have to be specific to the end of the pandemic. For example, Council could defer until such time as public health officials and/or the Province of Ontario define a process to return to a new form of normal and providing guidelines that will assist in running a polling station as it pertains, for example, to easing the restrictions of the number of people allowed to gather in one place. Council could defer their decision and request a further report providing additional details as to how a by-election would take place given the pandemic status of the Province.

### **Financial Considerations:**

**Option 1(a)(c)** – Appointment of Third Place Candidate or Qualified Elector – Costs would relate mainly to staff time for orientation purposes. No direct election costs for this option; no advertising costs; most time efficient method.

**Option 1(b)** – Appointment By Application: Main expense will be advertising, estimated at \$300 maximum. No direct election costs other than advertising for applications. Second fastest option.

**Option 2** – By-election is estimated between \$10,000 and \$15,000 plus soft costs related to staffing/overtime. The Election Reserve would accommodate this expense, however would impact negatively on the 2022 Election Budget.

**Option 3** – No financial implications to defer.

**Alternatives Reviewed:**

Council can choose to Appoint from the 2018 Election Candidates, Appoint a Qualified Elector, Appoint Through Application, or direct the Clerk to conduct a By-Election. For the purposes of the recommendation, Council will need to present a motion to fill the vacancy by selecting one of the following:

- Option 1(a) – Appointment from 2018 Candidates – Mark Bay
- Option 1(b) - Appointment by Call for Applications
- Option 1(c) – Direct Appointment by Council
- Option 2 – Direct Clerk to Conduct a By-Election
- Option 3 – Defer Decision to Appoint or Conduct by-Election

**Strategic Plan Relationship: Communication and Engagement**

While a by-election fully ensures representative democracy, community engagement can still be satisfied through the appointment process. Council will make a determination as to the preferred method to fill the vacancy in the circumstances present, taking into consideration community engagement as it pertains to the election process as well as from the perspective of a candidate and an elector, as well as election officials.

**Consultation:**

In the preparation of this report, the Clerk consulted with the local Ministry of Municipal Affairs and Housing Policy Advisor as well as several municipal resources relating to the appointment process. In addition, consultation with Election Officials from Ottawa, Cambridge and Windsor.

**Other Pertinent Reports/Attachments:**

- Appendix 1: Procedure for Appointment by Application
- Appendix 2: By-Election Timeline – 60 day nomination period
- Appendix 3: By-Election Timeline – 30 day nomination period
- Appendix 4: Declaration of Qualifications – 2020 By-Election
- Appendix 5: Declaration of Election – 2018 Regular Municipal Election

**Prepared and Recommended by:**

Nancy J. Bozzato, Dipl.M.M., AMCT  
Town Clerk

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer



**Procedure re Council Vacancy – Application for Appointment Process**

The Town Clerk, or designate, shall be responsible for interpreting and, where appropriate, facilitating this Appointment Application Process. For the purposes of this procedure, the term “lot” means a method of determination by placing the names of the Candidates on equal size pieces of paper and placed in a container with one name being drawn by the Clerk, or designate.

**Application Procedure:**

1. The process will be initiated through an Advertisement placed in a local newspaper and on the Town’s municipal website, indicating Council’s intent to appoint a qualified elector to fill the Ward seat vacancy and calling for applications for a minimum of two consecutive weeks following Council’s decision to fill a vacancy by appointment;
2. Such Notice shall indicate Council’s intention to appoint an individual to fill a vacancy and shall outline the nomination process, similar to the example provided in Appendix A to this process;
3. Interested persons will be required to complete a Consent of Nominee (Appendix B) and a Declaration of Qualification (Appendix C), provide personal identification showing their name and qualifying address within the Town of Pelham, and may be required to provide a written response to specific questions as may be determined by Council;
4. Applicants are referred to hereinafter as Candidates.
5. Candidate(s) may submit, to the Clerk, a personal statement of qualification for consideration of Council. Personal statements shall be typewritten on 8 ½” X 11” paper not exceeding two pages in length and will include the Candidate name and address. Statements that do not comply shall not be included in the Council meeting agenda or provided to Council by the Clerk. Candidates will be advised of the deadline for submission of a personal statement.
6. Once submitted, the forms will be made available to the public in the same way as a nomination form for a Candidate in a municipal election or by-election and may be included on a Council agenda published on the municipal website;
7. A deadline will be established for filing the Consent of Nominee and Declaration of Qualification, as determined by Council in consultation with the Clerk;
8. Individuals who have submitted the necessary forms may appear before Council at a date and time so determined by the Council, and the Clerk will advise all applicants of the established date and time;
9. The Clerk will create a list of all Candidates and publicly post said list on the Town’s website and at the Municipal Town Hall. This list will be updated as applications are received, once deemed complete by the Clerk;
10. Notwithstanding the requirement of the Town’s Procedural By-law, the agenda for the meeting shall be set by the Clerk to allow for the orderly proceeding of selecting a Candidate and the agenda shall include the following:
  - a. A certified list of all Candidates listed in alphabetical order, by last name;
  - b. Any personal statement of qualification for consideration of Council;

From the Clerk’s Department

**Administration  
Services**

11. Copies of all application documents will be included with the agenda package for the Appointment Meeting and will be made available as part of the public agenda posted on the Town's website. The Agenda shall be published to Members of Council and to the public in the same manner as a Regular or Special Council agenda.

Procedure at Appointment Meeting of Council:

12. At the Appointment Meeting which may be at a Regular or Special Meeting of Council, the Presiding Officer shall make a brief statement to outline the purpose of the meeting and the order of proceedings;
13. The Clerk will provide a list of Candidates who have completed the Consent of Nominee and Declaration of Qualification, and the Chair will call for a motion to consider the Candidates to fill the vacancy, as follows:
  - a. *"BE IT RESOLVED THAT the following individuals who have signified in writing that they are legally qualified to hold office and consented to accept the office if they are appointed to fill the vacancy, be considered for appointment to fill such vacancy";*
14. Copies of all application documents will be included with the agenda package for the Appointment Meeting and will be made available as part of the public agenda posted on the Town's website;
15. Candidates will be sequestered in an adjacent room until it is their time to answer questions posed by Council. Once a Candidate has answered the questions, they will return to a separate room until all Candidate interviews are complete.
16. At the Appointment Meeting, each Candidate will be afforded an opportunity to address Council for a period not to exceed ten(10) minutes;
17. The order of speaking will be alphabetical by last name;
18. Each member of Council will be allowed no more than one question to each Candidate and responses from Candidates shall be limited to a maximum of two (2) minutes per question;
19. Upon hearing all Candidate submissions, Council will proceed to vote, by way of a public ballot vote, similar to the Ranked Voting process, in rounds of voting as follows;
  - a. Candidate names will be displayed on the Council Chamber viewing screen and shall be displayed in alphabetical order, by last name for use in a public tally of votes;
  - b. Each of the pieces of paper to be used as either ballots, or to be used by the Clerk to draw names in accordance with Section 19(m) (i)(ii) will be equal in size and type;
  - c. Only the Clerk or Clerk's designate may handle the papers, ballots and Container referenced in this procedure, save and except the Members being permitted to mark their ballots;
  - d. Ballots will be provided to Members of Council in the form of a voting card on which to indicate their choice of Candidate in writing; and all voting cards shall be of identical size, paper quality, and colour and shall be pre-printed with the Member's name and a place to be initialed by the Member;
  - e. The first round ballots may contain the name of each Candidate, in alphabetical order by surname and have a box immediately preceding the surname in which the Member of Council may mark an "X" beside the name of the Candidate of their preference;
  - f. All subsequent ballots shall be in the form described in (d) above however will not contain any Candidate names in a pre-printed format;
  - g. The Clerk will ask Members of Council to vote by clearly printing the name of their preferred Candidate on the ballot, initialing the ballot for authentication purposes, folding the ballot and returning it directly to the Clerk;
  - h. Any Round One ballot marked with more than one "X", or any subsequent round ballot that is not legibly printed, or any ballot that does not contain the authentication initials

of the Member of Council shall be considered a spoiled ballot and shall not be included in the tally;

- i. The Clerk will read aloud the Member's name and selected Candidate and announce the tallies of all votes, while maintaining the tally on the viewing screen;
- j. If the Candidate receiving the greatest number of votes cast does not receive more than one-half the votes of all voting Members of Council, the Candidate or Candidates who received the fewest number of votes shall be excluded from consideration;
- k. The vote will be taken again by the Clerk and, if necessary, more than once, excluding in each successive vote the Candidate or Candidates who receive the fewest number of votes\*;
- l. The process shall be repeated until the Candidate receiving the greatest number of votes has also received more than one-half of the votes of the voting Members of Council;
- m. In the event the votes cast are equal for all Candidates:
  - i. If there are three or more Candidates remaining, the Clerk shall by lot select one such Candidate to be excluded from subsequent voting;
  - ii. If only two Candidates remain, the tie shall be broken and vacancy shall be filled by the Candidate selected by lot, as conducted by the Clerk, wherein the first name drawn shall be declared the successful Candidate\*\*;
- n. Upon conclusion of the voting, the Clerk will declare to be elected the Candidate receiving the votes of more than one-half of the number of voting Members, or as provided in 19(m)(ii);
- o. A by-law confirming the appointment shall be enacted by Council to appoint the successful Candidate to the office for the remainder of the term and the Clerk will administer the Oath of Office to the successful Candidate;
- p. The Minutes of the Appointment Meeting shall include a full disclosure of all voting results, including the name of each Member of Council and their selected Candidate in any and all voting rounds.

\*Explanation of Voting:

Example: In a contest with four (Candidates) and six (6) Members of Council present, a Candidate would need a minimum of four (4) votes to be Appointed:

**Round One:**

Candidate A – 3 votes

Candidate B – 2 votes

Candidate C – 1 vote

Candidate D – 0 votes

In this scenario, as no majority vote was achieved, Candidate D is eliminated from further voting and another round of voting will occur.

**Round Two:**

Candidate A – 3 votes

Candidate B – 2 votes

Candidate C – 1 vote

In this scenario, Candidate C is eliminated and a further voting round will occur.

**Round Three – Scenario “A”:     Candidate A is the Successful Appointee**

Candidate A – 4 votes

Candidate C – 2 votes

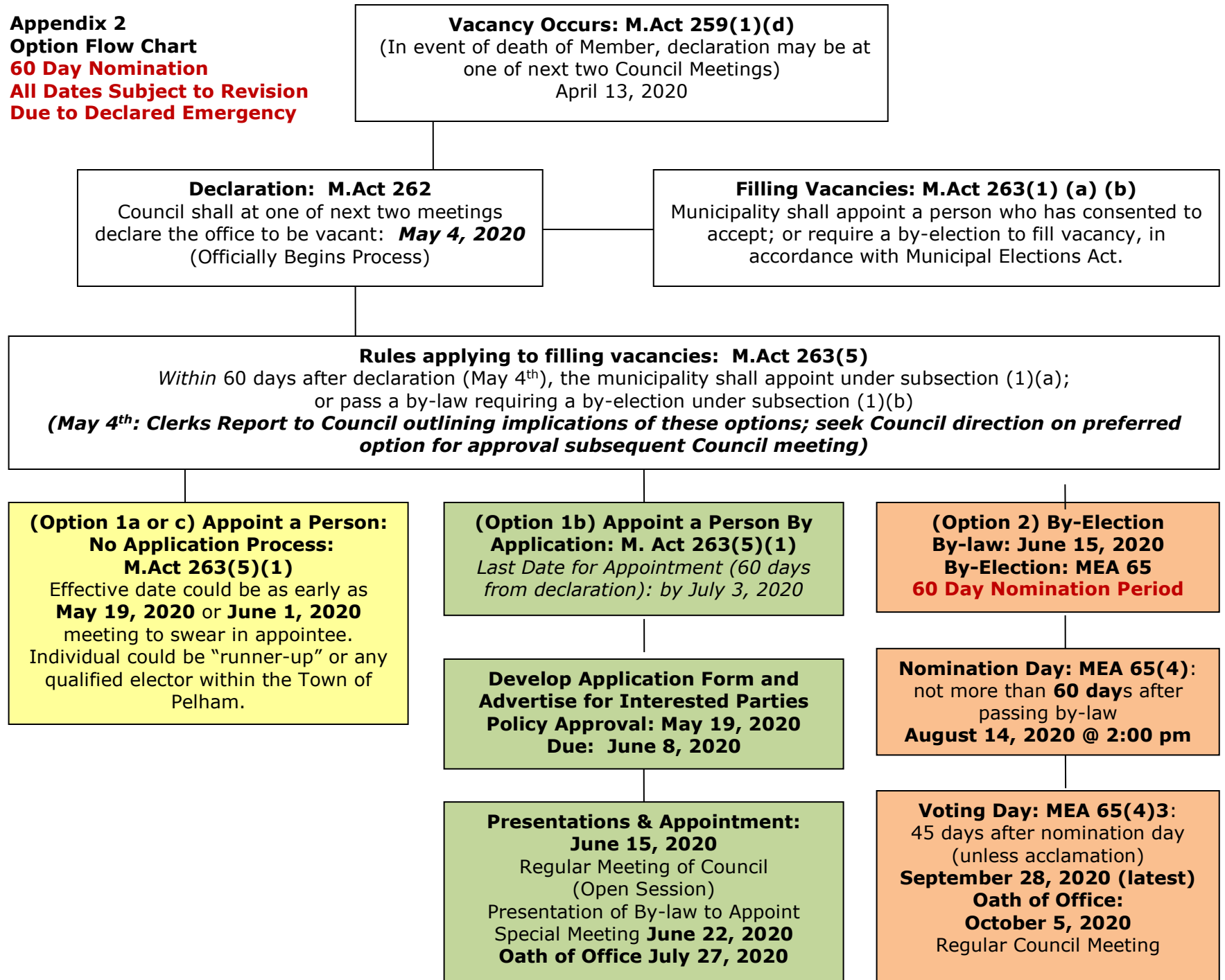
**Round Three – Scenario “B”:     Clerk Proceeds with i(ii), Determination by Lot\*\***

Candidate A – 3 votes

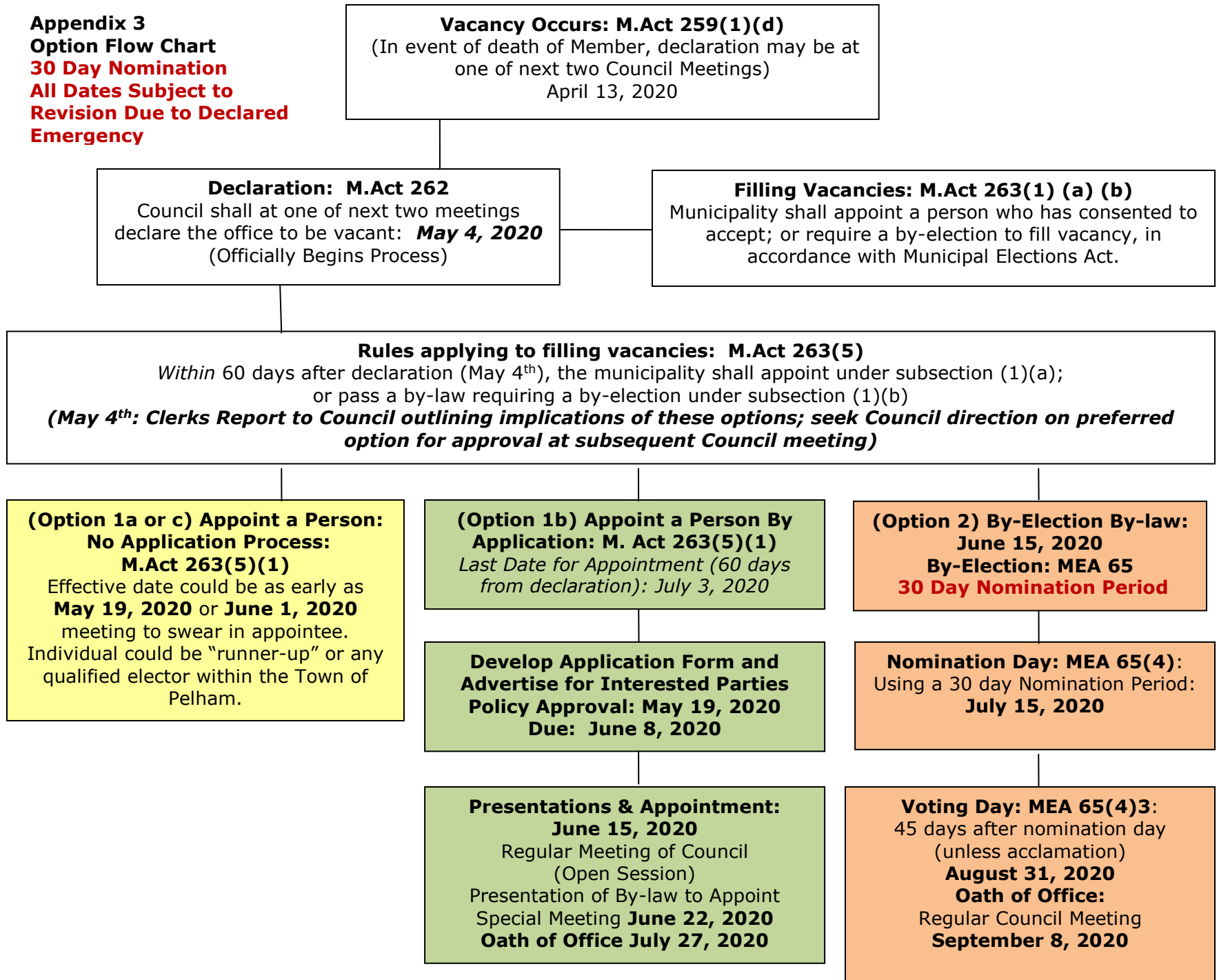
Candidate B – 3 votes

\*\*The process of determination by lot in the event of a tied vote is provided for in the *Municipal Elections Act, 1996*, Subsection 63(10). Although it specifically relates to recount procedures, it is an accepted practice throughout Ontario in this type of voting process.

**Appendix 2**  
**Option Flow Chart**  
**60 Day Nomination**  
**All Dates Subject to Revision**  
**Due to Declared Emergency**



**Appendix 3**  
**Option Flow Chart**  
**30 Day Nomination**  
**All Dates Subject to**  
**Revision Due to Declared**  
**Emergency**



**DECLARATION OF QUALIFICATIONS  
FOR THE TOWN OF PELHAM – 2020 COUNCIL VACANCY BY-ELECTION  
MUNICIPAL APPOINTMENT CANDIDATES**

I, \_\_\_\_\_, a nominated candidate for the office of:

☐ Councillor, Ward \_\_\_\_\_

Do Solemnly Declare That:

2. I am qualified pursuant to the *Municipal Elections Act, 1996* and the *Municipal Act, 2001* to be elected to and to hold the office of:

☐ Councillor, Ward \_\_\_\_\_

3. Without limiting the generality of paragraph 1, I am at least eighteen (18) years of age, a Canadian citizen, a resident of The Town of Pelham or the owner or tenant of land in The Town of Pelham or the spouse of such owner or tenant.

4. I am not ineligible, disqualified or prohibited under the *Municipal Elections Act, 1996, as amended*, the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act* or any other *Act* to be elected to or hold the above-mentioned office.

5. Without limiting the generality of paragraph 3,

- I am not an employee of The Town of Pelham, or if I am an employee of The Town of Pelham, I am on an unpaid leave of absence as provided for by section 30 of the *Municipal Elections Act, 1996, as amended*.
- I am not a person who is not an employee of The Town of Pelham but who is the Clerk, Treasurer, Integrity Commissioner, Auditor General, Ombudsman or registrar referred to in section 223.11 of the *Municipal Act, 2001* or an investigator referred to in subsection 239.2 (1) of The Town of Pelham.
- I am not a judge of any court.
- I am not a member of the Assembly as provided in the *Legislative Assembly Act* or of the Senate or House of Commons of Canada or, if I am such a person, I will provide proof of my resignation in a form satisfactory to the Clerk of The Town of Pelham prior to 2:00 p.m. on Nomination Day, July 27, 2018. I understand that the Clerk of The Town of Pelham will reject my nomination for the above-mentioned office if I fail to provide proof of resignation by this deadline.
- I am not a public servant within the meaning of the *Public Service of Ontario Act, 2006*, or if I am a public servant, I have followed and will continue to follow all the relevant provisions of Part V of such *Act*.
- I am not a Federal employee within the meaning of the *Public Service Employment Act*, or if I am a Federal employee, I have followed and will continue to follow all the relevant provisions of Part 5 of such *Act*.

6. I am prohibited from voting at the municipal election under section 17 (3) of the *Municipal Elections Act, 1996, as amended*., if I am:

- a person who is serving a sentence of imprisonment in a penal or correctional institution.

- a corporation.
- a person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with section 44.
- a person who was convicted of a corrupt practice described in subsection 90 (3), if voting day in the current election is less than five years after voting day in the election in respect of which I was convicted

7. I am not a person who was convicted of a corrupt practice under the *Municipal Elections Act, 1996, as amended* or of an offence under the *Criminal Code* (Canada) in connection with an act or omission that relates to an election to which this Act applies and I am not a person who is ineligible to be nominated for, any office until the next two regular elections have taken place after the election to which the offence relates (Section 91 (1)).

8. I am not ineligible from being elected to or holding office by reason of any violations of the election campaign financial requirements, violations for not filing the financial statement or any other violations pursuant to the *Municipal Elections Act, 1996, as amended*. (Section 88.23)

9. I confirm that I am an eligible elector as of nomination day of the by-election, and that I was a qualified elector as of nomination day of the regular 2018 Municipal Election, as required in the *Municipal Elections Act*, s. 65(4)(2.1).

AND I make this solemn Declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me at the Town of Pelham

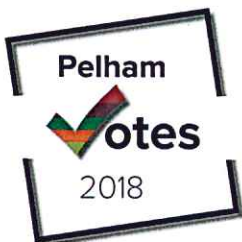
This \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
(Signature of Candidate)

\_\_\_\_\_  
(Signature of Town Clerk or designate)

Personal information on this form is collected under the authority of the *Municipal Elections Act, 1996* and will be used for the nomination process for office in the municipal election and will be available for public inspection in the office of the Clerk, Town of Pelham, until the next municipal election. Questions about this collection of personal information should be directed to the Town Clerk, Town of Pelham, 20 Pelham Town Square, Fonthill, Ontario, L0S 1E0. Tel. 905-892-2607, ext. 315.





## FINAL SUMMARY OF ELECTION RESULTS

Municipal Elections Act, 1996

I, Nancy J. Bozzato, Town Clerk for the Corporation of the Town of Pelham, in the Regional Municipality of Niagara, hereby certify that the certified candidates listed on the Election Summary Report presented below received the votes that follow their respective names, as a result of the Municipal Election held on Monday, October 22, 2018.

Ballots Cast: 7,195 Registered Electors: 14,264  
Voter Turnout: 50.44%

### Council: Town of Pelham

Office	Candidate Name	Votes Received
Mayor	ACCURSI, Gary Edward	1,671
	BAXTER, Carla	1,495
	<b>JUNKIN, Marvin</b>	<b>3,975</b>
Councillor, Ward One	BAY, Mark	656
	BEAMER, Sidney	487
	<b>CIOLFI, Mike</b>	<b>1,012</b>
	LANE, James	168
	RYBIAK, Richard	331
	<b>STEWART, Marianne</b>	<b>946</b>
Councillor, Ward Two *Ineligible	BRAUN, Wally	190
	CROZIER, Cheryl Lynn	835
	CUTHBERTSON, Amber	438
	FLETCHER, Chris	228
	<del>FORSYTH SELLS, Alexandra*</del>	<del>16</del>
	<b>KORE, Ron</b>	<b>1,947</b>
	RYBIAK, Barbara Ann "Barb"	274
	<b>WINK, John</b>	<b>1,089</b>
Councillor, Ward Three	BRAND, Uwe	639
	DELLA MARCA, Vince (Enzo)	127
	DURLEY, John	429
	<b>HAUN, Lisa</b>	<b>1,560</b>
	<b>HILDEBRANDT, Robert (Bob)</b>	<b>1,213</b>
	PAPP, Peter Paul	426
	SPEHAR, Mary	370
Office	Candidate Name	Votes Received
Regional Council	AUGUSTYN, Dave	1,694
	BATY, Brian	2,283
	HAGAR, Jim	287
	<b>HUSON, Diana</b>	<b>2,817</b>

Dated this 23<sup>rd</sup> day of October, 2018

  
Nancy J. Bozzato  
Town Clerk






## FINAL SUMMARY OF ELECTION RESULTS

Municipal Elections Act, 1996

I, Nancy J. Bozzato, Town Clerk for the Corporation of the Town of Pelham, in the Regional Municipality of Niagara, hereby certify that the certified candidates listed on the Election Summary Report presented below received the votes that follow their respective names, as a result of the Municipal Election held on Monday, October 22, 2018.

Office: English Separate Trustee	Candidate Name	Votes Received
Pelham Electors	ALEXANDER, Lawrence	167
	DIEF, Peter Abraham	633
	PRINCE, Leanne	387
	RUGGIERI, Robert	176

Dated this 23<sup>rd</sup> day of October, 2018

  
Nancy J. Bozzato  
Town Clerk

From the Clerk's Department



Administration  
Services

**Subject:** Proposed MCC Energy Saving Ice Technology installation

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2020-0061; and that Council support the installation of Magnavitalis energy saving ice technology at the Meridian Community Centre.**

**Background:**

In the fall of 2019 staff presented to the Utility Sustainability Committee the concept of possibly installing energy saving ice technology that would allow the use of cold water (20C) instead of hot water (70C) flooding and still maintain the quality of ice. The reason for heating flood water is that it reduces the dissolved oxygen in the incoming cold water (bubbles). This technology reduces the bubbles in the cold flood water which reduces compressor time, boiler heat and dehumidifier usage. This technology has been around for years although with improvements, it is now being installed more in arenas across the Country.

**Analysis:**

Staff have visited or spoken to the following area facilities that have installed this technology: Town of Oakville, City of Mississauga, City of Guelph and Town of Caledon. All of the Municipalities are very pleased with the installation, have seen utility savings more than pay for the unit in less than a year, and provide equivalent or better quality of ice. Prior to COVID-19 the Utility Sustainability Committee had planned a tour of the Town of Oakville sports complex, unfortunately the tour had to be cancelled.

The Utility Sustainability Committee was supportive of the installation for the energy savings on: Compressor Running Hours, Natural Gas and water usage by:

- Running 40 degree Celsius (70F) colder water in the ice resurfacer
- Running 1 to 3 degree Celsius (3.5F) warmer ice slab temperature
- Due to significant reduction in compressor running times, breakdowns are less frequent and routine maintenance activity can be spread further apart.

- Saving in Natural Gas due to the reduction in temperature for the ice resurfacer
- as much as 20% less water use

The Town of Oakville Sixteen Mile Sports Complex (4 rinks) installed the Magnavitalis system on 2 rinks and had a savings of \$36,385 the first year of operation. Due to the energy savings and quality of ice the Town is now in the process of installing the same system on the other 2 pads.

### **Financial Considerations:**

The Town of Oakville has installed Magnavitalis system. They selected this system since their neighbouring arena at Port Credit Arena in the City of Mississauga realized significant savings without any negative impact on ice conditions. Positive feedback from coaches using the ice has been that the ice conditions improved after Magnavitalis was installed.

Magnavitalis agreed to a trial period with the Town of Oakville where the municipality could use the system at no cost. After 3 months Oakville experienced substantial savings in utilities and the ice quality was as good, if not better. At that time Oakville purchased the unit and has continued to realize excellent results with it ever since. Oakville's first year savings in utility costs exceed the technology purchase price of \$18,000 for the unit.

The Utility Sustainability Committee endorses this project. It is new technology which has been proven to have offsetting savings in utility costs, excellent ice quality and competitive pricing by the Town of Oakville. The cost with the savings will be less than net \$10,000 for the Town of Pelham which is under section 25(1) of the Purchasing Policy for non-competitive acquisition. There is a time factor to get this installed now that the arenas are closed and to start realizing utility savings as soon as possible. The Town will pay for this technology out of the existing budget for MCC operations.

### **Alternatives Reviewed:**

Magnavitalis system \$19,800. Plus tax & installation  
Real Ice system \$35,380. Plus tax & installation

### **Strategic Plan Relationship: Financial Sustainability**

The purchase and installation of this equipment will see operational savings in utility costs in 2020 for the purchase of the equipment.

**Consultation:**

Utility Sustainability Committee  
Teresa Quinlin, Director of Financial Services

**Other Pertinent Reports/Attachments:**

NIL

**Prepared and Recommended by:**

Vickie vanRavenswaay, RRFA  
Director of Recreation, Culture and Wellness

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

THE CORPORATION OF THE

TOWN OF PELHAM

BY-LAW # 4231 (2020)

**Being a by-law to amend By-law No. 4107(2019), as Amended by By-Law 4217 (2020) being a by-law to govern the proceedings of the Town of Pelham Council, its Committees, the conduct of its members and the calling of meetings, to provide for Electronic Meetings During a Declared Emergency for the Conduct of Committee of Adjustment Meetings.**

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**WHEREAS** the Municipal Act, 2001, S.O. 2001, c. 25, section 238 provides that a municipality shall establish a procedure by-law to govern meetings;

**AND WHEREAS** The Corporation of the Town of Pelham has enacted Procedure By-law #4107(2019) as Amended by By-Law 4217 (2020);

**AND WHEREAS** on March 19, 2020 the Province of Ontario enacted the *Municipal Emergency Act, 2002* to amend the *Municipal Act, 2001*, to enact section 238(3.3) and 238(3.4) to permit meetings to be held electronically during an emergency declared pursuant to the *Emergency Management and Civil Protection Act*;

**AND WHEREAS** the World Health Organization has declared a worldwide pandemic regarding the Novel Coronavirus 19 (COVID-19);

**AND WHEREAS** on March 17, 2020 a Declaration of Emergency was made by the Province of Ontario pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act* related to COVID-19;

**AND WHEREAS** the Council of The Corporation of the Town of Pelham considers the protection of the health and safety of the public to be a paramount concern, and has suspended the operations of all Town facilities and closed municipal buildings to the walk-in public;

**AND WHEREAS** the Lieutenant Governor has issued Order-in-Council 520/2020, pursuant to the *Emergency Management and Civil Protection Act*, prohibiting all organized public events of over five people due to COVID-19;

**AND WHEREAS** The Corporation of the Town of Pelham now considers it desirable to be able to hold Committee of Adjustment meetings electronically during the COVID-19 emergency;

**NOW THEREFORE** the Council of The Corporation of the Town of Pelham **ENACTS** as follows:



1. THAT Procedure By-law #4107(2019) be, and is hereby further amended by adding the following:

**13.2 Electronic Meetings During a Declared Emergency**

10) During an Electronic Meeting should connection be lost with any Member of Council or the Committee of Adjustment, the Clerk shall make any and all reasonable attempts to reconnect with the said Member for 15 minutes. If connection cannot be re-established, for any reason, attempts to reconnect with the said individual shall cease.

11) During an Electronic Meeting should connection be lost with any delegate or member of the public, the Clerk shall make any and all reasonable attempts to reconnect with the said delegate or member of the public for 5 minutes. If connection cannot be re-established, for any reason, attempts to reconnect with the said individual shall cease.

12) If quorum is lost and the Clerk is unable to reconnect to Members to re-establish quorum within the prescribed 15 minutes the Chair, or Clerk, shall call the meeting in recess. The Chair and Clerk shall work together to recall the meeting at a future date; and

13) The Committee of Adjustment may hold Electronic Meetings during a Declared Emergency when feasible to do so, with the assistance of the Secretary–Treasurer and/or Assistant Secretary–Treasurer; and

14) Public Notice of Participation protocols shall be included on all individual Notices of Hearing and through publication on the municipal website, and wherever feasible through a local newspaper advertisement.

2. THAT This by-law shall come into force and effect on May 4, 2020.

ENACTED AND PASSED THIS

4<sup>th</sup> DAY OF MAY, 2020

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MAYOR MARVIN JUNKIN

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TOWN CLERK NANCY J. BOZZATO

THE CORPORATION OF THE  
T O W N O F P E L H A M  
BY-LAW # 4199 (2020)

**A By-law prohibiting and regulating Signs, and regulating the placing  
of Signs upon highways and Buildings, and to Repeal and Replace  
By-law 3310(2012) as amended by 3548(2014) and 3884(2017).**

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25 as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 8(1) of the *Municipal Act, 2001* provides that the powers of a municipality under this Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS section 8(3) of the *Municipal Act, 2001* provides that a by-law may regulate or prohibit respecting the matter, require Persons to do things respecting the matter, and provide for a system of licenses respecting the matter;

AND WHEREAS section 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS section 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: Economic, social and environmental well-being of the municipality; Health, safety and well-being of Persons; Services and things that the municipality is authorized to provide under section (101 of the Act); Protection of Persons and Property, including consumer protection; Structures, including fences and Signs;

AND WHEREAS sections 98, 99 and 99.1 refer to specific municipal powers under Part III of the *Municipal Act, 2001* for Structures, including fences and Signs;

AND WHEREAS sections 9, 10 and 23.1 through 23.5 of the *Municipal Act, 2001* authorize a municipal COUNCIL to delegate powers and duties subject to restrictions;

AND WHEREAS section 63 of the *Municipal Act, 2001* provides that a by-law may prohibit or regulate the placing or standing of an object on or near a highway, and may provide for the removal and impounding or restraining and immobilizing of any object placed or standing on or near a highway;

AND WHEREAS section 445 of the *Municipal Act, 2001* provides that a municipality may make an order requiring a Person who has contravened a by-law or who caused or permitted the contravention, or the Owner or occupier of land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS section 446 of the *Municipal Act, 2001* provides that where a municipality has the authority to direct or require a Person to do a matter or thing, the municipality may also provide that, in default of it being done by the Person directed or required to do it, the matter or thing shall be done at the Person's expense, and that the municipality may recover the costs of doing a matter or thing by action or by adding the costs to the tax roll and collecting them in the same manner as Property taxes;

AND WHEREAS sections 9, 10, 23.1 to 23.5 and 284.1 authorize a municipality to delegate its powers and duties, subject to certain restrictions, and authorize a municipality to provide for a review or appeal of a decision made by a Person or body in the exercise of a power or duty delegated to him, her or it;

AND WHEREAS in the opinion of Council, the power being delegated to authorize minor variances is of a minor nature, having regard to the number of people, the size of the geographic area and the time period affected by an exercise of the power;

NOW THEREFORE the Municipal Council of The Corporation of the Town of Pelham enacts as follows:



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(to be revised)

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## SECTION 1 - SCOPE AND INTENT

### 1.1 Short Title

This By-law may also be cited as the “SIGN By-law 2020”.

### 1.2 Scope

1.2.1 This By-law regulates the location, size, number, construction, Alteration, Repair, and Maintenance of all outdoor Signs and Signs visible from the exterior of Premises, including Signs located in windows.

1.2.2 All Signs as described in 1.2.1, located on public and Private Property, are subject to the provisions of this By-law.

1.2.3 Signs may be subject to the provisions of other By-laws in addition to this By-Law and to provincial, regional or federal statutes or regulations, including, but not limited to: the relevant provisions of the *Ontario Building Code*, or provisions of the Town’s Zoning By-law.

### 1.3 Intent

The purpose of this By-law is to regulate all Signs in the Town of Pelham with the intent of authorizing Signs that:

- a) are proportionate to the Property they identify and advertise and as such should be appropriate in size, number, and location to the type of activity or Use to which they pertain;
- b) provide reasonable and appropriate means for the public to locate and identify facilities, businesses, and services without difficulty or confusion;
- c) are compatible with their surroundings, supplement the land Use and do not dominate the landscape;
- d) protect and enhance the aesthetic qualities and visual character of the Property and promote the statement that “*the visual quality of a Sign matters to the overall community image*”;
- e) are consistent with the Town of Pelham’s planning, urban design, and heritage objectives. One size does not fit all – some parts of the Town have characteristics that warrant exemptions, limitations, experimentation, etc.;
- f) do not create a distraction or safety hazard for pedestrians or motorists. The cumulative effects of signage matter – Sign clutter is a civic liability;
- g) minimize adverse impacts on nearby public and Private Property.

## SECTION 2 - DEFINITIONS

In this By-law:

“**A-FRAME SIGN**” means a Temporary Sign not anchored to the ground with no more than two faces, each joined at their top along the straight line edge and constructed in a manner, and of such materials, which permit it to be repositioned by an individual without mechanical aid. This definition shall include Signs commonly referred to as sandwich board Signs and A-board Signs;

“**ACCESSORY STRUCTURE**” means a Building or Structure which is customarily incidental and subordinate to the main Use of the Lot. An Accessory Structure must be separate (detached) from the main Building;

“**ADVERTISING DEVICE**” means any device or object, including a Sign and Sign Structure, Erected or displayed so as to attract public attention to any Premises, business, enterprise, good, service, facility or event;

“**ADVERTISING SIGN**” in reference to Signs classification advertises a business enterprise or the marketing or promotion of an activity, goods or services;

**“ALTER”** (including **“ALTERED”**, and **“ALTERATION”**) means any change to a Signs or Sign Face, including the addition, deletion or re-arrangement of parts, but does not include;

(a) the re-arrangement of numerals, letters or Copy applied directly to a Sign Face that is specifically designed and intended to be periodically re-arranged, or;

(b) Maintenance;

**“APPROVED”** means Approved by the Chief Building Official or Director of Fire & By-law;

**“AWNING”** means a space-frame system covered with non-rigid materials designed in a moveable, retractable or fixed position, which is attached to, and projecting from a Building or Structure, but not forming an integral part thereof. This definition does not include a Canopy;

**“AWNING SIGN”** means a Sign painted on, or otherwise affixed to, the surface of an Awning and such Sign does not project out from the Awning in any direction;

**“BANNER SIGN”** means a Temporary Sign that is made from cloth or a similar lightweight non-rigid material which is secured or mounted to a Building or Permanent Ground Sign. This definition does not include a flag, Awning Sign, Canopy Sign, Window Sign or Inflatable Sign;

**“BILLBOARD SIGN”** means a Third Party Ground Sign or Third Party Facial Sign, which has Changing Copy and which is owned and maintained by a Person engaged in the rental or leasing of the Sign Face Area for advertising goods, products, services or facilities that are not present or sold on the Property on which the Sign is located;

**“BUILDING”** defined by the Building Code

**“BUILDING FRONTAGE”** means the horizontal distance, measured at Grade, along a Building Wall that faces a street and includes the Building Wall which incorporates the main entrance(s) facing a parking area on the same Premises. The main entrance to the Building may include entrances to individual Uses.

**“BUILDING WALL”** means an exterior wall of a Building that encloses the Structure;

**“CANOPY”** means a roof-like Structure, un-enclosed by Building Walls and designed to provide shelter for goods, materials, equipment, people or vehicles. It may either project outward from a Building Wall or be freestanding;

**“CANOPY SIGN”** means a Wall Sign with Copy affixed flat on the surface of a Canopy or hanging from the underside of a Canopy;

**“CHANGING COPY”** means Copy on a Sign that can be periodically changed or rearranged;

**“CHANGING COPY AREA”** means the Copy Area on a Sign Face permitted for Electronic, Manual, Rotating or Changing Copy;

**“CHARITY”** means a registered Charity as defined in the *Income Tax Act (Canada)* or successor legislation, which has a registration number issued by the Canada Revenue Agency, or successor agency;

**“CHIEF BUILDING OFFICIAL”** means the Person appointed by Council, pursuant to the *Building Code Act, 1992*, as amended, or their designate;

**“CLEARANCE”** means the vertical distance measured between the lowest horizontal element of a Sign and the Grade level;

**“CM”** when following a numeral means centimetre(s);

**“CONGRATULATORY SIGN”** in reference to Sign classification means a Temporary Sign that promotes a private special occasion and does not contain a commercial message or direct Persons to a commercial enterprise;

**“CONSTRUCTION SIGN”** means a Temporary Sign that;

- a) includes, in whole or in part, information promoting a development within the Town of Pelham, and;
- b) relates to or advertises the location, construction of a Building or Structure in the process of being Erected on a Premises, or;
- c) promotes a plan of subdivision, a plan of condominium, or the construction of a Building or Building complex on a Premises Zoned therefore, or;
- d) promotes a bona fide model home for which an Occupancy permit has not been issued, in a plan of subdivision, or a plan of condominium;

**“CONTRACTOR SIGN”** means a Temporary Sign that advertises work being performed on the Property by a trade, including but not limited to general contractors, painters and renovators;

**“COPY”** means all letters, numerals, symbols, images and characters Displayed upon, against or through a Sign Face. This definition does not include letters or numerals Used to identify the municipal address;

**“COPY AREA”** means the area of a Single rectangle whose perimeter encloses letters, numerals, symbols, shapes or characters of a Sign in their entirety;

**“COUNCIL”** means the Council of the Corporation of the Town of Pelham;

**“DAYS”** shall mean calendar Days;

**“DESIGNATED LIGHT STANDARD”** means a light standard owned by the Town or Region of Niagara and fitted with a Poster Panel;

**“DIRECTIONAL SIGN”** in reference to Sign classification indicates directions to be followed to reach a destination. It may include a Logo identifying the place of destination, instructions or warnings for the control of vehicular or pedestrian traffic, and entry and exit Signage but contains no other advertising Copy;

**“DIRECTOR OF FIRE & BY-LAW”** means the Person appointed by Council, pursuant to the *Fire Code Act, 1997*, as amended, or their designate;

**“DISPLAY”** includes authorizing, allowing or permitting the Display of a Sign;

**“DOUBLE”** in reference to a Sign Face means a Sign having two Sign Face planes with each Sign Face being of equal area and identical length and Height, and the maximum interior angle between two faces of a Double faced Sign shall not exceed 90 degrees;

**“DOWNTOWN BUSINESS IMPROVEMENT AREA”** means those lands in the Town designated by Council as an improvement area as the Town of Pelham Downtown Business Improvement Area

**“ELECTRONIC”** in reference to Changing Copy means Copy that is changed or rearranged Electronically, which may be computer controlled, which Displays Illuminated Copy and graphic information in a programmed sequence for scrolling Display, Static Copy or video;

**“ERECT”** (including **“ERECTED”**, and **“ERECTION”**) means to attach, build, construct, reconstruct, locate, or relocate any Sign, and includes authorizing, allowing or permitting same. This definition does not include Copy changes on any Sign Face or Maintenance as set out in subsection 3.11 of this By-law;

**“EXISTING SIGN”** means a Lawful Sign existing as of the effective date of this By-law, unless otherwise provided by this By-law;

**“EXTERNAL”** in reference to Illumination means a light source directed towards a Sign;

**“FACIAL SIGN”** means a Sign, which is painted on, affixed to or supported by an exterior Building Wall or Structure attached to the Building Wall and Erected in a predominantly parallel manner to that Building Wall. This definition does not include a Banner Sign or Projecting Wall Sign;

**“FEATHER FLAG SIGN”** means a Temporary Sign that is made from cloth or a similar lightweight non-rigid material which does not rely upon a Building or fixed foundation for its structural support and is

typically supported with a base or stand on the ground, and can be easily carried or transported. This definition does not include a Banner Sign;

**“FIRST PARTY”** in reference to a Sign means a Sign which identifies or directs attention to a business, profession, commodity, service, event or other activity being conducted, sold or offered on the Property on which the Sign is located;

**“FIRST STOREY”** is defined as the Storey that has its floor closest to Grade and its underside of finished ceiling more than 1.8m above the average Grade;

**“FLASHING”** in reference to Illumination means the Internal or External Illumination is varied or perceived to vary in intensity or design at periodic intervals;

**“FRONTAGE”** means the distance measured on a horizontal plane along the Front Lot Line, between the Side Lot Lines;

**“GRADE”** means the average surface elevation of the ground where the ground is in contact with any Building, Sign or other Structure;

**“GROUND SIGN”** means a freestanding Sign in a fixed location directly supported by the ground without the aid of any Building or Structure other than the Sign Structure, to a maximum Height of 3m (9.84ft.). This definition does not include a Mobile Sign, Read-O-Graph Mobile Sign or an A-Frame Sign;

**“HEIGHT”** means the vertical measurement from the average finished Grade at the base of the Sign to the highest point of the Sign Structure, Sign or Sign Face;

**“HEIGHT OF SIGN FACE”** means the maximum vertical limit between the extremities of the Copy Area, including individually installed letters, numerals, symbols, images or characters but excluding borders and frames.

**“HOARDING SIGN”** means a Temporary Sign attached to hoarding panels or fences which surround a construction site and provide information about the Building or Structure under construction and may include the builder or trades;

**“IDENTIFICATION SIGN”** in reference to Sign classification identifies the name, address or Logo of a business enterprise;

**“ILLUMINATION”** (including **“ILLUMINATED”**) when used in reference to a Sign shall mean the act of lighting up a Sign by way of an artificial light and shall include Internal or External sources;

**“INCIDENTAL SIGN”** in reference to Sign classification is a First Party, non-Advertising Sign of minor consequence and size, and includes a Sign bearing a street name and municipal address, or one that is customarily located on a newspaper box, cornerstone, or grave marker;

**“INDUSTRIAL PARK SIGN”** means a Ground Sign which provides information related to the park and the tenants within it, where the Sign information shall be limited to Logos, directions or distances;

**“INFLATABLE SIGN”** means a Temporary Sign filled with air or gas;

**“INFORMATION SIGN”** in reference to Sign classification provides information concerning public order or public safety or which provides for public education or enlightenment concerning an activity or the nature of their surroundings;

**“INTENSITY OF ILLUMINATION”** means the brightness of the Sign;

**“INTERACTIVE COPY”** means Sign Canopy which specifically changes so as to communicate directly with a particular observer;

**“INTERNAL”** in reference to Illumination means the Sign is illuminated by light emitted from within the Sign;

**“LAWFUL SIGN”** means a Sign that complies with the applicable regulations of this bylaw or with the applicable regulations of the governing By-law in force and effect at the time the Sign was Erected or Displayed and if applicable a Sign Permit was issued for said Sign;

**“LENGTH OF SIGN FACE”** means the maximum horizontal limit between the extremities of the Copy Area, including individually installed letters, numerals, symbols, images or characters but excluding borders and frames;

**“LOGO”** shall mean a graphic representation or symbol of a company name, trademark or abbreviation often uniquely designed for easy recognition. A Logo may not be solely represented by the name of the company;

**“LOT”** means a parcel or tract of land which:

- a) is a whole Lot or block as shown on a registered plan of subdivision but a registered plan of subdivision for the purposes of this paragraph does not include a registered plan of subdivision deemed not to be a plan of subdivision under a By-law passed pursuant to section 49 of the *Planning Act*, as amended from time to time, or;
- b) fronts an open street and is a separate parcel of land without any adjoining lands being owned by the same Owner or Owners as at the date of the passing of this By-law, or;
- c) the description of which is the same as in a Deed which has been given consent pursuant to section 52 of the *Planning Act*, as amended from time to time, or;
- d) is the whole remnant remaining to an Owner or Owners after a conveyance made with consent pursuant to section 52 of the *Planning Act*, as amended from time to time;

**“LOT LINE”** means the boundary of a Lot and;

**“FRONT LOT LINE”** means the Lot Lines(s) along a street;

**“REAR LOT LINE”** means the Lot Line which is located the farthest from the Front Lot Line;

**“SIDE LOT LINE”** means Lot Lines other than the Front Lot Line or Rear Lot Line;

**“M”** when following a numeral means metre(s);

**“M2”** when following a numeral means square metre(s);

**“MANUAL”** in reference to Changing Copy means Copy that is changed or rearranged by Manual means;

**“MAINTAIN”** means anything done to preserve, restore or Repair an Existing Sign using identical components or materials and does not include Sign replacement or substantial Alteration;

**“MAINTENANCE”** means to Maintain;

**“MENU BOARD SIGN”** means a Sign Erected as part of a drive-through facility used to Display and order products and services available through a drive-through business;

**“MOBILE SIGN”** means a Temporary Sign designed to be readily moved from one location to another and which does not rely on a Building or fixed foundation for its structural support. This includes but is not limited to such Sign as Feather Flag Signs and A-Frame Signs greater than **0.6M2** but does not include Read-O-Graph Mobile Signs, Inflatable Signs or a Sign attached to a vehicle where the principal Use of the vehicle is the transportation of people, goods and other material;

**“MULTIPLE”** in reference to a Sign Face means a Sign having two or more Sign Faces but does not include a Double Sign Face;

**“MULTIPLE OCCUPANCY BUILDING”** means any Building that contains two or more units for Occupancy by residential, commercial, institutional or industrial Uses, or a combination thereof;

**“NEW HOME DEVELOPMENT SIGN”** means a Temporary Sign that can be repositioned by an individual without mechanical aid, the purpose for which is to direct attention to the sale of new homes or developments;

**“NON-PROFIT”** means a club, society, or association and is organized and operated solely for social welfare, civic improvement, pleasure or recreation or any other purpose except profit which has a registration number issued by the Canada Revenue Agency, or successor agency for a Non-Profit organization;

**“OCCUPANCY”** means the Use or intended Use operating from a Building on a continuous basis or part thereof for the shelter or support of Persons, animals or things;

**“OFFICIAL SIGN”** means a Sign required by and Erected in accordance with any statute, regulation, By-law or other directive of any federal, provincial or regional government or agency, board or commission thereof, or the Town;

**“OFFICER”** means a Municipal Law Enforcement Officer appointed by the Town, a police or an officer, employee, or agent of the Town whose responsibilities include the enforcement and administration of this By-law;

**“OWNER”** means all Persons or their authorized agents in lawful control of the Premises, Building, Occupancy or other Structure or portion thereof under consideration;

**“PARAPET”** (including Parapet wall) means that portion of a Building Wall, which rises above the roof level of the Structure;

**“PERMANENT”** in reference to a Sign means a Sign attached to a Building, Structure, or the ground so as to resist environmental loads, such as wind and preclude its ready removal or relocation and not limited as to the time it can be Erected or displayed;

**“PERSON”** (including Persons) means any individual, association, proprietorship, partnership, association, syndicate, company, corporation, firm, authorized agent, trustee and the heirs, executors or other legal representatives, or any combination of the foregoing;

**“POLE SIGN”** means a Sign greater than 3.0m (9.84 ft.) in Height directly supported from the ground without the aid of any Building or Structure other than the Sign Structure;

**“POSTER”** means a printed notice conveying information intended to be displayed for a Temporary period of time and includes but is not limited to a bill, handbill, leaflet, notice and placard;

**“POSTER BOARD SIGN”** means a Temporary Sign that is made from lightweight rigid material, which is secured or mounted to a Building or other Structure. This definition does not include a Banner Sign, Wall Sign or Poster;

**“POSTER PANEL”** means a panel provided and fitted by the Town to a Designated Light Standard;

**“PRE-MENU BOARD SIGN”** means a Sign Erected as part of a drive-through facility and only used to Display products and services available at the drive-through business;

**“PREMISES”** means a specific Property, private or public, under registered Ownership, and includes all Buildings and Accessory Structures thereon; except that multi-tenant Buildings or groups of Buildings containing two or more business establishments developed as a unit providing common open spaces, off-street parking facilities, driveways and other shared facilities shall constitute a Single Premises regardless of registered Ownership;

**“PRIVATE PROPERTY”** means Property, lands, or Buildings owned by a Person, other than a Public Authority;

**“PROJECTING WALL SIGN”** means a Sign attached to and projects out horizontally from an exterior wall of a Building in a predominantly perpendicular manner. This definition does not include Awning Sign; Canopy Sign or Facial Sign;

**“PROPERTY”** means a Lot which has specific boundaries and which is capable of legal transfer, and;

**“PUBLIC PROPERTY”** means Property, lands, or Buildings owned by the Town, Public Authority, local board or utility as defined in the *Municipal Affairs Act R.S.O. 1990, c.M.46*, as may be amended from time to time. Public Property also includes a Public Road Allowance;

**“PUBLIC ROAD ALLOWANCE”** means a highway under the Town’s jurisdiction established under authority of any statute, and includes where applicable the curb, shoulder, boulevard, sidewalk and landscaping. A street is a Public Road Allowance for the purposes of this By-law;

**“PUBLIC AUTHORITY”** means the Town, the Provincial Government, Regional Government, Federal Government and any board, commission, committee or body established or exercising any power or authority under a statute of Canada or Ontario with respect to any of the affairs or purposes, including school purposes, of the Town;

**“PYLON SIGN”** has the same meaning as a **“POLE SIGN”**



**“READ-O-GRAPH MOBILE SIGN”** means a Temporary Sign designed to be readily moved from one location to another and which does not rely on a Building or fixed foundation for its structural support in which the entire Sign Face is Manual Changing Copy. This definition includes T-Frame Signs greater than 0.6M2;

**“REAL ESTATE DIRECTIONAL SIGN”** means a Temporary Sign, not anchored to the ground, intended to provide direction to a Building, Property, Premises or a portion thereof offered for sale, rent or lease and may indicate information as to the real estate agent and the name and location of the sales office. This definition shall include Signs commonly referred to as real estate open house Signs but does not include Real Estate Signs;

**“REAL ESTATE SIGN”** means a Temporary Sign that advertises a Building, Property, Premises, or a portion thereof, offered for sale, rent or lease, and may provide information such as the agent’s name, the location of the sales office. This definition does not include a Real Estate Directional Sign;

**“REPAIR”** means anything done to preserve, restore or Maintain the Sign according to the regulations of this By-law;

**“ROOF SIGN”** means any of the following:

- a) A Sign Erected on or located wholly above the roof of a Building;
- b) A Sign Erected, constructed, attached to or located wholly or partially above the Parapet wall of a Building;

**“ROTATING”** in reference to Changing Copy means Static Copy that is changed or rearranged mechanically, commonly referred to as tri-vision;

**“ROTATION”** means the action of turning around an axis or center;

**“SEQUENTIAL SIGN”** means two or more Signs used in series to convey a cohesive message related to the subject matter, each such Sign message being dependent upon the other;

**“SIDEWALK SIGN”** means a Temporary Sign not anchored to the ground and constructed in a manner, and of such materials, which permit it to be repositioned by an individual without mechanical aid. This definition includes A-Frame Signs not greater than 0.6M2 and T-Frame Signs not greater than 0.6M2;

**“SIGHT TRIANGLE”** means an area free of Buildings or Structures or other visual obstructions, and which is to be determined by measuring, the point of intersection of street lines on a corner Lot, a minimum of 9m (29.53 ft.) along each such street line and joining such points with a straight line, and the triangular shaped land between the intersecting street lines and the straight line joining the points the required distance along the street lines is the Sight Triangle.

**“SIGN”** means any device, object or thing which directs attention to and which is designed to convey a message and that is placed for the purposes of advertising goods and services offered, identifying a business or enterprise or for conveying any other type of message and, without limiting the generality of the foregoing, this definition includes but is not limited to, the types of Signs specifically defined in this section;

**“SIGN FACE”** means that portion of the Sign, excluding the supporting Structure, borders and frames, upon which, against, or through which Copy is displayed or is capable of being displayed;

**“SIGN FACE AREA”** means the Length of Sign Face multiplied by the Height of Sign Face. In reference to;

- a) SIGNS comprised of more than one part (individually installed letters, numerals, symbols, shapes or characters) Sign Face Area shall mean the same as the Copy Area;
- b) a Sign box, Sign Face Area will be determined by the area of the Sign cabinet and the frame of the Sign;
- c) a Ground Sign, Sign Face Area shall include the Sign Face and all cladding;
- d) a Double Sign Face, Sign Face Area, shall be calculated based on one Sign Face. For the purposes of calculating permit fees, both sides of the Double Sign Face shall be considered;

**“SIGN OWNER”** means the Person who owns the Sign. Where there is no known Owner of the Sign, or such Person cannot be determined with certainty, the Sign Owner shall be deemed to be the Person having authority over the associated Use or deriving the major benefit from the Sign. If such Person is unknown, the Sign Owner shall be deemed to be the registered Owner of the land upon which the Sign is situated;

**“SIGN PERMIT”** means a permit issued by the Director of Fire & By-law or delegate pursuant to the provisions of this By-law or a previous By-law to Erect or Display a Sign;

**“SIGN STRUCTURE”** means a Structure, framework or bracing, which supports, is constructed to support or did support a Sign Face or faces and in turn is supported by the ground, Building or other Structure not deemed to be an integral part of the Sign;

**“SIGN TYPE”** means a Sign referenced by its means of support, manner of displaying information, or the information intended to be displayed;

**“SIGNAGE MASTER PLAN”** means a submission with drawings, text, and specifications setting out the location, arrangement, type and Sign Face Area of all existing and proposed Signs on a Premises.

**“SINGLE”** in reference to a Sign Face means a Sign having only one face plane;

**“STATIC COPY”** in reference to Electronic or Rotating Changing Copy means Copy that is static for durations set out in subsection 4.2 before, in the case of Electronic Changing Copy, it instantaneously transitions, or in the case of Rotating Copy, scrolls or rotates to the next Copy;

**“STREET FRONTAGE”** shall mean Property that abuts a Public Road Allowance or any 0.3m reserve;

**“STOREY”** means that part of a Building between any floor and the floor, ceiling or roof next above;

**“STRUCTURE”** means anything that is Erected, built or constructed of parts joined together or any such Erection fixed to or supported by or incorporated within the soil or any other Structure;

**“T-FRAME SIGN”** means a Temporary Sign not anchored to the ground, where the Sign Structure resembles an inverted capital T and which is constructed in a manner, and of such materials, which permit it to be repositioned by an individual without mechanical aids;

**“TEMPORARY”** in reference to a Sign, means a Sign not intended or designed for Permanent installation, to be Erected or displayed for a limited time determined by the Director of Fire & By-law or delegate;

**“TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGN”** means a Temporary Sign promoting a public festival, charitable event or Non-profit group event, anchored in shallow ground and is capable of being easily moved or re-located.

**“TEMPORARY SPECIAL EVENT SIGN”** means a read-o-graph mobile type Sign and may include a third party Sign, in conjunction with the Non-profit celebrations, public events, charitable organization events or similar functions or events.

**“THIRD PARTY”** in reference to a Sign means a Sign which identifies or directs attention to a business, profession, commodity, service, event or other activity not being conducted, sold or offered on the Property on which the Sign is located;

**“TOWN”** means The Corporation of the Town of Pelham;

**“UNSAFE”** in reference to a Sign, means a Sign, or a Sign Structure, which is structurally unsound, which constitutes a fire, traffic, or pedestrian hazard, which impedes a means of egress from any Building, or otherwise constitutes a risk to the safety of Persons in, about or adjacent to the Premises or the Sign;

**“USE”** when used as a noun in conjunction with the words Zone, residential, employment, industrial, commercial, institutional, agricultural, open space, or similar words, shall mean such Uses as may be permitted under the Zoning By-law of the Town;

**“WALL AREA”** means the total area, including all openings, of a Building Wall, upon which a Sign is Erected. In the case of an irregular Building Wall, which does not form a vertical plane, the Wall Area shall be the total area of a vertical plane projected from the wall;

**“WALL SIGN”** includes an Awning Sign, Canopy Sign, Facial Sign and Window Sign;

**“WAY FINDING SIGN”** means a Temporary Sign on or over a Town road allowance indicating the direction to a time-specific event which may include a residential open house, residential garage or lawn sale, or a non- commercial event.

**“WINDOW SIGN”** means any picture, image, symbol, or combination thereof painted, etched, or attached directly on glass and projecting no more than **1mm** or placed inside a window and is intended to be visible from the exterior;

**“ZONE”** means any land Use Zone established in the Zoning By-law of the Town and passed under the Planning Act or any predecessor or successor Act;

**“ZONING BY-LAW”** means a By-law of the Town of Pelham and passed under the Planning Act, or any predecessor or successor Act, and as may be amended from time to time.

**SECTION 3 - INTERPRETATION, ADMINISTRATION AND PERMITS**

**3.1 Interpretation**

Where a Sign is defined in this By-law, the interpretation of that Sign shall not include any other specifically referred to Sign definition.

Definitions of words and phrases used in this By-law that are not included in the list of definitions in subsection 2.1. and are not defined in another provision of this By-law shall have the meanings that are commonly assigned to them in the context in which they are used, taking into account the specialized Use of terms by the various trades and professions to which the terminology applies.

Where anything in this By-Law is prohibited, it shall not be authorized by way of minor variance.

**3.2 Administration**

- 3.2.1 The Director of Fire & By-law or designate shall be responsible for the administration and enforcement of this By-law on all public and Private Property within the Town of Pelham.
- 3.2.2 The Director of Fire & By-law or an Officer may enter upon any Property at any reasonable time to inspect a Sign for the purpose of determining its compliance with this By-law.

**3.3 Prohibited Signs**

No Person shall Erect or Display a Sign that:

- (a) does not comply with all applicable By-laws, statutes or regulations including, but not limited to, the *Ontario Human Rights Code*, or which is not in compliance with this By-law or the conditions of any variance granted under this By-law;
- (b) is not specifically permitted in this By-law;
- (c) interferes with any electrical or telephone wires or associated supports;
- (d) is attached, affixed to, or on any traffic Signal or traffic control device or the supporting Structure appurtenant thereto unless expressly permitted by the Town of Pelham;
- (e) obstructs the view of any driver of a vehicle, obstructs the visibility of any traffic Signal or traffic control device, or interferes with vehicular traffic in a manner that could endanger any Person;
- (f) bears or Displays the Town Logo, crest or seal in whole or in part, without the express written permission of the Town;
- (g) emits sound or odour, or discharges any gas, liquid, or solid;
- (h) features Interactive Copy;
- (i) is on a roof, except as otherwise permitted under this By-law;

- (j) is on a vehicle or trailer or painted thereon (except a temporary sales trailer for new construction located on the site of the construction) where the vehicle is not used in weekly operation for transportation and is parked or located in a manner so as to make the Sign visible from a street for the purpose of acting as a Sign;
- (k) obstructs or is within a parking space required by By-law or as part of a Registered Site Plan Agreement;
- (l) is attached to a tree, fence, gate, railing unless otherwise permitted in this By-law; or the Town of Pelham fence By-Law 4157 (2019).
- (m) is a Sequential Sign;
- (n) is on any Accessory Structure or painted thereon, except facial or Projecting Wall Sign that relate solely to an Occupancy or Use carried out in conjunction with the Accessory Structure;
- (o) is primarily supported by cables or guy wires External to the Sign Face or Sign box;
- (p) is located on a Public Road Allowance and attached to any utility pole or Official Sign Structure, unless such Sign is Erected by another Public Authority having jurisdiction in the matter, or except as otherwise permitted under this by-law.
- (q) SIGN within site triangle within a Property formed by the intersection of two streets, a street and a driveway or a street and a level railway crossing and may include projections thereof on the road allowance;
- (r) Is a Third Party Sign except if specifically allowed in this by-law.
- (s) Billboard Sign

### **3.4 Signs Exempt from This By-Law**

The following Signs are exempt from this By-law:

- (a) a memorial Sign or tablet, commemorative or Heritage Designation plaque, or corner stone denoting the date of Erection of Buildings or other related information;
- (b) a flag of civic, educational or religious organizations;
- (c) SIGNS that are regulated by Town of Pelham By-law with respect to elections under the *Canada Elections Act*, the *Election Act (Ontario)*, or the *Municipal Elections Act, 1996*, or any successor legislation;
- (d) any Sign located on a Public Road Allowance, Approved by the Director of Public works;
- (e) Official Signs
- (f) Signs within a Building, not visible beyond any boundary of the Property on which the Sign is located;
- (g) Incidental Signs;
- (h) Signs on Town sports field fences, backstops and Accessory Structures pursuant to a contract with the Town;
- (i) Permanent Third Party Signs on sports field fencing, backstops, and Accessory Structures so long as they are not visible off the Premises;
- (j) Posters affixed to a Poster Panel that are located on a Public Road Allowance installed by the Town of Pelham, Region of Niagara or any Public Utility or Government agency.

### **3.5 Signs Not Requiring Permits**

- 3.5.1 The following Signs are permitted and may be Erected, displayed, modified or restored without obtaining a Sign Permit:

- (a) Information Sign Erected or displayed as:
  - i) a Sign pertaining exclusively to public safety, not exceeding **0.35M2** of Sign Face Area;
  - ii) a Sign exclusively indicating the maximum headroom, not exceeding **0.35M2** of Sign Face Area;
- (b) a non-Illuminated “*no trespassing*” or other warning Sign provided it is not greater than **0.2M2** of Sign Face Area;
- (c) a PERMANENT, non-Illuminated Facial Sign having no greater than **0.6M2** of Sign Face Area;
- (d) a flag of a corporate organization, not exceeding **7.5m** in Height, provided that no more than three flags are located on one Premises and any such flag does not exceed **2.7M2** of Sign Face Area;

3.5.2 A permit is not required for the following Sign, however these Sign shall comply with all other requirements of this By-law, unless otherwise specifically provided:

- (a) Real Estate Signs no greater than **0.6M2** (6.5 sq. ft.) of Sign Face Area;
- (b) Real Estate Directional Signs;
- (c) way finding Directional Signs;
- (d) Construction Signs on Private Property having a Sign Face Area not greater than **10.0M2** of Sign Face Area;
- (e) Congratulatory Signs displayed on Private Property for a period less than 72 hours;
- (f) Window Sign;
- (g) Contractor Sign;
- (h) Hoarding Signs, provided the Signage does not extend beyond the Structure of the hoarding;
- (i) Sidewalk Signs no greater than **0.6M2** of Sign Face Area;
- (j) A Temporary Banner Sign;
- (k) A Temporary Feather Flag Sign;

### 3.6 Permits

3.6.1 (1) Where a permit is required under this By-law, no Person shall Erect or Display a Sign without a permit.

(2) A permit under this By-law is required for the Erection or Display of:

- (a) Banner Sign;
- (b) Construction Sign greater than **10.0M2** of Sign Face Area;
- (c) Ground Sign;
- (d) Industrial Park Sign;
- (e) Inflatable Sign;
- (f) Menu Board Sign;
- (g) New Home Development Sign;
- (h) Pre-Menu Board Sign;
- (i) Pole Sign;

- (j) Poster Board Sign;
  - (k) Projecting Wall Sign;
  - (l) Read-O-Graph Mobile Sign;
  - (m) Real Estate Signs greater than **0.6M<sup>2</sup>** of Sign Face Area;
  - (n) Roof Sign;
  - (o) T-Frame Sign greater than **0.6M<sup>2</sup>** of Sign Face Area;
  - (p) Wall Sign (including Awning Sign, Canopy Sign, Facial Sign), excluding Window Sign.
- 3.6.2 (1) Where a permit is required under this By-law, no Person shall substantially Alter or Repair a Sign without a permit.
- (2) Except as provided for in 3.11.1, a permit under this By-law is required for the substantial Alteration or Repair of:
- (a) Banner Sign;
  - (b) Construction Sign greater than **10.0M<sup>2</sup>** of Sign Face Area;
  - (c) Ground Sign;
  - (d) Industrial Park Sign;
  - (e) Menu Board Sign;
  - (f) Pole Sign;
  - (g) Pre-menu Board Sign;
  - (h) Projecting Wall Sign;
  - (i) Real Estate Sign greater than **0.6M<sup>2</sup>** of Sign Face Area;
  - (j) Roof Sign;
  - (k) Wall Sign (including Awning Sign, Canopy Sign, Facial Sign), excluding Window Sign.
- 3.6.3 Persons seeking to Erect, Display, replace, substantially Alter or Repair a Sign when a permit is required shall provide to the Director of Fire & By-law or delegate permit application materials which include:
- (a) a completed application form as prescribed by the Director of Fire & By-law or delegate;
  - (b) 2 copies of all plans, drawings and other materials in metric as required by the Town;
  - (c) applicable fees as set out in the fees & services By-Law 3728 (2016) at the time of application;
  - (d) written authorization from the Owner of the Property (where the Person applying for the Sign Permit is not also the Owner of the Property) where the Sign will be Erected or Altered;
  - (e) if applicable, authorization for the proposed Sign from all Government authorities having jurisdiction, or necessary municipal departments.
- 3.6.4 As per 3.6.3 (b), an application for Sign Permit shall be accompanied by plans and drawings in metric that contain the following information:
- (a) A location plan, drawn to scale, which clearly identifies the Property where the Sign is to be displayed including the dimensions of the Property, existing and proposed Buildings, and the location, Height, size and nature of existing and proposed Signs on the same Property dimensioned to clearly illustrate the shortest distance from the Property line(s) for all existing and proposed Structures and Signs;

- (b) Information including, but not limited to drawings, photos, artwork and specifications of the proposed Sign, drawn to scale, which clearly demonstrates the Sign and Sign Copy intended for Display, and which includes construction details, supporting framework, foundations, materials, weight, cross section wall details, base details, Illumination details, Height of Sign, Sign area, length and width of Sign;
  - (c) Sufficient information for the Chief Building Official to determine that the Sign has been designed and will be constructed/Erected/suspended in compliance with the *Ontario Building Code*, and;
  - (d) Further to sub clause (b), drawings for the following Signs shall be signed and sealed by a Professional Engineer or Architect registered to practice in the Province of Ontario:
    - i) A Pole Sign that exceeds 3m (9.84 ft) in Height above the adjacent finished ground;
    - ii) a Roof Sign
    - iii) a Projecting Wall Sign attached or fastened in any manner to a Parapet wall.
- 3.6.5 No Person enjoys a vested right in the continuance of a permit and whether issued, expired, revoked or otherwise terminated, the permit and any value of such permit shall continue to be the Property of the Town. No Person other than the Town may assign a permit.
- 3.6.6 No Person other than the Town shall sell, purchase, lease, mortgage, charge, assign, pledge, transfer, seize, distraint or otherwise deal with a permit issued under this by-law.
- 3.7 Inspection**
- 3.7.1 **Notice to Chief Building Official** – Where the Chief Building Official has prescribed inspections as part of the Sign Permit, the Sign Permit holder shall notify the Chief Building Official, at least 72 hours prior to the commencement of each stage of construction or Erection of the Sign to have the inspection(s) undertaken.
- 3.8 Sign Permit Refusal, Revocation and Cancellation**
- 3.8.1 The Director of Fire & By-law or delegate may refuse to issue a Sign Permit for any of the following reasons:
- (a) the proposed Sign does not comply with this By-law, other Town of Pelham By-laws, or any applicable federal, regional or provincial statute or regulation;
  - (b) the proposed Sign is to be displayed on Private Property, if any other Sign displayed on said Property does not comply with this By-law;
- 3.8.2 The Director of Fire & By-law or delegate may revoke a permit for any of the following circumstances:
- (a) the permit was issued in error;
  - (b) the permit was issued as the result of false, mistaken, incorrect, or misleading statements, information, or undertakings on the application;
  - (c) the Display of the Sign has not commenced within six months after the issuance of the permit;
  - (d) the permit holder requests in writing that the permit be revoked.
- 3.8.3 The Director of Fire & By-law or delegate may cancel an application for permit for any of the following circumstances:
- (a) an application for a permit remains incomplete, or inactive, for six months after it is made;
  - (b) any conditions, including those as part of a variance associated with permit issuance, have not been adhered to.

### **3.9 Refunds**

3.9.1 The Town will not refund fees paid for a Sign Permit application for any of the following reasons:

- (a) the Chief Building Official or Director of Fire & By-law or delegate refuse to issue the Sign Permit because the Sign does not comply with this By-law, any other By-law, the *Ontario Building Code*, the *Ontario Heritage Act* or any federal, regional or provincial statute or regulation;
- (b) the Sign or the work described for the Sign for which the permit application is made, has been displayed prior to the issuance of a permit;
- (c) the Sign Permit has been revoked;
- (d) substantial review has been conducted by municipal staff in processing the Sign Permit application.

3.9.2 Pursuant to subsection 3.9.1 of this By-law, upon written request from the applicant, the fees that may be refunded shall be a percentage of all permit fees payable under this By-law, calculated by the Director of Fire & By-law or delegate as follows:

- (a) 90 percent, if administrative functions only have commenced;
- (b) 60 percent, if the permit application has been reviewed and the permit is ready to be issued;
- (c) 50 percent, if the permit has been issued and no field inspections have been conducted within six months from the date the permit was issued;
- (d) if the calculated refund is equal to or less than the minimum fee applicable to the work, no refund shall be made of the fees paid;
- (e) additional fees, charged due to the commencement of installation or Display of a Sign or Sign Structure prior to permit issuance, equal to 100% of the amount calculated as the regular permit fee, shall not be refundable in any case.

### **3.10 Advertising Devices Lawfully Erected On the Day This By-Law Comes into Force**

3.10.1 This By-law does not apply to an Advertising Device that was lawfully Erected or displayed on the day this By-law comes into force if the Advertising Device has not been substantially Altered. The Maintenance and Repair of the Advertising Device, or a change in the message or contents displayed, does not in itself constitute a substantial Alteration.

3.10.2 This By-law does apply to an Advertising Device that was lawfully Erected or displayed on the day this By-law comes into force if it has been substantially Altered.

3.10.3 In the event that the Town requires that a Sign be relocated or replaced for any municipal purpose:

- (a) the relocation of the Sign shall be subject to the location requirements of this By-law;
- (b) a Sign of the same dimensions and materials as the removed/relocated Sign shall not be subject to the regulations of this By-law where the contravention is caused by the relocation/replacement;
- (c) notwithstanding sentence 3.10.3 (a) and (b), relocated Signs require a permit.

### **3.11 Maintenance, Repair and Replacement**

3.11.1 The Sign Owner shall Maintain any and all Sign in good order so that they do not become unsightly, Unsafe, defective or dangerous. Every Sign Owner shall ensure that:

- (a) all exposed Sign and Sign Structure surfaces are covered with a durable, weather resistant, protective finish;
- (b) repainting or refinishing is undertaken as often as is necessary to prevent peeling or flaking of paint or corrosion;
- (c) all lights, bulbs, tubes and other forms of Illumination are functioning and comply with



the regulations of this By-law;

- (d) all Sign Faces and Sign Structures are kept intact and operative and do not contain deteriorating, peeling, broken or cracked parts;
- (e) Sign is maintained in accordance with the Approved plan authorizing its Erection;
- (f) there is no visible deterioration of the Sign, Copy or its Structure;
- (g) the Sign is not Unsafe and does not create a danger to any Person.

3.11.2 Every Sign Owner shall ensure that where a Sign Face is required to cover and protect any electrical components, lamps or Sign box from the elements, the Sign Face remains intact at all times. If a Sign Face is removed for Repair or replacement, a Sign Face shall be reinstalled within twenty-eight (28) days of removal.

3.11.3 The replacement of a Sign that was lawfully Erected or displayed on the day this By-law comes into force, except to Repair or Maintain the Structure as per subsection 3.11.1, is “substantially Altered”, and therefore requires full compliance with this By-law;

3.11.4 Notwithstanding subsection 3.11.3, a Sign is not required when a Sign which was lawfully Erected under this or a previous By-law is removed for a period of no more than 28 days for the purposes of either Maintenance or Repair to the Building Wall, or to the Sign, provided the Sign Structure or the Building Wall that it is affixed to is not substantially Altered.

### **3.12 Enforcement**

3.12.1 Every Person who contravenes any provision of this By-law is guilty of an offence.

3.12.2 Fines for Contravention, Individuals

Every Person contravention under this By-law is liable:

- (a) upon a conviction, to a maximum fine of \$5,000.00;
- (b) upon any subsequent conviction, to a maximum fine of \$10,000.00.

3.12.3 Fines for Conviction, Corporations

Notwithstanding subsection 3.12.2, where the Person convicted is a corporation, the corporation is liable:

- (a) upon a first conviction, to a maximum fine of \$10,000.00;
- (b) upon any subsequent conviction, to a maximum fine of \$25,000.00.

3.12.4 Order Prohibiting Continuation or Repetition

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 or penalty provided for by this By-law, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

3.12.5 Removal without Notice, Town Property including road allowance within the Town

Where a Sign is Erected or displayed on or over Property owned by, or under the jurisdiction of, the Town and not in accordance with the regulations of this By-law, the Sign may be removed immediately by the Town without notice or compensation.

3.12.6 Removal without Notice

Where a Sign is displayed in contravention of this By-law, the Director of Fire & By-law or delegate may immediately pull down or remove any Sign that he/she determines constitutes a safety hazard or a safety concern without notice or compensation.

3.12.7 Order to Remove

- (1) The Director of Fire & By-law or designate may order the Owner or Sign Owner to

remove a Sign or bring a Sign into compliance in the manner, and within the time, specified in the order. The Director of Fire & By-law may order the Sign Owner to comply with subsection 4.1.7 of the By-law and require the Owner of the Sign to remove the Sign. Where the Sign Owner fails to remove the non-compliant Sign after being ordered to do so, the Director of Fire & By-law may issue an order to the Owner of the land to comply with subsection 4.1.8 of the By-law and require the Owner of the land to remove the Sign.

(2) The order in sentence (1) shall set out:

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
- (b) the date by which there must be compliance with the order;
- (c) requiring the Sign be removed and not replaced, or requiring the Sign be made to comply with this By-law;
- (d) that if the Sign is not removed or made to comply within the specified period, the Town may remove the Sign.

#### 3.12.8 Serving of the Order

The order mentioned in subsection 3.12.7 may be served by any of the following means:

- (a) Personal service upon the Property Owner;
- (b) regular mail or prepaid registered mail sent to the last address of the Property Owner shown on the records of the Town;
- (c) prominently posting a Copy of the order either on the Sign in respect of which the order is made, or on the Property upon which the Sign is displayed.

#### 3.12.9 Deemed to Have Been Received

Where the order is served in accordance with subsection 3.12.8 it is deemed to have been received by the party being served upon the mailing or posting of the order.

#### 3.12.10 Removal Following Order

Where a Sign is not removed or is not brought into conformity as required by an order under subsection 3.12.7, the Director of Fire & By-law or designate or an Officer may have the Sign removed without notice or compensation. For this purpose, the Director of Fire & By-law or delegate or an Officer may enter upon the Property at any reasonable time, with or without warrant.

#### 3.12.11 Compliance with Order

No Person shall fail to comply with an order issued to them under this By-law.

### 3.13 Removal and Storage of Signs – Costs & Charges

Signs removed pursuant to subsections 3.12.5, 3.12.6 and 3.12.10 shall be stored by the Town for a period of not less than 30 days, during which time the Sign Owner or the Sign Owner's agent may be entitled to redeem the removed item(s), subject to the following fees

- a) Large Sign removed by Town Public Works Department:
  - 1) Removal and first day of storage - \$285.00
  - 2) Additional storage - \$50.00 per day
- b) For smaller Sign removed by an Officer alone
  - 1) Removal and storage - \$50.00

#### 3.13.1 Claiming of Removed Items Subject to Charges

Upon the claiming of a removed and stored SIGN, the Town of Pelham shall require of the Person claiming the Sign to remit the appropriate charges

### 3.13.2 Destruction After Storage Elapses

Where a Sign has been removed by the Town and stored for a period of at least 30 days, and the Sign has not been claimed, the Sign may be forthwith destroyed or otherwise disposed of by the Town.

### 3.13.3 Costs and Charges – Lien upon Property

Where a Sign has been removed and stored by the Town and the Sign has not been claimed, all costs and charges for the removal, care and storage of the Sign under this by-law are a lien upon it which may be enforced by the Town in the manner provided by the *Repair and Storage Liens Act, R.S.O. 1990, c. R.24*, as amended.

### 3.13.4 Costs deemed to be Tax

The cost incurred by the Town in removing a Sign may be added to the tax roll and collected in the same manner as municipal taxes. Despite the foregoing, the cost incurred by the Town in removing a Sign under this part of the By-law is a debt payable to the Town and may be recovered in any court of competent jurisdiction.

## 3.14 Safety Requirements

Every Sign Owner shall ensure that the following Codes, safety regulations and requirements are adhered to and observed at all times for all Signs Erected or displayed in the Town of Pelham:

#### (a) Ontario Building Code

All Sign, except for Temporary First Party Signs and Temporary Third Party Signs, shall comply with the *Ontario Building Code*, as amended from time to time, and all applicable and reference standards for structural and life safety matters.

#### (b) Electrical Safety Authority and the Ontario Electrical Safety Code

Every Sign which utilizes electricity shall comply with all governing requirements of the Ontario Electrical Safety Authority as amended from time to time.

#### (c) Occupational Health and Safety Act

Construction safety measures conforming to the *Occupational Health and Safety Act*, as amended from time to time, as provided therein apply to the Erection, Alteration, relocation, removal or demolition of Sign and canopies.

#### (d) Resemblance to Emergency Light

No Rotating beam, beacon or Flashing Illumination resembling an emergency light or lights shall be used in conjunction with any Sign so as to create a traffic hazard, or in a manner that would otherwise endanger any Person.

#### (e) Building Openings

No Sign shall obstruct any window or openings required for light, ventilation, egress, or access.

#### (f) Overhang of Sidewalks

No Sign shall overhang or be within a horizontal distance of 0.6 m of a sidewalk or other pedestrian walkway unless the minimum vertical distance between Grade and the bottom of the overhanging Sign Face is at least 2.4 m.

#### (g) Underground Electrical Wiring

All electrical wiring required to service any Ground Sign shall, if so available from the utility provider, be located underground. If power is brought from a Building or Structure to the Sign, that wiring shall be located underground.

### **3.15 Measurements**

- a) All measurements of length or area used in this By-law shall be subject to rounding, within the degree of precision specified by the number of digits following the decimal point (if any), so that:
- b) For a whole number, measurements of less than **0.5** shall be rounded downward to the next whole unit;
- c) For a whole number, measurements of **0.5** and greater shall be rounded upward to the next whole unit;
- d) for a number having one decimal place, measurements of less than **0.05** shall be rounded downward to the next one-tenth unit;
- e) For a number having one decimal place, measurements of **0.05** and greater shall be rounded upward to the next one-tenth unit;
- f) Ratios and percentage figures shall not be subject to rounding.

## **SECTION 4 - GENERAL PROVISIONS**

### **4.0 Application of General Provisions**

No Person shall Erect or Display any Sign within the Town of Pelham for lands affected by this By-law except in conformity with the regulations specified in Section 3, and by the applicable general provisions set out in all subsections of Section 4.

### **4.1 Regulations for All Sign Types**

- 4.1.1 Where this section requires a Sign to be Erected or displayed a minimum distance from another Sign or Special District, the Sign Owner shall ensure no part of the Sign is within the prescribed minimum distance.
- 4.1.2 The Sign Owner shall ensure that the Sign does not move or appear to move, in whole or in part, unless otherwise expressly permitted by this By-law.
- 4.1.3 No Person shall project a Sign or Sign Copy onto a Building or any other surface from or by a source External to the Sign or Sign Copy unless otherwise expressly permitted by this By-law.
- 4.1.4 The Sign Owner shall ensure that the Sign Displays only Static Copy unless otherwise expressly permitted by this By-law.
- 4.1.5 Where this By-law requires the Sign Face Area to be calculated as a percentage of the area of the wall of a Building, the area of the wall shall include the windows located therein.
- 4.1.6 Notwithstanding that the permitted Changing Copy Area is based on a percentage of the maximum total Sign Face Area the maximum Sign Face Area does not have to be Erected or displayed in order to Display the Changing Copy.
- 4.1.7 Where a Sign does not comply with this By-law, the Sign Owner shall remove the Sign.
- 4.1.8 Where the Sign Owner fails to remove the Sign under subsection 4.1.7, the Owner of the land on which the Sign is situated shall remove the Sign.

### **4.2 Electronic Changing Copy**

- 4.2.1 Where this By-law permits a Sign to Display Electronic Changing Copy, the Sign Owner shall ensure following requirements are met:
  - (a) during the message transition, the Sign shall not include any blinking, intermittent or Flashing light or the illusion of such effects;
  - (b) all Electronic Changing Copy shall come equipped with functioning automatic dimming technology which will automatically adjust the Sign's brightness in direct correlation with ambient light conditions;
  - (c) a Sign displaying Electronic Changing Copy shall be designed so as to cease operating in the case of a malfunction;

- (d) for all First Party Signs, the Rotating or Electronic Changing Static Copy duration shall not be less than ten (10) seconds before instantaneously transitioning to the next Static Copy; and

#### **4.3 Illumination (Lighting) of Signs**

4.3.1 Where this By-law permits a Sign to be Illuminated, the Sign Owner shall ensure the following requirements are met:

- (a) Illumination which is External shall not be directed toward adjacent Lots, Public Road Allowances or into the direction of oncoming traffic;
- (b) Illumination which is External shall be downcast, or shielded, to minimize reflective impact on the night sky by being ground oriented;

4.3.2 Where this By-law permits a Sign to be Illuminated, the Sign Owner shall ensure the Sign is not Illuminated during the following time periods:

- (a) Between the hours of **10:00 p.m.** and **7:00 a.m.** where the Sign is located in, or within **30m** of, a Residential (R) Zone, except where:
  - i) the Sign is a First Party Sign associated with a lawful business which operates during this period, and only while the business is actually in operation; or
- (b) Between the hours of **11:00 p.m.** and **7:00 a.m.**, except where:
  - i) the Sign is a First Party Sign associated with a lawful business which operates during this period and only while the business is actually in operation;

4.3.3 Signs associated with the following Uses may be Illuminated and are not subject to sections 4.3.1 nor 4.3.2:

- (a) hospitals and emergency treatment facilities;
- (b) power generating stations and electrical substations;
- (c) control centres for land transportation;
- (d) public transit facilities;
- (e) public water treatment and storage facilities;
- (f) water and sewage pumping stations;
- (g) emergency response facilities;
- (h) fire, rescue, and police stations;
- (i) storage facilities for vehicles or boats used for fire, rescue and police purposes; and
- (j) public telephones and emergency call stations.

#### **4.4 Sight Triangle**

No Persons shall Erect or Display a Sign within the Sight Triangle.

See schedule "A" attached for Sight Triangle calculation explanation sketch

#### **4.5 Congratulatory Signs on Residential Premises**

Notwithstanding any other regulation in this By-law, not more than one Congratulatory Sign regardless of Sign Types, is permitted to be Erected or displayed on any residential Premises.

### **SECTION 5 - CLASSIFICATION OF SIGNS**

Banner Sign over 0.6M2

5.1 All Banner Signs over 0.6M2 shall comply with the following conditions:

- a) Must be installed completely on the subject Property to which it pertains and not be installed on or over a Public Road Allowance.
- b) Is limited to one Sign per every 20m of Building Frontage. In the case of a Multiple unit Building, one Sign is limited to every 20m of individual business Frontage. If the unit or Building has less than 20m of Frontage, then the number of Sign shall be limited to one.
- c) All Sign must be kept in good Repair and must not Display a condition of fading, tearing or deterioration.

Feather Flag Signs over 0.6M2

5.2 All Feather Flag Signs over 0.6M2 shall comply with the following conditions:

- a) Must be installed completely on the subject Property to which it pertains and not be installed on or over a Public Road Allowance.
- b) Is limited to one Sign per every 20m of Building Frontage. In the case of a Multiple unit Building, one Sign is limited to every 20m of individual business Frontage. If the unit or Building has less than 20m of Frontage, then the number of Signs shall be limited to one.
- c) All Signs must be kept in good Repair and must not Display a condition of fading, tearing or deterioration.

## **SECTION 6 - GROUND SIGNS**

- a) No Ground Sign shall be located on any Property other than the Property to which the Ground Sign applies.
- b) No Ground Sign shall be located closer to the street line or any other Property line than the setback line for a Building as established by the Corporation's Zoning By-law or 3.0m (9.84 ft.), whichever is the lesser.
- c) No Ground Sign shall be Erected which:
- d) Exceeds 3m (9.84 ft.) in Height of a Sign;
- e) Exceeds 0.3M2 (3.2 sq. ft.) in area on residential lands;
- f) Exceeds 9M2 (96.0 sq. ft.) in area per side or visible face;
- g) No Person shall Erect a Ground Sign within 6m (19.68 ft.) of a driveway entrance/exit or intersection of two streets when the setback is less than the Height of the Sign.
- h) No Person shall Erect on any Lot more than one Ground Sign for every 20m (65.5 ft.) of the Frontage of the Lot on which the Ground Sign is located. Where a Lot has less than 20m (65.5 ft.) of Frontage the Owner may Erect one Ground Sign.

## **SECTION 7 - POLE SIGNS**

- a) No Pole Sign shall be located on any Property other than the Property to which the Pole Sign applies;
- b) No Pole Sign shall be located closer to the street line or any other Property line than the setback line for a Building as established by the Corporation's Zoning By-law or 3m (9.84 ft.), whichever is the lesser.
- c) No Pole Sign shall be Erected which:
- d) Exceeds 9m (29.5 ft.) in Height of Sign;
- e) Exceeds 20M2 (215 sq. ft.) in area per side or visible face;
- f) No Person shall Erect on any Lot more than one Pole Signs for every 60m (197 ft.) of the Frontage of the Lot on which the Pole Sign is located. Where a Lot has less than 60m (197 ft.) of Frontage a Pole Sign is not permitted;
- g) No Person shall Erect a Pole Sign on residential lands.

## **SECTION 8 - READ-O-GRAPH MOBILE SIGN**

- a) No Read-O-Graph Mobile Sign shall be located on any Property other than the Property to which the Read-O-Graph Mobile Sign applies.
- b) No Read-O-Graph Mobile Sign shall be located closer to; any street line or other Property line than 1.0m (3.2 ft.);
- c) Any street line, not closer to 2m (6.5 ft.) where the Read-O-Graph Mobile Sign exceeds 1m (3.25 ft.) in Height of Sign;
- d) No Person shall Erect a Read-O-Graph Mobile Sign which:
- e) Exceeds 2.4m (7.8ft) in Height of Sign;
- f) Exceeds 4.6M<sup>2</sup> (50.0 sq. ft.) in area per side or visible face;
- g) Has more than two sides or visible faces
- h) No Person shall Erect a Read-O-Graph Mobile Sign on residential lands except a Temporary Special Event Sign.
- i) No Person shall Erect on any Lot more than one Read-O-Graph Mobile Sign for every 30m (98.4 ft.) of the Frontage of the Lot on which the Read-O-Graph Mobile Sign is located. Where a Lot has less than 30m (98.4 ft.) of Frontage the Owner may Erect one Read-O-Graph Mobile Sign.
- j) Read-O-Graph Mobile Sign may be illuminated or luminous provided such lighting does not consist of Flashing lights, moving lights or intermittent or activated lighting of any kind.
- k) All electrical cables, extensions, wires or outlets of every nature or kind attached to, or relating in any way to a Read-O-Graph Mobile Sign must comply with the regulations of the Electrical Safety Authority.
- l) No Person shall Erect a Read-O-Graph Mobile Sign in or on a required parking space on a Property.
- m) No Person shall Erect a Read-O-Graph Mobile Sign within 6m (19.68 ft.) of a driveway entrance/exit or intersection of two streets when the setback is less than the Height of the Sign.
- n) Read-O-Graph Mobile Sign may be Approved on a Temporary basis only and shall only be permitted to be Erected, subject to a permit for each individual time period in accordance with the provisions above, for a maximum of four (4) - thirty (30) day periods, two (2) sixty (60) day periods, or a combination thereof within any one calendar year, with a minimum thirty (30) day interval between each permitted period.
- o) Notwithstanding subsection “o” above, a new business may be granted a one-time permit to Erect a Read-O-Graph Mobile Sign for a three (3) month period of continuous advertising from the opening day of the business to promote the new business.
- p) Read-O-Graph Mobile Sign and supporting Structure must be removed from the Property or yard, or adequately screened from view by fencing or landscaping, once the time frame indicated on the Sign Permit has lapsed.

## **SECTION 9 - PROJECTING WALL SIGNS**

- a) Projecting Wall Signs shall only be fastened to a structural component of the Building to which such Sign is attached in accordance with good engineering practice subject to the approval of the Chief Building Official;
- b) No part of any Projecting Wall Sign may project beyond the street line or any other Property line or encroach on or over any other Property;
- c) Every Projecting Wall Sign shall have a minimum 2.4 m (7.87 ft.) Clearance between the bottom of the Sign and Grade.

## **SECTION 10 - ROOF SIGNS**

- a) No Roof Sign shall be located on any Property other than the Property to which the Roof Sign

applies.

- b) A Roof Sign shall be located on a roof and shall be setback at least 1m (3.3 ft.) from the Building face on which such Roof Sign is Erected.
- c) Drawings that accompany all Roof Sign Permit application shall be signed and sealed by a Professional Engineer or Architect registered to practice in the Province of Ontario
- d) No Roof Sign shall be Erected which:
  - (h) is not constructed of non-combustible materials;
  - (ii) does not have a clear space of at least 1.22m (4 ft.) from the underside of the Sign to the level of the roof or top of the Building except for the Sign's support Structure;
  - (iii) Height exceeds the maximum Building Height from Grade a prescribed by the Corporation's Zoning By-law.

## **SECTION 11 - SIDEWALK SIGN ON PRIVATE PROPERTY**

Any Person who has a legal commercial business operating within the Town of Pelham, may Erect one Sidewalk Sign on the Property on which such business is located without obtaining a permit provided such Sign complies with the following regulations:

- a) By its decision to Erect a Sidewalk Sign the business assumes all liability for Personal injury and Property damage caused or contributed to by the sandwich board;
- b) The Sidewalk Sign shall only be Erected on the business Property and not on Public Property;
- c) The Sidewalk Sign will not impede pedestrian or vehicular traffic and will not cause a traffic visibility hazard;
- d) No Sidewalk Sign shall be larger than 0.6m (2 ft.) wide x 1.2m (3.9 ft.) high or 0.9m (3ft.) in depth;
- e) Each Sidewalk Sign shall be properly maintained to the satisfaction of the Officer.
- f) The Sidewalk Sign shall be removed from public viewing any time when the business is not open to the public.

## **SECTION 12 - SIDEWALK SIGNS ON PUBLIC PROPERTY**

Any Person who has a legal commercial business operating within the Town of Pelham may Erect one Sidewalk Sign on Public Property where it is not possible to Erect a Sidewalk Sign on Private Property provided the sandwich board Sign complies with the following regulations:

- a) There shall be only one Sidewalk Sign adjacent to the business Frontage of each business on the ground floor;
- b) By its decision to Erect a Sidewalk Sign the business assumes all liability for Personal injury and Property damage caused or contributed to by the sandwich board. Each business shall Maintain a minimum \$2,000,000.00 of Commercial General Liability Insurance naming the Town as an additional insured and providing 30 days' notice of cancellation or non-renewal;
- c) No Sidewalk Sign shall be closer than 0.3 m (1 ft.) to the travelled portion of the roadway;
- d) No Sidewalk Sign shall be located in such as manner as to interfere with either pedestrian or vehicular traffic. This also includes vehicle parking stalls;
- e) Where a Sidewalk Sign is located on a public sidewalk. there shall be a minimum Clearance around the Sign of 1.2 m (4 ft.) to allow pedestrians to pass; each Sidewalk Sign shall be properly maintained;
- f) No Sidewalk Sign shall be larger than 0.6 m (2 ft.) wide, 1.2 m (3.9 ft.) high, or 0.9 m (3 ft.) in depth;
- g) The Sidewalk Sign shall be removed from public view any time the business is not open to the public.



## **SECTION 13 - TEMPORARY SPECIAL EVENTS**

- a) Nothing herein shall be deemed to prevent Temporary street decorations or other Temporary Advertising Devices installed for various civic celebrations and/or other festivals and/or special events, which are not for profit in nature.
- b) Temporary Special Event Signs may be Erected for a period from thirty (30) days prior to the event to not more than five (5) days after the event at which time the Sign shall have been removed.
- c) Temporary Special Event Signs shall be Erected in compliance with the Read-O-Graph provisions of subsections.
- d) Temporary Special Event Signs shall not be Illuminated in any manner.
- e) A permit is required for a special event Sign but not subject to the fee outlined in fee schedule. The permit must be obtained prior to the Erection of the Sign.
- f) No Temporary Special Event Signs shall be Erected on Public Property unless specifically Approved by Council.

## **SECTION 14 - TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGNS**

- a) Temporary Special Event Boulevard Lawn Signs shall not be greater than 0.75m (2.5 ft.) in Height from Grade.
- b) Temporary Special Event Boulevard Lawn Signs shall not have a greater face area than 0.37M<sup>2</sup> (4.0 ft<sup>2</sup>) per side and not contain more than two (2) Sign Faces.
- c) Temporary Special Event Boulevard Lawn Signs shall be installed on the Outer Boulevard of a highway. Where no sidewalk exists the Sign may be placed on the Inner Boulevard.
- d) Temporary Special Event Boulevard Lawn Signs may be Erected by an organization promoting a public festival, public show, charitable event or Non-profit event for a period from thirty (30) days prior to the event and must be removed within three (3) days after the closing of the event.
- e) Temporary Special Event Boulevard Lawn Signs must be set back at least 0.5m (1.6 ft.) from the edge of the travelled road, sidewalk, or shoulder of a highway.

Should the Owner or resident of a Property which abuts the Town Boulevard where a Temporary Special Event Boulevard Lawn Signs has been placed, request removal of the Sign, the Sign shall be immediately removed by the organization responsible for placement of the Sign or by an Officer upon notification.

## **SECTION 15 - WALL SIGNS**

- a) No Wall Sign shall be located on any Property or Building other than the Property or Building to which the Wall Sign applies.
- b) No Wall Sign shall be Erected which;
- c) is not Erected against the exterior wall of the Building to which the Wall Sign is to be attached;
- d) projects more than 0.3M (1 ft.) from the wall of the Building;
- e) the upper limit of a Wall Sign shall not project above eaves line or Parapet of a Building;
- f) has a width of Wall Sign which exceeds 80% of the linear measurement of the width of the front Building Wall or in the case of a multi-unit Building the width of the individual Business front Building Wall, and a height which exceeds 25% of the linear measurement of the height of the front Building Wall or in the case of a multi-unit Building, the height of the individual Business front Building Wall.
- g) Exceeds 0.3M<sup>2</sup> (3.2 sq. ft.) in area on a Building on residential lands;
- h) Signs that project more than 100MM (4") shall have at least 2.4M (7.87 ft.) Clearance between Grade and the underside of the Wall Sign;
- i) a Wall Sign on the rear facing Building Wall of a Building or an individual unit in a multi-unit Building, will only be permitted if the rear facing wall of the Building or individual unit abuts a

highway and conforms to the size parameters as set out in Section 15(f).

- j) Where two (2) or more Wall Signs are attached to the same Building face, the Signs shall Maintain a uniform band of signage along the Building face by locating all signage on the Building Face in a manner that Maintains a consistent horizontal alignment and vertical Height.
- k) Awning Signs may project to a maximum distance of 1.2M from the face of the Building Wall to which they are attached. They are prohibited to Display Changing Copy.
- l) Canopy Signs may project to a maximum vertical distance of 0.6M beyond the limits of the Structure to which they are attached. Canopy Signs are prohibited to Display Changing Copy.

## **SECTION 16 - TEMPORARY WAY FINDING DIRECTIONAL SIGNS OVER OR ON PUBLIC ROAD ALLOWANCES**

Temporary way finding Directional Signs are permitted over or on a Public Road Allowance with the following restrictions:

- a) Maximum Sign Face Area 0.4M<sup>2</sup>
- b) Maximum Sign Height 0.6M
- c) Time limit of between the hours of 8:00 a.m. and 8:00 p.m. on the day of the event.
- d) Must not be on a median, island or any other location on a street that obstructs a sight line, interferes with street Maintenance, impedes the movement of pedestrian or vehicular traffic, or otherwise creates a hazard
- e) Not be placed within 10M to any transit stop;
- f) Not be placed within 3.0M of a driveway
- g) Not be placed within 1.0M of a municipal sidewalk;
- h) Not be placed within 0.6M from the vehicular travelled portion of the street.

## **SECTION 17 - TEMPORARY DIRECTIONAL NEW HOME DEVELOPMENT SIGNS OVER OR ON PUBLIC ROAD ALLOWANCE**

Temporary Directional New Home Development Signs are permitted over or on a Public Road Allowance with the following restrictions:

- a) Not to be Erected before 4:00 p.m. on a Friday, and all such Signs shall be removed no later than 9:00 a.m. of the immediately following Monday, provided that where a Friday or a Monday is a statutory holiday, the hours shall be;
- b) extended only to the extent necessary to include the statutory holiday.
- c) Must not be on a median, island or any other location on a street that obstructs a sight line, interferes with street Maintenance, impedes the movement of pedestrian or vehicular traffic, or otherwise creates a hazard
- d) Not be placed within 10M to any transit stop;
- e) Not be placed within 3.0M of a driveway
- f) Not be placed within 1.0M of a municipal sidewalk;
- g) Not be placed within 0.6M from the vehicular travelled portion of the street.

## **SECTION 18 - SIGNS ON VEHICLES OR TRAILERS**

Signs attached to or painted on a vehicle are exempt from the regulations of this subsection provided the vehicle is in weekly operation for transportation and is not parked or located in a manner so as to make the SIGN visible from a street for the purpose of functioning as an Advertising Device when not being driven.

**SECTION 19 - VARIANCES TO THE SIGN BY-LAW PROVISIONS**

**19.1 Variances Possible Except Where Prohibited**

Any Owner may apply for a minor variance to a provision of this By-law

**19.2 Application Materials**

An application for variance shall be made on forms prescribed by the Director of Fire & By-law and shall be accompanied by the applicable fee as set out in fee schedule, and materials as set out on the prescribed forms.

**19.3 Authority of the Director of Fire & By-law**

The Director of Fire & By-law may authorize a variance if in his or her opinion the general intent and purpose of the By-law are maintained and the variance is minor in nature. The Director of Fire & By-law shall not authorize a variance if such variance pertains to a prohibited provision in this By-law.

**19.4 Basis for Variance Decisions**

In considering an application for a variance, the Director of Fire & By-law or delegate shall have regard for:

- a) any special circumstances or conditions relating to the land, Building or Use identified in the application;
- b) whether strict application of the provisions of this By-law, in the context of the special circumstances applying to the land, Building or Use, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law;
- c) whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant;
- d) whether the Sign that is the subject of the variance will Alter the essential character of the area in which the Sign will be located;
- e) design guidelines for Signs or neighborhood character set out in secondary plans and area-specific policies of the Official Plan;

**19.5 Terms, Conditions, Requirements**

The Director of Fire & By-law delegate may impose terms, provisions or restrictions as conditions of granting a minor variance to provisions of this By-law which will be tied to the associated Sign Permit.

**19.6 Complete Application for Variance**

Where an application for variance is incomplete, or does not provide enough information, the Director of Fire & By-law or delegate may refuse to accept the application or may return the application.

an application is incomplete where:

- (a) it is not in the form prescribed by the Director of Fire & By-law or delegate or a reasonable facsimile thereof; or
- (b) it is not accompanied by;
  - i) the full application fee for a minor variance; and
  - ii) such information required as set out on the prescribed form by the Chief Building Official

**19.7 Appeal to the Council**

- a) An applicant may appeal the variance decision within twenty-one (21) days of the date of the decision of the Director of Fire & By-law or delegate to the Council.

- b) The Town Clerk shall notify the applicant once a hearing date has been fixed. If the applicant does not attend at the appointed time and place, the hearing may proceed in the absence of the applicant and the applicant shall not be entitled to further notice of the proceedings.
- c) The decision of the Council shall be considered final and not subject to further appeal.
- d) A variance from provisions of this By-law shall expire six months from the date of issuance of a permit associated with a variance unless the Sign is Erected or displayed as granted, within that time period. Furthermore, upon removal or substantial Alteration of the subject Sign, the variance shall also expire.

## **SECTION 20 - COMMENCEMENT**

This By-law shall come into force and effect on the day it is passed.

ENACTED AND PASSED THIS  
4<sup>th</sup> DAY OF MAY, 2020

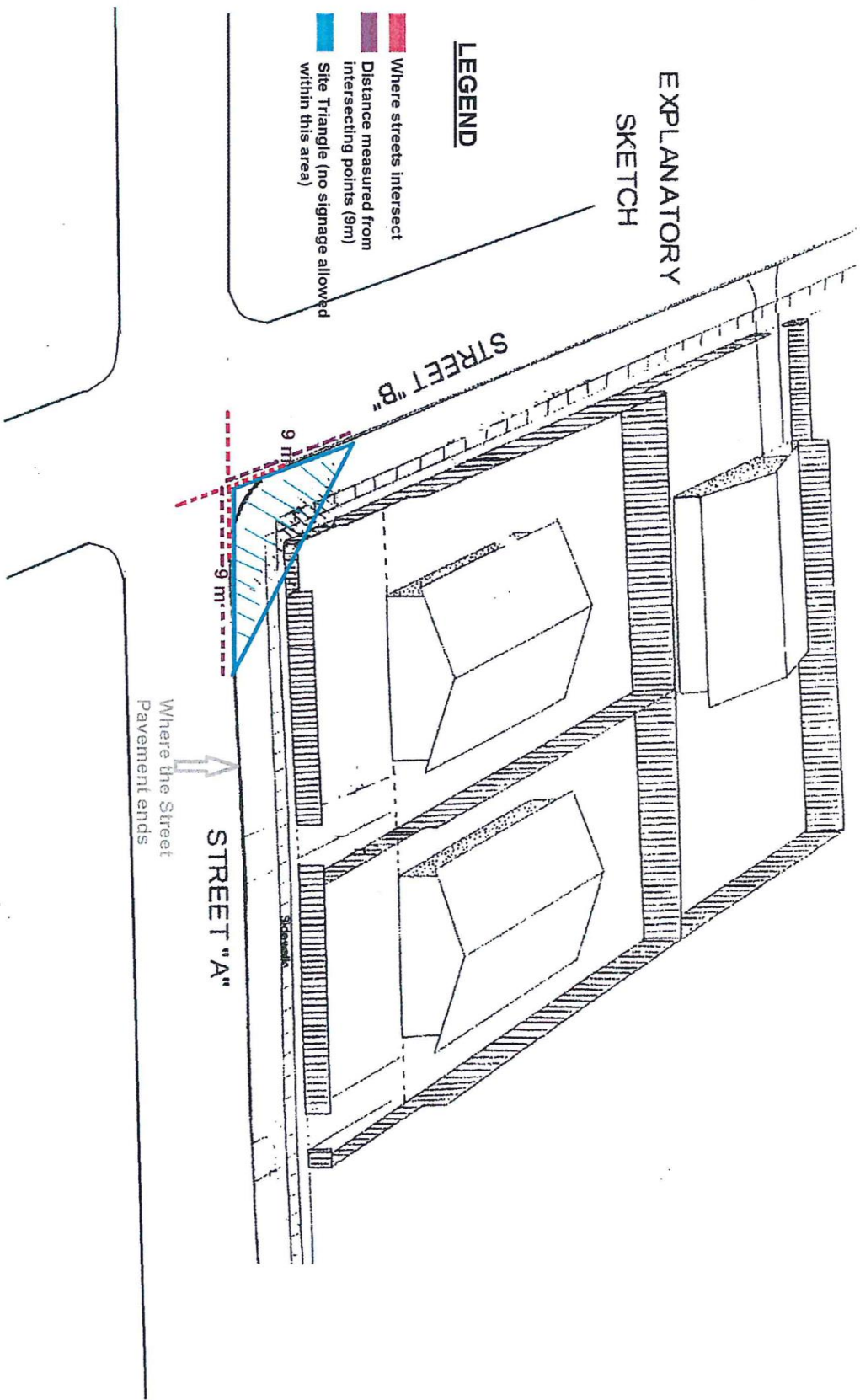
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MAYOR MARVIN JUNKIN

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TOWN CLERK NANCY J. BOZZATO

**By-Law Services**  
**EXPLANATORY SKETCH OF SITE TRIANGLE**  
**(2013)**



THE CORPORATION OF THE  
T O W N   O F   P E L H A M  
BY-LAW NO. 4232(2020)

**Being a by-law to amend by-law No. 4223(2020) known as the Town of Pelham Open Air Burning By-law to incorporate an Administrative Municipal Penalty System (AMPS) in regard to Offences and Penalties**

**WHEREAS** section 434.1(1) of the *Municipal Act*, 2001, S.O. 2001, c.25 as amended (*Municipal Act*, 2001) provides that, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act; and

**WHEREAS** section 434.1(2) of the *Municipal Act*, 2001 provides that the purpose of a system of administrative penalties established by a municipality under this section shall be to assist the municipality in promoting compliance with its by-laws; and

**WHEREAS** section 434.2(1) of the *Municipal Act*, 2001 provides that an administrative penalty imposed by a municipality on a person under section 434.1 constitutes a debt of the person to the municipality; and

**WHEREAS** the Council of the Corporation of the Town of Pelham considers it desirable to enforce and seek compliance of the Town of Pelham Dog Control By-law No. 97-2010 through an administrative municipal penalty system;

**NOW THEREFORE** the Council of the Corporation of the Town of Pelham enacts as follows:

(1) THAT the following be inserted into By-law No. 4223(2020) immediately after Section 4.4:

**“4.5            ADMINISTRATIVE PENALTY**

- (a) Administrative Penalty Process By-law No. 4221(2020) applies to each administrative penalty issued pursuant to this by-law.
  
- (b) Each person who contravenes any provision of this by-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law No. 4221(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.”

**COMMENCEMENT**

(2) This By-law shall be effective as of the date it is passed by Council.

READ, ENACTED, SIGNED AND SEALED THIS 4<sup>th</sup> DAY of MAY, 2020

\_\_\_\_\_  
Mayor, Marvin Junkin

\_\_\_\_\_  
Nancy J. Bozzato, Town Clerk

THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW NO. 4233(2020)

**Being a by-law to amend by-law No. 97-2010 known as the Town of Pelham Dog Control By-law to incorporate an Administrative Municipal Penalty System (AMPS) in regard to Offences**

**WHEREAS** section 434.1(1) of the *Municipal Act*, 2001, S.O. 2001, c.25 as amended (*Municipal Act*, 2001) provides that, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act; and

**WHEREAS** section 434.1(2) of the *Municipal Act*, 2001 provides that the purpose of a system of administrative penalties established by a municipality under this section shall be to assist the municipality in promoting compliance with its by-laws; and

**WHEREAS** section 434.2(1) of the *Municipal Act*, 2001 provides that an administrative penalty imposed by a municipality on a person under section 434.1 constitutes a debt of the person to the municipality; and

**WHEREAS** the Council of the Corporation of the Town of Pelham considers it desirable to enforce and seek compliance of the Town of Pelham Dog Control By-law No. 97-2010 through an administrative municipal penalty system;

**NOW THEREFORE** the Council of the Corporation of the Town of Pelham enacts as follows:

(1) THAT the following be inserted into By-law No. 97-2010 immediately after Section 12(a):

**“12.1 ADMINISTRATIVE PENALTY**

- (a) Administrative Penalty Process By-law No. 4221(2020) applies to each administrative penalty issued pursuant to this by-law.
- (b) Each person who contravenes any provision of this by-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law No. 4221(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.”

**COMMENCEMENT**

(2) This By-law shall be effective as of the date it is passed by Council.

READ, ENACTED, SIGNED AND SEALED THIS 4<sup>th</sup> DAY OF MAY, 2020

\_\_\_\_\_  
Mayor, Marvin Junkin

\_\_\_\_\_  
Nancy J. Bozzato, Town Clerk

THE CORPORATION OF THE  
T O W N O F P E L H A M  
BY-LAW #4235(2020)

**Being a by-law to adopt, ratify and confirm the actions of  
the Council at its regular meeting held on the 4th day of  
May 2020.**

WHEREAS Section 5 (3) of the Municipal Act, S.O. 2001, Chapter M.25, as amended, provides that, except if otherwise authorized, the powers of Council shall be exercised by by-law;

AND WHEREAS it is deemed desirable and expedient that the actions of the Council as herein set forth be adopted, ratified and confirmed by by-law;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

- (1)
  - (a) The actions of the Council at its meeting held on the 4th day of May, 2020, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
  - (b) The above-mentioned actions shall not include:
    - (I) any actions required by law to be taken by resolution, or
    - (II) any actions for which prior Ontario Municipal Board approval is required, until such approval is obtained.
- (2) The Mayor and proper officials of the Corporation of the Town of Pelham are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
- (3) Unless otherwise provided, the Mayor and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of the Corporation of the Town of Pelham to all documents necessary to give effect to the above-mentioned actions.
- (4) THAT this by-law shall come into force on the day upon which it is passed.

READ, ENACTED, SIGNED AND SEALED  
THIS 4th DAY OF May 2020 A.D.

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MAYOR MARVIN JUNKIN

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TOWN CLERK, NANCY J. BOZZATO