

**AGENDA**

Regular Council Meeting

Tuesday September 5, 2023, at 7:00 p.m.

Powassan Council Chambers

(Firehall Station 1)

**1. CALL TO ORDER & ACKNOWLEDGE FIRST PEOPLES AND TRADITIONAL LAND**

“We respectfully acknowledge that we are on the traditional territory of the Anishinaabe Peoples, in the Robinson-Huron and Williams Treaties areas. We wish to acknowledge the long history of First Nations and Métis Peoples in Ontario and show respect to the neighbouring Indigenous communities. We offer our gratitude for their care of, and teachings about, our earth and our relations. May we continue to honour these teachings.”

**2. ROLL CALL**

**3. DISCLOSURE OF MONETARY AND GENERAL NATURE THEREOF**

**4. APPROVAL OF THE AGENDA**

**5. PRESENTATIONS:**

Lindsey Gradeen – Maple Hill Road as a snowmobile trail

**6. ADOPTION OF MINUTES**

6.1 – Regular Council meeting of August 1, 2023

**7. MINUTES AND REPORTS FROM COMMITTEES OF COUNCIL**

**8. MINUTES AND REPORTS FROM APPOINTED BOARDS**

8.1 Golden Sunshine Municipal Non-Profit Housing Corporation Minutes of June 20, 2023

**9. STAFF REPORTS**

9.1 Acting Clerk, A. Quinn – Substance Use Policy and Procedure

9.2 Treasurer/Director of Corporate Services, B. Robinson – Police Services Act Agreement

9.3 Acting Clerk, A. Quinn – Encroachment Policy and Procedure

9.4 Deputy Clerk, K. Bester – McDonald Street

9.5 Treasurer/Director of Corporate Services, B. Robinson – Reserves and Surplus Management Policies

9.6 Acting Clerk, A. Quinn – Cannabis Information Update

9.7 Treasurer/Director of Corporate Services, B. Robinson – Engineer of Record RFP

9.8 Deputy Clerk, K. Bester – Public Works Report

**10. BY-LAWS**

10.1 Bylaw 2023-18 Procedural Bylaw

10.2 Bylaw 2023-19 Use and Care of Roads Bylaw

**11. UNFINISHED BUSINESS**

- 11.1 Township of Nipissing Meeting Request – Alsace Road
- 11.2 Municipal Facilities Report Update
- 11.3 Home Hardware- Site Plan Agreement

**12. NEW BUSINESS**

- 12.1 Verbal- Councillor Britton- Municipal Pool Update
- 12.2 Enbridge Gas Franchise Agreement Renewal
- 12.3 Trespass Policy
- 12.4 Verbal- Culvert Request- 705 Main Street
- 12.5 Public Meeting Notice – Hughes – OPA and ZBA

**13. CORRESPONDENCE**

- 13.1 Minister of Municipal Affairs and Housing – Building Faster Fund
- 13.2 Municipal Property Assessment Corporation – Property Assessment Update
- 13.3 Powassan Players – Fall play at 250 Clark

**14. ADDENDUM**

**15. ACCOUNTS PAYABLE**

**16. NOTICE OF SCHEDULE OF COUNCIL AND BOARD MEETINGS**

**17. PUBLIC QUESTIONS**

**18. CLOSED SESSION**

- 18.1 Adoption of Closed Session Minutes of August 1, 2023
- 18.2 Legal – Section 239(2)(f) of the Municipal Act and under 6(1)(f) of the Procedural Bylaw  
Advice that is subject to solicitor-client privilege, including communications necessary for that purpose.
- 18.3 Labour Relations – Section 239(2)(d) of the Municipal Act and under 6(1)(d) of the Procedural Bylaw – matters regarding labour relations or employee negotiations.
- 18.4 Identifiable Individuals – Section 239(2)(b) of the Municipal Act and under 6(1)(b) of the Procedural Bylaw- matters regarding an identifiable individual, including municipal or local board employees.

**19. MOTION TO ADJOURN**

**Regular Council Meeting  
 Tuesday, August 1, 2023, at 7:00 pm  
 Powassan Council Chambers**

**Present:** Peter McIsaac, Mayor  
 Markus Wand, Deputy Mayor  
 Dave Britton, Councillor  
 Randy Hall, Councillor  
 Leo Patey, Councillor

**Staff:** Allison Quinn, Acting Clerk  
 Brayden Robinson, Treasurer/Director of Corporate Services

**Presentation:** Inspector McMullen, Ontario Provincial Police

**Disclosure of Monetary Interest and General Nature Thereof:**

Councillor L. Patey Item 15 Employer listed in Item.  
 Councillor M. Wand Item 15 Listed in Item

**2023-234** Moved by: D. Britton Seconded by: L. Patey  
 That the agenda of the Regular Council Meeting of August 1, 2023, be approved. **Carried**

**2023-235** Moved by: M. Wand Seconded by: R. Hall  
 That the minutes of the Regular meeting of council of July 4, 2023, be adopted. **Carried**

**2023-236** Moved by: L. Patey Seconded by: R. Hall  
 That the District of Parry Sound Social Services Administration Board's Chief Administrative Officer's Report dated June 2023, be received. **Carried**

**2023-237** Moved by: R. Hall Seconded by: L. Patey  
 That the memorandum dated July 10, 2023, from Deputy Clerk, K. Bester regarding Consent Application B21/POWASSAN/2023, be received,

**AND FURTHER** that the Council of the Municipality of Powassan supports the request in Consent Application B21 /POWASSAN/2023 to create a new 3.09 ha (7.64 acre) lot fronting on Hunt Line, with the following conditions:

- Issuance of an entrance permit for the severed lot, and
- Confirmation that the school board bus service is provided at this location **Carried**

**2023-238** Moved by: D. Britton Seconded by: M. Wand  
 That the report from Acting Clerk, A. Quinn, regarding the Procedural Bylaw be received;

**AND FURTHER**, that staff be directed to commence the public notice process for the amended Procedural Bylaw. **Carried**

- 2023-239                      Moved by: L. Patey                      Seconded by: R. Hall  
That the report from Treasurer/Director of Corporate Services B. Robinson regarding the Facility Rental Policy, be received;
- AND FURTHER** that the Facility Rental Policy be adopted as presented.                      **Carried**
- 2023-240                      Moved by: R. Hall                      Seconded by: D. Britton  
That the memo from Acting Clerk, A. Quinn regarding Cannabis Retail Information be received for information purposes.                      **Carried**
- 2023-241                      Moved by: L. Patey                      Seconded by: D. Britton  
That the memo from Acting Clerk, A. Quinn regarding the Municipal Flag and Proclamation Policy be received;
- AND FURTHER** that Council adopts the new Municipal Flag and Proclamation Policy as presented.                      **Deferred**
- 2023-242                      Moved by: M. Wand                      Seconded by: R. Hall  
That the report from Treasurer/Director of Corporate Services B. Robinson regarding snowmobile trails be received for information purposes.                      **Carried**
- 2023-243                      Moved by: R. Hall                      Seconded by: M. Wand  
That Bylaw 2023-16, being a Bylaw to impose fees or charges for services provided by the Corporation of the Municipality of Powassan;
- Be considered **READ** a **FIRST**, and **SECOND** time the 4<sup>th</sup> day of July, 2023;
- And **READ** a **THIRD** and **FINAL** time and adopted August 1, 2023.                      **Carried**
- 2023-244                      Moved by: D. Britton                      Seconded by: M. Wand  
That Bylaw 2023-17, being a Bylaw for establishing and maintaining a system for the collection, removal, and disposal of garbage, recyclable materials, yard waste, and other refuse;
- Be **READ** a **FIRST**, **SECOND**, and **THIRD** time and passed for the immediate benefit of the community this 1<sup>st</sup> day of August 2023.                      **Carried**
- 2023-245                      Moved by: L. Patey                      Seconded by: D. Britton  
That the correspondence dated July 19, 2023, from the Ministry of the Solicitor General, regarding Ontario Provincial Police (OPP) detachment board framework, be received.                      **Carried**
- 2023-246                      Moved by: D. Britton                      Seconded by: R. Hall  
That the Ontario Clean Water Agency's Powassan Water and Wastewater Systems Quarterly Operations Report dated April 1 to June 30, 2023, be received.                      **Carried**  
Recorded Vote: Requested by: Councillor D. Britton  
Councillor Britton:                      Yea  
Councillor Hall:                      Yea  
Councillor Wand:                      Yea  
Councillor L. Patey:                      Yea  
Mayor McIsaac:                      Yea

2023-247

Moved by: L. Patey

Seconded by: D. Britton

**WHEREAS** Rail Safety Week is to be held across Canada from September 18 to 24, 2023;

**WHEREAS**, 232 railway crossing and trespassing incidents occurred in Canada in 2022; resulting in 66 avoidable fatalities and 43 avoidable serious injuries;

**WHEREAS**, educating and informing the public about rail safety (reminding the public that railway rights-of-way are private property, enhancing public awareness of the dangers associated with highway rail grade crossings, ensuring pedestrians and motorists are looking and listening while near railways, and obeying established traffic laws) will reduce the number of avoidable fatalities and injuries caused by incidents involving trains and citizens; and

**Whereas** Operation Lifesaver is a public/private partnership whose aim is to work with the public, rail industry, governments, police services, media and others to raise rail safety awareness;

**Whereas** CN has requested the Council of the Municipality of Powassan adopt this resolution in support of its ongoing efforts to raise awareness, save lives and prevent injuries in communities, including our municipality;

**AND** be it hereby **RESOLVED** that Council supports national Rail Safety Week to be held from September 18 to 24, 2023, in the Municipality of Powassan.

**Carried**

2023-248

Moved by: R. Hall

Seconded by: M. Wand

That the correspondence from the Women of Ontario Say No regarding Legislative Amendments to Improve Municipal Codes of Conduct and Enforcement be received;

**AND FURTHER THAT** all Ontarians deserve and expect a safe and respectful workplace; and

**THAT** municipal governments, as the democratic institutions most directly engaged with Ontarians need respectful discourse; and

**THAT** several incidents in recent years of disrespectful behaviour and workplace harassment have occurred amongst members of municipal councils; and

**THAT** these incidents seriously and negatively affect the people involved and lower public perceptions of local governments;

**THAT** municipal Codes of Conduct are helpful tools to set expectations of council member behaviour; and

**THAT** municipal governments do not have the necessary tools to adequately enforce compliance with municipal Codes of Conduct; and

**THAT** the Municipality of Powassan Council supports the call of the Association of Municipalities of Ontario for the Government of Ontario to introduce legislation to strengthen municipal Codes of Conduct and compliance with them in consultation with municipal governments; and

**THAT** the legislation encompasses the Association of Municipalities of Ontario's recommendations for:

- Updating municipal Codes of Conduct to account for workplace safety and harassment
- Creating a flexible administrative penalty regime, adapted to the local economic and financial circumstances of municipalities across Ontario
- Increasing training of municipal Integrity Commissioners to enhance consistency of investigations and recommendations across the province
- Allowing municipalities to apply to a member of the judiciary to remove a sitting member if recommended through the report of a municipal Integrity Commissioner
- Prohibit a member so removed from sitting for election in the term of removal and the subsequent term of office, and;

**THAT** this legislation be prioritized for the fall of 2023 given the urgency of this issue; and

**FURTHER THAT** this resolution be sent to the Premier of Ontario, MPP Fedeli, Minister of Municipal Affairs, Associate Minister of Women's Social and Economic Opportunity, AMO and all municipalities.

**Carried**

**2023-249**

Moved by: D. Britton                      Seconded by: L. Patey

That the correspondence from Lindsey Gradeen and Matthew Procnier regarding a snowmobile and ATV trail on Maple Hill Road, be received.

**Carried**

**2023-250**

Moved by: R. Hall                      Seconded by: D. Britton

That the accounts payable listing reports of July 26, 2023, be approved for payment. **Carried**

**2023-251**

Moved by: R. Hall                      Seconded by: M. Wand

That Council now adjourns to closed session at 8:10 p.m. to discuss:

18.1 Adoption of Closed Session Minutes of July 4, 2023

18.2 Legal – Section 239(2)(f) of the Municipal Act and under 6(1)(f) of the Procedural Bylaw – Advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

18.3 Labour Relations – Section 239(2)(d) of the Municipal Act and under 6(1)(d) of the Procedural Bylaw – matters regarding labour relations or employee negotiations.

**Carried**

**2023-252**

Moved by: R. Hall                      Seconded by: L. Patey

That Council now reconvenes to regular session at 8:37 p.m.

**Carried**

**2023-253**

Moved by: R. Hall                      Seconded by: M. Wand

That Council now adjourns at 8:37 p.m.

**Carried**

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Mayor

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Clerk

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**The Golden Sunshine Municipal Non-Profit Housing Corporation  
Minutes of the Board of Directors Meeting  
2023-08**

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**Tuesday June 20, 2023**

A regular meeting of the Golden Sunshine Municipal Non-Profit Housing Corporation board was held on Tuesday June 20, 2023.

**Present:** Doug Walli, Bernadette Kerr, Mieke Krause, Leo Patey, Tom Piper, Dave Britton & Amber Mclsaac, Property Manager. **Regrets:** Nancy McFadden

**1. Call to order**

**Resolution No. 2023-36**– Moved by Tom, seconded by Doug that the meeting was called to order at 9:29 am. Carried

**2. Additions to Agenda – Almaguin Municipal Spring Meeting**

**3. Approval of the Amended Agenda-**

**Resolution No. 2023-37**– Moved by Tom, seconded by Doug that the agenda be adopted with amendments.

**4. Conflict of Interest Disclosure – Leo Patey, Employer listed on accounts payable**

**5. Approval of the Minutes from the May 16, 2023 board meeting**

**Resolution No. 2023-38**– Moved by Leo seconded by Tom that the minutes from the board meeting on May 16, 2023 were adopted as presented.

**6. Business arising**

**a) Project Updates**

Amber presented project financial outline and spoke about projects that were completed and still needing to be done. Board advised that scooter plug-ins need to be complete before next meeting.

**B) Landscaping**

Dave spoke to Evan Hughes and he will be in contact with Amber this week about completing landscaping around the retaining wall.

**C) Pet Survey**

13 out of 20 tenant pet surveys were received and results were shared with the board. A discussion followed. Amber to make changes to the policy to present at the next meeting in august for final approval. Changes include pet size limit and cleaning deposit. The Pines will continue with 1 per tenant.

**D) Almaguin Municipal Spring Meeting**

Bernadette attended the Almaguin Municipal Spring Meeting, Municipality of Chisolm would not cover the cost for the meeting. Amber will submit payment to Bernadette and the 2024 budget will include a line for education going forward for board members and staff.

**Resolution No. 2023-39-** Moved by Tom seconded by Leo that the GSMNP will pay admission in the amount of \$30 to Bernadette Kerr for the Almaguin Municipal 2023 Spring Meeting with the District of Parry Sound Social Services Administration Board.

**7. Correspondences**

**A) Managers Report**

Amber reported invoice received from Purdon's for the repair to the water main. Waiting on invoice from the town and TransCanada Safety before final cost will be reported.

**b) Financial Report**

**Resolution No. 2023-40** Moved by Tom, seconded by Doug that the board approves the May 2023 financials that were presented. Carried

**8. Next Board Meeting** – August 15, 2023 @ 9:30am.

**9. Adjournment - Resolution No. 2023-41-** Moved by Dave, seconded by Tom that the board meeting be adjourned at 10:12 am. Carried

  
\_\_\_\_\_  
President, Bernadette Kerr

  
\_\_\_\_\_  
Property Manager, Amber McIsaac



**To: Council**  
**From: Acting Clerk, A. Quinn**  
**Re: Substance Use Policy and Procedure**

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**RECOMMENDATIONS:**

That Council adopts the Substance Use Policy and Procedure as presented.

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**ANALYSIS:**

The Substance Use Policy and Procedure was created to be proactive in preventing substance use and substance use disorders within the Municipality and is to be used as a guide for addressing such issues, should they arise. This policy will help ensure a safe and effective work environment.

Additional policies to accompany this policy will be presented at the next council meeting.

There is no financial cost with this policy. It will be distributed to all employees and become part of the Human Resource Manual.

<b>POLICY:</b> Substance Use Policy	<b>RESOLUTION NUMBER:</b>	<b>DATE PASSED:</b>
<b>EFFECTIVE DATE:</b>	<b>REVIEW DATE:</b>	<b>AUTHORITY:</b>

## **POLICY STATEMENT**

The Corporation of the Municipality of Powassan (“Municipality”) is committed to providing a safe, healthy, and productive workplace where employees, the public and the community are protected from the adverse effects of inappropriate use of substances. Employees are expected to perform their work duties safely, competently, and efficiently, without any limitation arising from substance use or the after-effects of substance use that risks their health or safety or that of any other person. This policy is designed to promote cooperation among all employees to prevent and address substance use and substance use disorder in the workplace.

### **1. PURPOSE**

This policy establishes expectations for reasonable behaviour as it relates to the use of substances that could impact an employee’s or contractor’s ability to perform their work duties safely, competently, and efficiently. The policy strives to respect the dignity and privacy of individuals; and places a priority on treatment, accommodation and the successful recovery of employees who have a substance use disorder.

### **2. SCOPE**

This policy applies to all municipal employees while at work and while representing the Municipality, whether at the Municipality or elsewhere. All municipal contractors are expected either to adopt this policy and its procedures as their own or to develop and enforce their own Substance Use Policy as it relates to their and their subcontractors’ employees (if any) when engaged in work on behalf of the Municipality.

**For the purpose of this Policy the positions listed below are considered Safety Sensitive Positions. The Municipality reserves the right to declare additional positions safety sensitive as circumstance change.**

**Senior Administration  
 All Public Works Staff  
 Chief Building Official  
 Fire Chief and all Volunteer members of the fire department  
 Protective Services Official  
 Arena Staff who are trained to drive the ice resurfacing machines  
 Any employee insured to drive a Municipal Vehicle**

## 3. DEFINITIONS

**3.1 Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. Beverage alcohol includes but is not limited to beer, wine, distilled spirits and very low alcohol products (e.g. beer with 0.5% alcohol by volume) as are included in this definition (Ontario Ministry of Health).

**3.2 Cannabis:** Any part of a cannabis plant, including the Phyto cannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not. Any substance or mixture of substances that contains or has on it any part of such a plant. Any substance that is identical to any Phyto cannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained (*Cannabis Act*).

**3.3 Contractor:** Any person(s) providing services or goods to the Municipality under a contract or other agreement not paid through the municipal payroll system.

**3.4 Employee:** Any municipal full-time or part-time employee, any temporary or contract employee, any volunteer or any student or intern worker.

**3.5 Fit for Work:** An Employee can perform the duties of the job with efficiency, competence and in a safe manner as compared to established or generally accepted performance standards.

**3.6 Human Resource Representative:** An employee or contractor assigned by Council to perform Human Resource duties for the Municipality of Powassan.

**3.7 Illicit Drugs:** Any drug or substance that is not legally obtainable by the Employee and whose use, sale, possession, purchase, or transfer is restricted or prohibited by Canadian law (which may include but is not limited to street drugs such as cocaine, heroin, hallucinogens, stimulants), and includes prescription drugs that have not been *lawfully* prescribed to the Employee.

**3.8 Impaired/Unfit for Work:** For this Policy the definition of Impairment or Unfit for Work is the inability to perform work duties safely, competently, or efficiently without limitation resulting from substance use, after-effects of substance use or otherwise being under the influence of substances. For further Impairment/Unfit for Work information please see the Impairment/Unfit for Work Policy.

**3.9 Medication:** A drug obtained legally, either over the counter or as properly prescribed by a registered and regulated health professional.

**3.10 Misuse of Medication:** The intentional use of medication in a way or for a purpose that was not intended or under circumstances that risks the health or safety of the Employee, their co-workers and/or the workplace.

**3.11 Substance:** Any substance that is ingested, consumed, or otherwise taken, and includes alcohol, illicit drugs, and medication the use of which represents a misuse of medication.

**3.12 Substance Use Disorder:** A primary, progressive, and chronic disease characterized by the regular, repetitive, habitual, compulsive, obsessive use of a substance or a combination of substances. Moderate to severe substance use disorder is characterized by a preoccupation with the substance(s), loss of control, increased tolerance to the substance(s), harmful consequences in one or more major life areas, denial, and delusion.

**3.13 Undue Hardship:** The limit of the Municipality to accommodate without experiencing an unreasonable amount of difficulty. According to the *Ontario Human Rights Code*, an employer must provide accommodation "up to the point of undue hardship." This means accommodation does not need to be provided if doing so would impose an unreasonable burden on the Municipality, having regard to health, safety, and/or financial considerations.

**3.14 Workplace:** Any land, property, structures, facilities, premises, location, municipal vehicle, and equipment owned, leased, operated, or otherwise controlled by the Municipality or any other place at, upon, from or near which an Employee works in the course of their duties.

## 4. POLICY

### 4.1 All Employees

4.1.1 Employees must be Fit for Work and not Impaired/Unfit for Work while at work or while conducting municipal business, whether at a municipal workplace or elsewhere. It is the Municipality's expectation that employees:

- must not report for work while Impaired or Unfit for Work by alcohol, cannabis, or illicit drugs;
- must not use, possess or distribute cannabis or any related paraphernalia while at work or conducting municipal business;
- must not have used cannabis, in any form, within twenty-four (24) hours prior to reporting for work whether at a municipal workplace or elsewhere;
- must not use, possess, distribute, offer or sell illicit drugs or drug paraphernalia in the workplace, while on duty, or conducting municipal business;
- must not engage in the unauthorized consumption of alcohol while on duty or while in the workplace, except where otherwise provided for in this Policy;
- must not engage in or suffer the continuing effects of misuse of medication while at work, or while conducting municipal business;

- must use medications responsibly, ensuring that their ability to perform work safely, competently or efficiently is not impaired;
- when on standby or in on-call situations, remain Fit for Work and not Impaired, or they must decline the call;
- will only distribute, offer or sell alcohol if they are required to do so as part of their job duties;
- will, when attending a training event/seminar or when otherwise appearing at an event as a representative for the Municipality, use alcohol responsibly, ensuring that they are not impaired; and
- will, when attending a business or staff function at which alcohol is served, only consume alcohol when the function:
  - does not take place in the Workplace;
  - occurs after standard Municipal business hours of Monday – Friday, 8:30 a.m. to 4:30 p.m.;
  - is otherwise approved by management;
  - is held at a licensed premise;
  - is managed in a way that limits the risk for accidents, including identifying and eliminating potentially harmful situations; and
  - provides for ready access to alternate forms of transportation for employees leaving the event, including taxis or public transit.

**4.1.2 Duty to Disclose:** Employees must notify the HRR if they believe they have a current substance use disorder and/or have had a previous substance use disorder in the past two (2) years.

**4.1.3** Employees must advise the Human Resource Representative (“HRR”) if they reasonably believe that another employee has a substance use disorder or that another employee is or has been impaired or unfit for work while at work or while conducting municipal business, whether at a municipal workplace or elsewhere.

## **4.2 Employees in Safety Sensitive Positions**

In addition to the provisions above, employees in Safety-Sensitive positions must:

- report to work Fit for Work and must remain Fit for Work throughout their workday. To be Fit for Work, the employee must not be Impaired or Unfit for Work by alcohol, cannabis, illicit drugs, or medication;
- report to their supervisor any conditions or concerns they believe may impair their job performance or compromise the health and safety of themselves, other employees or the general public;
- be aware that they may be subjected to alcohol and/or drug testing should there be reasonable cause to suspect alcohol or drug impairment. A refusal to undergo such testing may be cause for discipline up to and including termination of employment;
- consult with their personal physician or pharmacist to determine if medication use will have any potential negative effects on job performance and/or their or their co-worker’s

or the public's health and safety. Any potential risks to health and safety should be reported to their supervisor or the HRR;

- be aware that the HRR and supervisors are required to address any concerns raised with regards to an employee's ability to perform their job safely, including concerns regarding potential impairment from medications. As such, an employee may be required to provide medical documentation confirming their ability to perform work safely;
- be aware that they will be either removed from duty or removed from the Safety-Sensitive Position, and accommodated through other duties, if possible, if there are concerns related to alcohol, cannabis, illicit drugs, or medication that might hinder their job performance or compromise health and safety.

## 5. RESPONSIBILITIES

### 5.1 Employees are responsible for the following:

5.1.1 To be Fit for Work and remain fit for work throughout their workday. This means being able to perform assigned duties safely, competently, and productively without any limitations due to substance use or the *after-effects* of substance use. Employees must not consume substances prior to reporting to work, during unpaid breaks or at any other time during their workday. This requirement applies to all employees, even those who may be working remotely, notwithstanding if they are working from home.

5.1.2 Understand that where there is reasonable cause to believe that the employee is Impaired/Unfit for Work or may be unable to perform their job safely, competently, and efficiently they will either be removed from duty; accommodated through other duties; or where the employee has not disclosed any conditions that may be contributing to their Impaired/Unfit for Work state they may be subject to discipline, up to and including termination. The nature of the employee's employment, previous instances of reporting for work in an Impaired/Unfit for Work state and whether an error or accident has occurred because of that state will be considered in the level of discipline that may be imposed.

5.1.3 Where there is reasonable cause to believe that an employee is engaging in substance use or has a substance use disorder that might hinder the employee's ability to perform their assigned duties safely, competently, or productively or which may compromise the employee's or others' health and safety, the employee will be encouraged to self disclose any conditions that might be contributing to their inability to do their job. The Municipality will accommodate a declared substance use disorder up to the point of undue hardship.

5.1.4 Assume ownership of a substance use disorder, including an expectation that the employee will use counseling and treatment services. An employee with a substance use disorder will not be disciplined or terminated because of requesting help to overcome a substance use disorder or because of their participation and involvement in rehabilitation efforts.

5.1.5 Recognize that problems related to alcohol and drug use, or dependency does not excuse inappropriate behaviour or unsafe work performance.

5.1.6 Employees identified as having a substance use disorder or who are voluntarily seeking or receiving treatment for substance use disorder must:

- Undergo a substance abuse professional assessment and follow the recommended treatment, rehabilitation and/or follow-up programs (e.g., after care) to ensure that their employment and position at the Municipality is maintained for them. An employee who refuses to participate or cooperate in such programs, may be subject to discipline, up to and including termination of employment.
- Participate in work accommodation, if necessary and if available, during treatment, rehabilitation, or follow-up programs.
- Understand that their consent to the sharing of their rehabilitation status with the HRR after treatment and, where applicable, prior to their return to work, may be sought. Any information shared with the HRR and/or their supervisor will be assessed by the HRR on a “need-to-know” basis only to ensure that the employee receives the appropriate level of support and workplace monitoring on their return to work.
- If they refuse to consent to the sharing of rehabilitation information where it has been deemed necessary, they will not be able to return to work until the Municipality has been assured that they do not pose a health and safety risk in the position to which they will be returning. Benefit entitlement during this period will be reviewed.
- Participate in any further treatment or follow up care that is necessary when they return to the workplace to prevent recurrence or relapse.
- Agree that, upon their return to a safety-sensitive position, they may be subjected to random, unannounced alcohol and/or drug testing for a defined period to verify rehabilitation.

5.1.7 Employees who are prescribed Medical Cannabis must:

- Provide the HRR with a medical certificate, signed by their doctor. The certificate must explain why cannabis is required to be consumed during municipal hours of business and stipulate the frequency of daily consumption and the expected degree of intoxication, so accommodation can be made.
- Provide medical updates on their condition along with any changes in prescribed dosage to the HRR for continued accommodation.
- Participate in work accommodation, if necessary, during the length of the prescription.
- Provide the HRR with the doctor’s recommended form of cannabis ingestion. If the form of ingestion is inhaling their prescribed dose of cannabis, consumption must be done outside the building and at least nine (9) metres away from the main entrance of the building, in accordance with Bylaw 2018-47.

## **5.2 Managers and Supervisors are responsible for the following:**

5.2.1 Identify safety-sensitive positions, in consultation with the HRR.

5.2.2 Communicate to employees the need to maintain a workplace that is free from substance use, as well as early and regular identification and management of performance issues related to substance use and/or substance use disorder. If an employee's work performance has deteriorated to an unacceptable level or an employee's actions jeopardize their own health and safety, the health and safety of employees and/or the public, or the reputation of the Municipality, management and supervisors are responsible for working with the HRR in taking appropriate remedial action.

5.2.3 Remedial action that may be appropriate will include documenting performance issues; providing written feedback to the employee along with the documented details of any substance use or substance use disorder related events; and/or a suggested referral for a professional assessment. The HRR should be contacted for assistance with this process.

5.2.4 Encourage employees to self-disclose any conditions or concerns, including substance use or substance use disorder that might impair their job performance or compromise their or others health and safety. Supervisors and Management need to facilitate a working environment that is conducive to self-disclosure.

5.2.5 Encourage employees to disclose to the HRR any conditions or concerns including substance use or substance use disorder regarding a coworker that might impair the job performance or compromise health and safety.

5.2.6 Identify and address, with the HRR, any situation where an employee appears to be Impaired/Unfit for Work that could impact their ability to perform their job in a safe, competent, or efficient manner.

5.2.7 Prohibit, **without exception**, the operation of a motor vehicle and/or machinery by an employee who appears to be Impaired/Unfit for Work.

5.2.8 Abide by the accompanying Substance Use Procedure.

### **5.3 Management is responsible for the following:**

5.3.1 Approving a business or staff function at which alcohol will be served, ensuring that:

- The function occurs after standard municipal business hours of Monday – Friday, 8:30 a.m. to 4:30 p.m.;
- In all cases, the serving of alcohol is at a licensed premise;
- The function is managed in a way that limits the risk of accidents, including identifying and eliminating potentially harmful situations; and
- Alternate forms of transportation for employees leaving the event, including taxis or public transit, has been made available;
- Approve any exceptions to this Policy only in situations that are required to serve a legitimate business purpose.



## **5.4 The Human Resource Representative is responsible for the following:**

5.4.1 Maintain confidentiality and employee privacy as outlined in the Code of Conduct for Employees Policy.

5.4.2 Facilitate and support the safe, healthy, and productive return to work of an employee who receives treatment for substance use disorder.

5.4.3 Support all employees in the application of this Policy and its related Procedure, including ensuring that the Policy and Procedure is communicated to employees, and aid with respect to Policy interpretation.

5.4.4 Maintain and regularly update this Policy as needed.

## **6. NON-COMPLIANCE**

Non-compliance with this Policy may result in the appropriate disciplinary measures, up to and including dismissal from employment. Disciplinary action may be taken as assessed on a case-by-case basis. The nature of an employee's position, previous instances of reporting for work in an Impaired/Unfit for Work state and whether an error or accident has occurred because of that Impaired/Unfit for Work state will be considered in the determination of an appropriate disciplinary measure.

<b>PROCEDURE: Substance Use</b>	<b>RESOLUTION NUMBER:</b>	<b>DATE PASSED:</b>
<b>EFFECTIVE DATE:</b>	<b>REVIEW DATE:</b>	<b>AUTHORITY:</b>

## 1. PURPOSE

The Corporation of the Municipality of Powassan (the “Municipality”) has adopted this procedure to specify the operational steps to implement the *Substance Use Policy*.

## 2. SCOPE

This procedure applies to all employees while conducting municipal business, whether at a municipal workplace or elsewhere. All municipal contractors are expected either to adopt this procedure as their own or to develop and enforce their own Substance Use Procedure as it relates to their and their subcontractors’ employees (if any) when engaged in work on behalf of the Municipality or while at any municipal workplace.

**For the purpose of this Procedure the positions listed below are considered Safety Sensitive Positions. The Municipality reserves the right to declare additional positions safety sensitive as circumstance change.**

**Senior Administration  
 All Public Works Staff  
 Chief Building Official  
 Fire Chief and all Volunteer members of the fire department  
 Protective Services Official  
 Arena Staff who are trained to drive the ice resurfacing machines  
 Any employee insured to drive a Municipal Vehicle**

## 3. DEFINITIONS

**3.1 Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. Beverage alcohol includes but is not limited to beer, wine, distilled spirits and very low alcohol products (e.g. beer with 0.5% alcohol by volume) as are included in this definition (Ontario Ministry of Health).

**3.2 Cannabis (“Marijuana”):** Any part of a cannabis plant, including the Phyto cannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not. Any substance or mixture of substances that contains or has on it any part of such a plant. Any substance that is identical to any Phyto cannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained (*Cannabis Act*).

**3.3 Contractor:** Any person(s) providing services or goods to the Municipality under a contract or other agreement, not paid through municipal payroll system.

**3.4 Employee:** Any full-time or part-time employee, any temporary or contract employee, any volunteer or any student or intern worker.

**3.5 Fit for Work:** An employee can perform the duties of the job with efficiency, competence and in a safe manner as compared to established or generally accepted performance standards.

**3.6 Human Resource Representative:** An employee or contractor assigned by Council to perform Human Resource duties for the Municipality of Powassan

**3.7 Illicit Drugs:** Any drug or substance that is not legally obtainable by the employee and whose use, sale, possession, purchase, or transfer is restricted or prohibited by Canadian law (which may include but is not limited to street drugs such as cocaine, heroin, hallucinogens, stimulants), and includes prescription drugs that have not been *lawfully* prescribed to the employee.

**3.8 Impaired/Unfit for Work:** For this policy the definition of impairment or unfit for work is the inability to perform work duties safely, competently, or efficiently without limitation resulting from substance use, after-effects of substance use or otherwise being under the influence of substances. For further impairment/unfit for work information please see the Impairment Policy.

**3.9 Medication:** A drug obtained legally, either over the counter or as properly prescribed by a registered and regulated health professional.

**3.10 Misuse of Medication:** The intentional misuse of medication in a way or for a purpose that was not intended or under circumstances that risks the health or safety of the employee, their co-workers and/or the workplace.

**3.11 Safety Sensitive Position:** Safety Sensitive Positions are positions that have a key and direct role in an operation where impaired performance could result in a significant error, incident, or accident affecting the health or safety of employees, and/or negatively impact the public, property, finances, or the environment; and/or have no direct or very limited supervision available to them to provide the necessary operational checks.

**3.12 Substance:** Any substance that is ingested, consumed, or otherwise taken, and includes alcohol, cannabis, illicit drugs and medication, the use of which represents a Misuse of Medication.

**3.13 Substance Use Disorder:** A primary, progressive, and chronic disease characterized by the regular, repetitive, habitual, compulsive, obsessive use of a substance or a combination of substances. Moderate to severe Substance Use Disorder is characterized by a preoccupation with the substance(s), loss of control, increased tolerance to the substance(s), harmful consequences in one or more major life areas, denial, and delusion.

**3.14 Undue Hardship:** The limit of Municipal capacity to accommodate without experiencing an unreasonable amount of difficulty. As stated in the *Ontario Human Rights Code*, an employer must provide accommodation "up to the point of undue hardship." This means accommodation does not

need to be provided if doing so would impose an unreasonable burden on the Municipality, having regard to health, safety, and/or financial considerations.

**3.15 Workplace:** Any land, property, structures, facilities, premises, location, vehicle, and equipment owned, leased, operated, or otherwise controlled by the Municipality or any other place at, upon, from or near which an employee works in the course of their duties.

## 4. PROCEDURE

### 4.1 Identifying impaired or unfit for work behaviour:

Impairment or being unfit for work may negatively impact employee performance and compromise an employee's health and safety. Examples of behaviour that would give rise to reasonable cause to believe that an employee is impaired or unfit for work and may be unable to perform their job safely, competently, and efficiently include, but are not limited to:

- slurred speech/speech patterns;
- glassy eyes/red eyes;
- flushed face or neck;
- disorientation, unsteadiness, or lack of coordination;
- smell of alcohol or drugs (on breath or clothing, or in the air surrounding the employee);
- uncharacteristic or abnormal behaviour (e.g. euphoria, frequent or rapid mood swings, excitement, confusion, irritability, aggressiveness, remoteness);
- diminished performance such as, but not limited to, sporadic work pace, neglect of duty, increase in mistakes, difficulty communicating or recalling instructions;
- memory problems
- muscle tremors

Examples of the effect of specific substances include, but are not limited to:

Category	Examples	Examples of General Effect
Alcohol	Beer, wine, spirits	Impaired judgement, slowed reflexes, impaired motor function, sleepiness or drowsiness, coma
Cannabis	Marijuana, hashish	Distorted sense of time, impaired memory, impaired/delayed coordination
Depressants	Sleeping medicines, sedatives, some tranquilizers	Inattention, slow reflexes, depression, impaired balance, drowsiness
Hallucinogens	LSD (lysergic acid diethylamide), PCP (phencyclidine), mescaline	Inattention, sensory illusions, hallucinations, disorientation, psychosis
Inhalants	Hydrocarbons, solvents, gasoline	Intoxication similar to alcohol, dizziness, headache
Opiates	Morphine, heroin, codeine, some prescription pain meds	Loss of interest, "nodding"
Stimulants	Cocaine, amphetamines	Elevated mood, over activity, tension/anxiety, rapid heartbeat

**4.2 Employees must not be impaired or unfit for work while conducting municipal business (whether at a municipal workplace or elsewhere). It is the Municipality's expectation that employees:**

- must not report for duty while impaired by alcohol, cannabis or illicit drugs;
- must not use, possess, distribute, offer or sell cannabis, illicit drugs or drug paraphernalia in the workplace, while on duty, or conducting municipal business;
- must not engage in the unauthorized consumption of alcohol while on duty or while in the workplace, except where otherwise provided for in the Substance Use Policy;
- must not engage in or suffer the continuing effects of misuse of substances while conducting municipal business (whether at a municipal workplace or elsewhere);
- must use medications responsibly, ensuring that their ability to perform work safely, competently or efficiently is not impaired;
- when on standby or in on-call situations, must remain fit for work and not impaired/unfit for work, or decline the call;
- will only distribute, offer or sell alcohol if they are required to do so as part of their job duties;
- will, when attending a training event/seminar or when otherwise appearing at an event as a representative or ambassador for the Municipality, use alcohol responsibly, ensuring that they are not impaired; and
- will, when attending a business or staff function at which alcohol is served, only consume alcohol when the function:
  - does not take place in the workplace;
  - occurs after standard municipal business hours of Monday – Friday, 8:30 a.m. to 4:30 p.m., or their scheduled shift;
  - is otherwise approved by management;
  - is held at a licensed premise;
  - is managed in a way that limits the risk for accidents, including identifying and eliminating potentially harmful situations; and
  - provides for ready access to alternate forms of transportation for employees leaving the event, including taxis or public transit.

Where there is reasonable cause to believe that an employee is impaired/unfit for work or may be unable to perform their job safely, competently and efficiently they will either be removed from duty, accommodated through other duties, or where the employee has not disclosed any conditions that may be contributing to their impaired/unfit for work state, they may be subject to discipline – up to and including termination. The nature of the employee's employment, previous instances of reporting for work in an impaired/unfit for work state and whether an error or accident has occurred as a result of that state will be considered in the level of discipline that may be imposed.

Warning signs of possible substance use disorder include, but are not limited to:

- frequent lateness or absences;
- dishevelled or inconsistent appearance (e.g. always wearing long sleeves on very hot days, possibly intended to cover track marks on the arms);
- financial problems;
- unexplained weight changes;
  
- unexplained tremors;
- frequent but unspecified medical complaints;
- diminished motor coordination, perceptual abilities, or physical or mental capacity;

- increase in accidents or near-accidents;
- blackouts (alcohol-induced amnesia);
- an increase in risk-taking behaviour.

There is a distinction between a single occurrence of an employee reporting for work impaired/unfit for work and an employee who suffers from substance use disorder and how the Municipality will respond to those two distinct situations.

When substance use becomes a compulsive and repetitive habit, it becomes a substance use disorder. An Employee that suffers from a substance use disorder may do so as a result of several underlying factors or circumstances. For this reason, an individualized approach to treatment and rehabilitation is required, as is an individualized approach to work accommodation. In order to accomplish this, an employee suffering from a substance use disorder must receive individualized assessment, treatment, and rehabilitation assistance to help them overcome the substance use disorder.

## **5. BALANCING HEALTH AND SAFETY AND EMPLOYEE PRIVACY**

An employee who has an identified substance use disorder has a recognized disability under the *Ontario Human Rights Code*. The Municipality has an obligation to assist the employee to secure treatment, rehabilitation, and accommodation through a Return-to-Work program once the employee has received appropriate treatment and is deemed fit to return to work.

The Municipality's capacity to accommodate is limited up to the point of *undue hardship*. This means accommodation does not need to be provided if doing so would bring about unreasonable difficulties based on health, safety, and/or financial considerations to the Municipality. This may occur where an employee receives treatment and suffers relapses into substance use disorder and the substance use disorder continues to impair the employee's ability to fulfill their duties in the workplace.

The Municipality also has an obligation to provide a safe, healthy, and productive workplace for the employee and his or her co-workers and ensure the public and the community are protected from adverse effects of inappropriate use of substances. That obligation must be balanced against the employee's individual right to privacy. Therefore, all actions to address substance use disorder should strike an appropriate balance between our obligation to provide a safe, healthy, and productive workplace and respect for the employee's right to privacy.

## **6. STEPS TO BE TAKEN IF YOU BELIEVE THAT AN EMPLOYEE IS IMPAIRED /UNFIT FOR WORK**

**6.1** Employees must advise their supervisor if they reasonably believe that another employee has a substance use disorder or that another employee is or has been impaired/unfit for work while

conducting municipal business (whether at a at a municipal workplace or elsewhere). Management and Supervisors are required to exercise good judgement and to seek the advice of the Human Resource Representative (“HRR”) when required since each situation will be different.

6.2 The steps to be taken if you suspect that an employee is impaired/unfit for work will depend on the behaviour giving rise to reasonable cause to believe that an employee is impaired/unfit for work and may be unable to perform their job safely, competently, and efficiently. For example, if the employee has been involved in an accident and the police have been called, you may wish to defer speaking to the employee until the police are on the scene.

6.2.1 If the employee needs immediate medical care, *call 911*.

6.2.2 If there is reasonable cause to believe that an employee is impaired/unfit for work the employee must be immediately removed from the workplace:

- Remove the employee to a private and safe location and seek their explanation for the behaviours or circumstances that gave rise to your belief that they are impaired/unfit for work. Ask the employee if they have consumed alcohol, has taken drugs, or is on any medication.
- Management or the HRR’s opinion and observation of the employee’s behaviour that gave rise to the belief that the employee is impaired/unfit for work should, where possible, be sought. Do not wait to act if a witness is not readily available.
- Document the date, time, and location of the incident, the employee’s behaviour, the circumstances surrounding that behaviour, the basis for your belief that the employee is impaired/unfit for work and the employee’s responses to your questions and/or explanation for their behaviour.
- Where after questioning you continue to believe that the employee is impaired/unfit for work, suspend the employee from duty until follow-up action is initiated. This includes providing the employee with safe transportation home or, if the condition is more severe, to an appropriate medical facility. ***Under no circumstances should the employee be permitted to drive any vehicle or to leave the workplace without assistance.***

6.2.3 If the employee leaves the workplace, the HRR, Management or Supervisor, or any other employee present is responsible for taking all reasonable steps, in the circumstances, to discourage the employee from operating a vehicle and to obtain the employee’s co-operation.

6.2.4 If the employee refuses the offer of safe transportation, and leaves the workplace without cooperating, the HRR, Management or Supervisor, or any other employee present shall record the licence plate number, colour, make and model of the vehicle being operated by the employee and report this information immediately to the police along with their reasons for believing that the employee is impaired/unfit for work.

6.2.5 The HRR is expected to follow up with the employee prior to or on their next scheduled workday to arrange a formal interview.

6.2.6 The HRR shall question the employee about the employee’s behaviour and the circumstances of the incident that led to the employee being removed from the workplace. The HRR should attempt to determine whether the incident was an isolated instance of the employee reporting to work impaired/unfit for work or if this is a regular, repeated, habitual, and ongoing occurrence. In this case, the employee

should be encouraged to self-disclose any conditions or concerns including substance use or substance use disorder. The employee should be asked if there are other problems that may have caused the behaviour. It should be suggested that the employee access the employee benefits, if appropriate. Document the employee's responses to all questions.

**6.2.7** If, as a result of the interview, it is no longer believed that the employee was impaired/unfit for work, but the employee has identified that they are experiencing other problems, discuss the appropriate support for the employee including but not limited to the employee benefits;

**6.2.8** If as a result of the interview you continue to believe that the employee was impaired/unfit for work or where the employee has confirmed that they were impaired/unfit for work and the instance is one that appears to be an isolated incident and the employee states that they aren't experiencing other problems, the employee must be advised that disciplinary consequences will have to be determined which will be communicated to the employee at a future meeting.

**6.2.9** If during the interview the employee discloses that they have a substance use disorder, indicate that they are being removed from their position pending a decision on next steps to assist the employee. In the interim, suggest that the employee immediately contact the employee benefits administrator and discuss with the HRR the appropriate follow up steps.

**6.2.10** If there is a need for further investigation, tell the Employee that they are being placed on a non-disciplinary suspension/leave with pay pending completion of the investigation.

**6.2.11** After the interview, prepare a written, confidential report for Management, or Designate. setting out:

- the facts, behaviour, and circumstances that gave rise to the incident and your reasonable belief that the Employee was Impaired/Unfit for work;
- any written statements from witnesses to the incident and their recollection of the behaviour and circumstances;
- the employee's responses when asked about the incident, his/her behaviour and the circumstances giving rise to the incident;
- the degree and nature of potential or actual danger, harm or risk posed, or damages incurred during the incident as a result of the employee's behaviour;
- the results of the interview process, including the employee's responses and any information or suggestions provided to the employee;
- the employee's length of service, attendance record and disciplinary record, if any;
- any other appropriate information about the incident; and
- recommendations for further action.

A copy of the report shall be kept in the employee's file.

## **7. STEPS TO TAKE AFTER THE INITIAL INTERVIEW**

**7.1** The steps taken after the initial interview with the employee will depend on the nature of the incident and the employee's responses during the initial interview. Given the serious nature of a violation of the Substance Use Policy, it is critical to take consistent action across the municipality. Notwithstanding, the steps to be taken will depend on the individual facts and circumstances giving rise to that violation. It is important to ensure that the municipality meets its obligations under both the Ontario Human Rights Code and the Occupational Health and Safety Act.



7.2 HRR may consult with an employment lawyer prior to taking any further action after the initial formal interview in order to ensure that the municipality meets its legal obligations.

7.3 If the employee is experiencing temporary side effects from the use of medication, determine if the duties of the position can be modified on a temporary basis and whether this is reasonable in the circumstances. If the position cannot be modified, determine if there is another position available for the employee.

7.4 If the incident is an isolated one (i.e. the employee has not disclosed a substance use disorder), the HRR will determine the appropriate disciplinary consequences in consultation with management. The HRR will proceed with a discipline meeting as would happen with any other policy violation.

7.5 If the employee disclosed during the formal interview about the incident that they have a substance use disorder, move forward with the appropriate follow up steps.

## **8. ACCESS TO TREATMENT AND WORK ACCOMMODATION**

If the employee has indicated that they have a substance use disorder, the HRR will discuss the options for assessment, treatment, and rehabilitation. The treatment options will depend on the individual circumstances of the employee. Options for work accommodation will also be canvassed as per the Employee Accommodation Policy.

## **9. RETURN TO WORK**

9.1 An employee is not to be returned to their position without accommodation until the municipality has received confirmation of their successful completion of a treatment program and information with respect to rehabilitative prognosis. The employee must receive a "return to work clearance" from a Substance Use Disorder Professional in a form and manner that is satisfactory to the municipality.

9.2 Prior to returning to their position, the employee must enter a "*Rehabilitation Agreement*" incorporating the Substance Use Disorder Professional's recommendations for continuing rehabilitation and follow-up programs.

9.3 Prior to returning to their position, the employee's supervisor needs only be advised of the employee's rehabilitation status on a "need-to-know basis". In this instance, information is only provided to the employee's supervisor to the extent necessary to allow for an appropriate level of support for re-entry by the employee to their position and for monitoring of the employee's performance in the position on their return to work. The supervisor shall ensure that all information shared with them is kept in the strictest of confidence.

9.4 As part of a Return-to-Work program, the employee shall be required to:

- agree to total and sustained abstinence from any form of substance use; and/or
- provide evidence to the HRR that rehabilitation actions are ongoing based on the recommendations of the Substance Use Disorder Professional's recommendations; and/or
- agree to self-disclose if there is a reoccurrence or relapse, whether such reoccurrence or relapse occurs at work or while the employee is off duty; and/or
- accept that there may be enhanced workplace monitoring of the employee's performance which would include the identification of any risks to health and safety; and/or
- agree to any other individualized conditions necessary to ensure that the employee's workplace performance is not impaired or that health and safety is not compromised.

**9.5** The employee will be required to meet the established performance standards of the position to which they are returning. Under no circumstances will the employee be required to meet higher performance or attendance standards than that which is required of any employee that does not have a substance use disorder. There may, however, be a higher level of workplace monitoring of the employee by their supervisor.

## **10. RECURRENCE OR RELAPSE**

Despite an employee's best intentions, the possibility of a recurrence or relapse exists. Prior to taking any further action including conducting a formal interview with the employee, the supervisor must consult with the HRR for a determination to be made as to whether further steps would constitute undue hardship to the municipality. Where such steps would constitute undue hardship, as assessed on a case-by-case basis considering the specific employee's history and performance, a decision may be made to terminate the employee.

## **11. SELF-DISCLOSURE WITHOUT A PRECIPITATING INCIDENT**

There may be situations where an employee self-discloses a substance use disorder to someone other than the HRR, such as their supervisor or a coworker. In such cases, the individual to whom the information was disclosed must take all reasonable steps to ensure that the health and safety of the employee, co-workers, public, and the community are not at risk, while also safeguarding the employee's right to privacy and confidentiality. These steps may include encouraging the employee to self-disclose to the HRR, assisting the employee to access treatment, rehabilitation and follow up programs.

No employee with a substance use disorder will be disciplined for requesting help to overcome the problem or because of involvement in a rehabilitation effort.

However, if an employee violates the provisions of this procedure, or because of their substance use disorder, is unable to satisfactorily meet established standards of safety or work performance, appropriate action will be taken through the Employee Accommodation Policy. If the violation reasonably compromises the health and safety of the employee, other municipal employees, or the public, disciplinary action will be taken.

Disciplinary action taken will be assessed on a case-by-case basis. Once disciplinary action is initiated, it cannot be avoided by a request at that time for rehabilitation or by a disclosure that an employee is already involved in treatment. The nature of an employee's job, previous instances of reporting for work in an impaired/unfit for work state and whether an error or accident has occurred as a result of that impaired/unfit for work state will be considered in the determination of an appropriate disciplinary measure.

## APPENDIX I: REPORT OF MEDICATIONS

Employees are expected to manage potential impairment during working hours due to the use of medications. The following drug categories have been associated with performance impairment and are provided as a guideline. This is not exhaustive; there are numerous other over-the counter and prescription drugs that may negatively affect performance.

Employees are expected to consult with their physician or pharmacist to determine if medication use will have any potential negative effect on job performance. They are required to report to the HRR and/or management if there is any potential risk, limitation, or restriction for whatever reason that may require short-term modification of duties or temporary reasonable accommodation. Due to privacy considerations, details of the medications or health reason prompting the short-term request do not need to be disclosed.

- Antihistamines - widely prescribed for hay fever and other allergies (e.g. Chlor-Triplon, Dimetane). They are also found in many cold medications.
- Motion Sickness Drugs - are used to prevent motion sickness and nausea (e.g. Gravol, Antivert).
- Barbiturates, Sedatives, Hypnotics, Tranquilizers, Benzodiazapanes, Antidepressants - (e.g. Phenobarbitol, Valium, Halcion, Librium, Elavil, Anafranil, Paxil, Prozac). Some of these ingredients are also found in medications taken for digestive and other disorders.
- Narcotics - (e.g. Demerol, Codeine). Codeine is often found in combination drugs such as 222s or 292s or Tylenol 123s.
- Stimulants - medication used for central nervous system stimulation and for appetite suppression can produce sensations of well being which have an adverse effect on judgement, mood and behavior (e.g. amphetamines or medications sold as "diet pills").
- Anticonvulsants - used to control epileptic seizures and can cause drowsiness in some people (e.g. Dilantin).
- Analgesics (e.g. Darvon, Indocid).
- Cold Tablets/Cough mixtures - (e.g. Sinutab, Contac, Triaminic, Tussionex and preparations containing dextromethorphan (DM) or codeine).
- Muscle Relaxants - (e.g. Flexeril, Robaxisal).

To: Council  
From: Treasurer/Director of Corporate Services  
Re: OPP Contract Renewal

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**RECOMMENDATION:**

That the memo from Treasurer/Director of Corporate Services B. Robinson be received; and further that Council direct staff to begin the process of renewal under Option A as identified below.

**BACKGROUND AND ANALYSIS:**

The Municipality's current policing services agreement expires on December 31, 2023.

I have been contacted by an individual with the OPP to coordinate the process for a contract renewal. He has advised that, although it is anticipated that the Community Safety and Policing Act will come into full force in the near future and nullify the agreements currently in place, this will likely be after December 31 of this year.

The options being put forward for Council consideration are as follows:

- a) an extension of current s. 10 agreement - for either 1 year (expiry December 31, 2024) or 2 years (expiry December 31, 2025) - by way of an Amending Agreement to the current contract.
- b) Full renewal of s. 10 agreement (with a term of 3, 4, 5, or 6 years)  
\*Please note we cannot proceed with this option until the 2024 billing estimate is available Oct. 1, 2023
- c) Current contract expires on December 31, 2023 and reversion to a PSA s. 5.1 non-contract arrangement on January 1, 2024.

If either of options a) or b) are elected, the agreement would indicate that the contract would conclude on the earlier of the expiration date or when the CSPA comes into force.

Council direction is required as to its preferred option for this renewal.

To: Council  
From: Acting Clerk, A. Quinn  
Re: Encroachment Policy and Permit  
Date: July 28, 2023

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**RECOMMENDATIONS:**

That Council adopts the new Encroachment Policy and Permit.

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**ANALYSIS:**

The attached Encroachment Policy and Permit were worked on with direction from the former Municipal Engineer and Director of Public Works. The policy has since been reviewed by all departments with no comments.

<b>POLICY:</b> Encroachment Policy and Procedure	<b>POLICY NUMBER:</b>
<b>EFFECTIVE DATE:</b>	<b>AUTHORITY:</b> Public Works

## **PURPOSE:**

To formalize and clarify the procedure and requirements for granting Encroachment Permits onto the Municipality of Powassan's ("Municipality") roads and right-of-ways so that:

- The safety of the travelling public is ensured.
- The operating integrity of the road system is protected by ensuring the efficient flow of traffic.
- The impact of encroachment, or work related to, on the road system is minimized.
- The impact of encroachment, or work related to, does not interfere or create road maintenance issues.

## **1. SCOPE**

An Encroachment Permit must be obtained from the Municipality, approved by the Public Works Supervisor or Designate, for each encroachment before work commences. All encroachments within the limits of a Municipal Road are subject to the approval of the Municipality.

The construction or operation of works within the limits of the right-of-way of a Municipal Road by any party other than the Municipality or its agent shall be considered an encroachment. Entrances will be handled per the Entrance Policy.

## **2. POLICY STATEMENT:**

The Municipality will ensure the installation of encroachments, construction of works associated with encroachments and the restoration of a right-of-way following the construction or alteration of an encroachment is carried out and completed to a standard satisfactory to the Municipality. The costs associated with encroachments will be paid by the encroaching party. The Municipality will be exempt from the Encroachment Fee but must still obtain an Encroachment Permit.

## **3. DEFINITIONS**

**3.1 Encroachment:** Any installation or stockpile or other work upon, over or under, or within the limits of a Municipal Road right-of-way (excluding entrances).

Encroachments may include:

- any type of vegetation or natural object placed by a property owner, or man-made feature or object or item of personal property which exists wholly or partly upon or extends from a property owner's premises onto Municipal roadways or rights-of-way and may include any aerial, surface, or subsurface encroachments.
- accelerating and decelerating lanes, curbs, gutters, sidewalks, safety islands, recreational trails and crossings, sewers, water pipelines, fiber optic cable, gas pipelines, oil pipelines, conveyors or other works or structures that may during the construction, installation, or maintenance thereof obstruct, cause material to be deposited upon, enter upon, take up, bridge over, tunnel under, or in any way interfere with the land within the limits of a Municipal road, roadway, or structure forming a part of the road.
- pulpwood, logs, or other construction material piled on a Municipal right-of-way to await loading may be considered encroachment.

**3.2 Commercial Encroachment:** An encroachment made by or on behalf of a commercial firm or establishment. This may include oil pipelines, gas pipelines, fiber optic cable, overhead or underground conveyor systems, sewers, drainage or waste disposal pipes, curbs, gutters, accelerating and decelerating lanes and other installations upon, over or under the right-of-way of a Municipal Road, or landscaping within the limits of the right-of-way of a Municipal Road. Private power lines or railways without Federal Statutory authority shall be classified as Commercial Encroachments.

**3.3 Municipal Encroachments:** An encroachment made by or on behalf of a municipality. A Municipal Encroachment may include a sewer, water pipeline, sidewalk, curb, and other installation upon, under or over the right-of-way of a Municipal Road.

**3.4 Public Utility:** Means poles, wires, conduits, transformers, pipes, pipelines and any other works or structures belonging to a municipal corporation, commission or company operating under a Federal, Provincial or Municipal franchise to provide a public service.

**3.5 Recreational Trail and/or Trail Crossing Encroachment:** An encroachment on behalf of a recreational organization which is a legal entity. It will include locations where a crossing over a Municipal right-of-way, including the travelled portion of the Municipal Road, is required to connect established trails. It will also include sections of the Municipal right-of-way where the organization wishes to establish a trail along the roadside where no access to adjacent land is granted, and the roadside section of trail is required to connect established trails. Snowmobile and all-terrain vehicle trails and crossings will require separate agreements.

**3.6 Residential Encroachment:** An encroachment by or on behalf of a private individual or private farm or pertaining to a private structure. A Residential Encroachment may include a water pipeline, gas pipeline or other installation upon, under or over the right-of-way of a Municipal Road, or landscaping carried out within the limits of the right-of-way of a Municipal Road.

**3.7 Statutory Encroachment:** An encroachment for which legal authority exists by right of Federal or Provincial legislation. These encroachments are not controlled by the Municipal Act. A Statutory Encroachment may include a railway, power and telephone lines, gas pipeline and any other item on the Municipal right of way where legal authority exists by right of Federal or Provincial legislation. A railroad with Federal statutory authority shall be a Statutory Encroachment.



#### **4. ENCROACHMENT PERMITS**

Encroachment Permits are required for:

- Installation of work upon, over, under, or within the Municipality right-of-way or roadway.
- Stockpile of work upon, over, under, or within the Municipality right-of-way or roadway.
- No encroachment can be created, or existing encroachment altered, or classification changed, without an Encroachment Permit.

#### **5. REQUIREMENTS**

An applicant placing or altering an encroachment located within the limits of the right-of-way of a Municipal Road shall comply with the following requirements and conditions and with any restrictions that may be established or adopted by the Municipality:

- The time(s) of day work will be allowed shall be approved by the Municipality.
- Any application that proposes to install or alter works within the limits of the right-of-way of a Municipal Road must give the Municipality at least 48 hours' notice prior to commencing work, unless in an emergency or previously agreed to in writing.
- Written approval from the Municipality is required for any construction equipment performing work on the travelled portion or on the shoulder of a Municipal Road.
- Construction equipment shall not travel upon the travelled portion of a Municipal Road except when it is being transported directly to a job site or when it is crossing directly from one side of a Municipal Road to the other side.
- Steel tracked equipment shall not be allowed to travel upon or to cross a paved Municipal Road except with the approval of the Municipality and then only after the pavement has been protected by planks, pads or other devices approved by the Municipality.
- No construction equipment, material, debris, or any other material associated with the Permit work shall be placed upon or left upon the shoulder or travelled portion of a Municipal Road in a manner which may create a hazard or cause damage to the road, as decided by the Municipality.
- Work shall be done in a manner that ensures minimum inconvenience to Municipal property owners and the travelling public.
- Property owners involved in the encroachment work shall be notified by the Encroachment Permit owner, prior to the commencement of work, of the time(s) of construction and of the method(s) used in crossing their property. A copy of the notice must be shared with the Municipality.
- Cutting of pavement, tunneling, backfilling, compaction of fill, and repaving of a Municipal Road for work under an Encroachment Permit must be carried out according to the standards established or adopted by the Municipality and approved by the Public Works Supervisor for this work.
- Backfill after tunneling or cutting the pavement or the roadbed, any material used as fill and any work relevant, must be done with material approved by the Municipality. All work in this connection must be observed by the Public Works Supervisor or delegate.
- All buried works within the Municipal Road allowance must install and maintain markers in proximity of the plant. Separation: 75 m – 100 m also marking entrance and exit locations of the Municipal Road allowance, including deviations (bends). Markers to state what the plant is (i.e., underground waterline) with a marker size of 0.25 m x 0.3 m, with steel stake being 1.2 m to 1.5 m above ground.

## **6. DRAINAGE**

**6.1** An Encroachment Permit from the Municipality is needed to commence any construction or alteration of a drainage system or any part of a drainage system within the limits of the right-of-way of a Municipal Road other than by the Municipality. The Public Works Supervisor may specify such conditions as deemed necessary for the granting of the permit, such as but not limited to:

- Clear water piped drains such as field tile drainage, foundation drainage, roof drainage, or any other clear water piped drains, may be allowed, subject to the approval of the Municipality if a Municipal Road is involved.
- An Encroachment Permit with specified conditions will be issued to the owner of existing clear water piped drains for field tile drainage, foundation drainage, roof drainage or any other clear water piped drains found out letting into Municipal ditches and/or storm sewers, if approved by the Public Works Supervisor.
- All pipe culverts and sewers placed within the limits of the right-of-way of a Municipal Road must meet the requirements of the Ontario Provincial Standard Specifications (OPSS). Details of culvert construction including minimum wall thickness and minimum depth of cover, and details of construction pipe subdrains are included in the OPSS. Details of subdrain installation are contained in the 200 series for grading and 800 series for sewers are all included in the Ontario Provincial Standard Drawings (OPSD).
- Subdrains are small diameter pipes (100mm, 150mm and 200mm diameter), perforated or non-perforated, which are placed in strategic sub-surface locations for the purpose of collecting subsurface water and conveying it to a proper outlet.
- For Municipal Road drainage, steel, and plastic (polyethylene) are the preferred pipe materials.
- A galvanized steel CSP outlet shall be installed at the end of the plastic pipe subdrain outlet where a plastic subdrain pipe outlets directly to a Municipal Road ditch. The corrugated steel pipe section shall be a minimum length of 1.5m and shall be fitted with a galvanized rodent grate. A condition to require placement of the outlet pipe at a minimum 0.3m above the ditch grade may be recommended as part of the Encroachment Permit.
- Any application to outlet a subdrain system onto the Municipality Road right-of-way will be examined to determine the potential downstream effect on ditches and drainage structures.
- The Public Works Supervisor must be consulted about where a pump is to be placed outside the right-of-way but within the control area of a Municipal Road to convey water from a subdrain system to the Municipal Road drainage system. The Public Works Supervisor may determine additional conditions such as construction of a retention pond, rip rap, gabions, or any other conditions, are required.
- If there is a possibility of downstream capacity problems with runoff as a result of a pumping operation, drains or drainage, the Municipality may advise the applicant to apply for improvements under the *Drainage Act*.

**6.2** The owner of a property who allows pollutant waste or sewage to be carried onto a Municipal Road or into a Municipal drainage system contravenes the *Municipal Act*, the *Drainage Act*, the *Environmental Protection Act*, and in certain cases, the *Public Health Act* and could be prosecuted for such an offence under the applicable Act.

A drain that is found to be emitting household or factory waste or sewage upon or into the Municipal Road drainage system and the source is known, the Municipality will contact the owner

and ask them to cease and desist. If the owner fails to remove the household or factory waste or sewage connection, the Public Works Supervisor will contact the *Ministry of Environment, Conservation and Parks*.

## 7. LANDSCAPING

An Encroachment Permit from the Municipality is needed to commence any landscaping operations that are performed within the limits of the right-of-way of a Municipal Road. Landscaping operations include, but are not limited to, placing fill for berms, grading material, placing topsoil, or planting trees or vegetation, and management activities such as pruning or removal. Landscaping plans shall be forwarded to the Municipality as applicable, for review and approval before work may commence.

The Public Works Supervisor may specify such conditions as deemed necessary for the granting of the permit, such as but not limited to:

- Any pruning or removal of trees within a Municipal right-of-way, or the need for equipment in the right-of-way, shall require an Encroachment Permit.
- Trees suitable to the area, hardy and tolerable of roadside conditions, must be chosen for tree planting. All planting must be completed to current Municipal planting specifications.
- If a landscaping project, or the maintenance required, will be extensive, the Municipality may wish to enter into a legal agreement with the encroachment owner or party. An example of such is where a developer will be grading part of the right-of-way or placing extensive plantings. Items addressed will be:
  - responsibility for maintenance of the ground cover and plant material; grass mowing and weed control requirements; tree maintenance including watering, fertilizing, pruning, insect control (if needed), and replacement of dead trees.
- Grading revisions to existing ground should ensure that the new grade will be gradual and natural in appearance and should slope no steeper than 3:1 and preferably should be 4:1 to permit mowing and other maintenance.
- When part or all of an earth berm is to be placed on the right-of-way, the contours should be viable, and the ends of the berm should taper gradually to existing ground. Before an application for a berm is approved, the Public Works Supervisor will determine if the berm could be placed on private property or at the property limit with the fill area extending both onto private property and the right-of-way.

## 8. SAFETY

The following safety measures are to be taken by the owner of any encroachment:

- The owner of an encroachment must comply with all requirements as outlined by the *Ontario Highway Traffic Act* and *Ontario Traffic Book 7*.
- The owner of an encroachment, any contractor, or any worker performing work related to an encroachment, must comply with all regulations and requirements of the *Ontario Occupational Health and Safety Act*.
- As per the *Ontario Highway Traffic Act*, if a portable lane control signal system is required, it shall not be located at an intersection or pedestrian crossover and shall not be located in any place or manner to conflict with any signal-light traffic control system.
- Portable lane control signals, associated signing, and the layout must be in accordance with the *Traffic Control Manual for Roadway Work Operations*.

- When the work for an encroachment is outside the shoulders of a Municipal Road, the owner of the encroachment must ensure, where possible, vehicles and equipment are parked clear of the shoulders. Prolonged parking on the shoulders will not be permitted in any circumstances. Parking on the shoulders at night will not be permitted except in emergency situations as determined by the Public Works Supervisor, and all vehicles and equipment must be suitably illuminated or barricaded.
- Encroachments which interfere with the clear vision of the travelling public, such as restricting visibility at an intersection, will not be approved.
- The permanent works of an encroachment must be located in a manner that does not interfere with traffic and does not create a traffic hazard.
- When the safety conditions of a permit or of an agreement have been violated, the permit or agreement may be cancelled by the Municipality. The Municipality may establish a time limit for the removal of the works from the right-of-way of a Municipal Road of not less than thirty (30) days and not more than six (6) months from the date of cancellation of the permit. The Public Works Supervisor will determine if it's advisable to leave the works in the ground, such as those located under the roadway.

## **9. PROCEDURES**

### **9.1 Encroachment Permit Application**

The Encroachment Permit Application Form is available at the Municipality of Powassan office at 250 Clark Street or online at [www.powassan.net](http://www.powassan.net).

### **9.2 Submitting an Application**

- Fees as found in the User Fee Bylaw must be included.
- Detailed plans and specifications of the proposed encroachment, to the satisfaction of the Public Works Supervisor or their designate must be included.
- The plans or drawings should show the location and extent of the proposed installation as it relates to the Municipal Road. Each plan or drawing for an installation which crosses under a Municipal Road shall include a key plan, a detail plan, and a profile.
- It is the responsibility of the applicant to ensure that the construction of the encroachment is in accordance with the requirements of all applicable regulatory agencies having jurisdiction (i.e., North Bay-Mattawa Conservation Authority), and approvals must be shared with the Municipality.
- Depending on the complexity of the proposed Encroachment Permit, the Municipality may also require a legal agreement.
- Permits will not be issued for encroachments such as a drain or ditch carrying household or factory waste, sewage, or pollutants.
- To change the permit holder, a new application must be submitted. If the new owner proposes a change to the encroachment, the change(s) are subject to the approval and requirements of the Municipality. No work shall commence until the new permit has been issued or approval in writing given by the Public Works Supervisor.
- Any change in classification of an encroachment must be approved by the Municipality and an Application for Encroachment Permit completed for each classification change requested.

**9.3** Upon approval of the Permit, Municipal staff shall determine the insurance coverage required from among the options provided under Schedule A of this procedure.

**9.4** Applicants are bound by the conditions contained in the Encroachment Permit. If during the life of a permit any Acts or Regulations are enacted which affect the rights and privileges granted by a permit or agreement, the said Acts and Regulations shall apply to each permit from the date they come into force.

**9.5** Applications are to be fully completed and delivered via email or mailed to the Municipality of Powassan at the attention of the Public Works Supervisor to:

Municipality of Powassan  
Attention: Public Works Supervisor  
250 Clark Street, PO Box 250  
Powassan, ON P0H 1Z0

The Municipal Council may, by resolution, apply for a Municipal Encroachment Permit to the Public Works Supervisor for:

- Approval to construct or reconstruct sidewalk/bicycle paths along a Municipal Road. The application shall indicate location, type, length, width, and estimate cost.
- Approval for volunteer work, such as flower plantings on Municipal Roads or Bridges. The Permit ensures the Municipality is responsible for the works and that insurance is on file for the volunteers.
- The Municipality is exempt from the Encroachment Permit fee.

#### **9.6 Encroachment Permit Conditions**

Any Conditions regarding Encroachment Permits shall apply to all Municipal roads over which the Municipality has authority under the *Municipal Act*.

- Conditions of an Encroachment Permit shall be binding upon the applicant, executors, and administrators.
- Permits cannot be assigned without approval from the Public Works Supervisor. Any assignees are bound by the same terms and conditions of the original Permit unless notified otherwise.
- Each Permit shall continue in force until the expiry date or until notice of cancellation of the Permit by the Municipality is received.
- When the Conditions of a Permit are not fulfilled by the applicant, the Public Works Supervisor, if considered advisable, may do the work required to put the right-of-way in a condition satisfactory to the Municipality. The cost of the work performed by the Municipality will be charged against the encroaching party.
- When work is performed by the Municipality, in connection with an encroachment, the Municipality shall prepare an itemized statement of the work performed and invoice the owner of the encroachment or Encroachment Permit, for the cost. Failure by the owner of the encroachment to pay an invoice for work performed by the Municipality within the time specified on the invoice may result in the cancellation of the Permit. The Municipality may also take action to remove the works if the Public Works Supervisor considers this advisable.
- When construction, maintenance, operation, or alteration of works under an Encroachment Permit must interfere in any way with a Municipal road or with the land or the roadway or any structure or other facility pertaining to a Municipal road, the owner of the encroachment must maintain, restore or rebuild the road, other approved utility, land, roadway, building,

structure, fence, lawn, garden, shrubbery, driveway, culvert, sidewalk, curb, gutter, or any other installation to the satisfaction of the Municipality.

- Work relevant to the encroachment located within the limits of the right-of-way of a Municipal Road must meet the standards established or adopted by the Municipality.
- All work must be completed at the expense of the encroachment owner and within the time limits established by the Municipality. The Municipality shall advise the encroachment owner of any complaints made by a Municipal property owner regarding interference of their property. The Public Works Supervisor will notify the owner of the encroachment with a timeframe to resolve the complaint. If the complaint is not resolved the Municipality may take steps to resolve it without further notice to the owner of the encroachment and invoice them for the costs incurred in restoring the property or in settling the conflict.

The Municipality is committed to the Ontario Provincial Standards for contract design, award and construction for road, sewer, and water main work. Ontario Provincial Standard Specifications and Ontario Provincial Standard Drawings can be found at <https://www.library.mto.gov.on.ca/SydneyPLUS/TechPubs/Portal/tp/opsSplash.aspx>.

The appropriate specifications and standard drawings should be consulted for material requirements and acceptable construction procedures to be followed during installation of an encroachment.

### **9.7 Permit Expiry**

Application for a new Encroachment Permit must be made at least sixty (60) days *before* the expiry date of a current Permit:

- A new application may be approved or refused, and any new approval is subject to the current requirements of the Municipality.
- When a new application is approved, a new Permit will be issued by the Municipality.
- When a Permit for an encroachment expires and an application for a new Permit is not approved by the Municipality, the full cost of removing the encroaching works will be borne by the owner.
- Work(s) that the Municipality requests to be removed by the owner must be done within the timeframe set out by the Public Works Supervisor, after the expiry date of the Permit. The right-of-way and any works related to the Municipal Road(s) must be left in a condition satisfactory to the Municipality.
- If the work(s) which the Municipality requires the owner of the encroachment to remove, are not removed within the timeframe determined by the Public Works Supervisor, the said work(s) and any work(s) which are left in place will become the property of the Municipality.
- In certain cases, such as the encroachment was a minor landscaping project and no ongoing conditions are attached, the Encroachment Permit may be allowed to expire with no further action to be taken.

In the case of Municipal Encroachments, the normal cost-sharing provisions of the Permit will apply unless the encroachment was approved on a temporary basis, in which case the cost of removal will be borne by the owners of the Municipal Encroachment.

### **9.8 Revocation of an Encroachment Permit**

Should an Encroachment Permit owner breach any of the conditions of the Permit, the Municipality may direct Municipal employees or contractors to complete the work required under the Permit or remove the encroachment works and re-instate the prior roadway condition and

collect the cost of the work pursuant to the provisions of Sections 398 and 446 of the *Municipal Act, 2001*.

An Encroachment Permit issued under this Policy may be revoked by the Municipality if:

- It was issued based on mistaken, false, or incorrect information.
- The Public Works Supervisor deems the construction substantially suspended or discontinued for a period of more than one (1) year.
- It was issued in error.
- The applicant requests in writing that it be revoked.
- A condition of the Encroachment Permit has not been complied with.

### **9.9 Appeals**

An applicant may appeal the decision of the Public Works Supervisor with respect to the issuance of the Encroachment Permit or any of its conditions to the Municipal Council.

A written notice of appeal to the Municipal Clerk setting out the reasons for the appeal and accompanied by the applicable fees prescribed in Schedule "F" of the User Fees Bylaw, is required.

The decision of Council is final and binding.

### **9.10 Costs**

All costs associated with an Encroachment Permit are the responsibility of the applicant.

Costs may include, but are not limited to:

- Applicable Encroachment Permit application fees, construction materials and labour, utilities, traffic control devices, layout, surveying, insurance, legal costs and removal of non-conforming works. Refer to the User Fees Bylaw for applicable fees. The Permit application fee is not refundable.
- Additional fees may be added depending on the application and as set out by the Municipality.
- Cost recovery fees for Municipal work associated with the encroachment.
- The applicant is responsible for paying all costs associated with Municipal utility locates.

If an applicant fails to comply with the requirements or provisions of this Policy, the Municipality may recover the expense by requesting that the Municipal Treasurer include any outstanding fees, in whole or in part, incurred by the Municipality, to the tax roll pursuant to the provisions of section 398 and 446 of the *Municipal Act, 2001*.

### **9.11 Changes to Encroachments**

An Encroachment Permit must be applied for and obtained before commencement of any changes, alterations, additions, or plans to tap into installation after an encroachment has been placed.

An application to move an existing encroachment to another location within the limits of the right-of-way of a Municipal Road must be approved by the Municipality. The permit for the existing encroachment must be cancelled and a new permit for the new location issued. The full cost of removing and relocating an encroachment shall be borne by the owner.

### **9.12 Encroachment Removal**

With a minimum of thirty (30) days' notice to the owner of an encroachment, the Municipality may require the suspension of operations, either temporarily or permanently, or the removal, alteration, relocation, or abandonment of works constructed, maintained, or operated within the limits of a Municipal Road regardless of the term of the applicable permit. Upon receipt of notice the owner of the encroachment must make arrangements to abide by the requirements of the notice and the Municipal Road right-of-way must be left in a condition that is approved by the Public Works Supervisor.

If the owner of an encroachment ceases operation or abandons an encroachment, the owner of the encroachment may be required to remove the works and bear the cost of the removal of the works. This will be determined by the Municipality.

### **9.13 Administration and Enforcement**

Administration will be completed by the Public Works Supervisor or designate, except recovery costs which will be administered by the Municipal Treasurer.

Enforcement will proceed as set out by the Municipality, by persons appointed pursuant to section 15 of the *Police Services Act* and referred to in this procedure as *Municipal Bylaw Enforcement Officers*.

Any person who contravenes any of the provisions of this procedure is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act, R.S.O. 1990*, as amended, and such fine is recoverable under the *Provincial Offences Act, R.S.O. 1990* as amended.

If a person has been convicted of an offence under this procedure, pursuant to section 431 of the *Municipal Act, 201*, the court in which the conviction has been entered may, in addition to any other penalty or other remedy imposed, make an order prohibiting the continuation or repetition of the offence.



## ENCROACHMENT PERMIT APPLICATION

Permit Number (For Office Use):	SR Number:
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**APPLICANT CONTACT INFORMATION:**

Name:	
If Numbered Company, Please Provide Name of Principal Contact Person:	
Address (Including Postal Code):	
Telephone Number:	
Fax Number:	
Email:	

**APPLICATION FOR:**

Commercial:	Residential:
Municipal:	Recreational:
Public Utility:	Other:

**APPLICATION TO:**

Construct:		Maintain:		Repair:		Move Existing:		Landscape:	
Remove:		Classification Change:		Change In Ownership:		Alter:		Other:	

Date of Service:	
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**DESCRIPTION OF WORKS:**

The following Works are within the limits of a Municipal Road. The Works will be in place until removal or relocation is requested by the Municipality of Powassan. If removal or relocation is requested, such removal/relocation shall be at the sole expense of the Applicant, unless covered under the *Public Service Works on Highways Act*.

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**WORKSITE LOCATION:**

Property Owner Name:		Property Owner Telephone Number:	
Municipal Road Number or Road Name:		Located on Which Side of Road: (N/E/S/W)	
Distance From Nearest Intersecting Road:		Name of Nearest Intersecting Road:	
Nearest Civic Address:		Amalgamated Municipality:	
Concession Number:		Lot Number:	
Former Township:		City/Town:	

**WORK CROSSES:**

OVER the Municipal Road:		UNDER the Municipal Road:		The Municipal Road at GRADE LEVEL:	
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Work is on the Right-Of-Way for a Distance of \_\_\_\_\_ feet/metres.

Distance of Works from Center Line \_\_\_\_\_ feet/metres.

From Property Line \_\_\_\_\_ feet/metres.

Depth of Works Below Grade of Municipal Center Line \_\_\_\_\_ feet/metres.

Length and Diameter of Pipe/Culvert, if any \_\_\_\_\_ feet/metres.

If Application is for a water line or sewer approved by or subject to the approval of the Ministry of the Environment or for a water pipeline or sewer in which this Ministry is involved in any way:

Approval Received:		Approval Not Received:		Not Applicable:	
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Please provide a copy of approval with Application.

Indicate which, if any, of the following will be affected:

Road Drainage:		Trees, Shrubs, Plantings:		Guide Rail:		Signs:		Nil:	
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Four (4) copies of a detailed plan and profile, drawn to scale and the specifications of the encroachment showing the proposed work, location, materials, reinstatement of Municipal property and how the work will be conducted, must accompany each application.

## ENCROACHMENT PERMIT APPLICATION

### CONDITIONS

*The Applicant understands that:*

1. Each Encroachment Permit Application shall be subject to the payment of a fee. The fee shall be submitted with the application. The fee amount is set by the Municipality of Powassan from time to time and is available for viewing at the Municipal office or on the Municipal website.
2. Failure to pay the prescribed fee shall result in the cancellation of the permit.
3. Municipalities are exempt from the Encroachment Permit Fee but are still responsible for applying for an Encroachment Permit.
4. The encroachment for which this permit is issued must be completed within six (6) months of the date that the permit is issued, or the permit shall be void and cancelled by the Municipality of Powassan.
5. An extension of the expiry date may be approved, approved with or without additional conditions, or denied by the Municipality of Powassan.
6. If this permit expires and is not renewed, all works constructed, maintained or operated under this permit, if the Municipality of Powassan so requests, shall be removed in the timeframe given, at no cost to the Municipality.
7. In addition to the conditions of this permit, the Applicant must meet all requirements of the Municipality of Powassan and any other agency having jurisdiction.
8. An Encroachment Permit may be cancelled at any time for breach of the regulations or conditions of this permit or for such other reasons as the Municipality of Powassan in its sole discretion deems proper.
9. All work authorized by this permit shall be carried out in accordance with approved plans, specifications and any relevant agreement(s), and subject to the approval of the Municipality of Powassan. The Applicant must bear all expenses related to the permit.
10. The Applicant shall complete and provide a Notification of Field Work Form to the Public Works Supervisor or Designate, 48 hours in advance of the commencement of the approved works.
11. All lane closures shall conform to *Ontario Traffic Manual Book 7*. Prior to the approved works beginning, the layout shall be provided in writing to the Municipality of Powassan.
12. Vegetation on the right-of-way must not be cut or trimmed without the written permission of the Municipality of Powassan. Any cutting or trimming permitted must be carried out in compliance with requirements specified by the Municipality of Powassan or its authorized agent and at the expense of the Applicant.
13. During the works of the encroachment, the Applicant shall ensure that the operation of the Municipal Road is not interfered with, and that the right-of-way remains free of debris, earth, or other material.
14. All work shall conform to the *Occupational Health and Safety Act*.

15. The Applicant agrees that it shall, at its own expense, procure and carry, or cause to be procured and carried and paid for, full *WSIB* coverage for itself and all workers, employees, and others engaged in carrying out the approved works or, if the Applicant is exempt from the requirement to carry workers' compensation coverage, the Applicant shall provide written confirmation of such exemption to the Municipality of Powassan.
16. At all times, both during construction and throughout the entire period of existence of the approved encroachment, the Applicant is always responsible for any and all maintenance and repairs necessary to be made to the encroachment work and all parts thereof.
17. If during the life of this permit any Acts are passed or regulations adopted which affect the rights herein granted, the said Acts and regulations shall be applicable to this permit from the date on which they come into force.
18. The Applicant shall indemnify and hold harmless the Municipality of Powassan, its officers, members of Council, agents, servants, employees, invitees or licensees from and against any liabilities, claims, expenses, demands, loss, cost, damages, actions, suits or other proceedings by whomsoever made, directly or indirectly arising out of this permit attributable to bodily injury, sickness, disease or death or to damage to or destructions of tangible property including loss of revenue or incurred expense resulting from disruption of service; and/or caused by any acts or omissions of the Applicant, its officer, agents, employees, with respect to activities, undertaken arising out of this permit and/or by the existence of the approved encroachment.
19. The Applicant shall, at their expense, obtain and keep in force insurance coverage in amounts acceptable to the Municipality. Specific requirements shall be determined by the Municipality on a case-by-case basis, based on Municipal policy and procedures. No work shall commence without providing the appropriate proof of coverage to the Municipality of Powassan in relation to the carrying out of the approved Works.
20. The Applicant shall be responsible for all damage caused to Municipality of Powassan property in relation to the carrying out of the approved works.
21. Throughout the installation period, the Applicant shall immediately notify the Municipality of Powassan of any occurrence, incident or event which may reasonably be expected to expose either party to material liability of any kind in relation to the road and/or the encroachment.
22. The Applicant agrees to protect all survey markers and monuments in the vicinity of the work and agrees to replace all markers and monuments if damaged.

## ENCROACHMENT PERMIT APPLICATION

### CHECK LIST

*Please ensure all necessary parts of the Application are included:*

- The Required Fee of \$ \_\_\_\_\_ is enclosed.
- The Required Fee is Waived:
  - The Municipality is exempt from the Encroachment Permit Fee but is still responsible for applying for an Encroachment Permit.
  - Utility providers that pay property tax to the Municipality on their respective in-ground infrastructure are exempt from the Encroachment Permit Fee but are still responsible for applying for an Encroachment Permit.
- The Required Insurance Documentation is enclosed.
- The Required Detailed Plan and Profile is enclosed.

I hereby acknowledge that I have read and understand the Municipality of Powassan Encroachment Permit Policy and Procedure, the terms of this Encroachment Permit Application and further wish to apply for an Encroachment Permit based on these terms, by which I will abide.

*I, the undersigned, have the authority to bind this Permit.*

\_\_\_\_\_  
Applicant's Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**OFFICE USE ONLY**

Patrol:	<input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D
Inspectors' Recommendations:	<input type="checkbox"/> Approval Recommended <input type="checkbox"/> Approval Not Recommended <input type="checkbox"/> Referred To Public Works Supervisor
Name of Inspector:	
Signature of Inspector:	
Date:	
Comments:	

**APPROVED**

This Encroachment Permit Application has been approved. The Permit will expire six (6) months from the date of execution by the Municipality as indicated below. **Please submit a completed Notification of Field Work Form to the office 48 hours prior to initiating work.**

**NOT APPROVED**

This Encroachment Permit Application does not conform to Municipality of Powassan requirements and therefore will not receive approval. The following outlines the issues preventing approval:

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\_\_\_\_\_

Public Works Supervisor or Designate

\_\_\_\_\_

Date

Six (6) Month Expiry Date:	
----------------------------	--

Upon completion of the works as noted in this Encroachment Permit Application, the Permit Holder shall submit a Final Inspection Request Form to the Municipality.

## **ENCROACHMENT PERMIT**

### **SCHEDULE A**

#### **INSURANCE REQUIREMENTS:**

Staff will select one of the two following insurance requirement options to be applied to an Encroachment Permit, based on the type and scope of the encroachment. Further, based on the potential risks to the Municipality of Powassan posed by an encroachment, staff will have discretion to increase the limits and types of coverage required for an Encroachment Permit under Option 2.

#### **Option 1**

The Permit Holder shall, at its expense, obtain and keep in force during the term of this Agreement, insurance satisfactory to the Municipality, including the following and underwritten by an insurer licensed to conduct business in the Province of Ontario:

- a) **Commercial General Liability, including:**
  - The Owner shall be named as an additional insured, including a provision for cross liability;
  - Property Owner Liability Insurance required for the Permit Holder completing the work of not less than \$2,000,000/occurrence;
  - If the Permit Holder has a Contractor completing the work, the Contractor shall supply a limit of liability of not less than \$5,000,000/occurrence;
- b) If the Permit Holder is the Contractor, Automobile Liability Insurance under a standard Automobile policy with limits of not less than \$2,000,000/occurrence in respect of each owned or leased vehicle;
- c) That 30 days prior notice of an alteration, cancellation or material change in policy terms which reduces coverage's shall be given in writing to the Municipality of Powassan.

The Permit Holder shall provide a certificate of insurance to the Municipality of Powassan prior to approval of any and all works being performed under the approved encroachment permit.

## Option 2

The Permit Holder shall, at its expense, obtain and keep in force during the term of this Agreement, insurance satisfactory to the Municipality of Powassan including the following and underwritten by an insurer licensed to conduct business in the Province of Ontario:

- a) Commercial General Liability with a limit of liability of not less than \$10,000,000/occurrence, including:
  - The Owner shall be named as an additional insured, including a provision for cross liability;
  - Non-owned automobile coverage of not less than \$5,000,000/occurrence;
  - Products and completed operation coverage of not less than \$10,000,000/occurrence.
- b) Environmental Liability coverage with a limit not less than \$2,000,000/occurrence;
- c) Automobile Liability Insurance under a standard Automobile policy with limits of not less than \$5,000,000/occurrence in respect of each owned or leased vehicle;
- d) That 30 days' prior notice of an alteration, cancellation or material change in policy terms which reduces coverages shall be given in writing to the Municipality of Powassan.

That Permit Holder shall provide a certificate of insurance to the Municipality of Powassan prior to approval of all works being performed under the approved Encroachment Permit.



## NOTIFICATION OF FIELD WORK

PERMIT NUMBER:

This completed notification must be submitted at least 48 hours prior to commencing work on Municipality of Powassan rights-of-way by:

- Fax to (705) 724-5533 Attention Public Works Supervisor or Designate
- Email to [office@powassan.net](mailto:office@powassan.net)

Company Name Work Is For: \_\_\_\_\_

Contractor Performing Work: \_\_\_\_\_

Location of Work – Name of Municipal Road: \_\_\_\_\_

Closest Civic Address (if available): \_\_\_\_\_

Township/Municipality: \_\_\_\_\_

Date of Work: \_\_\_\_\_

Description of Work: \_\_\_\_\_

Duration of Work: \_\_\_\_\_

Typical Layout (TL) Figure Number: TL- \_\_\_\_\_

Type of Operation:

Ploughing       Off Road Cut       Entrance       Trenching       Pole Work

Lane Closure       Road Closure       Sign Installation       Directional Drilling

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

Notes: \_\_\_\_\_

\_\_\_\_\_

## ENCROACHMENT PERMIT

### FINAL INSPECTION REQUEST FORM

Permit Number:	
Property Owner / Permit Holder Name:	
Civic Address Number:	
Street Name:	
Former Township/Municipality:	

I hereby request a final inspection on my encroachment, located at the above noted address, as per the permit number indicated. All requirements have been met as per the applicable Municipality of Powassan Policy/Procedure, and all related work has been completed.

\_\_\_\_\_  
Signature of Permit Holder

\_\_\_\_\_  
Date

#### OFFICE USE ONLY:

\_\_\_\_\_  
Signature of Inspector

\_\_\_\_\_  
Date

APPROVED

This Encroachment Permit has been inspected and deemed satisfactory by Municipality of Powassan Staff.

NOT APPROVED (if not approved, please see comments below)

This Encroachment Permit has been inspected and does not conform to Municipality of Powassan requirements at this time. Further work is required. The following outlines the issues preventing approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Public Works Supervisor or Designate

\_\_\_\_\_  
Date

Date: September 5, 2023

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

That the Municipality of Powassan hereby declares the property currently known as McDonald Street to be surplus.

Also, that a written opinion of value has been obtained from a Registered Real Estate Professional.

The Acting Clerk is to prepare a By-Law for the next regular Council Meeting to determine the method and terms of sale as per Councils direction.

Notice of the intention to sell the land will be posted on the Municipal Website.

\_\_\_\_\_  
 Carried

\_\_\_\_\_  
 Defeated

\_\_\_\_\_  
 Deferred

\_\_\_\_\_  
 Lost

\_\_\_\_\_  
 Mayor

Recorded Vote: Requested by \_\_\_\_\_

Name	Yeas	Nays	Name	Yeas	Nays
Councillor Randy Hall			Mayor Peter McIsaac		
Councillor Markus Wand					
Councillor Dave Britton					
Councillor Leo Patey					

To: Council  
From: K. Bester, Deputy Clerk  
Date: July 24, 2023  
Re: McDonald Street

**RECOMMENDATION:**

That Council direct staff to contact the interested property owner to advise them that Council has decided upon a sale price for the property currently known as McDonald Street.

**ANALYSIS:**

Further to resolution no. 2023-109 passed by Council at their April 4th meeting, which directed staff to initiate the process of selling McDonald Street, the following steps have now been taken:

- Receipt of \$2,000 to initiate the process from the property owner interested in the property.
- Discussions with our solicitor confirming that as McDonald Street intersects a Provincial Highway, the Ministry of Transportation should be contacted to request their comments and support of this transfer.
- Ministry of Transportation were contacted and have provided their support of this transfer.
- Circulation of the Department Review form, with no concerns indicated.
- An appraisal of value was done by Dustin Berg of Century 21 and is attached. The estimated market value for the property is \$9,000-\$10,000.

**NEXT STEPS:**

Contact property owner to advise of the selling price of the property, and if this price is acceptable to him, move forward with the following steps:

- Council resolution to be passed – declaring the land surplus and available for sale.
- Circulation of Council's intention to sale to all adjacent land owners.
- Notice to the public within a Council agenda via an advertisement in local newspaper/notice on municipal website and sign installed at the property
- Final report to Council and Council resolution directing staff to move forward with process.
- Reference Plan to be initiated by owner of former Trout Creek Hotel property.
- Submission of the Reference Plan to the municipality.
- Bylaw for the Sale of the Municipal Road Allowance to be brought to Council for passage
- Our solicitor to move forward with the transfer of property, once all costs, including but not limited to: appraisal / advertisement / sale price / legal, etc. have been received.

# CENTURY 21

Blue Sky Region Realty Inc.  
472 Main Street, Powassan On  
POH-1Z0  
705-724-1100

**RE: Opinion of Value: McDonald Street, Trout Creek, Ont**

**In accordance with your request for an "Opinion of Value" of the above described property, I conducted a thorough personal inspection of the property and the buildings thereon. I also conducted a careful market comparison of similar properties in the area that have sold recently. Due consideration was given to all forces and factors that influence property values in the subject area.**

**The purpose of this inspection was to estimate the "market value" of the subject property as of this date, July 24 2023 . "Market value" is defined as the highest price, in terms of money, which the property will bring to a willing seller if exposed for sale in the open market, allowing reasonable time to find a willing purchaser, buying with the knowledge of all the uses to which it is adapted and for which it is legally capable of being used and with "neither party acting under necessity, compulsion or peculiar and special circumstances".**

**Based on all the research that I have conducted in this matter and my own day to day knowledge of the local market, I estimate the market value of the subject property to be between \$9000.00 and \$10,000.00**

**Yours truly,  
DUSTIN BERG**

**Dustin Berg,  
Sales Representative.**

**CENTURY 21 BLUE SKY REGION REALTY INC., BROKERAGE**

To: Council  
From: Treasurer/Director of Corporate Services  
Re: Reserves and Surplus Management Policies

**RECOMMENDATION:**

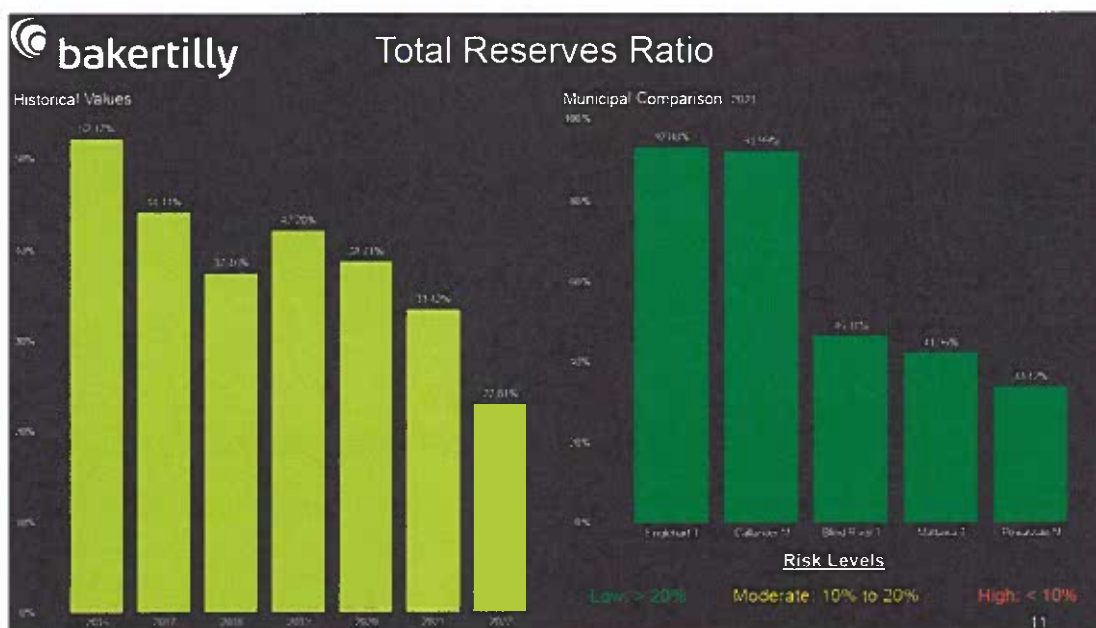
That the memo from Treasurer/Director of Corporate Services B. Robinson be received; and further that Council direct staff to prepare final drafts of the Reserve and Surplus Management Policies, to be adopted by By-law at the September 19 regular meeting.

**BACKGROUND AND ANALYSIS:**

During budget deliberations, the concept of a Reserve and Reserve Funds Policy was first introduced to Council. At that time, staff were directed to prepare draft policies for consideration later in 2023.

Reserves and reserve funds are established to assist with long-term financial stability and financial planning for the Municipality. They are an integral part of the Municipality’s financial plan; by maintaining reserves, the Municipality can accumulate funds for future needs or contingent liabilities, as well as ensure adequate cash flows exist to reduce or eliminate the reliance on short-term borrowing. Reserves and reserve funds provide stability in times of unexpected shifts in revenues and expenditures, and provide funding for one-time or cyclically recurring expenditures.

The Province tracks reserve levels as part of its Financial Information Return. Our auditors provided an estimate of the reserve ratio as of December 31, 2022 in their Financial Statement presentation, an excerpt from which is provided below. As shown, Powassan’s reserve ratio was 22.81% in 2022, having steadily fallen over the preceding seven years. This is well below the figures both for our selected comparator municipalities, as illustrated in the graph on the right, and relative to the provincial benchmark of 69.9%.



As is illustrated through these figures, the Municipality has substantial room for improvement in its reserve management practices. The policies as presented will be a first step in that direction, by establishing targets for our existing reserves and beginning the process of saving towards these targets.

The schedules of the Reserve and Reserve funds policy illustrate how the target figures were calculated, and how each of the reserves will be funded. The specific reserves included therein are as decided in the 2021 reserve consolidation resolution, with the exception of those required to exist by legislation and as specifically identified below. The Surplus Management Policy works in tandem with this, and essentially illustrates how the annual operating surplus, if any, will be distributed to assist in building reserve levels back up. In certain cases, such as with rental fees, a portion of annual revenues are stipulated to be set aside as the start of a 'forced saving' mechanism.

As noted in the Surplus Management Policy, the immediate focus is put towards building up the Working Capital Reserve. This target is set at 3 months of operating expenditures, and exists to ensure that sufficient cash flows are present to fund operations during low periods of operating revenue. The Operating Contingency Reserve, which is newly created, exists as a place from which substantial unexpected operating expenditures can be drawn from.

The other new reserve is for elections; the purpose of this is to spread the operating budget impact of elections equally throughout a term of Council, as opposed to spiking every four years.

To better illustrate the target reserve levels, the following table depicts our closing balances as of December 31, 2022 against the targets as set forth in the draft policy:

<b>Reserve Name</b>	<b>Target Balance</b>	<b>2022 Balance</b>	<b>% Thereof</b>
Wastewater Capital Reserve	\$554,000	\$289,891	52.3%
Water Capital Reserve	\$701,000	\$333,411	47.6%
Water/Wastewater Rate Stabilization Reserve	\$90,000	\$130,432	144.9%
Election Reserve	\$25,000	\$0	0%
Gravel Pit Closure Reserve	\$62,000	\$61,925	99.9%
Infrastructure Renewal Reserve	\$2,930,000	\$617,742	21.1%
Landfill Closure Reserve	\$289,000	\$99,701	34.5%
Operating Contingency Reserve	\$536,000	\$0	0%
Working Capital Reserve	\$1,340,000	\$4,664	0.3%
<b>Total</b>	<b>\$6,527,000</b>	<b>\$1,537,766</b>	<b>23.6%</b>

With the effective implementation of this policy, the Municipality can begin to build reserve levels closer to its benchmark over the next several years while balancing its immediate levels of service needs.

<b>POLICY:</b> <b>Reserve and Reserve Funds Policy</b>	<b>RESOLUTION NUMBER:</b>	<b>DATE PASSED:</b>
<b>EFFECTIVE DATE:</b>	<b>REVIEW DATE:</b>	<b>AUTHORITY:</b>

## 1. Policy Statement

The Municipality of Powassan is committed to long-term financial sustainability and sound financial stewardship. Reserves and reserve funds are an essential element of long-term financial planning, and a necessary tool for balancing lasting fiscal stability with current level of service demands.

## 2. Purpose and Objectives

The purpose of this Policy is to establish the framework by which reserves and reserve funds will be managed and administered.

Through this Policy, the Municipality aims to:

- Adhere to all applicable statutory requirements.
- Promote long-term financial stability and flexibility.
- Plan for the budget impact and financing of major capital projects.
- Smooth tax and water rate increases over time.
- Provide flexibility to address unusual or unanticipated deviations from budget.
- Ensure liquidity to meet annual cash flow requirements.
- Reduce reliance on long-term debt.

## 3. Definitions

**Discretionary Reserve Fund:** Monies set aside for a specific purpose by Council and legislated by municipal By-law. If Council should decide to spend the money for purposes other than what it was originally intended for, then a new By-law must be passed under section 417(4) of the Municipal Act.

**Obligatory Reserve Fund:** Monies set aside and legally restricted by provincial legislation, a municipal By-law, or agreement. The funds are raised for a specific purpose and cannot be used for any other purpose.

**Reserve:** An appropriation from net revenue and/or cost savings at the discretion of Council, after the provision for all known expenditures. It has no reference to any specific asset and does



not require the physical segregation of money or assets as in the case of a reserve fund. Reserves do not generally receive an annual interest allocation.

**Reserve Fund:** Monies set aside for a specific purpose as required by provincial legislation, a municipal By-law, or agreement. Reserve Funds receive an interest allocation on a monthly basis, determined by the closing fund balance. Reserve Funds are comprised of both Discretionary and Obligatory Reserve Funds.

#### **4. Establishment and Modification**

Discretionary Reserve Funds must be established by Council through By-law.

Reserves can be established through the following processes:

1. Inclusion in the annual operating or capital budget which is approved by Council.
2. Through resolution of Council, detailing the purpose of the reserve, source of funding, method of investment, and future disbursement for the funds allocated.
3. By direction of the Municipal Treasurer.

If the Treasurer exercises the delegated authority to establish a reserve, they must report to Council, as soon as reasonably practicable, the following:

- a) The identified need for the reserve being created.
- b) The target funding level, including a minimum and maximum reserve balance.
- c) Contribution sources and projected future disbursements.

#### **5. Investment**

Reserves and reserve funds may be invested for a term that will not exceed its expected date of need. Applicable funds shall be invested in accordance with the Municipality's Investment Policy. Interest earned on reserve funds shall be recognized as an increase in the balance of each specific reserve fund.

#### **6. Contributions to/Withdrawals from Reserves and Reserve Funds**

Contributions to/withdrawals from reserves and reserve funds shall be approved by Council as part of the annual budget process, or specifically by resolution, with the following exceptions:

- a) Direct contributions to Obligatory Reserve Funds.
- b) Transfers that are the result of the Surplus Management Policy, or all other Council-approved By-laws or resolutions.
- c) Transfers between reserves or reserve funds, based upon adequacy analyses or other related information at the discretion of the Treasurer.
- d) Transfers to establish a reserve that has been created by directive of the Treasurer and/or Council.

## **7. Temporary Borrowing**

Temporary borrowing of reserve funds shall be permitted to temporarily finance capital and/or operating cash flow deficiencies to avoid external borrowing costs, provided that the following conditions are met:

- a) Borrowing must not adversely affect the intended purpose of the reserve fund.
- b) A repayment plan must be established and documented to replenish the borrowed funds within a reasonable timeframe.
- c) Interest will be applied to any outstanding amounts borrowed, at the interest rate posted on the Municipality's general operating account.
- d) Any legislative requirements are adhered to.

Interest on any internal borrowing will be calculated and applied annually, based on the interest rate as of December 31 and the average monthly outstanding balance.

It is the responsibility of the Treasurer to determine the need for temporary borrowing of reserve funds, and to establish the terms for repayment. If the repayment period is anticipated to be longer than two (2) years, this will require Council approval by By-law.

Borrowing from obligatory reserve funds is prohibited.

## **8. Closure of Reserves and Reserve Funds**

A reserve or discretionary reserve fund shall be closed where the purpose(s) for which it was created have been accomplished, or if, in the determination of the Treasurer, the reserve or discretionary reserve fund is no longer necessary.

Any reserve or discretionary reserve fund identified for closure shall be reported to Council for review and approval. A resolution shall be required, and in the case of a discretionary reserve fund, the establishing By-law shall be repealed. The report to Council shall include, at a minimum, recommendations regarding the timing of closure and allocation of any remaining funds.

## **9. Target Balances**

Methodologies for calculating targets are specific to each reserve or reserve fund, however consideration will be given to the following:

- a) Purpose of fund (i.e. operating or capital)
- b) Certainty of end needs (i.e. for contingent liability or long-term asset replacement)
- c) Economic factors (inflation, interest rates, cyclical pressures)
- d) Industry/Government/Accounting standards
- e) Multi-year forecast of contribution and projected usage

The target for each reserve and reserve fund is identified in Appendix I of this Policy. The Treasurer will review the targets annually and propose changes to the target levels as required.

## **10. Responsibilities and Standard of Care**

The Treasurer shall:

- a) Have the overall authority for all reserves and reserve funds managed by the Municipality.
- b) Develop and update this policy as necessary and present changes to Council.
- c) Ensure that the principles and requirements contained in this policy are applied consistently across all departments.
- d) Perform the transfers to and from reserves and reserve funds.
- e) Establish targets for reserve and reserve fund levels and recommend strategies to maintain the adequacy of reserve levels.
- f) Report to Council the reserve balances and forecast as part of the annual budget approval process.

Municipal Council shall:

- a) In accordance with Section 224 of the *Municipal Act 2001*, develop and evaluate policies, ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place, and maintain the financial integrity of the municipality.
- b) Approve transactions to and from reserves and reserve funds through the budget process or by specific resolutions and by-laws.

## **11. Reporting Requirements**

The Municipal Treasurer, or designate, shall prepare the following reports:

- a) Annual Audited Financial Statements- shall include a statement of financial position, financial activities, and changes in fund balances for reserves and reserve funds.
- b) Reserve and Reserve Funds Report- an annual report comparing existing fund balances to target objectives, forecasting fund balances and transfers over the capital planning period, evaluating the adequacy of target balances, and considering the establishment of new, and/or modification or closure of existing reserves and reserve funds.
- c) Annual Budget Report- annual contributions to, or appropriations from, reserves shall be identified as part of the annual budget approval process.
- d) Annual or other periodic reporting for obligatory reserve funds as required.

## **12. Review**

This Policy shall be presented to Council for review and update, if applicable, every four (4) years, in the first year of each elected Council, or as deemed necessary by Council or the Treasurer.

## Policy & Procedure Manual

### APPENDIX I – RESERVES AND RESERVE FUNDS

Reserve Name	Purpose	Source(s) of Funding	Target Calculation	Target Balance
<b>Obligatory Reserve Funds</b>				
Gas Tax Reserve Fund	Revenues received from the Federal Gas Tax Fund to support local capital infrastructure priorities.	Funding as provided by agreement with the Government of Canada and AMO.	n/a	n/a
OCIF Reserve Fund	Revenues received from the Ontario Community Infrastructure Fund to support local capital infrastructure priorities.	Interest earned on bank balances. Funding as provided by agreement with the Province of Ontario.	n/a	n/a
<b>Discretionary Reserve Funds</b>				
EIDES Reserve Fund	To provide funding to specified agencies under the Boarding Home Contract Program.	Funds previously provided by the Province of Ontario or agency thereof.	n/a	\$50,000
Wastewater Capital Reserve Fund	To fund maintenance and replacement of wastewater capital infrastructure.	Annual transfer from operating budget and uncommitted surpluses from completed projects.	5% of replacement costs as per the Asset Management Plan.	\$554,000
Water Capital Reserve Fund	To fund maintenance and replacement of water capital infrastructure.	Annual transfer from operating budget and uncommitted surpluses from completed projects.	5% of replacement costs as per the Asset Management Plan.	\$701,000

Water/ Wastewater Rate Stabilization Reserve Fund	To meet emergency and unplanned funding needs for Water and Wastewater operations to avoid operating deficits or rate fluctuations.	Funds transferred from water and wastewater operating surpluses.	25% of annual gross operating expenditures.	\$90,000
<b>Reserves</b>				
Election Reserve	To amortize the cost of a municipal election over four years.	Annual transfer from the operating budget equal to 25% of the target balance.	Inflated cost of previous election.	\$25,000
Gravel Pit Closure Reserve	To fund the future rehabilitation of gravel pits owned by the Municipality.	Annual transfer from the operating budget calculated as 2% of the prior year reserve balance.	Discounted present value of future closure and post-closure cash flows.	\$62,000
Infrastructure Renewal Reserve	To provide funds for the replacement and rehabilitation of Municipal infrastructure.	Annual transfer from the operating budget, calculated by dividing the purchase price of all assets financed through the reserve by half of their amortization period until the balance is repaid.	One year of annual capital requirement based on current replacement costs as per the Asset Management Plan.	\$2,930,000
Landfill Closure Reserve	To manage the liabilities associated with the remediation of contaminated lands.	Year-end surplus allocation; proceeds from sale of surplus assets; 2% of all rental fee revenues earned in the fiscal year.	Discounted present value of future closure and post-closure cash flows.	\$289,000
Operating Contingency Reserve	To provide sufficient liquidity to offset extraordinary and unforeseen corporate	Annual transfer from the operating budget and year-end surplus allocation.	10% of annual gross operating expenditures.	\$536,000

## Policy & Procedure Manual

Working Capital Reserve	<p>expenditures and mitigate fluctuations arising from one-time operating budget impacts.</p> <p>To provide cash flow and sufficient liquidity to fund general operations without generating a need to use short-term borrowing.</p>	Annual transfer from the operating budget and year-end surplus allocation.	25% of annual gross operating expenditures.	\$1,340,000
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<b>POLICY:</b> Surplus Management Policy	<b>RESOLUTION NUMBER:</b>	<b>DATE PASSED:</b>
<b>EFFECTIVE DATE:</b>	<b>REVIEW DATE:</b>	<b>AUTHORITY:</b>

**1. Policy Statement**

The Municipality of Powassan is committed to using prudent financial management techniques in its annual and long-term budgeting practices.

**2. Purpose**

The purpose of this Policy is to establish the priority framework for the allocation of any operating surpluses and funding for any operating deficits.

**3. Definitions**

- 3.1 **Deficit:** When there is an excess of expenditures over revenues.
- 3.2 **Property Tax Supported Budget:** a budget that includes property taxes as a primary source of revenue to fund Municipal programs and services.
- 3.3 **Reserve:** An appropriation from net revenue and/or cost savings at the discretion of Council, after the provision for all known expenditures. It has no reference to any specific asset and does not require the physical segregation of money or assets as in the case of a reserve fund.
- 3.4 **Reserve Fund:** Monies set aside for a specific purpose as required by provincial legislation, a municipal By-law, or agreement.
- 3.5 **Surplus:** When there is an excess of revenues over expenditures.
- 3.6 **Water/Wastewater Rate Supported Budget:** A budget to fund services exclusively related to the distribution of potable water, and collection and treatment of wastewater through rates charged to users of the system.

**4. Guiding Principles**

- 4.1 All surpluses and deficits shall be treated as transitory in nature.



- 4.2 The year-end operating surplus or deficit for the Property Tax Supported Budget and Water/Wastewater Rate Supported Budget will only be allocated (surplus) or funded (deficit) within the operations and reserves/reserve funds of each respective budget.

## **5. Property Tax Supported Budget- In a Year of Surplus**

- 5.1 The Treasurer, or designate, is authorized to allocate any surplus arising in the Property Tax Supported Budget in the following proportions:
- 5.1.1 An amount to the Infrastructure Renewal Reserve equalling any surplus balance arising from the General Capital Budget.
  - 5.1.2 Per Provincial Bill 124, any surplus arising from building department activities shall be allocated in full to a building permit reserve.
  - 5.1.3 50% of any operating surplus shall be contributed to the Working Capital Reserve, not to exceed the reserve target balance as established through the Reserve and Reserve Fund Policy.
  - 5.1.4 25% of any operating surplus shall be contributed to the Operating Contingency Reserve, not to exceed the reserve target balance as established through the Reserve and Reserve Fund Policy.
  - 5.1.5 Any remaining operating surplus shall be contributed to the Infrastructure Renewal Reserve.

## **6. Water/Wastewater Rate Supported Budget- In a Year of Surplus**

- 6.1 The Treasurer, or designate, is authorized to allocate any surplus arising in the Water/Wastewater Rate Supported Budget in the following proportions:
- 6.1.1 An amount to the Water Capital Reserve Fund equalling any uncommitted surpluses from water capital projects.
  - 6.1.2 An amount to the Wastewater Capital Reserve Fund equalling any uncommitted surpluses from wastewater capital projects.
  - 6.1.3 Any remaining operating surpluses shall be contributed to the Water/Wastewater Rate Stabilization Reserve Fund.

## **7. Property Tax Supported Budget- In a Year of Deficit**

- 7.1 The Treasurer, or designate, is authorized to withdraw any deficit arising in the Property Tax Supported Budget from the Operating Contingency Reserve or, if an insufficient balance is available, the remainder thereof from the Infrastructure Renewal Reserve.

## **8. Water/Wastewater Rate Supported Budget- In a Year of Deficit**

- 8.1 The Treasurer, or designate, is authorized to withdraw any deficit arising in the Water/Wastewater Rate Supported Budget from the Water/Wastewater Rate Stabilization Reserve Fund or, if an insufficient balance is available, the remainder thereof from the Water Capital Reserve Fund.

## **9. Responsibilities and Standard of Care**

- 9.1 The Treasurer shall:
- a) Have the overall authority for all reserves and reserve funds managed by the Municipality.
  - b) Develop and update this policy as necessary and present changes to Council.
  - c) Ensure that the principles and requirements contained in this policy are applied consistently across all departments.
  - d) Perform the transfers to and from reserves and reserve funds.

## **10. Reporting Requirements**

The Municipal Treasurer, or designate, shall report annually to Council all transfers completed by virtue of this Surplus Management Policy.

An appropriation from net revenue and/or cost savings at the discretion of Council, after the provision for all known expenditures. It has no reference to any specific asset and does not require the physical segregation of money or assets as in the case of a reserve fund.

To: Council  
From: Acting Clerk, Allison Quinn  
Re: Cannabis Retail Information Update

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**RECOMMENDATION:**

That the memo from Acting Clerk, A. Quinn, be received for information purposes; and, FURTHER that Council direct staff to bring a resolution forward at the September 19, 2023, regarding allowing a Cannabis Store to open within the Municipality.

**ANALYSIS:**

Councillor Patey suggested at the August 1, 2023, meeting to have staff reach out to neighbouring communities with Cannabis Retail Stores for information on how their municipality has been affected since having Cannabis Retail Store open up.

At this time the general consensus is that there has been no negative impact on the communities and that taxes and any processes with the opening of a Cannabis Retail Store has been similar to any other commercial business.

To: Council  
From: Treasurer/Director of Corporate Services  
Re: Engineer of Record Agreement

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**RECOMMENDATION:**

That the staff report regarding the RFP for an Engineer of Record be received; and that staff be authorized to execute an agreement with Tatham Engineering for a two-year period, ending September 30, 2025.

**ANALYSIS:**

At the June 20, 2023 regular meeting, staff were directed to post an RFP for an Engineer of Record. The purpose of this was for the Municipality to enter into an agreement with an engineering firm to provide services on an as-needed basis, helping shorten project times and creating better continuity in our operations.

The RFP closed on August 18, 2023 and received two submissions; from EXP Services Inc and Tatham Engineering. Staff reviewed and scored each of the submissions, the results of which are provided below:

	Tatham	EXP
<b>TOTAL POINTS ( /100)</b>	<b>76</b>	<b>70</b>

The Municipality has engaged the services of Tatham Engineering twice in the recent past, for the Sand Dome structural inspection and the Forestry Road culvert replacement project. Staff found the firm to be responsive, professional, and competent in the performance of their work.

Staff are recommending that a contract for Engineer of Record services be awarded to Tatham Engineering.

To: Council  
From: K. Bester, Deputy Clerk  
Date: August 25, 2023  
Re: Public Works Items Report

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Please see following details/updates on Public Works items:

**Garbage Truck Repairs –**

Metal was found in the oil pan; Mister Transmission took out the transmission on August 28<sup>th</sup>. They are awaiting a part (valve body) and it is going to be 7-10 days before it arrives. They will install this part and then determine whether or not this fixes the issue. Mister Transmission had previously rebuilt the transmission but the work is now just past the 1 year warranty period. At this time it is not known whether Mister Transmission or the Municipality will be responsible for covering costs associated with the required work.

**Garbage Truck Outsourcing –**

Staff have reached out to prospective vendors with respect to outsourcing the garbage collection service. While vendors were hesitant to provide an official quote, it was estimated that the cost would be 20-30% higher than the current cost for our recycling agreement. This would put it in the range of \$140-160,000 per year; by comparison, an analysis of our current service costs, including staff time, fuel, maintenance, and capital costs for the equipment, equates to approximately \$140,000 (2022).

On the assumption that the revenue model does not change, it appears that this is a cost-neutral proposition. Council should also consider the escalating repair costs on the existing truck, and limited ability to finance a replacement in the near term should that need arise. Direction is required if staff are to proceed with posting an RFP for this service.

**Poultry Processing Facility –**

Awaiting Draft contract from our lawyer – Allison to follow up.

**Sidewalks in Trout Creek –**

It was confirmed to our Engineer earlier that the sidewalks would be replaced 'like for like in kind and location'; this is being done now. We have not yet received any correspondence regarding the transfer of the sidewalks to the Municipality, as per Council's request.

**Public Works Shop –**

- Needs updates to lighting
- Needs equipment and tools
- Roof need repairs
- Garage doors and vehicle entrance needs to be improved.
- New building should be part of the municipal plan.

#### **Public Works Personnel –**

- A specific maintenance leader needs to be identified and trained
- Maintenance training for each Public Works employee needs to be done

#### **Public Works Vehicles –**

- Need cab and chassis for garbage compactor as soon as possible. (approx. \$160,000.00 for complete changeover)
- Garbage truck should only be loaded to **75% maximum!**
- All plow trucks need engine bearings.
- Need to set up maintenance contracts for all pieces of equipment for budget purposes.
- Need to do annual inspections on all equipment to be able to budget for 2024 repairs.
- Future truck replacement:
  - To be purchased and as much extended warranty as possible
  - Maintenance contract with truck shop
  - Schedule replacement in Municipal Plan for all equipment.
  - Current costs to replace a single axle plow to Municipal specification is approximately \$330,000.00 and a tandem is \$360,000.00.
  - Replacement process needs to commence now.

#### **Public Works Emergency Back-up –**

- set-up agreement with other municipalities for sharing equipment and operators.

#### **Public Works Maintenance RFP –**

- needs to be done yearly to secure best pricing for parts and service costs.

**THE CORPORATION OF THE MUNICIPALITY OF POWASSAN**

**BY-LAW NO. 2023-18 PROCEDURAL BY-LAW**

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Being a By-Law to Govern the Calling, Place and Proceedings of the Meetings of  
Council and its Committees

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WHEREAS subsection 238(2) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended, provides that every municipality shall pass a procedure by-law for governing the calling, place and proceedings of meeting;

NOW THEREFORE THE COUNCIL OF THE MUNICIPALITY OF POWASSAN  
HEREBY ENACTS AS FOLLOWS:

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## **1.0 DEFINITIONS:**

For the purposes of this Bylaw:

- 1.1 "Act" means the Municipal Act, 2001, S.O. 2001, c.25, as amended from time to time;
- 1.2 "Acting Committee Chair/Co-Chair" means the Member appointed by the members of the Committee to act as Chair/Co-Chair of the Committee in the place of the Committee Chair/Co-Chair;
- 1.3 "Ad Hoc Committee" means an Advisory Committee of specified duration, established by Council to undertake the review of a special issue or short-term project. Such a Committee shall be governed by clear terms of reference including a clause indicating when the Committee will cease to exist;
- 1.4 "Advisory Committee" means any board, commission or committee established by Council, other than a Standing Committee, which has at least one (1) Member appointed from Council. The member(s) appointed by Council may be Member(s), staff of the Municipality, and/or member(s) of the public;
- 1.5 "Agenda" shall mean a list of all items to be considered by the Council at the meeting for which the agenda was published;
- 1.6 "Business Day" shall mean Monday to Friday inclusive, except for Statutory or Civic Holidays observed in the Province of Ontario or any other day the Municipal office is not opened for business;
- 1.7 "Call the question" means that the vote on the motion shall be taken;
- 1.8 "Chair" means the Mayor or the Presiding Officer of a meeting;
- 1.9 "Chief Administrative Officer" shall mean the Chief Administrative Officer (CAO) of the Corporation as defined by the Municipal Act, S.O. 2001, c. 25, as amended and any successor legislation thereto or their designate;
- 1.10 "Clerk" means the Clerk of the Municipality of Powassan appointed under the Act and shall include a "Deputy Clerk" and any other employee of the Municipality to whom the Clerk has delegated any of the Clerk's powers and duties under the Act, to the extent that they are authorized to perform any of the duties of the Clerk under this Bylaw;
- 1.11 "Closed Session" (also known as an "in-camera meeting") means a Meeting or part of a Meeting of Council, a Committee or Committee of the Whole, which is not open to the public in accordance with the Act;
- 1.12 "Committee" means any Standing, Ad Hoc, Steering or Advisory Committee, Sub-Committee or board and any other similar group composed of individuals appointed by Council, or similar entity established by Council



and composed of Members;

- 1.13 "Committee Chair/Co-Chair" means the chair or co-chair of a Committee;
- 1.14 "Committee of the Whole" means a Standing Committee composed of all the members of Council;
- 1.15 "Committee Vice-Chair" means the vice-chair of a Committee;
- 1.16 "Conflict of Interest" shall mean a direct or indirect pecuniary interest within the meaning of the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, as amended, and any successor legislation thereto;
- 1.17 "Corporation" means The Corporation of the Municipality of Powassan;
- 1.18 "Council" means the Council of the Municipality of Powassan;
- 1.19 "Councillor" means a person elected or appointed as a member of Council;
- 1.20 "Defer", "Deferred" or "Deferral", when used in connection with a matter or item before the Council or a Committee, means that the matter or item is to be dealt with later in the same meeting, or at the next meeting of the same body, or at the meeting of the same body that it specified in the motion to defer;
- 1.21 "Delegation" means a person intending to address the Council or Committee on a matter where a decision to the Council may be required;
- 1.22 "Deputy Mayor" means the Councillor appointed by Council to act in the absence of the Mayor in accordance with this Bylaw;
- 1.23 "Emergency Meeting" means a meeting where the health or welfare of the community is involved;
- 1.24 "Ex-officio" means by virtue of office or position and carries with it the right to participate fully in all committee meetings and to vote unless prohibited by law but does not count towards a quorum;
- 1.25 "Holiday" shall mean any holiday as defined in the Interpretation Act, R.S.O. 1990, c.1.11 or Boxing Day;
- 1.26 "Improper conduct" means conduct which offers any obstruction to the deliberations or proper action of Council;
- 1.27 "Inaugural Meeting" means the first meeting of Council held after a municipal election in a regular election year;
- 1.28 "Local Board" means a local board as defined in the *Municipal Act, 2001*.
- 1.29 "Majority Vote" means the vote of more than half of the members present

- at a properly constituted meeting at which a quorum is present;
- 1.30 “Mayor” means the Head of Council acting as the Chief Executive Officer of the Corporation;
- 1.31 “Meeting” means any regular, special or other meetings of a Council, or a local board or of a committee of either of them;
- 1.32 “Member of Council” means any Councillor or the Mayor of the Council;
- 1.33 “Motion” means a proposal by a Member for the Council to adopt a resolution;
- 1.34 “Municipal Election” shall mean a general municipal election held pursuant to the *Municipal Elections Act*;
- 1.35 “Notice of Motion” means a signal of intent to have a motion dealt with at a subsequent meeting;
- 1.36 “Officer” includes the Clerk and Treasurer employed by The Municipality of Powassan;
- 1.37 “Open Session” means any part of a meeting not in “closed session”;
- 1.38 “Pecuniary Interest” means a direct or indirect interest within the meaning of the *Municipal Conflict of Interest Act, R.S.O., 1990, chapter M.50*, as amended and any subsequent legislation thereto;
- 1.39 “Petition” means a written request signed by one or more persons;
- 1.40 “Point of Order” means an issue to which a member calls attention to:
- a) Any breach of the rules of order pursuant to this Procedural By-law; or
  - b) Any defect in the constitution of any meeting; or
  - c) The use of improper, offensive or abusive language; or
  - d) Notice of the fact that the matter under discussion is not within the scope of the proposed motion; or
  - e) Any other informality or irregularity in the proceeding of the meeting;
- 1.41 “Point of Personal Privilege” means a matter that a member of Council considers to impugn the integrity of the Council or the individual member;
- 1.42 “Procedural Motion” means any Motion concerning the manner or time of consideration of any matter before the council, as opposed to the substance thereof, and includes, without limitation, the following:
- a) To extend the time of the meeting;
  - b) To refer;
  - c) To defer to a specific date;
  - d) To recess;
  - e) To adjourn;
  - f) To move the question be put; or

g) To suspend the Rules of Procedure;

- 1.43 "Public Meeting" means a public meeting under the *Municipal Act* or the *Planning Act*, or any other statute that requires the Council to hold a public Meeting;
- 1.44 "Public Notice" means a public notice published in accordance with this By-Law and the Municipality of Powassan Notice By-Law;
- 1.45 "Published" means published on the Municipal website, and on any Municipal social media sites or other means of notice, that in the opinion of the Clerk has such circulation within the Municipality as to provide reasonable notice to those affected thereby;
- 1.46 "Quorum" means the minimum number of members who must be present at the meetings for business to be legal transacted;
- 1.47 "Recorded Vote" shall mean the recording of the name and vote of every Member of Council on any matter of question, subject to the *Municipal Conflict of Interest Act*;
- 1.48 "Regular Meeting" means the recording of the name and vote of every Member of Council on any matter of question, subject to the Act;
- 1.49 "Resolution" means the decision of the Council on any motion;
- 1.50 "Rules of Procedure" means the rules and procedures set out in this Bylaw for the calling, place, and proceedings of the meetings of Council and its Committees;
- 1.51 "Special Meeting" means a meeting other than a regularly scheduled meeting, called pursuant to the Act or the provisions of this Bylaw;

## 2.0 GENERAL PROVISIONS

- 2.1 The rules and regulations contained in this Bylaw shall be observed in all proceedings of the Council and Committees of Council and shall be the rules and regulations for the order and dispatch of business of the Council and wherever possible, with the necessary modifications, for all committees of Council, unless otherwise prescribed.
- 2.2 Notwithstanding Section 2.1, these rules and procedures may be relaxed in a Committee meeting if the subject matter so permits.
- 2.3 The Mayor shall be addressed as Mayor (surname inserted) or Your Worship.
- 2.4 The Councillors shall be addressed as Councillor (surname inserted).
- 2.5 All matters not specifically provided for in this Bylaw shall be regulated in accordance with parliamentary procedures.

- 2.6 In the absence of any statutory obligations, the Rules of Procedure may be suspended by Council by an affirmative vote of two-thirds of the Members present.
- 2.7 This Bylaw shall not be amended or repealed except by an affirmative vote of two-thirds of the Members present, but no such amendment or repeal may be considered at any meeting of Council unless notice of the proposed amendment or repeal has been given at a previous regular meeting of Council. The requirement to give notice shall not be waived.
- 2.8 If any section or part of this Bylaw is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such section or part shall be deemed to be severable, and all other sections or parts of this Bylaw shall be deemed to be separate and independent therefrom and to be enacted as such.

### **3. ROLE OF COUNCIL**

3.1 It is the role of Council:

- a) to represent the public and to consider the well-being and interests of the Municipality;
- b) to develop and evaluate the policies and programs of the Municipality;
- c) to determine which services the Municipality provides;
- d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
- e) to ensure the accountability and transparency of the operations of the Municipality, including the activities of Municipal senior management;
- f) to maintain the financial integrity of the Municipality;
- g) to carry out the duties of Council under the Act or any other statute.

3.2 In accordance with Section 259(1) of the Act, the office of a Member becomes vacant if the Member is absent from the meetings of Council for three (3) successive months without being authorized to do so by a resolution of Council.

This section does not apply to a Member who is absent for 20 consecutive weeks or less if the absence is a result of the Member's pregnancy, the birth of the Member's child or the adoption of a child by the Member.

3.3 A Member who takes a pregnancy or parental leave shall notify the Clerk in writing and will continue to be compensated under the Council Compensation Policy for the duration of their leave up to 20 consecutive weeks.

### **4. ROLE OF THE MAYOR**

4.1 It is the role of the Mayor:

- a) to act as Chief Executive Officer of the Municipality;
- b) to preside over Council meetings so that its business can be carried out efficiently and effectively;
- c) to provide leadership to Council;
- d) without limiting clause (c), to provide information and recommendations to Council with respect to the role of Council described in clauses 3.1(d) and 3.1(e) of this Bylaw;
- e) to represent the Municipality at official functions; and
- f) to carry out the duties of the head of Council under the Act and any other statute.

4.2 As Chief Executive Officer of the Municipality, the Mayor shall:

- a) uphold and promote the purposes of the Municipality;
- b) promote public involvement in the Municipality's activities;
- c) act as the representative of the Municipality both within and outside the Municipal region, and promote the Municipality locally, nationally and internationally; and
- d) participate in and foster activities that enhance the economic, social and environmental well-being of the Municipality and its residents.

4.3 It shall be the duty of the Mayor, with respect to any meetings over which they preside, to:

- a) preserve order and decide all questions of order, subject to appeal, and without argument or comment, state the rule applicable to any point of order if called upon to do so;
- b) receive and submit to a vote all Motions presented by the members of Council or Committee, as the case may be, which do not contravene the Rules of Procedure;
- c) announce the results of the vote on any Motions so presented;
- d) decline to put to a vote Motions which are contrary to the Rules of Procedure or which are beyond the jurisdiction of Council;
- e) enforce on all occasions the observance of order and decorum among the Members;
- f) authenticate by their signature, when necessary, all Bylaws, minutes and resolutions of Council or Committee;
- g) adjourn the meeting when business is concluded;
- h) adjourn the sitting without a question being put or suspend or recess the sitting for a time to be named if considered necessary;
- i) represent and support Council, declaring its will and implicitly obeying its decisions in all things; and
- j) perform other duties when directed to do so by resolution of Council.

4.4 The Mayor shall be the chair of the Committee of the Whole meetings except for Budget Review Committee of the Whole Meetings. The Mayor may also select another Member to Chair Committee of the Whole meetings.

4.5 The Mayor shall be a member of all Committees and shall have full privileges, including the right to vote at meetings thereof, but shall not be eligible to be the Committee Chair/Co-Chair or Committee Vice-Chair.

- 4.6 The Mayor shall only vote in a Council meeting to break a tie vote.
- 4.7 In accordance with the Act, in each term, as soon after the commencement of the term as is reasonably possible, Council shall appoint by Bylaw or Resolution, the member of council to serve as Deputy Mayor. The Deputy Mayor shall serve in circumstances where the Mayor is absent or refuses to act or the office is vacant and while so acting in the place of the Mayor, such Member shall have all powers and duties of the Mayor.
- 4.8 If both the Mayor and Deputy Mayor are unable to act as Head of Council for a meeting, Council shall appoint an Acting Mayor who shall have all the rights, powers, and authority of the Head of Council for the purposes of that meeting. In this instance, the Clerk shall call the meeting to order and conduct the meeting to allow Council to appoint an Acting Mayor.

## **5. REGULAR MEETINGS OF COUNCIL AND COMMITTEE OF THE WHOLE**

- 5.1 Unless otherwise authorized by Council, all meetings of Council and Committee of the Whole shall be held in Council Chambers at 252 Clark Street, Powassan. The alternate location for Council Meetings will be 250 Clark Street, Powassan. The Clerk will ensure the Public is made aware of any change as soon as possible.
- 5.2 Regular meetings of Council shall commence at 6:30 p.m. in Open Session and be held twice a month on the first and third Tuesday, with the exception of July, August and December, with one meeting planned per month. This schedule shall be established by Resolution at the Inaugural Meeting of Council.
- 5.3 Council may change the date of any regular meeting by Resolution.
- 5.4 If a date designated for the holding of a Council meeting falls on a public holiday, or on a day when the Municipal office is closed for business, Council shall meet at the designated hour on the first day following, which is not a public holiday.
- 5.5 All Closed Session items for discussion at Regular Council Meetings shall be discussed in Closed Session following Notice of Schedule and Board Meetings.
- 5.6 The curfew for each regular meeting of Council is 10:30 p.m. The meeting shall stand adjourned at that curfew, unless the curfew is extended to 11:30 p.m. at the latest, by an affirmative vote of the majority of Members present.
- 5.7 Council may, by Resolution, go into Committee of the Whole and the Mayor shall chair the meeting and shall maintain order during the meeting.
- 5.8 Municipal Staff will make every effort to record all Meetings of Council, including Closed Session Meetings, will be recorded by the Municipality. Recordings will only be in the possession of the Clerk and/or CAO. The

recordings of Closed Session Meetings will only be viewed upon notification of a Closed Session Investigation, or by unanimous vote of Council.

- 5.9 A Member of Council may participate electronically in a Meeting that is either open or closed to the public should they be unable to participate in person for medical reasons, illness, or in the event of a situation or pandemic in which physical distancing, limited gatherings or quarantine measures are required by local, provincial or federal public health agencies, and in doing so may be counted in determining whether or not a quorum of members is present at any point in time and shall have all the rights of any other Member who is participating in person.
- 5.10 A Member of an Advisory or Ad-Hoc Committee may participate electronically in a Meeting that is either open or closed to the public and in doing so may be counted in determining whether or not a quorum of members is present at any point in time and shall have all the rights of any other Member who is participating in person.
- 5.11 The Clerk may provide for electronic participation of staff at any Meeting, including the Clerk. Participants must be visible during the entirety of the Meeting.
- 5.12 Electronic meetings are those held by means of telecommunication instruments including but not limited to telephones, video conferencing, computers with internet access and conferencing platforms and programs. The means used to facilitate an electronic meeting shall be determined by the Clerk and will ensure all participants in the meeting are visible.
- 5.13 A Member must provide sufficient notice to the Clerk, their designate, or the Staff Liaison of a Committee, of their intent to participate electronically in a Meeting to ensure the proper technology is enabled to make electronic participation possible. The Member must give at least 48 hours' notice of their intent to join the meeting electronically unless extraordinary circumstances apply. The Member must be visible to others in the Meeting at all times.
- 5.14 Members who are participating electronically in a closed session meeting must ensure that no other person is in the location from which they are taking part in the meeting or make appropriate arrangements to that any other persons cannot see or hear any of the confidential deliberations taking place. If this is not possible, the Member must withdraw from the meeting until it has reconvened in open session.
- 5.15 A member of the public may delegate via electronic participation due to a situation or pandemic in which physical distancing, limited gatherings or quarantine measures are required by local, provincial, or federal public health agencies.
- 5.16 The Clerk shall arrange for such delegations, and any members of the public who wish to make a verbal delegation to a Standing Committee or Council via electronic participation shall inform the Clerk when requesting delegation by noon on the Thursday prior to the Meeting. Delegates shall be provided

with instructions on how to join the Meeting; all participants of the delegation must be visible to Council. Delegations who have not registered by the deadline will not be permitted to delegate.

- 5.17 Subject to these provisions for electronic participation, all other provisions of the Procedural Bylaw continue to apply and the Chair shall determine and maintain order as needed.

## **6. SPECIAL MEETINGS**

- 6.1 Upon notice as set out in Section 6.2, the Mayor may, at any time, call a Special Meeting of Council or the Committee of the Whole and upon receipt of a petition of the majority of the Members, the Clerk shall call a Special Meeting of Council for the purpose and at the time and place set out in the petition. Every effort should be made to circulate a petition for a call for a Special Meeting to all members of Council.
- 6.2 The Clerk shall provide all Members with notice of a Special Meeting at least forty-eight (48) hours before the time appointed for such meeting by personal delivery, telephone, email, or other electronic means to the Members.
- 6.3 No business may be transacted at a Special Meeting of Council other than that specified in the notice or agenda.
- 6.4 The lack of receipt of a notice of, or an agenda for, a Special Meeting by any Member shall not affect the validity of the Special Meeting, or any action taken.

## **7. EMERGENCY MEETINGS**

- 7.1 Notwithstanding any other provision of this Bylaw, an Emergency Meeting of Council may be called by the Mayor without written notice to deal with an emergency or extraordinary situation, provided that an attempt has been made by the Clerk to notify the Members about the meeting as soon as possible and in the most expedient manner available.
- 7.2 The only business to be dealt with at an Emergency Meeting shall be business dealing directly with the emergency or extraordinary situation.
- 7.3 The lack of receipt of a notice of, or an agenda for, an Emergency Meeting by any Member shall not affect the validity of the Emergency Meeting, or any action taken.

## **8. QUORUM**

- 8.1 A majority of all Members is necessary to form a quorum of Council.



- 8.2 As soon as there is a quorum after the time set for the Meeting, the Chair shall call the meeting to order.
- 8.3 If a quorum is still not present within fifteen (15) minutes after the time set for the Meeting, then the Clerk shall record the names of the Members present and the Meeting shall stand adjourned until the date of the next Meeting.
- 8.4 If a quorum is lost during a Meeting and is not regained within fifteen (15) minutes, the Meeting shall stand adjourned until the next Meeting.
- 8.5 Where the number of Members who, by reason of the provisions of the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, are disabled from participating in a meeting, is such that at that meeting the remaining Members are not of sufficient number to constitute a quorum, then the remaining number of Members shall be deemed to constitute a quorum, provided such number is not less than two (2).
- 8.6 Whereby reason of an approved Authorized Leave by the Committee Chair, a member(s) is disabled from participating in a meeting, the number of Members shall be reduced temporarily to determine quorum, provided such number is not less than two (2).

## **9. PUBLIC ACCESS TO MEETINGS**

- 9.1 Except as otherwise provided in this Section, all Meetings shall be open to the public.
- 9.2 When determined necessary by the Clerk and/or Mayor, security personnel (third party, Bylaw enforcement officer, or Ontario Provincial Police) shall be present to oversee the media and public areas of the Council Chambers.
- 9.3 If a member of the public or media is deemed to be disruptive by the Mayor or presiding officer, they shall direct the person to stop being disruptive. In the event that the disruptive behaviour continues, the person will be served with a warning. If the warning is not adhered to by the person, the Mayor or presiding officer will expel that person from the meeting. If the person is noncompliant to the request to leave the room, a Member or Municipal staff will contact local police services for assistance.
- 9.4 A Meeting or part of a Meeting may be closed to the public if the subject matter being considered is:
- a) the security of the property of the Municipality;
  - b) personal matters about an identifiable individual, including Municipal employees;
  - c) a proposed or pending acquisition or disposition of land by the Municipality;
  - d) labour relations or employee negotiations;
  - e) litigation or potential litigation, including matters before administrative tribunals, affecting the Municipality;
  - f) advice that is subject to solicitor-client privilege, including communications

- necessary for that purpose;
- g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
  - h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
  - i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
  - j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
  - k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.
- 9.5 A Meeting or part of a Meeting shall be closed to the public if the subject matter being considered is:
- a) a request under the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, if Council is designated as head of the institution for the purposes of that act; or
  - b) an ongoing investigation respecting the municipality, a local board or a municipally controlled corporation by the Ombudsman appointed under the Ombudsman Act, an Ombudsman referred to in subsection 223.13(1) of the Municipal Act, 2001, or the investigator referred to in subsection 239.2(1) of the Municipal Act, 2001.
- 9.6 A Meeting of Council or of a Committee may be closed to the public if the following conditions are both satisfied:
- a) the meeting is held for the purpose of educating or training the Members.
  - b) at the meeting, no Member discusses or otherwise deals with any matter in a way that materially advances the business or decision making of Council or Committee.
- 9.7 Before holding a Meeting or part of a Meeting that is to be closed to the public, Council or Committee shall state by resolution:
- a) the fact of the holding of the Closed Session and the general nature of the matter to be considered at the Closed Session; or
  - b) in the case of a meeting under Section 9.6, the fact of the holding of the Closed Session, the general nature of its subject-matter and that it is to be closed under that Section.
- 9.8 Only items contained in the resolution provided for in Section 9.7 shall be considered by the Council or Committee in closed session.
- 9.9 A Meeting shall not be closed to the public during the taking of a vote except where:
- a) the provisions of this Bylaw or the Act permit or require the Meeting to

be closed to the public; and  
b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the Municipality or persons retained by or under a contract with the Municipality.

- 9.10 After the Council agenda has been adopted by resolution, a motion to move into closed session is only in order if the motion relates to an item already on the approved agenda and a closed session is permitted in accordance with the provisions of this bylaw.
- 9.11 After the motion to move into closed session has been adopted, the Mayor or presiding officer shall provide sufficient time to accommodate the public and media (and designated staff) to orderly vacate the room, up to a maximum of five (5) minutes.
- 9.12 If an emergency occurs during a closed session meeting, the meeting will be automatically deemed suspended for staff to manage the emergency.
- 9.13 If a non-emergency event occurs during a closed session meeting, the Mayor or Chair of Committee will openly declare the meeting suspended for staff to manage the event.
- 9.14 If an unauthorized recording device is located during a closed session meeting, the meeting will be declared suspended for staff to manage the event. The Clerk (or designate) shall attempt to locate the owner of the device. The owner will be asked to demonstrate that the device did not record the closed session meeting to the satisfaction of the Clerk. If the device inadvertently recorded the closed session meeting, the Clerk will request the owner of the device to erase the recording to the satisfaction of the Clerk. If the owner of the device is non-compliant with the request of the Clerk, local police services may be called for assistance.
- 9.15 All deliberations while in Closed Session shall remain confidential unless otherwise agreed upon by a Majority vote of Council. Only the final results of deliberations may be made public when such disclosure is authorized by Council.
- 9.16 Recordings of Open Council Meetings will be made available to the public upon request, within 72 hours of the meeting. As Regular Council Meetings are open to the public, any posting, livestreaming, or broadcasting of a meeting shall be considered an enhancement to public attendance, and the inability to provide this enhancement shall not be considered as prohibiting public attendance. Boards and Committees of Council are not required to livestream nor record their meetings, as they are open to the public.

In the event of a situation in which public gatherings cannot, or should not happen, as required by local, provincial, or federal public agencies, the Clerk will provide for electronic participation of the public. All participants must be visible to others in the Meeting at all times. Livestreaming of a Regular Meeting of Council will be considered an enhancement to public attendance when electronic participation is provided.

Access to recorded proceedings shall follow the *Municipal Freedom of Information and Protection of Privacy Act*.

Video files from live streaming that are on the internet are part of the public realm and as such are subject to alteration by a member of the public with no municipal control over such alterations. The Municipality assumes no liability associated with any alterations that are made by a member of the public on the internet.

A notation will be added to Council and any other recorded meeting agendas to make presenters and members of the public aware that proceedings are being recorded and/or available on the internet.

- 9.17 To ensure that all members of the public are comfortable participating in Meetings signs, banners, emblems, flags, cameras, audio, and video recordings by the public are prohibited in the Chambers except by permission of the Chair.

Notwithstanding the foregoing, Municipal Staff, approved media, and approved broadcasting or webstreaming service providers, will have permission to record and may use cameras, recording equipment, television cameras, and any other devices of a mechanical, electronic, or similar nature to transcribe or record open session proceedings of Council and Committees. These devices may not be used in such a way as to obstruct or disrupt the proceedings of the meeting.

## **10. PUBLIC NOTICE OF MEETINGS**

- 10.1 The Clerk shall provide public notice of all meetings of Council and Committee by posting a notice on the Municipal website which includes the place, date and time of the Meeting and the Meeting agenda.

## **11. COUNCIL AGENDA**

- 11.1 The Clerk shall prepare the agenda for all regular meetings of Council. The order of proceedings shall be as follows, or as otherwise determined by the Clerk:

- a) Call to Order;
- b) Land Acknowledgement Statement;
- c) Roll Call
- d) Disclosures of Pecuniary Interest
- e) Approval of Agenda:
  - (i) Addition of Items;
  - (ii) Changes in Order of Items
- f) Delegations to Council;
- g) Adoption of Minutes of Previous Open Session Meeting(s) of Council;
- h) Minutes and Reports from Committees of Council

- i) Minutes and Reports from Appointed Boards
- j) Staff Reports
- k) By-Laws
- l) Unfinished Business
- m) New Business
- n) Correspondence
- o) Addendum
- p) Notice of Schedule of Council and Board Meetings
- q) Closed Session
- r) Adjournment

- 11.2 The business of each Meeting shall be dealt with in the order in which it stands in the agenda, unless otherwise decided by a Majority vote of the Members present.
- 11.3 All reports, notices, motions, and any other material to be included in the agenda for a regular Council meeting shall be delivered in writing or electronically to the Clerk, by 12:00 p.m. on the Thursday preceding the regular Council meeting.
- 11.4 The deadline for the submission of matters permitted for inclusion in the addendum to the Council agenda shall be 9:00 a.m. on the day of the Council meeting. Any Item requested to be added to the Regular Agenda open to the public, after the Council Agenda has been published by the Clerk, must be done in writing to the Clerk. The written request must explain the importance of the Item and explain timeliness of the request. Verbal discussion and/or presentations from Staff or Members are not permissible as agenda items.
- 11.5 The Clerk shall distribute the agenda for each regular Council meeting to every Member by providing a printed copy for pickup, e-mail, or other electronic means, not less than seventy-two (72) hours before the scheduled meeting.

## **12. DISCLOSURE OF PECUNIARY INTEREST**

- 12.1 In accordance with the Municipal Conflict of Interest Act, where a Member has any Pecuniary Interest in any matter and is present at a Council meeting or Committee meeting at which the matter is the subject of consideration, the Member shall:
- a) disclose their Pecuniary Interest as per the Council agenda;
  - b) prior to any consideration of the matter at the Meeting, disclose the interest and the general nature thereof;
  - c) not take part in the discussion of, or vote on, any question in respect of the matter; and
  - d) not attempt in any way, whether before, during or after the Meeting, to influence the voting on any such question.
- 12.2 Where a meeting is not open to the public, in addition to complying with the requirements of Section 12.1, the Member shall forthwith leave the meeting for that part during which the matter is under consideration.

- 12.3 Where the interest of a Member has not been disclosed by reason of their absence from the Meeting, the Member shall disclose their interest at the next Meeting at which such Member attends.
- 12.4 The Clerk shall record in reasonable detail the particulars of any disclosure of Pecuniary Interest made by members of Council or Committees and any such record shall appear in the minutes of that Meeting of Council or of Committee.

### **13. DELEGATIONS AND PRESENTATIONS**

- 13.1 The maximum number of presentations, for any meeting unless agreed to by the Mayor and Clerk, shall be one (1).
- 13.2 It is Council's preference that all delegations be made to the appropriate Standing Committee. Nevertheless, delegations shall be permitted to appear at Council meetings with respect to items on the Council agenda provided a written request is made to the Clerk by 12:00 p.m. on the Thursday prior to the meeting. Delegations that have previously presented to Council or before a Standing Committee can only appear as a delegation at Council to present new information on the matter involved.
- 13.3 Written notice to the Clerk from a delegation shall include:
- a) The presenter's name, address, telephone number and e-mail address;
  - b) Full names of all presenters;
  - c) Date they wish to present;
  - d) A brief statement of the subject matter, the outcome that is sought and what action they are requesting from Council;
  - e) An overview of the delegation;
  - f) Acknowledgement that they have read and understand the guidelines as informed by the Clerk.
- 13.4 The Clerk shall inform the presenter of the guidelines affecting the presentation (e.g. maximum time, and adherence to subject) and obtain an acknowledgement by the presenter of his understanding of those guidelines.
- 13.5 Delegations and presentations shall be limited to a presentation of not more than ten (10) minutes, unless otherwise determined by the Committee Chair/Co-Chair or Mayor. A delegation of not more than five (5) persons, representing a group or organization, shall be limited to two (2) speakers, permitted to speak not more than ten (10) minutes in total. Only new information is to be presented by successive speakers of such delegation.
- 13.6 At the discretion of the Mayor or presiding officer the presentation time limit may be extended. Such decision shall be decided without debate.
- 13.7 No presenter shall:
- a) speak disrespectfully of any person;
  - b) use offensive words or unparliamentarily language;
  - c) speak on any subject other than the subject for which they received

approval to address;  
d) disobey the rules of order or a decision of the Presiding Officer.

- 13.8 After the presenter has completed the presentation, members shall each have the opportunity to ask questions for clarification purposes only, and without debate.
- 13.9 The Presiding Officer may curtail any presenter, any questions of a presenter or debate during a presentation, for disorder or for any other breach of this Procedural By-law and, should the Presiding Officer rule that the presentation is concluded, the presenter shall withdraw immediately and shall be given no further audience by the Council.
- 13.10 Delegations concerning labour relations, union negotiations and any employee relations will not be heard at any Standing Committee or Council meetings. All signed submissions received by the Clerk concerning these matters shall be referred to the head of Municipal Administration.
- 13.11 Delegations shall not be permitted at Council meetings to address planning matters that were considered at a public meeting pursuant to the provisions to the Planning Act.
- 13.12 The Clerk, in consultation with the Mayor, shall decide which Delegations will be heard orally, in person or electronically, at any given meeting and may defer or decline to place any delegation on the agenda having regard to the time available and:
- a) The express desire of any member or members of Council that a particular delegation be heard;
  - b) The desirability that different points of view on any issue be heard;
  - c) The desirability that persons who support a particular position be encouraged to combine to make a joint oral presentation usually through a single spokesperson;
  - d) The desirability that new issues not on the subject of previous delegations should be heard.
- 13.13 The Mayor or Clerk may decline to approve a Delegation. Reasons to decline include but are not limited to:
- a) More time is required to prepare staff reports for Council;
  - b) The Delegation request was not submitted by the deadline;
  - c) The Delegation request form is incomplete;
  - d) The subject matter of the Delegation is outside the jurisdiction of Council;
  - e) The subject matter is with respect to a matter that should be discussed in Closed Session;
  - f) The Meeting Agenda is already too lengthy;
  - g) The subject matter is set to be discussed on another Agenda;
  - h) The issue is frivolous or vexatious;
  - i) The issue has been or is to be considered by the Committee of Adjustment;
  - j) Council has previously considered or decided the issue and a Delegation has appeared before Council with respect to the same issue;
  - k) Council previously indicated that it will not hear further from this

- Delegation; or
- l) The issue should be referred to Municipal staff for action;
  - m) Council has previously signed a resolution on the issue and no further action can be taken within the next 364 days.

## **14. MINUTES OF MEETINGS**

- 14.1 The minutes of every Meeting, whether it is closed to the public or not, shall be recorded by the Clerk, in the case of meetings of Council, or appropriate officer, in the case of meetings of Committee. For the purposes of this Section 14.1, "Clerk" means the Clerk, Deputy Clerk or designate.
- 14.2 The minutes of all meetings of Council and Committees shall record:
  - a) the place, date and time of meeting;
  - b) the name of the presiding officer and the record of the attendance of the Members present and those who have sent their regrets, and the name of the recording secretary and senior staff present; and
  - c) without note or comment, all resolutions, decisions and other proceedings of the meeting.
- 14.3 The Members may inform the Clerk's office where reasonable of all planned absences, late arrivals and early departures from Council and Committee meetings.
- 14.4 The minutes of each Council meeting shall be presented to Council at the next regular meeting for approval.
- 14.5 After the Council minutes have been approved by Council, they shall be signed by the Mayor and the Clerk.
- 14.6 The public Committee report of each Committee meeting shall be presented to Council at the next regular Council meeting for consideration and adoption of Committee recommendations contained in it.
- 14.7 Recordings of Meetings shall be retained in accordance with the Municipality's Records Retention By-law.
- 14.8 The closed session Minutes of each closed session of Council shall be presented to Council at their next closed session meeting and that the minutes of closed session of the respective Council held on the meeting date be adopted and the recommendations contained therein be approved.

## **15. CONDUCT**

- 15.1 The Mayor will ensure that members of the Public shall be respectful of Council, staff, delegations, and all attendees at the Meeting by not heckling, speaking disruptively while debate is in progress, making comments or applauding.



- 15.2 Members of Council shall:
- a) act in accordance with their Oath of Elected Appointed Officials and the Municipal Code of Conduct;
  - b) treat the Chair, other Members, staff and delegates from the public with courtesy, respect and good faith;
  - c) hold in strict confidence all information concerning matters dealt with in Closed Meetings;
  - d) not speak disrespectfully of the Reigning Sovereign, or of any of member of the Royal Family, or of the governor-general, the Lieutenant-Governor of any Province, of any member of the Senate, the House of Commons of Canada or the Legislative Assembly of the Province of Ontario;
  - e) not use offensive words or unparliamentarily language in or against Council or against any Member;
  - f) not speak on any subject other than the motion being debated;
  - g) not criticize any decision of Council except for the purpose of moving a motion to reconsider a previous decision of Council.
- 15.3 The Mayor may Call the Member to Order and take one or more of the following actions:
- a) decide that there was no breach of the rule;
  - b) ask the Member in breach of the rules to stop the behaviour;
  - c) ask the Member to withdraw what was said; or
  - d) ask the Member to apologize.
- 15.4 If previous attempts to call the member to order have failed, the Mayor may decide, not to recognize the Member, for the balance of that meeting, in which case the Member shall not speak or vote for the remainder of that Meeting.

## **16. RULES OF DEBATE**

- 16.1 Any Member who wishes to speak must raise his or her hand and be recognized by the Mayor. Once recognized, the Member, if able, shall stand to speak to the matter.
- 16.2 When two (2) or more Members raise their hands, the Mayor shall designate the order in which they may speak.
- 16.3 No Member may speak more than once on the same matter unless Council dispenses of this provision with an affirmative vote of at least two-thirds of the members present, except in explanation of a material part of that Member's remarks which may have been misunderstood, and in doing so, that Member shall not introduce any new matter.
- 16.4 No Member may speak to the same question or in reply for any longer than ten (10) minutes including comments, questions to staff and staff responses in Council and Committee of the Whole, without leave of the Council or Committee of the Whole.
- 16.5 When a Member is speaking, no other Member shall pass between that

Member and the Chair or interrupt that Member except to raise a point of order.

- 16.6 Any Member may require the question or Motion under discussion to be read at any time during the debate, but not so as to interrupt a Member while speaking.
- 16.7 When the minutes of a Standing Committee meeting are presented to Council, the Committee Co-Chairs, Chairs or Vice Chairs shall have the first opportunity to speak to the matters included and may explain the basis for the Standing Committee's recommendations.

## **17. POINTS OF PRIVILEGE AND ORDER**

- 17.1 When a Member believes that their rights, privileges or integrity, or those of the Members collectively have been prejudicially affected, that Member may ask leave of the Mayor to raise a question of privilege and after leave is granted, the Member shall state the point of privilege to the Mayor and the point of privilege shall be immediately decided by the Mayor.
- 17.2 When a Member desires to call attention to a deviation or departure from the Rules of Procedure, that Member shall ask leave of the Mayor to raise a point of order and after leave is granted, the Member shall state the point of order to the Mayor and the point of order shall be immediately decided by the Mayor.
- 17.3 It shall be the duty of the Mayor to decide all points of privilege and order and, if called upon to do so, to state the rule applicable to any point of order, practice or procedure. The Mayor's ruling on a point of order shall be made without debate and shall be final subject only to an immediate appeal from such ruling by a Member.
- 17.4 In the case of an immediate appeal by a Member from the decision of the Chair on a point of order, practice or procedure, such Member shall state the grounds for the appeal and such appeal must be decided, without debate, by the concurring votes of a majority of Members present on "Shall the ruling of the Chair be sustained".
- 17.5 When the Mayor calls a Member to order, that Member shall cease speaking until the point of order is dealt with and that Member shall not speak again to the matter under discussion, without the permission of the Mayor, unless to appeal the ruling.
- 17.6 When the Mayor considers that the integrity of a member of the staff has been impugned or questioned, the Mayor may permit a staff member present to make a statement to the Council.

## **18. NOTICES OF MOTION**

- 18.1 Except as otherwise provided in this Bylaw, all notices of Motion shall be:
- a) presented at a meeting of Council, but shall not be debated until the next regular meeting of Council; or
  - b) delivered to the Clerk not less than seven (7) days prior to the date of the Meeting at which the Motion is to be introduced.
- 18.2 A Motion may be introduced without notice if Council, without debate, dispenses with the requirement for notice on the affirmative vote of two-thirds of the Members present.

## **19. MOTIONS**

- 19.1 Every motion:
- a) shall be in writing, shall be seconded and shall be read by the Mayor or the Clerk before debate or before being put from the Chair;
  - b) where the question under consideration contains separate propositions then, at the request of any member of Council, any separate matter shall be put separately.
- 19.2 After a motion is read by the Mayor or Clerk, it shall be deemed to be in the possession of the Council, but may, with the permission of the Council, be withdrawn at any time before decision or amendment.

## **20. VOTING PROCEDURES**

- 20.1 A Motion shall be put to a vote by the Mayor immediately after all Members desiring to speak on the Motion have spoken in accordance with the Rules of Procedure.
- 20.2 Unless otherwise provided in the Bylaw or requested by the Mayor, a vote may be by voice, show of hands, standing, or otherwise.
- 20.3 Unless otherwise provided in the Bylaw, every Member shall have one (1) vote.
- 20.4 Except for the election of the Chair of a Committee, no vote shall be taken by ballot or by any other method of secret voting.
- 20.5 Except as otherwise required under the Act, any other statute or this Bylaw, all Motions, Resolutions, and Bylaws shall be carried, passed and enacted, as the case may be, by a Majority vote.
- 20.6 After a Motion is put to a vote, no Member shall speak on that Motion, nor shall any other Motion be made until after the result of the vote is announced by the Mayor.

- 20.7 No Member shall leave their seat or make any noise or disturbance while a vote is being taken until the vote is declared.
- 20.8 Unless otherwise provided in the Bylaw, when a question or Motion is put to a vote, every Member present at a Council meeting shall vote thereon, except where the Member is disqualified from voting by reason of a declared Pecuniary Interest or is absent from the Council Chambers when the question or Motion is put to a vote.
- 20.9 Every Member who is not disqualified from voting by reason of a declared Pecuniary Interest shall be deemed to vote against the Motion if the Member declines or abstains from voting.
- 20.10 A Member present at the time of a vote may call for a Recorded Vote immediately before or after the taking of the vote.
- 20.11 Unless otherwise provided in the Bylaw, each Member present, except a Member who is disqualified from voting by reason of a declared Pecuniary Interest, shall indicate their vote openly during the taking of a recorded vote and the Clerk shall record each vote. The names of those who voted for and those who voted against the Motion shall be entered in the minutes.
- 20.12 The Mayor shall announce the result of every vote. If all of the Members present when a vote is taken vote unanimously, the Mayor shall announce the vote accordingly.
- 20.13 If a Member doubts the result of a vote as announced by the Mayor, that Member may object immediately to the Mayor's declaration and, upon the affirmative vote of the Majority of the Members present, the vote shall be retaken.
- 20.14 Any question on which there is a tie vote shall be deemed to be lost, except where otherwise provided by any act.
- 20.15 Notwithstanding Section 20.14, the Mayor shall vote to break a tie vote at Council.
- 20.16 In a vote, the number of Members constituting the Council shall be determined by excluding the number of Members who are present at the Meeting but who are disqualified from voting by reason of a declared Pecuniary Interest.

## **21. ENACTMENT OF BY-LAWS**

- 21.1 No Bylaw shall be presented to Council unless there is a resolution to authorize the Bylaw and each member shall be supplied with a copy of every Bylaw prior to consideration of the Bylaw by the Council.
- 21.2 No Bylaw shall be introduced for first reading in blank or in imperfect form.

- 21.3 A Bylaw shall be passed by being given three (3) readings, as such:  
a) a Bylaw shall be given each reading by reference to its Bylaw number;  
b) a Bylaw shall be deemed to have been read upon the number, title or heading being read or taken as read, unless a member requires the Bylaw or any portion thereof to be read in full;  
d) the minutes of the meeting shall reflect both the number and the title of the Bylaw, notwithstanding that the motion refers only to the number of the Bylaw.
- 21.4 The first reading of a Bylaw shall be decided by resolution without amendment or debate.
- 21.5 The second reading of a Bylaw shall be decided by resolution at which time the contents of the Bylaw shall be debated. The contents of the Bylaw may be changed by an amending resolution to authorize the third reading.
- 21.6 The third reading of a Bylaw will be the final reading. No Bylaw shall be changed during the third reading.
- 21.7 Unless directed by the Clerk or Treasurer as required for the immediate well being of the Municipality, no Bylaw shall receive third reading at the same meeting as it received first and second readings.
- 21.8 The Clerk shall endorse on every Bylaw the dates of the three (3) readings thereof.
- 21.9 Every Bylaw enacted by Council shall be signed by the Mayor and the Clerk, numbered, and sealed with the seal of the Corporation.
- 21.10 No Bylaw, except a Bylaw to confirm the proceedings of Council, shall be presented to Council unless its subject matter has been considered and approved by Council.

## **22. COMMITTEES**

- 22.1 The Mayor shall be a member of each Standing Committee of Council ex-officio.
- 22.2 The Mayor shall assign all members of Council to committees for the term of council prior to the first regular meeting of the term.
- 22.3 The members of all Committees of Council shall be named through Resolution or Bylaw at the first regular Meeting for each council term.
- 22.4 The Chair of the Public Works Committee shall be a member of Council. The Chair of the Public Works Committee will be rotated on an annual basis, so that every member of Council, excluding the Mayor, holds the Chair position for one (1) year during the term of Council.
- 22.5 The quorum of all Committees, except for Committee of the Whole, shall be a

majority of its members.

- 22.6 As soon as there is a quorum after the time set for the Meeting, the Committee Chair or Co-Chair shall call the meeting to order.
- 22.7 If a quorum is still not present within thirty (30) minutes after the time set for the Meeting, then the Clerk shall record the names of the Members present and the Meeting shall stand adjourned until the date of the next Meeting.
- 22.8 If a quorum is lost during a Meeting and is not regained within fifteen (15) minutes, the Meeting shall stand adjourned until the next Meeting.
- 22.9 If proper notice of the meeting has been given and a quorum as set out in Section 22.5 is not in attendance at a Committee meeting and therefore, the meeting stands adjourned due to lack of quorum, any emergent items upon the approval of the Committee Chairs or Co-Chairs can be considered directly at the next Council Meeting under Committee Reports.
- 22.10 The Rules of Procedure contained in this Bylaw shall be observed in Committee meetings, with necessary modifications, except that:
- a) the number of times a Member may speak on any question shall not be limited;
  - b) the length of time a Member may speak on any question shall not be limited;
  - c) written Notices of Motion are not required; and
  - d) Members shall not be required to stand to speak.
- 22.11 A Member who is not a member of a Standing Committee may attend the meetings of that Committee.
- 22.12 With the consent of the Co-Chair, Chair or Vice Chair of the Standing Committee, a Member who is not a member of the Committee may speak and participate at a meeting of the Committee, but such Member has no vote on the Committee.
- 22.13 All recommendations and requests of an Advisory Committee shall be directed to its respective Standing Committee.
- 22.14 Every Committee is advisory to Council unless otherwise stated in the terms of reference, by-law or resolution governing the Committee.
- 22.15 No Committee has the power to pledge the credit of the Municipality, to commit the Municipality to any particular action or to give specific direction to any staff member, unless specifically granted such power in the terms of reference, Bylaw or resolution governing such Committee.
- 22.16 All resolutions received from other municipalities that are of relevance to the Municipality of Powassan shall be circulated by the Clerk to Council and if a Member of Council so requests, the Clerk shall include the resolution on the next Council Meeting Agenda under New Business to be received and endorsed.

## **23. POST-ELECTION PROCEDURE**

- 23.1 The Inaugural Meeting date shall be held the Monday prior to the first Tuesday in December following the Municipal Election at 6:30 p.m.
- 23.2 The Inaugural Meeting shall be ceremonial in nature for purposes of the members of Council taking their Oath of Allegiance and Declaration of Office, and shall be Chaired by the Clerk.
- 23.3 No business shall be conducted at the Inaugural Meeting until the Oath of Allegiance and Declaration of Office have been taken.
- 23.4 At the inaugural meeting, each person who has been elected to Council is entitled to speak and participate and to have one vote.
- 23.5 The principal business of the first Council meeting held after the inaugural meeting shall consist of:
- a) The establishment of the size of each Standing Committee of Council;
  - b) The appointment of Councillors to Standing Committees, Advisory Committees, Agencies, Boards and Commissions; and
  - c) Appointment of Acting Chair(s) until appointment of Chairs and Co-Chairs of Standing Committees as Acting Chairs.
- 23.6 Prior to the inaugural meeting, each person who has been elected to Council shall submit to the Clerk their preferences for the Standing and Advisory Committees of Council (including agencies, boards and commissions) upon which they wish to serve.
- 23.7 If the number of Members wishing to serve on any Standing or Advisory Committee of Council (including agencies, boards and commissions) is greater than the number of positions available, then the selection shall be conducted by open ballot.
- 23.8 Each Member shall serve on at least one (1) Standing Committee.

## **24. CONTINGENCIES**

- 24.01 In all contingencies not provided for in this Bylaw, the question shall be decided by the Mayor and in making such a ruling, the decision shall be based on Robert's Rules of Order.

## **25. SHORT TITLE**

- 25.1 The short title of this Bylaw is "The Procedural By-law".

**26. SEVERABILITY**

26.1 Should any section, subsection, clause, paragraph or provision of this Bylaw be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the provisions so declared to be invalid.

**27. REPEAL**

27.1 Bylaw 2015-31 and all amendments thereto are hereby repealed.

**28. EFFECT**

28.1 This By-law shall take force and effect upon being passed.

**READ a FIRST and SECOND** time September 5, 2023

**READ a THIRD and FINAL** time and considered passed as such in open Council on the 19<sup>th</sup> day of September 2023.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk