



THE REGIONAL MUNICIPALITY OF NIAGARA
PROCEDURAL BY-LAW REVIEW COMMITTEE
AGENDA

PBLRC 4-2019

Tuesday, October 1, 2019

9:30 a.m.

Committee Room 4

Niagara Region Headquarters

1815 Sir Isaac Brock Way, Thorold ON

	Pages
1. <u>CALL TO ORDER</u>	
2. <u>DISCLOSURES OF PECUNIARY INTEREST</u>	
3. <u>PRESENTATIONS</u> None.	
4. <u>DELEGATIONS</u>	
4.1 <u>Signage in the Council Chamber during Meetings</u> Sabrina Hill, Resident, City of St. Catharines	3 - 4
The delegation submission is attached to this agenda item as PBLRC-C 11-2019.	
5. <u>ITEMS FOR CONSIDERATION</u>	
5.1 <u>PBLRC-C 10-2019</u> Councillor Information Request respecting Definitions for “Disruptive Behaviour and “Improper Conduct”	5 - 13
6. <u>CONSENT ITEMS FOR INFORMATION</u>	
6.1 <u>PBLRC-C 12-2019</u> New Procedural By-law Update	14
7. <u>OTHER BUSINESS</u>	

8. **NEXT MEETING**

The next meeting will be held at the call of the Chair.

9. **ADJOURNMENT**

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisory Coordinator at 905-980-6000 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).

Sunday, September 22, 2019

Sabrina Hill

St. Catharines, ON

Canada

Email:

To the *Procedural By-law Review Committee*,

My name is Sabrina Hill. I am a resident of the Regional Municipality of Niagara. My educational background is in Political Science, specifically, Public Administration, Public Policy, and Public Law.

Earlier this year, I attended a council meeting with a sign displaying my frustration with a current issue before the Council. Upon entering the Region's main campus building, a private security guard contracted by the Region approached me and indicated that, *'while I have the right to display the signs in the foyer, I will not be able to bring the signage into the main Council Chambers at the commencement of the meeting.'* I asked the guard to state which policy or bylaw placed such limitations on a resident from bringing in a sign to Council and he could not. I asked to speak with his supervisor. Approximately ten minutes later, the Region's Sergeant-at-Arms said that he would have to seek the advice of legal council. A few moments later, I was approached by the Region's legal council who said that it was *"a matter of practice that signs were not allowed in the Chambers"* as they might *"limit or prevent the recording and/or broadcast of the meeting."*

I again asked him to state a specific policy so that I may review it to find ways as to both, comply with the bylaw, and still be able to freely, *and respectfully*, engage in my right of free speech and protest. No policy or bylaw could be quoted.

Knowing that anything *'not explicitly deemed illegal is thereby legal,'* a maxim in law, I was able to bring in one of my foamboard signs into the Chambers. I had no intention of disrupting the Council meeting nor to block the broadcast of said meeting. So, I volunteered to sit at the side of the gallery with my sign by my feet facing towards my elected officials.

I am concerned, as I am sure you all are, that there is little clarity among staff on what *is* and *is not* allowed in the Council Chambers during meetings that are otherwise open to the public.

I have drafted what I know to be a reasonable compromise. One that allows for our Charter rights of free speech and protest, with mindful considerations for the safety of Council and guests.

Finally, I am requesting that with the adoption or passage of this policy or bylaw that all appropriate Niagara Region staff receive a memo outlining the new Signage Policy to ensure the rights and responsibilities of the residents are respected.

The Regional Municipality of Niagara Signage Regulations

The Regional Municipality of Niagara recognizes the right of residents to express themselves in accordance with the Charter of Rights and Freedoms and encourages residents to participate in their local government in a positive, productive, and meaningful way.

The regulation of the display of signage as it pertains to residents or visitors of the Region in Council Chambers is as follows:

Signs of protest or support will be allowed within Council Chambers unless they otherwise;

1. interfere with the normal business of Council or a committee meeting open to the public by containing threats, acts of violence, or personally harass or otherwise reasonably defame a Member of the Region, an invited speaker, or an employee of the Region,
2. the resident's actions intentionally interfere with the observation, recording, or broadcast of the Council or committee meeting,
3. the signage contains depictions of sexual acts, or
4. the signage or the act of displaying the sign because of its size interferes with the normal observation by other guests in the gallery including the broadcast and transmission of Council or meetings.

The Sergeant-at-Arms or an agent acting on their behalf will only remove a resident or member of the gallery, or their sign, if the sign contains one or more of the above, or;

- A. if the member of the gallery becomes obstructive, harassing, threatening, or their actions or words rise to the level of disturbing the peace as set out by the Criminal Code of Canada, or
- B. if the sign or parts of the sign may be of reasonable risk of harm to any member within the Council Chambers or committee meeting room.

Residents wishing to display signs in accordance with the established rules will be asked to sit in an area of the gallery whereas to minimize the obstruction of normal observation by other residents in the gallery. As such, this may mean asking residents with signs to sit in the rear or at the sides of the gallery.

MEMORANDUM

PBLRC-C 10-2019

Subject: Councillor Information Request respecting Definitions for “Disruptive Behaviour and “Improper Conduct”

Date: October 1, 2019

To: Procedural By-law Review Committee

From: Ann-Marie Norio, Regional Clerk

At the July 30, 2019 Procedural By-law Review Committee meeting, the following Councillor Information Request was made:

Provide definitions for "disruptive behaviour" and "improper conduct" as described in corporate policies: C-RC-007 - Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council; and C-A-025 - Managing Public Spaces in a Safe and Welcoming Environment. Councillor Ip.

Recommendation 4 of the Ontario Ombudsman Report “Press Pause” suggested that the Region of Waterloo’s *Respectful Behaviour Policy* provides both a definition of inappropriate behavior and lists specific examples. The excerpt from that policy is as follows:

6.1 Inappropriate Behaviours

6.1.1 Behaviours that obstruct or hinder the ability of others to use and enjoy city facilities, or participate in City services programs or events, or compromise the safety and health of others, including staff, are unacceptable and prohibited.

6.1.2 Inappropriate behaviour for the purpose of this policy includes, but is not limited to, the following:

- a) Refusal to follow rental agreement and all other related City Policies/Procedures/By-Laws; Regional, Provincial or Federal Statutes;
- b) Blocking thoroughfares/corridors/stairways/exits;
- c) Engaging in horseplay, including running in throughways, corridors and stairwells;
- d) Causing unsanitary conditions (i.e. chewing tobacco, expulsion of bodily fluids etc.);
- e) Use of profanity or obscene language;
- f) Engaging in sexual activity;
- g) Theft of property;

- h) Vandalism of any kind;
- i) Illegal consumption of alcohol, drugs or other substances;
- j) The use of all cell phones, cameras, video recording devices, personal digital devices, or any other equipment with video or photographic abilities in change rooms and public washrooms;
- k) Display of lewd, illegal or offensive material including pornography or material that includes violent acts, indecency, hate, illegal gambling or profanity, as well as material with text or imagery that has explicit or malicious intent;
- l) Violence of any kind including:
 - ☐ Aggressive or intimidating verbal assaults;
 - ☐ Threats and/or attempts to intimidate;
 - ☐ Harassment which may include the wearing of attire, the displaying of material or the use of language that is intolerant of human rights;
 - ☐ Deliberate throwing of articles in an aggressive or disruptive manner;
 - ☐ Actual or attempted physical assaults of another person;
 - ☐ Sexual violence;
 - ☐ Attempts to goad or incite violence in others;
 - ☐ Possession of weapons.

m) Any criminal behaviour.

A copy of the policy has been attached as Appendix 1 for Committee's reference.

During the process to provide definitions, staff noted that policies C-RC-007 - Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council; and C-A-025 - Managing Public Spaces in a Safe and Welcoming Environment have overlapping concepts and are lacking in certain areas. Staff are recommending a review of those policies in order to amalgamate them into one cohesive policy. This new policy will include consideration for the security initiatives currently worked on.

If Committee is agreeable to the language used in the Region of Waterloo policy, a motion to include that language in an updated policy is required.

Respectfully submitted and signed by

Ann-Marie Norio
Regional Clerk

CORPORATE POLICY



Policy Title: **Respectful Behaviour Policy**
Policy Category: Administration Policy
Policy No.: A-009
Department: Community Services
Approval Date: January 13, 2014
Revision Date:
Author: Beth Rajnovich, Policy and Performance Analyst
Attachments: None
Related Documents/Legislation: Violence in the Workplace Policy, Code of Conduct Policy, Harassment and Discrimination Policy, and the Health and Safety Policy.

Key Word(s): behaviour, respect, security

1.0 POLICY STATEMENT:

The City of Waterloo (the City) is committed to promoting a safe, healthy, respectful, and positive environment for all members of the public, volunteers, and staff.

To this end, the goal of this policy is to define behaviour that may negatively impact the experience of others or creates unsafe conditions, and how these behaviours will be addressed when it occurs within any City facility or in association with any service, program or event provided by or associated with the City of Waterloo.

2.0 PURPOSE:

The purpose of this policy is to promote a safe, healthy, respectful, and positive environment for members of the public, volunteers, and staff.

Included in this commitment is an understanding that organizations using City facilities must take primary responsibility for managing the behaviour of all associated participants, volunteers, officials, spectators, patrons, parents, guests and the general public.

The City encourages all organizations using City facilities to develop and implement their own behaviour management policies which will help support the City policy.

Mandatory Policy, *Municipal Act*: No

Policy Administration Team, Review Date: December 31, 2013

Corporate Management Team, Review Date: December 11, 2013

3.0 DEFINITIONS:

Harassment: engaging in a course of vexatious comment or conduct that is known or ought to be reasonably to be known to be unwelcome (Ontario Human Rights Code).

Vandalism: The deliberate destruction, damage or defacing of buildings, structures or property owned or leased through the City.

Violence: The exercise of physical force, or attempt to exercise physical force, by a person, against another, that causes or could cause physical injury; Examples include: verbal threats; threatening notes or emails; shaking a fist in an individual's face, wielding a weapon, hitting or trying to hit someone, throwing an object at someone, or sexual violence.

City Facility: includes both indoor and outdoor facilities, owned, leased, rented, allocated, programmed, operated or managed by the City, intended for public or staff use. This includes, but is not limited to, City Hall, sport facilities and fields, staff offices and meeting rooms, community meeting spaces, trails, parks, the Waterloo Public Square, and the City of Waterloo museum. It does not include the Button Factory, the Clay and Glass Gallery, or Waterloo Public libraries.

4.0 SCOPE:

This policy applies to all persons (residents, non-residents, volunteers, tenants, and staff) within City facilities, and at any other location where City staff are present.

This policy applies to in-person interactions and all forms of verbal communication (for example, by telephone) and written communication (for example, by email).

Inappropriate behaviour that happens within the context of an organized sport activity will only be addressed using this policy at the request of a delegate in charge of the activity.

The policy only applies to interactions and occurrences that involve a member of the public.

This policy is intended to align with the City of Waterloo's Violence in the Workplace Policy, Code of Conduct Policy, Harassment and Discrimination Policy, and the Health and Safety Policy.

5.0 POLICY COMMUNICATION:

A copy of this policy will be posted on the City's website.

Signage will be posted at major recreation facilities (Waterloo Memorial Recreation Complex and Manulife Financial Sportsplex and Healthy Living Centre) near the main entry doors. Signage may also be posted at other locations as needed.

Brochures outlining appropriate and inappropriate behaviours will be available at indoor recreation facilities and on the City's website.

Facility users who sign contracts or acquire permits from the City will, at a minimum, be notified of the policy and its location on the City's website.

Staff will receive training on the policy as part of the new hire orientation. Managers will review the policy with staff on an annual basis and additional training will be provided as needed.

6.0 POLICY:

6.1 Inappropriate Behaviours

6.1.1 Behaviours that obstruct or hinder the ability of others to use and enjoy city facilities, or participate in City services programs or events, or compromise the safety and health of others, including staff, are unacceptable and prohibited.

6.1.2 Inappropriate behaviour for the purpose of this policy includes, but is not limited to, the following:

- a) Refusal to follow rental agreement and all other related City Policies/Procedures/By-Laws; Regional, Provincial or Federal Statutes;
- b) Blocking thoroughfares/corridors/stairways/exits;
- c) Engaging in horseplay, including running in throughways, corridors and stairwells;
- d) Causing unsanitary conditions (i.e. chewing tobacco, expulsion of bodily fluids etc.);
- e) Use of profanity or obscene language;
- f) Engaging in sexual activity;
- g) Theft of property;
- h) Vandalism of any kind;
- i) Illegal consumption of alcohol, drugs or other substances;

- j) The use of all cell phones, cameras, video recording devices, personal digital devices, or any other equipment with video or photographic abilities in change rooms and public washrooms;
- k) Display of lewd, illegal or offensive material including pornography or material that includes violent acts, indecency, hate, illegal gambling or profanity, as well as material with text or imagery that has explicit or malicious intent;
- l) Violence of any kind including:
 - Aggressive or intimidating verbal assaults;
 - Threats and/or attempts to intimidate;
 - Harassment which may include the wearing of attire, the displaying of material or the use of language that is intolerant of human rights;
 - Deliberate throwing of articles in an aggressive or disruptive manner;
 - Actual or attempted physical assaults of another person;
 - Sexual violence;
 - Attempts to goad or incite violence in others;
 - Possession of weapons.
- m) Any criminal behaviour.

6.1.3 Police should be called to respond to all occurrences of behaviour identified in section 6.1.2, items g) through m). Other types of inappropriate behaviour may also be reported to the Waterloo Regional Police Services. Charges may follow.

6.2 Responding to Inappropriate Behaviours

- 6.2.1 The City's primary concern is the safety of members of the public, volunteers, and staff. If at any time patrons, volunteers, or staff feel threatened, they are to call the Police immediately. Staff or patrons or any other member of the public are NOT expected to put themselves at risk or jeopardize their safety or that of others, when dealing with any perceived or real threatening situation.
- 6.2.2 Members of the public are encouraged to report acts of inappropriate behaviour they experience or witness to City staff.
- 6.2.3 City staff will follow the City of Waterloo's Security Incident Response Procedures when responding to an occurrence of inappropriate behaviour.

- 6.2.4 City staff will complete the City of Waterloo's Security incident Report when responding to an occurrence of inappropriate behaviour or in response of a complaint from a member of the public, volunteer, other individuals.
- 6.2.5 The completed Security Incident Report, along with all other written documentation, including letters of warning, trespass notices, any other required documentation, and any follow up or action taken, will be provided to the appropriate manager/director AND to the Property Coordinator, Facilities & Fleet, Corporate Services, City of Waterloo. .
- 6.2.6 In accordance with the Occupiers Liability Act, the Occupational Health and Safety Act, the Trespass to Property Act, the Criminal Code and any other relevant Provincial Legislation, City of Waterloo management and employees are authorized to respond at a City facility if inappropriate behaviours or activities are observed or reported. Management and employees have the right to ask the individuals to leave the premises. Staff are NOT expected to respond to occurrences of inappropriate behaviour if they feel unsafe, threatened, or otherwise unable to respond for any reason.
- 6.2.7 Once the Security Incident Report and all other related documentation are received by the appropriate manager/director, the manager/director will determine if additional action should be taken in accordance with the Respectful Behaviour Policy – Enforcement Guidelines.
- 6.2.8 If it is recommended that an individual should be banned from ALL City facilities, the CAO will be required to make the final decision.
- 6.2.9 Any follow up with an individual about an occurrence, such as a meeting, phone call, or other communications, must be noted in the file.
- 6.2.10 If additional action is warranted, such as a warning or trespass notice, the appropriate director will send a letter to the identified individual within 14 days of the incident. The letter will describe the occurrence of inappropriate behaviour and the remedial action to be taken. A copy of the Respectful Behaviour Policy should be included with the letter.
- 6.2.11 If the Police issue a ticket for trespassing at the request of a City staff member, the City must follow up with a letter of trespass to the individual charged, noting the length and terms of ban from City facilities, programs, services or events.
- 6.2.12 Information about incidents of inappropriate behaviour and individuals who have been issued trespass notices will be shared, on a confidential basis, with appropriate staff to help support a safe and healthy environment for patrons, volunteers, and staff.

- 6.2.13 If the individual involved in inappropriate behaviour is associated with an organization using a City facility, the organization will be notified of the incident within seven (7) days.
- 6.2.14 In addition to any other measures taken, where damage to City property has occurred, the individual(s) responsible will be required to reimburse the City for all costs associated with repairs, including labour, materials and lost revenues and will be subject to an administration fee as set out in the Fees and Charges Bylaw. Legal action may be taken to recover related costs if required.
- 6.2.15 Occurrences of inappropriate behaviour involving minors must include parent or guardian contact as soon as possible if a claim for costs will/may be made, and/or where a trespass notice is implemented.
- 6.2.16 Staff will be provided with appropriate training to support safe implementation of this policy.

7.0 APPEALS

- 7.1 If an individual wishes to appeal any action taken by the City in response to inappropriate behaviour, the individual may present their case in writing to the Commissioner of the responding Department, or should the occurrence involve the Commissioner, to the CAO or designate, within 14 days of the decision.
- 7.2 The appeal will be reviewed by the Commissioner or CAO, whose decision shall be final.

8.0 EVALUATION

- 8.1 On an annual basis, an analysis of occurrences will be completed by the Property Coordinator, Facilities and Fleet, Corporate Services, City of Waterloo, and shared with the Corporate Management Team.
- 8.2 The policy will be evaluated and revised as needed, at least once per Council term.

9.0 LINKS

- a) Occupiers Liability Act
- b) Occupational Health and Safety Act
- c) Trespass to Property Act
- d) Criminal Code
- e) Ontario Human Rights Code
- f) City of Waterloo Violence in the Workplace Policy
- g) City of Waterloo Health and Safety Policy
- h) City of Waterloo Harassment and Discrimination Policy
- i) City of Waterloo Accessibility Policy
- j) Security Incident Response Procedures
- k) Security Incident Report

10.0 COMPLIANCE

In cases of policy violation, the City may investigate and determine appropriate corrective action.

MEMORANDUM

PBLRC-C 12-2019

Subject: New Procedural By-law Update

Date: October 1, 2019

To: Procedural By-law Review Committee

From: Ann-Marie Norio, Regional Clerk

At its meeting held on June 17, 2019, the Procedural By-law Review Committee approved the format for the new Procedural By-law. At this time staff are working on incorporating provisions from the old by-law into the new format while undertaking to include the suggested changes made by the Committee and researching best practices for Committee's consideration.

Staff will present Articles I through X for consideration by the Committee at its next meeting.

As previously noted, once the Procedural By-law Review Committee has considered the new Procedural By-law, it will be considered by Council at a Committee of the Whole meeting. Based on the meeting schedule approved by Regional Council on September 19, 2019, staff are targeting the Committee of the Whole scheduled for April 2, 2020 as the tentative date for Council to consider the new by-law.

Respectfully submitted and signed by

Ann-Marie Norio
Regional Clerk