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## MEMORANDUM

**PBRLC-C 8-2019**

**Subject: Outstanding Recommendations from the Ontario Ombudsman Report  
“Press Pause”**

**Date: July 30, 2019**

**To: Procedural By-law Review Committee**

**From: Ann-Marie Norio, Regional Clerk**

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Further to the recommendations of the Ontario Ombudsman Report “Press Pause”, there are some outstanding items to be reviewed by the Procedural Review Committee. Those items are noted below. The referenced policies are attached.

3. The Regional Municipality of Niagara should clarify its intent with respect to the authority of staff to seize personal property in its procedure by-law and policies, with reference to the rights protected by the *Canadian Charter of Rights and Freedoms*.

**Action Taken:**

On March 22, 2018, Regional Council approved By-law 2018-31, a by-law that amended Niagara Region Procedural By-law 120-2010, as amended, to include provisions respecting personal recording devices being found during a closed session meeting.

Council further approved policy C-RC-007 Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council was approved by Council on July 5, 2018.

This matter can be further reviewed by the Procedural By-law Review Committee to consider further refinements that may be required.

4. The Regional Municipality of Niagara should ensure that any by-law or policy that references “improper conduct” include a definition of that term, including reference to specific categories or examples.

**Action Taken:**

Policy C-RC-007 does reference “disruptive behaviour” and “improper conduct” and the Procedural By-law (section 9.5) references expulsion for “improper conduct” and policy C-A-025 Managing Public Spaces in a Safe and Welcoming

Environment. This policy will be referred to the Procedural By-law Review Committee for further examination.

5. The Regional Municipality of Niagara should amend its procedural by-law and relevant policies to state that expulsion from a meeting should not take place unless the Chair is satisfied that evidence exists to support expulsion.

**Action Taken:**

Currently the Procedural By-law does not contain any provisions related to this; however, staff will include this recommendation for consideration by the Procedural By-law Review Committee.

6. The Regional Municipality of Niagara should amend its procedural by-law to specify that, where the Chair exercises his authority under the *Municipal Act, 2001*, to expel an individual from a meeting, the reasons for the expulsion must be recorded in the meeting minutes.

**Action Taken:**

Currently the Procedural By-law does not contain any provisions related to this; however, staff will include this recommendation for consideration by the Procedural By-law Review Committee.

9. The Regional Municipality of Niagara should amend its procedural by-law to clarify council's authority to exercise discretion to hold a closed session outside of a set agenda order.

**Action Taken:**

The Procedural By-law (section 9.13) provides as follows:

*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 by-law.*

This; however, can be further reviewed by the Procedural By-law Review Committee to see if further clarification to other related provisions of the by-law would be beneficial.

Respectfully submitted and signed by

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Ann-Marie Norio  
Regional Clerk

<i>Policy Category</i>	<i>Name of Policy</i>
Regional Council	Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council

<b>Policy Owner</b>	Regional Clerk
<b>Approval Body</b>	Regional Council
<b>Approval Date</b>	July 5, 2018
<b>Effective Date</b>	July 10, 2018
<b>Review by Date</b>	May 2019

**1. Policy**

This policy has been developed to uphold the Values of the municipality and introduce procedures to effectively conduct closed session meetings of Council and/or Committee.

**2. Purpose**

This policy will improve the management of personal items, equipment and disruptive behaviour that may occur prior to or during a closed session of Council and/or Committee.

**3. Scope**

This policy applies to all Councillors and Regional staff. Adherence to this policy will enable the improvement to the business flow of Council when transitioning from open to closed session.

**3.1. Roles and Responsibilities**

The primary responsibility in administering and reviewing this policy is the Regional Clerk. Although the primary responsibility of administering this policy resides with the Regional Clerk, the overall responsibility is the Chief Administrative Officer, and thereafter, the Regional Chair.

**4. References and Related Documents.**

**4.1. Legislation, By-Laws and/or Directives**

- Municipal Act
- Procedural By-Law

<p><i>Policy Category</i></p> <p>Regional Council</p>	<p><i>Name of Policy</i></p> <p><i>Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council</i></p>
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**4.2. Procedures**

4.2.1 All authorized video recordings of Committee and Council should be readily posted on the Region’s website as coordinated by the Office of the Regional Clerk. Any request for the video recording should be made to the Office of the Regional Clerk.

Closed Sessions

4.2.2 If a motion of Committee or Council is duly passed to proceed into closed session (as permitted under the *Municipal Act*), then the Regional Chair or presiding officer will read aloud a statement to the media and public that all portable belongings (such as laptops, smartphones, cameras and associated equipment) are to be removed. The Regional Chair or presiding officer shall provide sufficient time (maximum of five minutes) for the media and public area to vacate.

4.2.3 Upon the direction of the Clerk, the Deputy Clerk or Legislative Coordinator will scan the meeting room to ensure all personal belongings in the media and public areas are removed. In the event that an item is left behind by the media or public, the Clerk will request that the appropriate security personnel remove the item. The security personnel will then return the item to the appropriate person owning the property. If the owner cannot be identified, the item will be secured in the Clerk’s Office until the owner claims the item.

4.2.4 For clothing items (such as hats, gloves, scarfs, etc.), the item will be kept in the “lost and found” container for a period of one year. Thereafter, the item will be donated or discarded.

4.2.5 If there exists heavy or bulky media equipment (such as a recording camera on a tripod), then the Clerk may grant permission to leave the equipment within the meeting room, provided that the equipment is powered down and turned away from the Council seating area.

4.2.6 Should staff or Council locate equipment that has possibly recorded a closed session meeting, the owner of the equipment shall be located and the owner shall demonstrate to the Clerk that the device has not recorded. If the device did record the meeting inadvertently, then the owner shall erase the recording to the satisfaction of the Clerk. Should the owner of the item not be compliant with the request of the Clerk, then Section 4.2.7 and 4.2.8 applies.

Disruptive Behaviour

4.2.7 If there is a member of the media (including a citizen journalist or member of the public) that does not comply with the direction of the Clerk or security personnel, then every attempt will be made to speak with the person to discuss the disruptive behavior.

<i>Policy Category</i>	<i>Name of Policy</i>
Regional Council	Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council

4.2.8 If the disruptive behaviour continues, the Regional Chair or presiding officer may expel the person for improper conduct at a meeting, as per Section 241 (2) of the *Municipal Act*. Should the person not comply with the decision of the Head of Council or presiding officer, the security personnel will contact police services for assistance.

**5. Related Policies**

Procedural By-Law

**6. Document Control**

The electronic version of this document is recognized as the only valid version.

**Approval History**

Approver(s)	Approved Date	Effective Date
Council	July 5, 2018	July 10, 2018

**Revision History**

Revision No.	Date	Summary of Change(s)	Changed by

<i>Policy Category</i> Administrative	<i>Name of Policy</i> Managing Public Spaces in a Safe and Welcoming Environment
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<b>Policy Owner</b>	Office of the Regional Clerk
<b>Approval Body</b>	Council
<b>Approval Date</b>	March 22, 2018
<b>Effective Date</b>	March 22, 2018
<b>Review by Date</b>	March 2019

**1. Policy**

This policy has been developed to uphold the Values of the municipality and create a safe and welcoming environment within public spaces.

**2. Purpose**

This policy will provide procedures for designated regional staff in managing public spaces.

**3. Scope**

This policy applies to all Councillors and regional staff. Adherence to this policy will create a safe and welcoming environment within public spaces.

**3.1. Roles and Responsibilities**

The primary responsibility in administering and reviewing this policy is the Regional Clerk. Although the primary responsibility of administering this policy resides with the Regional Clerk, the overall responsibility is the Chief Administrative Officer, and thereafter, the Regional Chair.

**4. References and Related Documents.**

**4.1. Legislation, By-Laws and/or Directives**

Charter of Rights and Freedoms, Section 2, Fundamental Freedoms.

Ontario Human Rights Code

Includes discriminatory behaviour to a person’s Age; Ancestry, colour, race; Citizenship, Ethnic origin, Place of origin; Creed; Disability; Family status; Marital status (including single status); Gender identity, gender expression; Sex (including pregnancy and breastfeeding); and Sexual orientation.

<p><i>Policy Category</i></p> <p>Administrative</p>	<p><i>Name of Policy</i></p> <p>Managing Public Spaces in a Safe and Welcoming Environment</p>
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Municipal Act

Procedural By-Law

Improper conduct may include verbal or non-verbal behaviour that has been deemed to be discriminatory to a person’s Age; Ancestry, colour, race; Citizenship, Ethnic origin, Place of origin; Creed; Disability; Family status; Marital status (including single status); Gender identity, gender expression; Sex (including pregnancy and breastfeeding); and Sexual orientation.

**4.2. Procedures**

4.2.1 All persons are welcomed to public spaces managed by the Region of Niagara.

Non-Meeting Public Spaces

4.2.2 If improper conduct occurs at a public space managed by the Region of Niagara, the most senior official of the municipality that is immediately available shall manage the issue. For the purpose of defining the most senior official, the following ranking shall be used:

- Chief Administrative Officer
- Commissioner or General Manager
- Director or Regional Clerk
- Associate Director
- Manager
- Supervisor
- Most Senior Employee

4.2.3 If the senior official deems the conduct to be an immediate danger to the person engaged in the conduct, or others, then 9-1-1 shall be called and local police services shall be requested. The senior official will attempt have all persons leave the immediate area to reduce the exposure to the danger.

4.2.4 If the senior official has confirmed the conduct was improper, but the conduct has stopped, the senior official will document the event (including identifying persons involved, witnesses, and all employees). The senior official will then file a report with the Corporate Leadership Team (CLT). The CLT will then determine if any further action is warranted.

4.2.5 If the senior official has confirmed the conduct is improper, and the conduct is continuing, the senior official will request that the conduct be immediately stopped.

<p><i>Policy Category</i></p> <p>Administrative</p>	<p><i>Name of Policy</i></p> <p><i>Managing Public Spaces in a Safe and Welcoming Environment</i></p>
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4.2.5.1 If the conduct is stopped, the senior official will document the event (including identifying persons involved, witnesses, and all employees). The senior official will then file a report with the Corporate Leadership Team (CLT). The CLT will then determine if any further action is warranted.

4.2.5.2 If the conduct does not stop, the senior official will contact local police services for assistance. Thereafter, the senior official will document the event (including identifying persons involved, witnesses, and all employees). The senior official will then file a report with the Corporate Leadership Team (CLT). The CLT will then determine if any further action is warranted.

Disruptive Behaviour at a Committee or Council Meeting

4.2.7 If there is a member of the public that does not comply with the direction of the Clerk or security personnel, then reasonable attempts will be made to speak with the person to discuss the disruptive behavior.

4.2.8 If the disruptive behaviour continues, the Head of Council or presiding officer may expel the person for improper conduct at a meeting, as per Section 241 (2) of the *Municipal Act*. Should the person not comply with the decision of the Head of Council or presiding officer, the security personnel will contact police services for assistance.

**5. Related Policies**

Procedural By-Law

<i>Policy Category</i> Administrative	<i>Name of Policy</i> Managing Public Spaces in a Safe and Welcoming Environment
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