

# The Corporation of the Municipality of Leamington

## By-law 289-13 (Consolidated)

A by-law to provide procedural rules for the  
conduct of meetings of the municipal council  
and its committees

**Whereas** section 238 (2) of the Municipal Act, 2001 .S.O., 2001, Chapter 25, as amended, (herein, the Act) requires that every municipal council adopt a procedural by-law for governing the calling, place and proceedings of its meetings;

**And whereas** in July 2000, Leamington Council enacted By-law 180-00 to provide procedural rules for the conduct of its meetings;

**And whereas** in May, 2003, Leamington Council enacted By-law 420-03 to provide notice requirements;

**And whereas** Leamington Council deems it appropriate to revise the procedural rules for the conduct of its meetings and notice requirements,

**Now therefore the Council of The Corporation of the Municipality of Leamington hereby enacts as follows:**

### 1. Definitions

In this by-law:

"Chair" shall mean the person presiding over a council meeting or of a committee;

"chief administrative officer" shall mean the chief administrative officer for The Corporation of the Municipality of Leamington;

"clerk" shall mean the municipal clerk of The Corporation of the Municipality of Leamington and shall include a deputy clerk or anyone designated by the clerk to carry out duties of the municipal clerk;

"closed session" shall mean a meeting or portion thereof, closed to the public in accordance with this by-law and section 239 of the Act;

"committee" shall mean any committee created by Council, but does not include the Committee of Adjustment created pursuant to The Planning Act or the Leamington Police Services Board created pursuant to the Police Services Act.

"Council" shall mean the Council of The Corporation of the Municipality of Leamington;

"council member" shall mean a member of the Council;

"improper conduct" shall mean the conduct of any person which obstructs the proceedings of Council;

"inaugural meeting" shall mean the first meeting of the term of Council after a municipal election;

"Mayor" shall mean the Mayor of The Corporation of the Municipality of Leamington;

"Mayor-Elect" shall refer to the person elected to be Mayor between election day and the time of taking the oath of office at the inaugural council meeting;

"municipality" shall mean The Corporation of the Municipality of Leamington;

"notice of motion" shall mean an advanced notice to members of a substantial matter in which Council will be asked to make a decision;

"pecuniary interest" shall mean a direct or indirect pecuniary interest as defined in the Municipal Conflict of Interest Act, R.S.O. 1990, Chapter M. 50, as amended;

"point of order" shall mean a matter that a members considers to be departure from or contravention of the rules, procedures or generally accepted practices of the Council;

"point of personal privilege" shall mean a matter that a council member considers to impugn in their integrity or the integrity of the Council;

"public meeting" shall mean a meeting required under the Planning Act, Drainage Act or any similar meeting required by statute and includes a court of revision or court of adjustment;

"quorum" shall mean a majority of members that comprise Council or a Committee;

"recorded vote" shall mean the recording of the name and vote in the minutes of every council member on a matter;

"rules of procedure" shall mean the applicable procedural rules and rules of conduct contained in or referred to in this by-law;

"substantive motion" shall mean a motion which is a self contained proposal that expresses a separate and distinct idea or position;

## **2. Rules of Procedure**

- (1) The rules of procedure shall be observed in all council proceedings. The rules of procedure may be suspended by a majority vote of Council.

- (2) Subject to section 7, at committee meetings, the Chair is not bound by, but will have regard to, the rules of procedure to assist in the conduct of the meeting and to the extent necessary to comply with provincial statutes.
- (3) In any case for which provision is not made in this by-law or the Act, then the Chair shall make a decision on the appropriate procedure. The Chair may have regard to Roberts Rules of Order for assistance.

### **3. Inaugural Meeting of Council**

- (1) The inaugural council meeting shall be held on the first Monday in December at 7:00 p.m. in the council chambers;
- (2) Notwithstanding section 3.(1), the Mayor-Elect may establish a day, place and time in December for the inaugural council meeting prior to the second Tuesday in December;
- (3) The clerk shall call the inaugural meeting to order and chair the meeting until the Mayor-Elect has taken the Oath of Office. The Mayor shall then assume the chair.

### **4. Time, Place and Location of Meetings**

All regular council meetings shall be held in the council chambers located at 111 Erie Street North, Leamington.

(as per By-law 331-13)

- (1) The regular council meetings shall commence at **6:00** ~~7:00~~ p.m. and be held on the first three Mondays in each month which are not public holidays.
- (2) Council may by resolution, establish or alter the time, day or place of any regular or special council meeting provided that meetings must be held in a location in accordance with section 236 of the Act.
- (3) The Mayor may, at any time, upon proper notice, summon a special council meeting.
- (4) The clerk shall, upon proper notice, summon a special council meeting upon the receipt of a petition from a majority of council members for the purpose and at the time mentioned in the petition.

### **5. Notice of Meetings**

- (1) The clerk shall post on the municipal web site notice for all council and committee meetings established by Council and such posting serves as notice of the meeting to the public as required by the Act.
- (2) Prior to the first meeting in January of each year the clerk shall post on the municipal web site the schedule for all regular council meetings for the calendar year.

- (3) The clerk shall give at least forty-eight (48) hours notice to the public of all special meetings of council and committee meetings unless the time for notice is waived unanimously by council members or committee members who are in attendance at the special meeting or committee meeting.
- (4) The clerk shall post on the municipal web site an agenda for each council and committee meeting as soon prior to the meeting as is reasonably possible which posting may also serve as notice to the public of the meeting.
- (5) Where notice of intention to pass a by-law or notice of a public meeting is required to be given by statute, the clerk shall cause such notice to be published in a newspaper in addition to posting on the municipal web site.
- (6) Where notice of intention to pass a by-law or notice of a public meeting is required to be given by statute, such notice shall be provided in the time frame prescribed in the said statute, or its regulations, and if not so prescribed, notice shall be given at least four calendar days prior to the proposed action being taken.
- (7) The municipality's annual budget shall be adopted by by-law at a regular or special council meeting and the clerk shall provide a minimum of four (4) days notice by posting the notice on the municipal web site and publishing the notice in a local newspaper. Normal operating costs incurred prior to the adoption of the annual budget shall not require notice, and approval of such expenditures shall be deemed ratified upon the adoption of the annual budget.
- (8) Unless otherwise prescribed, where notice of intention to pass a by-law or notice of a public meeting is required to be given by statute, the form of the notice shall include the following information:
  - (a) a description of the purpose of the meeting, or the purpose and effect of the proposed bylaw;
  - (b) the date, time and location of the meeting;
  - (c) where the purpose of the meeting or proposed by-law is related to specific lands within the municipality, a key map showing the affected lands; and
  - (d) the name and address of the person who will receive written comments on the issue that is the subject of the meeting and the deadline for receiving such comments.
- (9) Nothing in this by-law shall prevent the clerk from using more comprehensive methods of notice or providing for a longer notice period.

- (10) Notwithstanding any other section of this by-law, the chief administrative officer may authorize an alternate method for the time and/or form of notice, provided that:
  - (a) the chief administrative officer is satisfied the alternate notice is likely to provide reasonable notice to all parties who are likely to be directly affected by the matter, and
  - (b) Council is advised prior to a final decision on the matter that an alternate method of notice was utilized.
- (11) If a matter arises, which in the opinion of the Mayor, is considered to be of an urgent or time sensitive nature, or which could affect the health or well-being of the residents of the municipality, the Mayor may schedule a special meeting or add the matter to the agenda of a regular or special meeting even if no notice to the public can be given. In such case, the clerk shall provide as much prior notice to the public, if any, as is reasonable under the circumstances and will report upon the meeting and the form of notice provided at the next council meeting held in open session.
- (12) Lack of receipt of notice or failure to comply with the notice provisions of this by-law shall not invalidate the holding of the meeting or any decision of Council or a committee made at the meeting.

## **6. Call to Order**

- (1) As soon after the hour fixed for the holding of the council meeting as a quorum is present, the Mayor shall call the meeting to order;
- (2) If no quorum is present fifteen minutes after the time appointed for the council meeting, the clerk shall record the names of the members present and the meeting shall be adjourned. At anytime that a meeting loses its quorum, the meeting must be immediately adjourned. The meeting may be reconvened if a quorum is reconstituted.
- (3) If the Mayor is absent at the hour fixed for the holding of the council meeting and a quorum is present, then the Deputy Mayor shall call the meeting to order. The Deputy Mayor shall preside until the arrival of the Mayor and while so presiding, the Deputy Mayor shall have all the powers of the Mayor.
- (4) If both the Mayor and the Deputy Mayor are absent from the council meeting and a quorum is present, then the clerk shall call the meeting to order and another council member shall be appointed by the council members present to act as the presiding official and shall preside over the meeting until the Mayor or the Deputy Mayor arrive.

## 7. Curfew

No item of business may be dealt with at a council or committee meeting after 11:00 p.m. unless all members present consent to an extension.

## 8. Conduct of Proceedings

- (1) It shall be the duty of the Chair of any meeting:
  - (a) to open the council meeting by taking the Chair and calling the meeting to order;
  - (b) to address the business listed on the agenda;
  - (c) to receive and address in the proper manner all motions presented by council members;
  - (d) to put to vote all questions which are regularly moved and seconded or necessarily arise in the course of proceedings and to announce the results;
  - (e) to decline to put to vote motions which infringe the rules of procedure;
  - (f) to enforce on all occasions the observance of order and decorum among the members;
  - (g) to adjourn the meeting in the case of disorder arising in the council chamber, and
  - (h) when, in the opinion of the Chair, the words or conduct of any person, including a council member, is in contravention of the rules of procedure, or in contravention of the municipality's code of conduct for council members or is causing unreasonable disruption to the meeting, the Chair may rule the person out of order and require the person to cease the activity.
- (2) No person except council members and municipal employees shall be permitted to come within the enclosure formed by the railing between the council table and the public seating during a council meeting without the permission of the Chair.

## 9. Deputy Mayor

- (1) Subject to section 9.(2), the Deputy Mayor shall act in place of the Mayor, and shall have all the rights, power and authority of the Mayor in any of the following circumstances:
  - (a) The Mayor is absent from a regular or special council meeting or committee meeting;

- (b) The Mayor is absent from the municipality or absent through illness or the Mayor refuses to fulfill the duties of his office, or
  - (c) The office of the Mayor becomes vacant until such time as the office of the Mayor is filled by appointment or election in accordance with Section 263 of the Act.
- (2) This by-law does not authorize the Deputy Mayor to take the place of the Mayor as a municipal representative or to assume any of the rights, power and authority of the Head of Council established by the Police Services Act, R.S.O. 1990 c. P.15. or to replace the Mayor on any of the following boards or committees:
- (a) the Board of Essex Power or related companies;
  - (b) the Leamington Committee of Adjustment, or
  - (c) a conservation authority

#### **10. Special Purpose Committees**

A special committee may be created by Council to consider a specific matter. Council shall establish the mandate and composition of the committee and provide any specific direction necessary to the committee.

#### **11. Closed Session**

- (1) Council or committee meetings or portions thereof may be held in closed session to consider only those matters provided for in accordance with section 239(2), (3) or (3.1) of the Act.
- (2) Prior to moving in closed session for one of the reasons listed in section 11.(1), Council shall pass a motion to move into closed session. The motion shall state the general nature of the matter to be considered in the closed session and the section of the Act which authorizes the matter being discussed in closed session. The motion shall also include reference to any person who may be attending the session who is not a council member or a municipal employee.
- (3) Only those matters contained in the motion to move into closed session shall be discussed at the closed session.
- (4) A vote may not occur in closed session unless the subject of the vote is for a procedural matter or for giving direction or instructions to officers, employees or agents of the municipality;
- (5) Minutes shall be kept of the closed meeting and record without note or comment all resolutions, decisions and other proceedings.

- (6) At the conclusion of the closed session, a motion shall be passed to move into public session.
- (7) At the next regular or special council meeting immediately following the closed session, the clerk shall report in open session upon the holding of the meeting, the notice that was given, the general nature of the matter discussed, the authority for the closed session and whether any decisions were made, votes taken or staff directions given.
- (8) When council or committee members determine during a council or committee meeting that a matter should be discussed in closed session, then no further notice to the public is required.

## **12. Appointments to Boards and Committees**

- (1) Applications from the public to serve on any board or committee shall be public information.
- (2) Only the names of each applicant shall be included in the council meeting agenda.
- (3) Council may move into closed session pursuant to section 239(2)(b) of the Act to discuss the individual applicants.
- (4) In closed session, Council may give direction to the clerk to present certain names to Council in public session.
- (5) The motion to appoint a person to a board or committee shall be made and voted upon in public session.

## **13. Agenda**

- (1) The clerk shall have prepared for the use of the members at the regular meetings of Council an agenda which includes the following headings in the following order:
  - (a) Call to Order;
  - (b) National Anthem;
  - (c) Prayer;
  - (d) Disclosure of Pecuniary Interest;
  - (e) Adoption of Council Minutes;
  - (f) Business Arising from the Minutes
  - (g) Public Meetings
  - (h) Reports of Staff & Delegations;
  - (i) Matters for Approval;
  - (j) Other Matters for Consideration;
  - (k) Report on Closed Sessions;
  - (l) Consideration of By-laws
  - (m) Notices of Motion;



- (n) Open Session;
  - (o) Announcement of Upcoming Meetings;
  - (p) Statements of Members (non-debatable); and
  - (q) Adjournment.
- (2) The business of Council shall be taken up in the order in which it stands upon the agenda unless altered at the meeting by the Chair.
  - (3) All reports and other items listed on the agenda are properly before Council and no further motion is required to discuss any agenda item. Once a motion is made on the report or agenda item then discussion shall be directed toward the motion.
  - (4) For special meetings, the agenda shall be prepared by the clerk who shall only list items the clerk deems necessary and related to the purpose of the special meeting.

#### **14. Public Meetings**

- (1) A public meeting may be scheduled during a council meeting.
- (2) The public meeting will be scheduled following agenda item (e) - "Business Arising from the Minutes".
- (3) The Chair will declare the public meeting session open. The rules of procedure are suspended during the public meeting.
- (4) The Chair will have regard to the rules of procedure but will preside over the meeting in a manner that will permit a fair and equal opportunity for participation by all interested members of the public.
- (5) Members of the public will address the Chair only and will be requested to state their name and address prior to making any submissions.
- (6) The minutes of a public meeting held during a council meeting will be attached as schedule to the council minutes.
- (7) At the conclusion of the public meeting, the Chair shall adjourn the public meeting and if the public meeting is held during the regular session of a council meeting then the council meeting shall resume.
- (8) The minutes of a public meeting shall include:
  - (a) the names of staff and name and address of everyone who speaks to Council;
  - (b) a brief summation of each person's comments, and any decisions made by Council.

**15. Minutes**

The minutes prepared by the clerk and approved by Council are the official record of the meeting proceedings. The minutes shall record:

- (1) the place, date and time of meeting;
- (2) the names of all council members and municipal staff in attendance;
- (3) the correction and adoption of the minutes of prior meetings;
- (4) summary of presentation by a delegation or municipal staff member, and
- (5) all other proceedings of the meeting without note or comment. The clerk shall not record Council discussion or debate.

**16. Staff Reports**

Every report of staff listed on the Agenda will be presented to Council by the director of the department that authorized the report or by such person designated by the director.

**17. Petitions and Communications**

- (1) Every communication, including a petition designed to be presented to the Council shall be legibly written or printed and shall not contain any obscene or improper matter or language and shall be signed by at least one person and shall be filed with the clerk.
- (2) Any person may be placed on the agenda as a delegation to Council provided that they notify the clerk prior to the preparation of the agenda for that meeting. The person shall inform the clerk of the purpose of the requested appearance before Council and shall provide the clerk with any written information that the person intends to present to Council. The clerk shall place the name of the person and written material if any on the agenda unless the clerk is of the opinion that the purpose of the delegation is not an appropriate subject matter for that meeting.
- (3) A person may also be included in the agenda as a delegation to Council if the person wishes to address an item listed on the agenda provided the person notify the clerk prior to 12:00 noon on the day of the council meeting. In such case the clerk shall prepare an addendum to the agenda which will include the delegation. The clerk shall provide notice of the addendum by posting the addendum on the municipal web site and circulating electronically a copy of the addendum to Council.
- (4) The person shall inform the clerk of the purpose of the requested appearance before Council and shall provide the clerk with any written information that the person intends to present to Council. The clerk shall place the name of the person and written material if any on the agenda

unless the clerk is of the opinion that the purpose of the delegation is not an appropriate subject matter for that meeting.

- (5) If the clerk determines that a person who has requested permission to address Council shall not be listed as a delegation he shall advise that person together with the reason why the person is not being listed as a delegation. The clerk shall advise the person that they have the right to attend the council meeting and ask for leave of the Council to appear as a delegation. The clerk shall also notify Council in writing of any person who has requested to be a delegation but has been denied the right to be listed on the agenda.
- (6) A person who is not listed on the agenda as a delegation may request permission at the council meeting to address Council which may be granted upon a resolution of council members.
- (7) Council will allow a maximum presentation of five minutes for members of the public who appear as delegations unless special arrangements have been made with the clerk prior to the preparation of the agenda.
- (8) Council will be provided with all petitions in their entirety. The public will only be provided with the purpose of the petition and the number of names contained in the petition.

## **18. Conduct of Council Members**

- (1) Council members shall:
  - (a) act in accordance with their oath of allegiance and oath of elected/ appointed office.
  - (b) discharge with integrity all duties owed to Council, the Municipality of Leamington and the public;
  - (c) serve his or her constituency in a conscientious and diligent manner;
  - (d) speak respectfully of the reigning sovereign, a member of the Royal Family, the Governor General, the Lieutenant Governor, the Head of the Government of Canada or the Province of Ontario;
  - (e) treat the Chair, other members, staff and delegations with courtesy and respect;
  - (f) hold in strict confidence all information concerning matters dealt with in closed session. The members shall not release, make public, or in any way divulge any such information or any aspect of the in camera deliberations unless expressly authorized or required by law;

- (g) be respectful of the tradition that staff are expected to make recommendations to Council that reflect their professional opinions and best judgement and which are not unduly influenced by any single council member;
  - (h) not leave the council member's seat or make any noise or disturbance while a vote is being taken and until a result is declared;
  - (i) not interrupt a member while speaking, except to raise a point of order or point of personal privilege;
  - (j) speak only to the subject under debate;
  - (k) not disobey the rules of procedure or a decision of the Chair on a question of order, practice or interpretation of the rules of procedure;
- (2) If a council member disregards the rules of order or a decision of the Chair or Council and persists in such conduct after having been called to order by the Chair, the Chair may forthwith put the question that such council member be ordered to leave the council chamber for the duration of the meeting. If, following such vote by Council, the council member apologizes, Council may, by a further vote of those present, permit the member to return.
- (3) If the council member called out of order does not apologize or will not leave the council chambers, the Chair shall temporarily adjourn the meeting.

#### **19. Council Members Addressing Council**

- (1) No council member shall speak until the council member has been recognized by the Chair. In order to be recognized, the council member shall raise a hand and wait to be recognized by the Chair.
- (2) When a council member has been recognized by the Chair as having the floor, the council member shall direct questions or comments to the Chair.
- (3) When a council member is speaking, no other council member, except for the Chair, shall interrupt him, except to raise a point of personal privilege or point of order.
- (4) Any council member may require the motion under discussion to be read at any time during the debate but not so as to interrupt the member who has the floor.

## 20. Voting

- (1) The Chair, except where disqualified to vote, may participate on all votes. The Chair may vote to break a tie if the Chair has not already voted on the matter.
- (2) The manner of determining the decision of Council shall be by a show of hands by the members. A member may choose to abstain from voting on any matter. A vote on a motion will carry if more than 50% of those eligible to vote are in favour.
- (3) Immediately before the taking of a vote, the Chair may have the motion in the form introduced read and shall do so if requested by a council member.
- (4) After a question is finally put to a vote before the Council by the Chair, no member shall speak to the question nor shall any other motion be made until after the vote has been taken and the result has been declared.
- (5) Any council member may ask that a motion be divided and that a separate vote be taken on each part of the motion. When so requested, the Chair shall, without need for a seconder, put the request to Council.
- (6) Unless a recorded vote is requested, the individual member's votes on any particular item shall not be recorded.
- (7) A council member may prior to a vote being taken or immediately after the vote is taken, request a recorded vote. The vote must be requested before the Chair moves to the next matter.
- (8) When a recorded vote is requested by a member or is otherwise required the clerk will ask all council members, including the Chair, that all council members in favour of the motion raise their hands. The clerk shall name and record those members voting in favour. The clerk shall then ask all members opposed to the motion to raise their hands. The clerk shall name and record those council members voting in opposition to the motion. If all council members have not voted then the clerk shall ask for those who abstain and name and record those who abstain. Following the voting the clerk shall declare that the motion is either carried or lost. Any abstention from voting, other than reason of pecuniary interest or absence, shall be recorded in the minutes as a negative vote.
- (9) If a member disagrees with the announcement of the result of the vote the member may, but only immediately following the announcement, object to the announcement of the result and request that the vote be retaken.
- (10) The results of all motions, whether approved or lost, shall be recorded in the minutes. A motion that is moved but not seconded shall be recorded in the minutes with the notation, "Motion lost for lack of a seconder".

## 21. Motions

- (1) Except as otherwise provided in this by-law, all motions must be moved and seconded before the Chair can put the motion on the floor for consideration.
- (2) When a motion is presented, the Chair shall ensure that it is clearly stated before debate.
- (3) A motion before the Council for decision must be disposed of before any other motion, except a motion:
  - (a) to adjourn;
  - (b) to recess;
  - (c) to move into closed session;
  - (d) to defer;
  - (e) to refer, or
  - (f) to divide the motion.
- (4) A point of personal privilege or a point of order may be raised at any time during the meeting. A point of order or a point of personal privilege shall receive disposition of Council forthwith upon receipt and when decided, the matters so interrupted shall resume from the point where it was suspended.
- (5) A motion related to a matter which is not within the Council's jurisdiction shall be deemed to be *ultra vires* and out of order.
- (6) After a motion is moved and seconded it shall be deemed to be in the possession of Council, but the Chair may, with the permission of the mover and seconder allow the motion to be withdrawn at anytime before decision or amendment.
- (7)
  - a) A motion to adjourn shall not be in order when:
    - (i) a member is speaking;
    - (ii) a vote is being taken, or
    - (iii) a recorded vote has been requested;
  - b) A motion to adjourn is not debatable except as to date and time if stated in the motion.
- (8) A Notice of Motion signed by a mover and seconder shall be submitted to the clerk prior to the council agenda being prepared. A notice of motion shall not be debated at the council meeting at which it first appears, but shall be dealt with at the subsequent meeting of Council unless otherwise agreed by unanimous vote by those members in attendance.
- (9)
  - (a) After any decision has been determined by Council, any member who voted thereon with the prevailing side may, at the same

meeting or at any meeting held thereafter, move for a reconsideration of the decision.

- (b) The motion to reconsider must be seconded and may be seconded by any council member who was in attendance at the meeting at which the main motion was decided
  - (c) The motion to reconsider shall not be considered or debated by Council at the meeting where the motion to reconsider is introduced, unless otherwise agreed by unanimous vote by those council members in attendance at the meeting.
  - (d) After a motion to reconsider a decision has been moved and seconded no further action will be taken on the matter that is the subject of the reconsideration until the motion to reconsider has been voted upon.
  - (e) A council member who has moved or seconded a motion to reconsider a decision may not move or second a motion to reconsider the same decision during the same term of Council.
- (10) Any council member may request that any matter before Council be referred to any committee of council or to the chief administrative officer to provide further information or recommendation on any matter within Council's jurisdiction.

## **22. Amendments**

- (1) A motion to amend shall be moved and seconded prior to debate.
- (2) Only one amendment can be presented to the main motion at one time and only one amendment to an amendment at one time, but when an amendment to an amendment has been disposed of, another may be introduced, and when an amendment has been decided another may introduced.
- (3) The amendment to the amendment, if any, shall be voted first, then if no other amendment to the amendment is presented, the amendment shall be voted on next, then if no other amendment is introduced the motion or motions as amended shall be put to a vote.
- (4) When the motion under consideration contains distinct propositions, upon the request of any member, the vote upon each proposition shall be taken separately.

## **23. By-laws**

- (1) No by-law shall be presented to Council unless the subject matter of the by-law has been considered and approved by Council.

- (2) The clerk shall introduce every by-law to Council for consideration by reading the number and title of the by-law.
  - (3) Every by-law shall have three readings prior to it being passed. The clerk shall set out on each by-law enacted by Council, the date of each of the readings.
  - (4) Every by-law enacted by the Council shall be numbered in a manner determined by the clerk and dated and shall be affixed with the seal of the municipality and signed by the Mayor and the clerk.
  - (5) A confirmatory by-law shall be considered at each regular council meeting to confirm all resolutions passed by Council.
24. Any person may make an electronic recording of council or committee meetings or take photographs provided that the activity does not, in the opinion of Council, interfere with the council or committee proceedings or interfere with the council sanctioned recording of the meeting.
25. By-laws 180-00 and 420-03 are hereby repealed.
26. This by-law shall come into force and take effect upon its enactment.

**Read a first, second and third time and finally enacted this 15<sup>TH</sup> day of April, 2013.**

Signature on file

\_\_\_\_\_  
JOHN PATERSON, Mayor

Signature on file

\_\_\_\_\_  
BRIAN R. SWEET, Clerk



**Appendix 1**  
(as per By-law 459-15)

**Rules of Procedure for the Leamington Committee of Adjustment**

**Definitions:**

1. In this by-law,

“Acting Chair” means a Chair elected by the members of the Committee at a regular meeting in the absence of the Chair for that meeting.

“Committee” means the members of the Committee of Adjustment.

“Chair” means the Chair of the Committee of Adjustment elected by the members of the Committee at a general meeting of the Committee.

“hearing” means the public meeting of the Committee of Adjustment held for the purpose of considering applications for minor variance and consents, pursuant to the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13.

“Hearing Chair” means the Chair or Acting Chair in attendance at a hearing held for the purpose of considering one or more applications for minor variance or consent pursuant to the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13.

“Hearing Panel” means the members of the Committee of Adjustment, in attendance at a hearing held for the purpose of considering one or more applications for minor variance or consent pursuant to the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13.

“member” means an individual appointed by the Council of the Municipality of Leamington to the Committee of Adjustment.

“Municipality” shall mean The Corporation of the Municipality of Leamington.

“pecuniary interest” means a direct or indirect pecuniary interest within the meaning of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M. 50.

“Secretary-Treasurer” means the Secretary-Treasurer appointed by Council pursuant to Section 44 (8) of the *Planning Act*, R.S.O. c. P. 13.

**Meetings and Hearings:**

2. The Committee shall hold regular monthly hearings in the municipal council chambers to consider applications at a date and time agreed to by the Committee.

3. The Secretary-Treasurer shall prepare and cause to be delivered an agenda to each member of the Committee together with copies of each application at least fourteen (14) days prior to the hearing. The Secretary-Treasurer shall forward all correspondence to the Committee received from commenting agencies two (2) days prior to the meeting, wherever possible and as soon as possible thereafter. In addition, copies of each application will be circulated in accordance with the procedures established within the *Planning Act*, R.S.O. 1990, c. P. 13.
4. In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a hearing.

**Committee Composition:**

5. The Committee shall be composed of five (5) members being two (2) members of Council and three (3) members of the public appointed by Council.
6. The Chair shall be elected by the members, from among the members, at the first meeting of the new term of office.

**Quorum:**

7. Three members constitute a quorum.
8. If no quorum is present twenty (20) minutes after the time appointed for a hearing, the Secretary-Treasurer shall record the names of the members present and the hearing will stand adjourned until the next appointed time.

**Notice of Applications:**

9. The notice of an application to be considered at a hearing shall be in accordance with provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and any applicable regulations thereof and any further manner that the Committee deems appropriate.
10. The Committee shall hold a public hearing on every application before a decision is made on the application.
11. If a matter is to be considered which does not have a notice period prescribed by the *Planning Act* then the Secretary-Treasurer shall provide notice in such manner as the Secretary-Treasurer deems appropriate having regard to the notice provisions contained in Leamington By-law 289-13.

**Hearing Procedures:**

12. (a) The hearing shall be called to order by the Chair. In the absence of the Chair, the Secretary Treasurer, where a quorum exists for the purpose of conducting the business of the Committee shall call the meeting to order and conduct the election of an Acting Chair for the purpose of conducting the business on the agenda.
- (b) The Hearing Panel shall disclose any pecuniary interest in any matter to be considered at the hearing.
- (c) The Hearing Chair shall call for any requests for deferral or withdrawal of an application.
  - (i) A request for deferral of an application to a later hearing date must be for reasonable cause.
  - (ii) The Hearing Panel may set a new hearing date for consideration of the deferred application.
  - (iii) The Hearing Panel may indicate requirements or conditions for deferral, such as re-notification, payment of rescheduling fee, amendment to the application or additional information to be submitted.
  - (iv) If any particulars concerning the application are discussed or if the correspondence has been read, the Hearing Panel is seized of the application.
- (d) The Hearing Chair or Secretary-Treasurer shall call each application in an order determined by the agenda or in an order determined by the Hearing Panel.
- (e) The Hearing Chair shall ask the applicant, authorized agent and/or the applicant(s) representative (herein referred to as the applicant) to introduce him/herself to the panel.
- (f) The Hearing Chair shall request the Secretary-Treasurer to provide the applicant with a copy of correspondence received from agencies, residents and others who responded to the circulation of the notice of an application (for the purposes of the aforementioned, the Secretary-Treasurer may provide a written summary of the contents of the correspondence to the applicant).
- (g) The Hearing Panel may ask questions of the applicant, including whether or not the applicant understands the conditions requested and whether the applicant has any questions or comments on same.

- (h) The Hearing Chair shall invite all persons having an interest in the application to come forward, state their name and address and advise the Hearing Panel of their positions. The Hearing Panel may ask questions of those persons expressing an interest.
- (i) The Hearing Chair shall give the applicant the opportunity to respond to any comments received from commenting agencies or interested persons.
- (j) After having considered the issues raised by the applicant and any other persons and the evidence heard at the hearing, the Hearing Chair shall close the hearing to public input and request a motion from the Hearing Panel for discussion and decision. Questions for clarification may be posed by Hearing Panel.
- (k) A decision with respect to the disposition of the application is made by a show of hands and the Hearing Chair states the result of the vote.
- (l) Hearing Panel members concurring in the decision shall sign the decision at the hearing. All Hearing Panel members must make a decision on the consent application and may not abstain from voting unless they have disclosed a pecuniary interest in the application at hand.

**Other Matters:**

13. The conduct of meetings, hearings and members with respect to matters not specifically addressed in this by-law, generally shall be in accordance with the *Statutory Powers Procedures Act*, R.S.O. 1990, c. M. 50, as amended, and the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M. 50, as amended. In any matter not covered by these Acts or this by-law, shall be determined by the Chair. In making such decisions, the Chair shall have regard to Leamington By-law 289-13.

**Other Duties of the Secretary-Treasurer:**

14. The Secretary-Treasurer shall prepare and retain for the Committee a record or minutes of each hearing containing a summary of the verbal representations made to the Hearing Panel, together with a copy of all correspondence considered at the hearing. A copy of the minutes is to be circulated to the Committee.
15. The Secretary-Treasurer shall be responsible for circulating all required notices and perform the duties of the Secretary-Treasurer as prescribed in the *Planning Act*.

**Tie Votes:**

16. In the event of a tie-vote on a motion to approve or deny an application or any other matter, the motion is deemed to be defeated.

**Conduct of Members:**

17. (1) Except at a hearing scheduled for the purposes of considering an application, a Member shall only discuss the details or merit of an application which has been submitted for Committee approval with municipal staff or other Member.
- (2) Except at a hearing scheduled for the purposes of considering an application, a Member shall not discuss, either in person, in writing, by telephone or by any electronic means, the details or merit of an application which has been submitted for Committee approval with more than one other Member simultaneously.
- (3) Members may attend to view the site that is subject to an application to the Committee but should not discuss the application with anyone at the site except municipal staff or one other member.