APPENDIX B

COMPLIANCE WITH THE CODE OF GOOD GOVERNANCE

Members of Council shall adhere to the provisions of the Code of Good Governance. The Municipal Act, 2001 authorizes Council, where it has received a report by its Integrity Commissioner that, in his or her opinion, there has been a violation of those elements of the Code subject to complaint, may impose either of the following penalties:

- A reprimand;
- Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

The Integrity Commissioner may also recommend that Council impose any of the following sanctions where there has been a breach of policy, separately established but referenced in this Code:

- Written or verbal public apology;
- Return of property or reimbursement of its value or of monies spent;
- Removal from membership of a committee; and
- Removal as chair of a committee.

Complaint of a Violation of this Code

Any individual that has reasonable grounds to believe that a Member has breached this Code, may file a complaint with the City Clerk.

The Integrity Commissioner shall be responsible for investigating such complaints and if the parties are in agreement, the complaint may be resolved by way of mediation.

If either party does not participate in the mediation process, if the complaint is not resolved through this process, or the matter is not appropriate for referral to mediation, the Integrity Commissioner shall assume responsibility for investigating the complaint in accordance with the procedures established by Council.

In the case of a complaint of discrimination or harassment, the complainant may file a complaint directly to the Human Resources Department under the City of Burlington Respect in the Workplace Policy. The complainant will also be advised of his or her right to advance an application to the Ontario Human Rights Tribunal.
APPENDIX B

Procedure – Informal Complaint

Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code may address their concerns informally with the member directly. Individuals are encouraged to use this process before initiating a formal complaint, however it is not a requirement to do so before initiating a formal complaint. Informal complaints can be pursued in the following manner:

1. Advise the member that their behaviour or activity contravenes the Code.
2. Encourage the member to stop the prohibited behaviour or activity.
3. If applicable, confirm to the member your satisfaction, or dissatisfaction with his or her response to the concern identified.
4. Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter.
5. If not satisfied with the response received through the informal process, an individual may proceed with a formal complaint through the Integrity Commissioner.

Procedure – Formal Complaint

Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code may address their concerns through the formal complaint process set out below.

1. All formal complaints must be made using the Complaints Form prepared by the City Clerk and/or Integrity Commissioner and shall be dated and signed by the Complainant.
2. The complaint must include an explanation as to why the issue raised may be a contravention of the Code and any evidence in support of the allegation must be included with the Complaints Form.
3. Any witnesses in support of the allegation must be identified on the Complaint Form.
4. The Complaint Form must include the name of the member alleged to have breached the Code, the section of the Code allegedly contravened, the date, time and location of the alleged contravention and any other information as required on the Complaint Form.
5. The complaint shall be filed with the Clerk who shall confirm that the required information is complete. The Clerk will forward the complaint form to the Integrity Commissioner who will determine whether the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or policies.
6. The Integrity Commissioner may request additional information from the complainant.
APPENDIX B

Response of Integrity Commissioner of Complaint outside Jurisdiction

If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to non-compliance with the Code, the Integrity Commissioner shall advise the complainant in writing as follows:

Criminal Matter – if the complaint is an allegation of a criminal nature consistent with the Criminal Code of Canada, the complainant shall be advised that pursuit of such an allegation must be made through the Halton Police Services.

Municipal Freedom of Information and Protection of Privacy – if the complaint is more appropriately addressed under the Municipal Freedom of Information and Protection of Privacy Act, the complainant shall be referred to the Clerk to have the matter reviewed under the Act.

If the matter is covered by other policies or legislation, the complainant will be advised to proceed in a manner as considered appropriate by the Integrity Commissioner.

Refusal to Conduct an Investigation

If upon review of a complaint, the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or not made in good faith, or that there are no or insufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this position in writing to the complainant and the member identified in the Complaint Form.

Opportunity for Resolution

If at any time, following the receipt of a formal complaint or during the investigation process, the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the member agree, efforts may be made to achieve an informal resolution.
APPENDIX B

Investigation

If the Integrity Commissioner determines that a formal investigation is required he or she shall proceed in the following manner, subject to the Integrity Commissioner’s ability to elect to exercise the powers of a commissioner under Parts I and II of the Public Inquiries Act.

- The Integrity Commissioner shall provide a copy of the complaint and any supporting materials to the member whose conduct is in question with a request that a written response to the allegation be provided to the Integrity Commissioner within ten days.
- The Integrity Commissioner shall provide a copy of the response provided by the member to the complainant with a request for a written reply within ten days.
- If necessary, after reviewing submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any City work location relevant to the complaint for the purpose of investigation and potential resolution.
- The Integrity Commissioner may make interim reports to Council where necessary and as required to address any issues of interference, obstruction, delay or retaliation encountered during the investigation.
- At any time the complainant may abandon the request for an investigation and the Integrity Commissioner will cease his or her investigation.

Recommendation Report

Upon completion of an investigation, the Integrity Commissioner shall report to the complainant and the member on the results of his or her review within ninety days of receiving a complete Complaint Form. If the investigation process is going to take more than ninety days, the Integrity Commissioner shall provide an interim report to the complainant and member indicating when the complete report will be available.

If during the investigation process, the complaint is withdrawn, sustained or resolved, the Integrity Commissioner shall report to Council outlining the findings, and terms of any resolution and any recommended action within thirty days.

If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report his or her findings to Council including a recommendation as to the imposition of a penalty as set out in the Municipal Act.
APPENDIX B

If upon completion of the investigation the Integrity Commissioner finds that there has been no contravention of the Code, or that a contravention occurred, however, the member took all reasonable measures to prevent it, or the contravention committed was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall set this out in its report to Council.

Reports Prior to Election

The Integrity Commissioner shall not make any report to Council or any other person after the last Council meeting in June in any year in which a regular municipal election is to be held. Any reports would proceed to the first Council meeting after the Inaugural meeting of the new Council.

Confidentiality

The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, materials or other information, whether belonging to the City or not, that come into their possession or to their knowledge during the course of their duties subject to section 223.5(2) and 223.5(3) of the Municipal Act.

If the Integrity Commissioner reports to Council on an investigation into an alleged breach of the Code, the report shall only disclose such information that in the Integrity Commissioner’s opinion is required for the purposes of the report.