



Corporate Policy

Code of Good Governance

Approved by Council on: April 23, 2018

Report Number: CM-09-18

Effective: April 23, 2018

Reviewed on: April 23, 2018

Amended: Replaced Council Code of Practice

Next Review: October 2022

Note:

Preamble:

The Council of the City of Burlington is committed to achieving excellence in governance, and doing so in a way that maintains and ensures public trust and confidence in the City's decision making.

The elements of this code that are subject to a formal complaint are intended to act as a Code of Conduct as required under the Municipal Act.

Purpose:

The City of Burlington's Council Code of Good Governance serves four main purposes:

- To set out, in manner that is aspirational and proactive, clear expectations of the governance behaviour of members of Council;
- To provide clarity to the public as to the behaviour they can expect from members of Council, and the governance responsibilities that go beyond those in the Municipal Act;
- To provide guidance to members of Council in the conduct of their duties as elected officials; and
- To provide a mechanism for responding to alleged breaches of elements of the Code.

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APPLICATION

This Code applies to all members of the Council of the City of Burlington.

It is the responsibility of all members to be aware of and comply with the Code.

ASPIRATIONAL COMMITMENTS (NOT SUBJECT TO A COMPLAINT)

1. We will put the interests of the City above our own personal interests when conducting City business.
2. We acknowledge that working collaboratively will provide better governance decisions.
3. We will exercise strategic leadership by developing and clearly communicating to the public the Council's purpose and priorities, and its intended outcomes.
4. We will ensure alignment of our key policies, budgets, and other policy instruments with our strategic goals, and hold ourselves, and staff accountable for the efficient and effective delivery of those goals.
5. Because our decisions often have generational impacts, we will strive to take the long view, and in doing so sincerely consider the interests of those who will be immediately impacted, and those who will be impacted in the future.
6. We will, with our Audit Committee, identify risks to the corporation and ensure that Council and staff are effectively managing those risks.
7. We will strive to ensure expansive transparency and robust accountability.
8. We will exemplify the responsibilities and role articulated for members of Council in the *Municipal Act*.

CONDUCT COMMITMENTS (SUBJECT TO A FORMAL COMPLAINT)

9. We will not use city resources to advance our personal interests, we will adhere to the Council Expense Manual, and we will be particularly cautious about using city resources during an election, and will act in compliance with the City's policies respecting elections.
10. We will treat each other, the public, and staff with courtesy and respect. In particular, we will act in a manner that ensures the Council Chamber is a respectful workplace.

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11. We will communicate information to the public in ways that are accurate, timely, and in the interest of the corporation. We will respect that the Mayor, as head of council, is the primary spokesperson for Council.
12. We will respect the role of a ward councillor to play a leadership role on issues specific to their ward, and if we engage in issues in other wards we will exercise the courtesy of informing the ward councillor of our engagement.
13. We will take full responsibility for and curate any social media and Internet presence that the City and/or individual councillors are responsible for in a way that reflects a high level of courtesy and respect. We will ensure that commenters are respectful, and do not impugn the motives, integrity, or competence of our Council colleagues, other members of the public, or staff. We will take reasonable efforts to address false or misleading information posted to our social media feeds.
14. We will hold in strict confidence all information concerning matters dealt with in Closed Council meetings, matters subject to solicitor client privilege, personal information, or information that is otherwise determined to be confidential.
15. We will avoid any actual or perceived conflict of interests. We, and our family members, will avoid accepting gifts, and where accepting a gift is an integral part of our duties as a member of council, we will report those valued at more than \$25 accepted, to the City Clerk who will annually report them to the public. We will adhere to the Corporate Policy on Gifts and Hospitality.
16. We will avoid directly or indirectly managing or controlling any monies received relating to a charitable, not for profit, or community-based organization's fundraising in our capacity as a member of Council. We will avoid soliciting or accepting benefits or hospitality in any form from an individual, group or corporation who might require a decision or consideration by the City. We will keep a record of all donors to events we organize, and the value of their donation, and file it with the City Clerk.
17. We will respect the relative roles of Council to govern, and staff to manage. We will not direct staff, attempt to influence their professional advice to Council, and will not make public comments that impugn their performance. We will actively create and sustain an environment where staff are comfortable providing their professional advice to Council, even when it may be difficult or controversial. We will take extra efforts to avoid engaging in purchasing decisions, litigation and insurance matters, by-law enforcement, prosecutions, and human resources matters (except those involving the City Manager), unless acting collectively with other members of Council in consideration of business brought forward for direction or decision.

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18. We will foster respect for the democratic decision-making process. We will accurately communicate decisions of Council, even if we disagree with Council's decision. When we disagree with a Council decision, we will do so in a way that avoids impugning the motives, integrity or competence of our Council colleagues, staff, or the institution generally.

19. We will hold ourselves individually accountable to these principles, and collectively accountable in a way that is respectful and constructive, and will use the complaint mechanism as a course of last resort.

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.

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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.

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.

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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.

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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.

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.

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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.

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.

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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.

Scope:

This policy applies to all members of Council.

Objectives:

The Code is intended to provide guidance to individual Members of Council in acting at all times in a manner that will enhance public trust and confidence in their Municipal Council.

Definitions:

For the purpose of this policy, unless otherwise stated, the following definitions shall apply:

Term	Definition
Member	A member of the Council of the City of Burlington elected in accordance with The <i>Municipal Elections Act</i> .

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References:

Municipal Elections Act, 1996, S.O. 1996

Municipal Act, 2001, S.O. 2001

Roles:

Accountable:

The City Clerk is responsible for the timely review, updating and dissemination of the policy.

Responsible:

It is the responsibility of all members of Council to be aware of and comply with the Code.