



**Mandate of Individual Directors
Appointed to External Boards of Directors by Burlington City Council**

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1. Introduction, Interpretation, and Purpose of this Mandate

This Mandate of Individual Directors Appointed to External Boards of Directors by Burlington City Council (“Mandate”) sets out fundamental principles and practices for such Directors to, in no particular order and without limitation:

- (i) Avoid conflicts of interest;
- (ii) Uphold ethical conduct;
- (iii) Maintain confidentiality;
- (iv) Function consistently with the highest governance standards and expectations of individual Directors by The Corporation of the City of Burlington (“City,” as a noun or adjective, or “the City of Burlington”); and
- (iv) Protect the reputation and other assets of (a) the Organization on whose Board of Directors (“Board”) the individual Director(s) serves, and (b) the City of Burlington.

“Director,” “the Director,” “a Director,” or “a City-appointed Director,” as the case may be, within this Mandate, refers to one or more of, as the case may be, (i) the Mayor, (ii) a Councillor, or (iii) an Employee, of the City of Burlington, who is (are) serving as a Director of an external Organization.

(This Mandate applies only to City-appointed Directors, in other words.)

“Organization,” within this Mandate, refers to the external, separate organization, on whose Board the City-appointed Director serves.

“Board,” “Board Chair,” and “CEO,” within this Mandate, refers to the Board of Directors, the Chair of the Board, and the Chief Executive Officer (or Executive Director, as applicable) of the Organization.

Lower case use of “director,” “organization,” “board,” “board chair,” or “a CEO,” within this Mandate, refers to a director, organization, board of directors, board chair or CEO more generally.

No provision in this Mandate is intended to be in conflict with any legislation, regulation, City code or policy, or by-law or governance policy of the Organization. If or when there exists a material conflict, such conflict shall be resolved in favor of the legislation, regulation, City code or policy, or the Organization’s by-law or governance policy (or the equivalents), as or if the case may be.

The Oxford comma may be used herein, to enhance clarity.

Compliance with this Mandate:

- (i) Enhances City-appointed Director performance;
- (ii) Mitigates governance risk of the City and of the Organization;
- (iii) Protects the funding, investment, or any other contractual relationship or dedication of City resources to the Organization, if or as the case may be; and
- (iii) Protects the City’s and Organization’s reputation and other assets.

2. Application of this Mandate

The provisions set forth in this Mandate apply (i) to the Director, and (ii) to, as or when the case may be, a family member(s) of the Director, in connection with one’s status as a Director, or having a bearing upon one’s responsibilities to the Organization as a Director.

For the Purpose of this Mandate, a family member of the Director includes a child, parent or spouse, as defined under the [Municipal Conflict of Interest Act, R.S.O. 1990](#), Chapter M.50; a person residing in the Director’s home; or a person in a close personal relationship to the Director.

The actions and conduct of the Director (i) are within the scope of mayoral and councilor service to, or employment with, as the case may be, the relationship that each of these individuals

(Mayor, Councilor, Employee) have with the City of Burlington; and (ii) have a material impact on protecting the reputation and other assets of the City of Burlington.

3. Compliance with Laws, Regulations and Governance Policies

The Director shall:

- (i) Comply with the letter and spirit of all laws and regulations applicable to the Organization;
- (ii) Comply with all the Organization governance policies and procedures concerning the personal and professional conduct of the directors of the Organization; and
- (iii) Display the highest ethical standards in the Director's business, professional and personal dealings, affairs and reputation.

4. Obligations to the Organization, and to the City of Burlington

This Mandate should be interpreted in accordance with the principle that the Director is expected to discharge the Director's duty to act (i) with a view to the best interest of the Organization; (ii) in good faith; and (iii) with honesty and integrity.

The fiduciary duty of a Director is to act with a view to the best interests of the Organization, giving due consideration to the Organization's stakeholders, including but not limited to the City of Burlington. The Director should neither act in self-interest, nor in the interests, exclusively, of any individual Organization stakeholder with which the Director's appointment may be associated.

Because the Director of the Organization is also a Member of Council of the City of Burlington, or a Member of Staff of the City of Burlington, the intertwined dual role played by the Director means that the Director may:

- (i) Speak to the interests of the City of Burlington, on the Organization's Board, as part of overall deliberations of the Board that have regard to the interests of stakeholders of the Organization;
- (ii) Facilitate assistance or support that the City of Burlington may provide to the Organization, if or as applicable, as part of overall Board responsibility by the Director to advance the interests of the Organization;
- (iii) Monitor, as part of overall Board responsibility by the Director, (a) the use of City of Burlington funds or other resources that the City of Burlington may provide to the Organization; and (b) compliance with any agreement that the City of Burlington may have with the Organization; and

- (iv) Offer observation, by the Director to Council of the City of Burlington, or relevant Staff, as the case may be, on (i) the proper treatment and use of funding or other resources provided by the City of Burlington to the Organization; and (ii) compliance with any agreement between the City of Burlington and the Organization, as part of responsibility by the Member of Council or Staff of the City of Burlington to advance the interests of the City of Burlington.

5. Roles and Responsibilities of the Director

The Director of the Organization contributes to the effective governance and oversight of the Organization.

Roles and responsibilities of the Director include, or may include, the following best individual director roles and responsibilities, as appropriate or in place by the Organization Board:

- (i) To demonstrate credibility, integrity and high ethical standards in the individual Director's business dealings and personal affairs.
- (ii) To understand the difference between governance and day-to-day management, and function effectively in the governance role.
- (iii) To have sufficient time and energy to devote to fulfill the individual Director's duties and responsibilities.
- (iv) To fulfil the requirements of the Director Orientation Program (or the equivalent).
- (v) To prepare for, attend, and contribute knowledgeably and effectively to meetings of the Board and of the Board Committee(s) of which the Director is a Member.
- (vi) To listen carefully, ask appropriate questions, encourage discussion of key issues, and otherwise fulfill the Director's duties and responsibilities.
- (vii) To be independent-minded within the boardroom in addressing any and all: related-party transactions; transactions or agreements that the Organization is considering in respect of which a Director may have a material interest; and potential or real conflict of interest situations.
- (viii) To maintain or enhance the competencies and skills that the individual Director is expected to bring to the Board of Directors.
- (ix) To participate in an annual assessment by the Board of performance and contribution, if or as applicable.

6. Performance Expectations of the Director

The Director shall vote on all motions put before the Board, at a Meeting of the Board, unless a conflict of interest has been declared.

The Director is expected to:

- (i) Make all reasonable efforts to attend scheduled Meetings;
- (ii) Prepare in advance of the Meeting;
- (iii) Participate equitably, e.g., not over- or under-participate;
- (iv) Listen to the opinions of others;
- (v) Ask effective questions;
- (vi) Encourage discussion and constructive dissent; and
- (vii) Share the workload among other directors equitably.

The Director is expected to devote the necessary time and commitment to Board and Board Committee affairs of which they are a Member, including the review of Board and Board Committee materials, and attendance at all Meetings of the Board and of the Board Committees of which the Director is a Member.

The Director should arrive in advance of the start of each Board and Board Committee Meeting, as the case may be; and stay engaged and focused for the entirety of the Meeting, without any distraction whatsoever (including phone calls, emails, texts, or the use of social media).

Distraction of any form can be a breach of duty of care and can put the Organization, the City of Burlington as a stakeholder, and other directors at risk.

Additional Board and Board Committee meetings may need to be scheduled from time to time and on short notice. The Director should make, in such circumstances, reasonable efforts to attend such a Meeting.

7. Director Request for Information or an Answer to a Question

Any request for information or an answer to a question, outside of a board or committee meeting, posed by a director to a member of management should normally be addressed to the chair of the board or relevant committee chair first, by a director.

The board or committee chair shall determine, in collaboration with other board or committee members and the CEO, if or as necessary, if the request for information or answer to the question should be requested on behalf of the board or board committee, respectively, taking into account

the nature of the request, and the benefit of the information or answer to all directors, balanced against the cost to acquiring the information or answering the question, and the risk that there may be potential undue influence.

If the information requested or answer to the question is relevant to board or committee matters, the information or answer, as the case may be, will normally be shared with all board or committee members, and not just the director who requested the information or posed the question.

8. Avoiding Conflicts of Interest by the Director

In discharging the Director's responsibilities, the Director shall fulfill the Director's fiduciary duty to act with a view to the best interest of the Organization, and not in any way out of self-interest. The Director shall, at all times, and under all circumstances, seek to avoid, , any interest or any business or other relationship that could, or could be perceived or seen to, undermine the Director's ability to fulfill their fiduciary duty to the Organization.

A conflict of interest is a situation or circumstance in which the private interests of a Director influence, or may be reasonably seen to influence, the independent, objective and impartial performance of one's duties as Director. Private interests include any reasonably perceived advantage, e.g., financial, business, professional, reputational or otherwise, (referred to as "materiality"), provided to the Director.

A material conflict of interest may arise for a Director of the Organization in a variety of circumstances. The following examples are non-exhaustive and are provided for illustrative purposes only.

For example, a material conflict of interest may exist when:

- (i) A contract involving the Organization and a stakeholder (e.g., the City of Burlington) with which the Director is associated;¹

¹ For example, a contract between the City of Burlington and the Organization (e.g., an operational agreement, other) would constitute a conflict of interest for the City-appointed Director, who is a Member (i) of Council or Staff of the City, a party to the contract, and (ii) of the Board of the Organization, wherein the Organization is a party to the contract.

In disclosing and managing the foregoing conflict of interest, the Director should disclose the contractual conflict of interest; leave the room for a portion of the discussion at the Meeting during which the vote takes place in respect of the contract; and recuse oneself from voting upon the contact at the Meeting of the Board.

The foregoing disclosure and management of the conflict of interest is not to say that the Director may not speak to the merits of the contract to other Directors, or that the Director is continuously conflicted during any discussion, observation or monitoring of the performance of the contract, or the treatment of funding or other resources provided by the City to the Organization, as the case may be.

This is because a role of the Director includes, (i) together with other directors, oversight of compliance with the contract, and of the investment of funding of public money or other resources, as the case may be, that the City may

- (ii) A Director, or a family member of the Director, is, or has been, a member of senior Management of the Organization;
- (iii) A Director, or a family member of the Director, is, or has been, a partner of, or employed by, a current or former Internal or External Auditor of, or Consultant to, if or as applicable, the Organization;
- (iv) A Director has, or seeks to have, a business relationship with the Organization;
- (v) A Director receives or offers a gift, perquisite or advantage, of any nature, of any monetary value, from any person or entity outside of the Organization that may be, or that may appear to be, connected with the Director's responsibilities to the Organization;
- (vi) A Director receives or offers any form of present or future advantage, including but not limited to employment, honors, enrichment or opportunity, from any person or entity outside of the Organization that may be, or that may appear to be, connected with the Director's responsibilities to the Organization;
- (vii) A Director receives any form of remuneration from the Organization other than compensation, if or as applicable, and reimbursement of expenses for being a Director; or
- (viii) A Director has a close personal relationship with a member of Management or another Director of the Organization.

The Director shall at all times:

- (i) Seek to avoid, and if this is not possible, promptly disclose and report fully, any real or perceived conflict of interest of the above nature, without limitation, to appropriate personnel of the Organization;
- (ii) Not seek to influence nor vote upon the foregoing conflict of interest;
- (iii) Absent oneself from the room and discussion pertaining to the foregoing conflict of interest; and
- (iv) Cooperate fully in the information pertaining to, and the management of, the foregoing conflict of interest, in accordance with the applicable City policy, the by-law or

be providing to the Organization, and (ii) relaying any under-compliance, or unfair treatment of the City's funding or other resources, to the City for possible further action.

Please see Section 4 of this Mandate for further elaboration on the Director's role in safeguarding contractual performance with, and resources of, the City, in serving on the Organization's Board.

governance policy of the Organization, and this Mandate, with respect to conflicts of interest.

The Director should immediately take steps to resolve a real or perceived conflict of interest. If the conflict of interest cannot be resolved, the Director should leave the room for the discussion, and not vote on the matter involving the conflict of interest.

Both prior to serving on a board, and annually during a director's term of office, a director normally is required to disclose in writing, to the appropriate personnel within the organization, financial interests and any potential or actual conflict of interest as soon as it arises or appears likely to arise.

9. Confidentiality Obligations of the Director

The Director of the Organization shall maintain confidentiality of information belonging to the Organization, including stakeholder information, with the exception of any contract, or investment, funding, or other resources provided by the City, as the case may be, to the Organization, which is subject to monitoring by the Director under Section 4 of this Mandate.

Confidential information normally includes not only board and committee materials, but information of the Organization or an individual Stakeholder, that is not otherwise publicly available, and is learned or acquired by virtue of the directorship, both during and after the Director's term as a Director.

The Director should obtain clarification from appropriate personnel within the Organization if there is any doubt, in respect of non-City confidential information.

A Director may be required to use a cyber-secure board portal of the Organization, to assist in protecting confidential information.

10. Political Activities by the Director

The Director should not discharge the Director's duties and responsibilities in such a manner so as to diminish the public's trust in the objectivity and impartiality of the Organization.

The Director should not, in the Director's capacity as a Director of the Organization, contribute to or participate in, political fundraising.

However, nothing in this Mandate prevents the Director from contributing to or participating in, political fundraising, provided that the Director does so, and is seen to be doing so, in the Director's non-directorial and personal capacity, and that this capacity is made clear to observers and members of the public if, as, and when required.

11. In Camera and Closed Sessions

A City-appointed Director may be a Member of the Board(s) of an Organization(s) that is(are)

uniquely positioned with respect to the City and certain statutory requirements. Depending on their nature of the Organization, Meetings of the Board may be subject to open meeting requirements. The City-appointed Director should, if there is uncertainty, consult with the City's in-house counsel to determine whether open meeting requirements apply to the Organization in question. Where open meeting requirements apply to the Organization, all Board Meetings must be open to the public unless they meet statutory requirements for closing the meeting.

If the Organization is not subject to the aforementioned open meeting requirement, the Board of the Organization may choose to have, from time to time, or at regularly scheduled Meetings of the Board, a portion of time (session) in which the directors of the Organization meet apart from management or staff of the Organization. This type of session is known as an "in camera session," or the equivalent title.

In camera sessions are common among boards of directors and are appropriate if permitted under legislation, e.g., the Organization is not subject to an open meeting requirement, as set out above.

12. Stakeholder Relations and Individual Directors

Other than set out within this Mandate, e.g., as pertaining to the City, normally, individual directors do not interact directly with stakeholders to an organization, in an individual capacity.

Breach of confidentiality, intrusion upon the managerial prerogative, and undermining of independent oversight by virtue of stakeholder contact, may occur if or when a director allows non-perfunctory or otherwise substantive contact with a stakeholder.

If or when a non-City stakeholder contacts the Director, the Director should refer the matter to a relevant member of Management of the Organization, through the CEO, and the member of Management will contact the stakeholder, as or if appropriate.

A Director, so far as reasonably practicable, should dissuade contact by an individual non-City stakeholder to the Director, by simply explaining such stakeholder that it is inappropriate for the Director to take any carriage of, or influence in any way, the issue or matter.

13. Code(s) of Conduct Applicable to the Director

The conduct of the Director reflects upon the Director, the City of Burlington, the Organization, and their brands and reputations.

In addition to City of Burlington's relevant policies and code(s) that apply to the Director, including but not limited to (i) the Code of Good Governance, CL-16-22 – Appendix A, for Members of Council, and (ii) the Employee Code of Conduct, for City Staff, the Organization may have a Code of Conduct (or the equivalent) applicable to the Director.

The Director should have knowledge of, exercise care in regards to, and comply with, each relevant code or policy, as the case may be, applicable to the Director for the Director's service on the Organization's Board.

14. Liability of the Director For Breach of Duty

In discharging the Director's duties, the Director of the Organization is required by law to act honestly and in good faith, with due care, and with a view to the best interests of the Organization.

The Director may incur liability if the Director breaches such duties. The Director may incur liability if the Director fails to meet certain standards of performance - the general requirement being that the Director must exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, otherwise known as the duty of care. In addition, the Director may have potential statutory liability under certain provincial statutes that may apply to the Organization.

The Organization should maintain adequate Director & Officer Liability Insurance and Indemnity to provide coverage for the Director and other directors related to claims brought with respect to the discharge of their duties; however, legislation or regulation may specifically provide that such insurance coverage is not to be available where the liability relates to the Director's failure to act honestly and in good faith with a view to the best interests of the Organization.

15. Directorial Declaration of Compliance with this Mandate

The Director shall (i) sign the following Directorial Declaration of Compliance with this Mandate ("Declaration") annually, and (ii) provide the signed Declaration to relevant or designated Staff, as the case may be, who shall maintain this Declaration in confidence:

To the best of my knowledge, information and belief:

1. I have read the Mandate of Individual Directors Appointed to External Boards of Directors by Burlington City Council ("Mandate").
2. I understand this Mandate, each of its Sections, and all of its Paragraphs (provisions).
3. I have been, presently am, and agree to be prospectively, in compliance with the letter and spirit of each and all provisions within this Mandate.
4. If I come to acquire knowledge, information or belief that I am not, or may not be seen to be, in compliance with the letter and spirit of a provision within this Mandate, I shall promptly bring such knowledge, information or belief, as the case may be, to the attention of the relevant or designated Staff, in a prompt, full and true manner.

5. I know of no other City Council-appointed Director of the Organization (“Director”) of which I am a Director, who is not or may not be reasonably seen to be, in compliance with the letter and spirit of each of the provisions within this Mandate, to the best of my knowledge, information and belief.
6. If I come to acquire knowledge, information or belief that any other Director, referred to in the immediately preceding Paragraph of this Declaration, is not, or may not be reasonably seen to be, in compliance with the letter and spirit of a provision within this Mandate, I shall promptly bring such knowledge, information or belief, as the case may be, to the attention of the relevant or designated Staff in a prompt, full and true manner.
7. I understand that the Mandate is subject to change from time to time, and that I will be given adequate notice of such changes.

**I, _____, hereby accept the terms described in this Mandate,
dated this _____ day of _____ (month), _____ (year).**

Signature of Director: _____