City of Burlington

Consolidated By-law 59-2024

Incorporating amendments made by:

By-law No.	Effective Date:	Amendment(s)
By-law: 80-2024  80-2024 - Procedure Bylaw Amendment_D	December 10, 2024	Section 46.1 of By-law No. 59-2024 is deleted in its entirety and replaced with the following new section 46.1: 46.1 Requests to delegate at a committee meeting and Council must be submitted to the Clerks department prior to 12 p.m. one business day before a meeting to which the delegation relates.
By-law: 07-2026  07-2026 Procedure Bylaw Amendment_S	March 2, 2026	Sections 49.12 and 49.3 of By-law No. 59-2024 are deleted in their entirety and replaced with new sections.

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The Corporation of the City of Burlington

City of Burlington By-law 59-2024

A by-law to provide for the rules of order of Council
and its Committees, and to repeal By-law 31-2021 as amended

(CL-01-24)

Whereas section 238(2), of the *Municipal Act, S.O. 2001, c. 25* requires that every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings; and

Whereas the City of Burlington Procedure By-law is recognized as a key document describing the municipality's accountability, transparency, and notice requirements; and

Whereas the Council of the City of Burlington deems it expedient to repeal and replace By- law 31-2021 and all subsequent amending by-laws;

Now therefore the Council of The Corporation of the City of Burlington hereby enacts as follows:

DEFINITIONS

In this by-law:

1.1 "agenda" means the document setting out the business of Council to be considered at the meeting and includes any addenda.

1.2 "board" in this by-law means a local authority established for the purpose of the municipality and does not include the Public Library Board.

1.3 "by-law" means this by-law and any schedule to this by-law, as amended;

1.4 "CAO" means the Chief Administrative Officer of The Corporation of the City of Burlington and/or their designate.

1.5 "Chair" means the person presiding over a meeting of a Committee or Council.

1.6 "City" means The Corporation of the City of Burlington.

1.7 "Clerk" means the City Clerk of The Corporation of the City of Burlington and/or their designate.

1.8 "closed meeting" means a meeting, or portion thereof, closed to the public in accordance with s. 239 of the *Municipal Act, S.O. 2001, c. 25.*

1.9 "committee" means a standing or advisory Committee established by Council or the Mayor from time to time.

1.10 "consent agenda" means a listing of items that include, but are not limited to,

those where no discussion is anticipated, informational items, and routine matters.

1.11 “Council" means the Council of The Corporation of The City of Burlington.

1.12 “Deputy Mayor" means a member acting in place of the Mayor when they are absent. This position is alternated by two members on a quarterly rotating basis by ward.

1.13 “electronic meeting” means a meeting called and held in full or in part via electronic means (including, but not limited to, audio teleconference, video conference, or via means of the internet).

1.14 “emergency” means a situation or impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by forces by nature, a disease or other health risk, an accident or an act whether intentional or not.

1.15 “majority” for the purpose of voting means more than half of the total of members present and not prohibited from statute from voting.

1.16 “meeting” means any regular, special or other meeting of Council or committee; where:

(a) a quorum of members is present, and

(b) members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the Council or Committee.

1.17 "member" means a member of the Council of The Corporation of the City of Burlington, or a member of a Standing Committee, or Advisory Committee of the Council.

1.18 “motion memorandum” is a document template issued by the Clerk on which a member must submit a motion. Motion memorandums may also be used to sponsor a delegation, a piece of correspondence, or petition not related to an item on the agenda.

1.19 “*Municipal Act*” means the *Municipal Act, 2001*, S.O. 2001, c. 25.

1.20 “*Municipal Conflict of Interest Act*” means *Municipal Conflict of Interest Act*, R.S.O.1990, c. M. 50., as amended.

1.21 “notice of motion” means an advance notice to members of a matter on which Council will be asked to take a position.

1.22 “pecuniary interest” means a direct or indirect financial interest determined in accordance with the Municipal Conflict of Interest Act, R.S.O. 1990 c. M.50

1.23 “petition” means a written request signed by more than one member of the public in support of a shared cause or concern. A petition may be in paper, electronic, or online petition format. This definition is limited to section 48. Petitions.

1.24 “point of order” means a matter that a member considers to be a departure from or contravention of the rules, procedures and/or generally accepted practices of Council.

1.25 “point of privilege” means a matter that a member considers to question their integrity and/or the integrity of the Council.

1.26 “quorum” means the number of members that must be present at a meeting in order for business to be transacted.

1.27 “recorded vote” means documenting in the minutes of a Council meeting the name of each member and their vote on a public matter or question, in favour, opposed, or absent and of each member present who does not vote.

1.28 “regular meeting” means a scheduled meeting held in accordance with the approved calendar/schedule of meetings.

1.29 “rules of procedure” means the rules and procedures contained in this by-law for the calling, place and proceedings of the meetings of Council and its Committees, or in the most current version of Robert’s Rules of Order.

1.30 “special meeting” means a meeting not scheduled in accordance with the approved calendar/schedule of meetings.

1.31 “standing committee” means any committee outlined in the Procedure By-law and having an ongoing mandate or purpose, but does not include advisory committees.

1.32 “unreasonable or offensive conduct” means conduct or statements that can be considered to be disruptive, aggressive, abusive, threatening, intimidating, violent, harassing, defamatory, frivolous or vexatious or other conduct that may qualify as misconduct under the City’s Public Conduct Policy as amended or replaced from time to time.

APPLICATION

2.1 The rules of procedure contained in this by-law will be observed in all proceedings of Council and will be the rules for the order and dispatch of business in Council and, unless specifically provided otherwise in this by-law or Council approved committee terms of reference, with the necessary modifications, in committees.

2.2 Any rules or regulations contained in this by-law may be temporarily suspended, except for those rules or regulations that are set out by legislation, with the consent of at least two-thirds of the Council members present.

2.3 The Clerk will be responsible for interpreting the rules of procedure under this by-law.

2.4 All points of order or procedure for which rules have not been provided in this by-law will be decided by the Chair in accordance, as far as is reasonably practicable, with—parliamentary rules as contained in the most recent edition of Robert's Rules of Order.

ROLES AND DUTIES

3. Mayor

3.1 It is the role of the Mayor as the head of Council to:

(a) carry out the responsibilities of their roles as described in sections 225 and 226.1, and Part VI.1 of the *Municipal Act;*

(b) represent and support Council and its decisions in all matters;

(c) represent the City at official functions;

(d) preside over all Council meetings, unless unavailable, in which case the Deputy Mayor will act as the presiding officer.

3.2 The Mayor's Chain of Office will be worn only by the elected Mayor during Council meetings and special functions including official openings, parades, etc., at the Mayor's discretion.

4. Deputy Mayor

Deputy Mayor Emergencies/Ceremonial

4.1 Except as outlined in section 3. Mayor, when the Mayor gives notice to the Clerk that they will be absent from the City, or is absent through illness, or their office is vacant, then the Deputy Mayor Emergencies/Ceremonial will act in the place of the Mayor. The function of the Deputy Mayor Emergencies/Ceremonial is for corporate/administrative purposes and will be filled by two members as Deputy Mayor and Alternate Deputy Mayor on a four-month rotation.

4.2 The rotation of the Deputy Mayor Emergencies/Ceremonial will be determined by the Mayor in consultation with council prior to the start of each term of Council.

Deputy Mayor with Portfolio

4.3 Deputy Mayor with Portfolio will work in collaboration with the Office of the Mayor to enhance and support the existing governance framework and Council approved priorities, while respecting that decision-making remains with Council.

4.4 Deputy Mayor portfolios will be assigned at the beginning of each term of Council by the Mayor in consultation with individual councillors. Portfolios will be determined by the skills, expertise, knowledge base and interests of the member as it relates to the Vision to Focus Workplan (V2F) and other strategic documents and initiatives.

4.5 It is the Role of the Deputy Mayor with Portfolio to work collaboratively with the Mayor to:

(a) Raise awareness and support the advancement of strategic initiatives.

(b) Bring forward to Council and sponsor policy and city related legislation proposals within their portfolio; and

(c) Participate in intergovernmental meetings and delegations on portfolio items and other advocacy work.

4.6 A Deputy Mayor with Portfolio shall work collaboratively with the CAO and assigned executive staff lead(s). All interactions shall be compliant with the Council-Staff Relations Policy, Council Code of Good Governance and any other applicable policies deemed by the CAO.

4.7 A Deputy Mayor with Portfolio is not authorized to make independent decisions on behalf of the city or to direct staff on ongoing operational matters. Directions to staff are processed in accordance with this by-law.

5. Chair

5.1 The Chair will act as presiding officer over the conduct of the meeting, including the preservation of good order and decorum, ruling on points of order and deciding on all questions relating to the orderly procedure of the meetings, subject to an appeal by any member to the Committee, or Council of any ruling of the Chair.

5.2 The Chair may speak and/or vote on any question, but if they wish to move a motion, they will call on the vice chair, or in the absence of the vice chair, on another member, to fill their place until resuming the Chair.

6. Members of Council

6.1 It is the role of the members of Council to:

(a) carry out the responsibilities of their roles as described in section 224 of *the Municipal Act*;

(b) uphold the by-laws and policies of the Corporation of the City of Burlington;

(c) deliberate on the business submitted to committee and Council;

(d) vote on all motions before Council;

(e) respect the rules of procedure at all meetings.

7. Clerk

7.1 It is the role of the Clerk to:

(a) carry out the responsibilities of their roles as described in section 228 of the *Municipal Act;*

(b) provide procedural advice to the Chair and to members on agenda business and on preparing motions;

(c) ensure notice of meetings is provided as set out in this by-law;

(d) make minor deletions, additions or other administrative, technical or typographical changes to any agenda, by-law, motion, and/or minutes to ensure the correct and complete implementation of the actions of Council;

(e) authenticate by signature when necessary, all resolutions, by-laws and minutes of meetings and certify copies of such documents when required;

(f) perform such other duties as prescribed by law, or by direction of Council.

7.2 The Clerk will be present at all meetings of Committee and Council.

STANDING COMMITTEES

8. Organization and Rules

8.1 There are five Standing Committees being:

(a) Committee of the Whole, Budget Committee, and Council Workshop, which are composed of all members of Council and subject to section VI.1 of the *Municipal Act*, and;

(b) Pipeline to Permit Committee and Audit Committee comprised of citizen members and members of Council and not subject to section VI.1 of the *Municipal Act*.

8.2 Committees will observe the rules of Council unless otherwise stated in this by-law. Exceptions include, but are not limited to the following:

(a) motions do not require a seconder;

(b) motions may be made verbally and are not required to be made in writing;

(c) recorded votes are permitted at standing committees at the request of a single member.

9. Membership

9.1 All members of Council are members of the Committee of the Whole, Budget Committee, and Council Workshop.

9.2 Membership for other standing committees is as outlined in their approved terms of reference.

10. Election of Chair and Vice-Chair

10.1 At the beginning of each term, the Mayor or their delegate shall establish the Chair and Vice Chair (if applicable) in accordance with Subsection 284.8 of the *Municipal Act* for each Standing Committee listed in section 9.1.

10.2 When the Chair is absent, the Vice Chair chairs the meeting. If a Vice Chair is not appointed, the standing committee shall nominate and appoint a chair for that meeting by way of a majority vote.

10.3 There is no limit to the number of terms that a Chair or Vice Chair may serve.

11. Date, Time, and Place of Meetings

11.1 Standing committees will meet in the Council Chambers of Burlington City Hall, 426 Brant Street, unless otherwise indicated, generally on the following days and times, in accordance with the calendar set annually and approved by Council:

Committee of the Whole
Mondays at 9:30 a.m., continuing 9:30 a.m. on Tuesday if required.

Audit Committee
Wednesdays at 3:30 p.m.

Pipeline to Permit Committee
Thursdays at 9:30 a.m.

Council Workshops

Thursdays at 1:00 p.m.

Budget Committee

Scheduled as per the annual calendar, with dates added as required during the budget process.

12. Duties of the Standing Committees

12.1 Standing committees will report to Council on all matters connected with their duties or referred to them by the Mayor and/or by Council and to recommend such action as they deem necessary.

13. Duties of Committee of the Whole

13.1 The Committee of the Whole shall be responsible for considering all matters that do not properly fall under the jurisdiction of any other existing standing committees. The Committee of the Whole agendas are divided into the following sections:

(a) Community and Corporate Services

(b) Public Works

(c) Growth Management

13.2 Reports Submitted by Members of Council

(a) Reports may be submitted from Members of Council, who have been appointed or elected to attend conferences, board or committee meetings at the City's expense, or to provide an update regarding the administration of their office. Its purpose is to communicate information to other members of Council and/or to the public in an official capacity.

(b) Reports submitted by members of Council shall not be deemed urgent business and must be presented to Committee of the Whole for discussion. In order for a report to be included on the agenda the report must be delivered to the Clerk by the Wednesday, the week the agenda is prepared, no later than 12:00 pm (noon).

(c) Reports submitted by members of Council are for information purposes and may only recommend to "receive for information".

14. Duties of Budget Committee

14.1 The Budget Committee is responsible for hearing public presentations, receiving financial reports from staff, and providing advice to the Mayor on the operating and capital budgets; and making recommendations to Council on any operating or capital budgets in which the Mayor has a pecuniary interest.

14.2 Budget Committee shall consider the Mayor's proposed budget and normally recommending:

(a) Shortening the time in which Council can make amendments to the Budget; or

(b) Resolutions amending the Budget.

14.3 In accordance with subsection 284.16 of the *Municipal Act* and subject to any associated regulations, the Mayor may veto a budget amendment passed by Council during the annual budget adoption process. This veto shall be communicated within the timelines prescribed in the legislation and associated regulations through the City website and any other means deemed appropriate by the Clerk.

14.4 In accordance with Subsection 284.16(5) of the *Municipal Act*, and within the timelines prescribed in the associated regulations, Council may override the veto under subsection 14.3 with the approval of two-thirds of members of Council. The override may be introduced by motion, moved and seconded without notice at any regular Council meeting or at a special meeting called for this purpose.

14.5 The veto process for in-year budget amendments shall be as described in subsections 14.3 and 14.4, subject to any additional timelines and provisions set out in the associated regulations.

15. Duties of Council Workshop

15.1 Council Workshop will meet when time is required for training, discussions with other levels of government and outside agencies, workshops on complex matters or strategic planning.

16. Duties of the Audit Committee

16.1 It will be the duty of the Audit Committee to meet as required, to study and report to Council on:

(a) the proper environment for management of public funds, including appropriate financial reporting, policies and controls and the efficiency and effectiveness of the utilization of the City's resources on programs and projects;

(b) the annual financial statements;

(c) all external and internal audit matters, including selection of the external auditor, the annual audit of the City's financial statements and matters recommended by the external auditor;

(d) compliance with laws, regulations and policies.

17. Duties of the Pipeline to Permit Committee

17.1 The Pipeline to Permit Committee will make recommendations to Council to promote the timely and efficient issuance of development approvals and building permits for residential and commercial customers to enable the development of Complete Communities. The committee shall make recommendations directly to Council on the responsibilities as outlined in the committee terms of reference.

ADVISORY COMMITTEES

18. Advisory Committees

18.1 Council may, at any time, establish advisory committees to advise Council on matters within their jurisdiction.

18.2 Members of the committees will be appointed by Council at the recommendation of the Clerk.

18.3 Unless necessary, only one member of Council will be appointed to each board and/or advisory committee to act as a liaison to the committee. Members of Council are not eligible to act as Chair or Vice-Chair and are not voting members.

18.4 Advisory committees will be reviewed each term of Council.

COUNCIL AND COMMITTEES OF COUNCIL

19. Meetings Open to the Public

19.1 All meetings of Council and committees shall be open to the public, except where a matter meets one or more of the criteria listed in section 239 of the *Municipal Act*.

20. Inaugural Meeting of Council

20.1 Following an election, the inaugural meeting of Council will be held in Burlington at 6:30 pm on the day of the start of the new term (November 15), unless that day falls on a Friday, Saturday or Sunday, then the inaugural meeting will be the following Monday.

21. Notice of Meeting

21.1 The Clerk will provide notice to the public of all meetings of Council, agendas, cancellations and re-scheduling by:

(a) posting the annual schedule of meetings on the City's website and by distributing copies upon request;

(b) updating the City's website calendar within twenty-four hours of any changes made to the schedule.

21.2 The agenda for each regular Council or committee meeting will be posted to the City's website not less than seventy-two hours before the hour appointed for the holding of the meeting. All items listed on the meeting agenda, and any addendum will constitute notice, unless otherwise directed by another by-law, City policy or applicable legislation.

21.3 Items or matters will not be added to the agenda after distribution to Council or committee unless they are of an urgent nature and require a decision prior to the next Council or committee meeting or as identified in subsection 21.4. In these cases, an addendum will be prepared, distributed and posted to the City's website calendar, not less than 24 hours before the hour appointed for holding the meeting.

21.4 Any reports published on a Council or Committee agenda addendum shall not be of significant length, impact or public interest as determined by the Chair in consultation with the CAO and Clerk. Exceptions to this rule are:

(a) reports added to an agenda by way of a staff direction at a Council or

Committee meeting;

(b) reports added to an agenda by the Mayor under Section 284 of the *Municipal Act*;

(c) where legislated notice has been given for a report's consideration;

(d) updates or announcements of significant interest or impact to the City; and

(e) closed meeting reports.

21.5 Delegation requests received in accordance with section 46 and any correspondence received after the addendum is posted will be listed on a revised addendum, prepared, distributed and posted to the City's website not less than 12 hours before the hour appointed for holding the meeting.

21.6 Lack of receipt of the notice will not affect the validity of holding the meeting nor any action taken at the meeting.

21.7 The Mayor or Chair may, with appropriate notice, postpone or cancel any regular Council, or Committee meeting if, in consultation with the Clerk, it has been determined that there are insufficient agenda items for the meeting, quorum cannot be achieved in advance of the call to order, or if it appears that inclement weather or an emergency situation will prevent the members from attending.

22. Regular Meetings

22.1 Regular meetings of Council will be held in the Council Chambers of Burlington City Hall at 426 Brant Street, commencing at 9:30 a.m. and/or 6:30 p.m. on Tuesdays according to the calendar set annually and approved by Council.

22.2 Upon reviewing the council agenda, the Clerk in consultation with the Mayor and CAO may designate items of public interest to be dealt with at an evening portion of Council commencing at 6:30 p.m. Items designated to an evening portion will be noted on the agenda.

22.3 At the meeting, members may request that items of interest be dealt with at an evening portion of the meeting. The request, made by motion, must be duly moved, and seconded and approved by a majority vote of Council members present.

22.4 Council may, by resolution, alter the time, day, and place of any meeting previously approved under section 22.1. Amendments to the annual meeting calendar are not subject to the rules set out in section 52 Reconsideration.

23. Special Meetings

23.1 The Mayor may at any time, call a special meeting of Council and direct the Clerk to poll members of Council to ensure that a quorum of Council will be present.

23.2 Upon receipt of a petition of the majority of members of Council, the Clerk shall call a special meeting for the purpose and the time mentioned in the petition.

23.3 The Clerk shall call a special meeting of Council for the purpose and/or at the time directed by a resolution of Council.

23.4 No business may be considered at a special meeting of Council or of a committee other than that specified in the notice, or agenda.

23.5 The agenda for each special meeting of Council or committee shall be posted on the City's website not less than forty-eight hours before the time set for such special meeting.

23.6 Notice of a special meeting of Council will indicate date, time, location and purpose of the meeting as well as the contact information of the Clerk.

23.7 A special meeting of Council may be held, without notice, to deal with a situation of emergency, disaster or crisis as defined in the City of Burlington Emergency and Continuity Management Program By-law 46-2019, as amended or replaced from time to time, provided that an attempt has been made to reach the members by telephone and/or e-mail at their respective residence and/or place of business. No business except business dealing directly with the emergency, disaster or crisis will be transacted at that meeting.

24. Electronic Meetings

24.1 Notwithstanding any other provision in this by-law, a regular or special meeting of Council, or committee of Council may be conducted by electronic meeting.

24.2 A member participating remotely in an electronic meeting under this section shall be counted in determining whether or not a quorum of members is present at any point in time in accordance with section 27, Call to Order and Quorum, of this by-law and shall be entitled to vote through a vote recorded by the Clerk as if they were attending the meeting in person.

24.3 An electronic meeting may include a closed meeting, which shall be conducted in the absence of the public and in accordance with this by-law.

24.4 A public notice of an electronic meeting shall include sufficient information as to provide the public with a means to electronically access the open session of such electronic meeting.

24.5 Delegations at an electronic meeting may be permitted by way of being granted access to the Council audio-visual conferencing system. Delegates will be subject to adhere to the rules outlined in section 46 of this by-law (Delegations), in concert with the Remote Meeting Guide, and any instruction provided by way of the Clerk. All requests to delegate must be filed electronically to the Clerks department by way of the online submission form or by email at clerks@burlington.ca.

24.6 Public attendance at electronic meetings may be restricted to electronic means.

25. Agenda Review

25.1 An agenda of Council or standing committee may be reviewed prior to issuance, in accordance with this section.

25.2 If an agenda review is conducted, the Chair, CAO, Clerk or delegate, and applicable staff will be notified and permitted to attend. In the absence of a required individual, a delegate may attend in their place.

25.3 During the agenda review, the Chair with the support of staff members in attendance may:

(a) move any item under the Consent Agenda section of the Agenda;

(b) re-arrange the order of business;

(c) defer any item on the Agenda to a subsequent meeting; and

(d) cancel any meeting, due to a lack of items to constitute the meeting.

26. Closed Meetings

26.1 Procedures for closed meetings shall be in accordance with the approved Closed Meeting Protocol (Schedule B), as amended or replaced from time to time;

26.2 Prior to moving into a closed meeting for one of the reasons listed in section 27.1, Council will pass a motion stating:

(a) the fact that Council is convening into closed meeting;

(b) the specific provision under the *Municipal Act* that permits the item to be considered in a closed meeting; and

(c) the general nature of the matter to be considered.

26.3 Attendance in closed meetings will be limited to the members of Council, Clerk, CAO and those specifically invited to remain by Council.

26.4 Members are prohibited from discussing any additional matters during a closed meeting other than those identified by the motion passed under section 26.3.

26.5 When in a closed meeting a vote will not be taken unless the vote is for a procedural matter, or for giving direction to staff or other individuals under 239(6) of the *Municipal Act*.

26.6 On reconvening in open session, the Chair will accept a motion regarding the matters discussed in a closed meeting, or alternatively advise that direction had been given to staff during the closed meeting in accordance with the *Municipal Act.*

26.7 The use of electronic devices by attendees to record proceedings of a closed meeting is prohibited.

27. Call to Order and Quorum

27.1 A quorum of Council or a standing committee shall be more than 50% of the members of Council/the committee, with any additional quorum requirements outlined in the respective committee terms of reference.

27.2 The Chair will call the meeting to order at the scheduled time of the meeting. The Clerk will conduct a roll call to confirm quorum at the beginning of every Council and committee meeting.

27.3 If a quorum for a Council, or committee meeting is not present within fifteen (15) minutes of the time fixed for the commencement of the meeting, the Clerk will indicate that no quorum is present and the meeting will stand adjourned until the next regular meeting.

27.4 Where a member is unable to participate in a meeting by reason of the provisions in the *Municipal Conflict of Interest Act,* the member(s) shall not be counted in determining quorum. The quorum shall be a majority of the remaining members provided such number is not less than two.

27.5 If during the course of a Council meeting, a quorum is lost, the Chair will declare that the meeting will stand recessed temporarily or be adjourned until the date of the next regular meeting.

28. Disclosure of Pecuniary Interest

28.1 It is the responsibility of each member to identify and disclose a pecuniary interest on any item or matter before Council, or committee in accordance with the *Municipal Conflict of Interest Act.*

28.2 Where a member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the Council or standing committee at which the matter is the subject of consideration, the member will, in accordance with *Municipal Conflict of Interest Act*:

(a) file a written statement of the interest and its general nature with the Clerk prior to the meeting;

(b) not take part in the discussion of, or vote on any question with respect to the matter;

(c) not attempt in any way before, during and/or after the meeting to influence the vote on the matter.

28.3 Where a meeting is not open to the public, in addition to complying with the requirements under the *Municipal Conflict of Interest Act*, the member will forthwith leave the meeting for the part during which the matter is under consideration.

28.4 The Clerk will record the particulars of any disclosure of pecuniary interest made by members of Council or committees in the minutes of that meeting and update the online registry.

29. Meeting Recess

29.1 Council may, after ninety minutes of consecutive deliberation, recess for a period deemed appropriate by the Chair.

30. Adjournment Hour

30.1 All meetings will adjourn when Council, or committee have completed all business listed on the agenda, or at 10:00 p.m., whichever is earlier. No meeting will proceed beyond the hour of 10:00 p.m.

30.2 Unless decided otherwise prior to the adjournment of the meeting, any unfinished business will be discussed at the next scheduled Council meeting.

COUNCIL AND COMMITTEE AGENDAS AND MINUTES

31. Council Agenda

31.1 The Clerk will prepare for the members of Council the order of business as follows:

(a) Call to Order
(b) National Anthem
(c) Land Acknowledgement
(d) Roll Call
(e) Approval of the Agenda
(f) Declarations of Interest
(g) Proclamations
(h) Recognitions and Achievements
(i) Motion to Approve Council Minutes
(j) Presentations
(k) Delegations
(l) Petitions

(m) Recommendations from Standing Committees
(n) Motion to Approve Standing Committee Minutes
(o) Urgent Business
(p) Confidential Items and Closed Meeting
(q) Rise and Report
(r) Motions of Members
(s) Council Information Package
(t) Motion to Receive and File Information Items
(u) Notice of Motion
(v) Motion to Approve By-laws
(w) Confirmatory By-law
(x) Statements by Members and Staff
(y) Motion to Adjourn

31.2 The business of Council will be taken up in the order on which it appears on the agenda unless a motion is passed to change the order of the agenda under "Approval of the Agenda".

31.3 Pursuant to section 284.10 of the *Municipal Act*, the Mayor may introduce any matter that could potentially advance a prescribed provincial priority for consideration by Council and require Council to discuss and vote on any such matter. Any such matter introduced by the Mayor under this provision will normally be in the form of a mayoral direction included on the agenda prepared by the Clerk, but may be, introduced under Approval of the Agenda. No motion or vote of Council is required for the matter to be included on the agenda.

31.4 Members of Council and senior staff will have a limit of three minutes to speak, and the CAO will have five minutes to speak, regarding Statements by Members and Staff. Speaking items, and/or time may be extended by a majority vote of the members present. Discussion during this agenda item is non-debatable.

31.5 The Urgent Business section of the Council agenda is reserved for staff reports with time-sensitive recommendations. Reports listed in this section must clearly indicate why the recommendation is of an urgent nature or time sensitive. The Clerk and the CAO will review all staff report requests to Council and determine whether the report is listed on the agenda or referred to the appropriate standing committee. Urgent Business is limited to items with immediate:

(a) government or agency deadlines
(b) legal implications
(c) contractual implications

(d) financial implications

(e) deferrals or referrals from Council or Committee; or

(f) as directed by the CAO.

32. Council Information Package (CIP)

32.1 The Clerk will have prepared weekly, or as frequently as may be required, a Council Information Package for members of Council. If any member prefers to have an item of correspondence contained therein dealt with by a standing committee, the member will contact the Clerk and it will be placed on the appropriate committee agenda.

32.2 Items within the Council Information Package may include but are not limited to: informational communications and correspondence from external bodies including other municipalities and levels of government.

33. Approval of the Agenda

33.1 Clerk shall be responsible for assembling the agenda for a meeting.

33.2 The Chair shall request approval of the agenda which shall be approved by a majority vote.

33.3 Any motions required to suspend the rules of procedure to allow for the addition of an item or a change to an agenda shall be considered prior to the motion to approve the agenda.

33.4 A motion to add an item that was not the original agenda or not issued as an addendum agenda issued by the Clerk prior to the meeting requires a two-thirds vote of the members present to adopt.

33.5 A motion to change the order of the agenda after approval requires a majority vote of the members present.

34. Standing Committee Agenda

34.1 The Clerk will prepare for the members of committee the order of business which may include, but not be limited to, the following:

(a) Call to Order

(b) Land Acknowledgement

(c) Approval of the Agenda

(d) Declarations of Interest

(e) Presentations

(f) Delegations

(g) Consent Agenda

(h) Regular Agenda

(i) Statutory Public Meetings
(j) Confidential Items and Closed Meeting
(k) Rise and Report
(l) Information Items
(m) Staff Remarks
(n) Committee Remarks
(o) Adjournment

34.2 The business of committee will be taken up in the order in which it appears on the agenda unless a motion is passed to change the order of the agenda under "Approval of the Agenda".

34.3 The standing committee agendas may have set times established for the deliberation of certain sections or items, as determined by the Clerk and CAO in consultation with the Chair.

34.4 Workshop agenda items are subject to the rules of Council Workshop meetings outlined in section 46 Delegations and section 49 Questions/Speaking.

35. Consent Agenda

35.1 Items that will be placed on the consent agenda include, but are not limited to, those where no discussion is anticipated, informational items, and routine matters.

35.2 Consent items with delegations are not required to be pulled and placed on a regular agenda, unless requested by a member for further discussion as prescribed in section 33 Approval of the Agenda.

35.3 All items listed in the consent agenda are subject to a single motion that is neither debatable, nor amendable. A member may make a brief comment regarding a consent item prior to the consideration of the motion, however, if an item requires further discussion, debate, or an amendment it must be removed from the consent agenda and placed on the regular agenda for discussion.

35.4 At Committee of the Whole, any item pulled from the consent agenda will be discussed at the beginning of the appropriate regular agenda section. The item will be added at the end of the list of regular items.

36. Motions Introduced by Members

36.1 A notice of a motion must be provided in writing and in the prescribed form of a Motion Memorandum, to the Clerk. Motions submitted directly for Council consideration must include a mover and a seconder.

36.2 In order for a notice of motion to be included on an agenda, it must be delivered to the Clerk by the Wednesday, the week the agenda is prepared, no later than 12:00 p.m.

36.3 Submitted motions will be reviewed as per form for completeness and template conformity and by the Clerk.

36.4 Where it is deemed necessary to not delay the consideration, a motion may be introduced without notice by committee or Council by way of a successful two-thirds vote of the members present to waive notice.

36.5 A notice of motion, with a mover and a seconder, may be introduced by the mover on the floor during the notice of motion section at a regular meeting of Council for consideration at a subsequent meeting.

36.6 Copies of the notices of motion that have been read out at a Council meeting shall be distributed to Members at the first available opportunity by the Clerk.

37. Motions Introduced at Standing Committee

37.1 Members are encouraged to bring motions related to the administration of the City to the appropriate standing committee for introduction and debate.

37.2 Motions requesting a policy or by-law amendment must be directed to the CAO or appropriate department for review with a report back to committee.

37.3 Motions with a substantial financial or budget implication may be introduced but must be referred to the Chief Financial Officer for review on financial impacts with a supplemental report.

38. Motions Introduced at Council

38.1 As Council is the final approving body with limited debate, motions made directly to Council should be limited to the following areas:

(a) Motions pertaining to a sponsored petition;

(b) Motions in support or opposition to proposed or pending legislation from other levels of government;

(c) Motions in support of resolutions passed by other councils;

(d) Motions of advocacy to other levels of government; and

(e) Motions introduced by the Mayor regarding Provincial priorities under strong mayors legislation.

39. Motions Not Within Jurisdiction of the Council

39.1 A motion in respect of a matter which is not within the jurisdiction of Council shall not be in order.

40. Requests for Reports and Staff Directions

40.1 A request for report is an approved request from Council for a recommendation report with research or additional and/or supplemental information from staff. Requests may come in the form of a motion, or an amendment to a staff report's recommendation.

40.2 A staff direction is an approved request from Council for work to be completed by staff. Requests may come in the form of a motion, or an amendment to a staff report's recommendation

40.3 Staff directions are only permitted if staff have provided a report on a matter. Motions to direct staff that are not part of a staff recommendation, or are brought forward before a corresponding staff report is provided are not in order.

40.4 The Clerk shall keep a list of approved staff directions.

40.5 Quarterly, a full listing of outstanding staff directions will be issued by the Clerk and the list will be circulated by way of memorandum in the Council Information Package.

40.6 At the beginning of the Council term a report will be generated by the Clerk featuring the previous Council's outstanding staff directions. The incoming Council will review the list, and by motion move any items to a new staff directions list that is reflective of the incoming Council's priorities.

41. Enactment of By-Laws

41.1 Every by-law being considered will be listed in the Council agenda by an identifying number, followed by a brief description of the intention of the by-law. Every by-law will be in writing and shall receive only one reading prior to being passed by a majority vote of Council, unless legislation requires otherwise.

41.2 Unless separated at the request of a member, all by-laws proposed for adoption will be passed collectively by a single motion.

41.3 Every by-law passed by Council will be sealed with the seal of the Corporation, signed by the Mayor, or Chair of the meeting at which the by-law was passed, and by the Clerk present at the meeting, and deposited with the Clerk to become part of the official record.

41.4 A by-law will be passed for each regular or special Council meeting to confirm the proceedings thereof.

41.5 As required by the *Municipal Act*, a by-law will be passed once it has been:

(a) Approved by Council resolution and approved by mayoral decision; or

(b) Approved by Council resolution and two days have passed following

the date of the Council resolution without any mayoral decision issued to the contrary;

(c) Approved by Council resolution, vetoed by mayoral decision, and overridden by a two-thirds (5 members) vote by Council; or

(d) Or on such other date as determined in accordance with subsection 284.11 of the *Municipal Act*.

41.6 In accordance with Subsection 284.11(9) of the *Municipal Act*, and subject to the timelines prescribed by the associated regulations, Council may override a veto with the approval of two-thirds of members of Council. The override may be introduced by motion, moved and seconded:

(a) Without notice at any regular Council meeting; or

(b) At a special meeting called for this purpose.

41.7 Pursuant to section 284.11.1 of the *Municipal Act*, the Mayor may introduce a by-law for consideration by Council and require Council to vote on any such by-law.

41.8 Any by-law introduced by the Mayor pursuant to subsection 284.11.1 of the *Municipal Act* will normally be included on the agenda prepared by the Clerk, but may be introduced under Approval of the Agenda. No motion or vote of Council is required to include any such by-law on the agenda.

41.9 A by-law introduced by the Mayor to advance a provincial priority shall, in accordance with subsection 284.11.1(4) of the *Municipal Act,* be passed if more than one-third of the total members of Council vote in favour of the by-law.

41.10 The Clerk is authorized to make minor corrections to any by-law resulting from technical or typographical errors prior to the by-law being signed.

42. Minutes

42.1 Minutes shall record:

(a) the place, date and time of meeting;

(b) the name of the Chair and the record of the attendance of the members;

(c) declarations of pecuniary interest;

(d) the motions considered and votes taken by Council, or committee; and

(e) except as provided elsewhere in this by-law, all the other decisions or authorized actions without note or comment.

42.2 Closed meeting minutes shall record:

(a) the place, date and time of meeting;

(b) the names of the Chair and the record of the attendance of the members

and any other attendees;

(c) a description of the substantive and procedural matters discussed, including specific reference to any documents considered;

(d) the procedural motions considered and votes taken by Council, or committee; and

(e) all directions given.

42.3 The minutes of each Council and committee meeting shall be presented to Council at the next regular meeting for confirmation.

42.4 Reports considered in a closed meeting shall be released to the public upon Council direction; in accordance with a legal opinion; or in conformity with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.

RULES OF CONDUCT AND DEBATE

43. Conduct of Members

43.1 Members of Council and standing committees will:

(a) act in accordance with their Declaration of Office under the *Municipal Act, 2001*;

(b) discharge with integrity all responsibilities to Council, the City of Burlington, and the public, in keeping with approved corporate policies;

(c) where the member is involved in an issue outside the member's own ward, inform the ward councillor of such involvement;

(d) only speak in a respectful manner of the Reigning Sovereign, any 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 delegates from the public with courtesy, respect and good faith;

(f) hold in strict confidence all information concerning matters dealt with in a closed meeting. The member will not release, make public or in any way divulge any such confidential information or any aspect of the closed meeting deliberations, unless expressly authorized or required by law;

(g) be encouraged to ask any relevant questions of staff prior to any meeting where an issue may be introduced or debated so that staff may be able to have appropriate information at such meeting if necessary;

(h) not leave their seat or make any noise or disturbance while a vote is being taken and until the result is declared;

(i) not criticize any decision of the Council except for the purpose of introducing a motion for reconsideration;

(j) not disobey the rules of the Council or a decision of the Chair or Council on a question of order, practice or interpretation of the rules of the Council;

(k) turn off, or silence, all electronic devices except those in use to facilitate the meeting;

(l) adhere to the City's Code of Good Governance, attached as Schedule B to this by-law.

43.2 Where a member has been called to order by the Chair for disregarding the rules of procedure and the member persists in such conduct, the Chair may order the member to vacate the meeting place. If the member apologizes, the Chair may permit the member to retake their seat.

43.3 If the member called out of order does not apologize and will not leave their seat, the Chair will recess the meeting and request that the Clerk contact security.

43.4 The Chair may expel from the meeting any person who contravenes any provision stated in this section or who is in breach of decorum such that the person engages in personal attacks or assumes the motives of another person rather than discussing the merits of the matter.

44. Public Conduct at Council and Committee Meetings

44.1 Only members and authorized City staff will be allowed to proceed beyond the speaker's podium without permission of the Chair or Clerk.

44.2 Public attendees must maintain order and will not engage in unreasonable or offensive conduct including insulting language or speaking disrespectfully at a meeting.

44.3 Public attendees shall ensure all electronic devices are turned off or switched to silent during Council and committee meetings. Public attendees taking photos and/or video will only be permitted so long as it does not interfere with the meeting in any way. At any time during the meeting, at the discretion of the Clerk, use of electronic devices may also be prohibited if it is believed that the use is interfering with any audio or video broadcast of the meeting.

44.4 Any person who contravenes any provision of this section may be expelled from the meeting by the Chair.

45. Presentations

45.1 Presentations addressing matters relevant to the City and seeking to provide information, or receive input from Council, or committee will be permitted from

any local board or similar authority including relevant agencies, boards, commissions as well as other levels of government and City staff.

45.2 Presentations of a maximum of ten minutes will be permitted provided that the presenter, or their representative has requested and been granted status from the Clerk before the agenda is published.

45.3 Council may limit or extend the time allowed for a presentation by a majority vote.

46. Delegations

46.1 Requests to delegate at a committee meeting and Council must be submitted to the Clerks department prior to 12 p.m. one business day before a meeting to which the delegation relates.

46.2 Any person, group of persons, or organization may request to speak to an item listed on the agenda provided that the subject matter of the delegation directly relates to the item on the agenda. All requests to delegate must be made in writing to the Clerk, outline the nature of their request, and include any additional material (i.e. PowerPoint) by the deadline stated in section 46.1.

46.3 If a delegate requests to speak regarding a matter not listed on the agenda, they must have a member of Council sponsor the item by way of a motion memorandum to the Clerk no later than Wednesday at 12:00 pm (noon) the week the agenda is prepared.

46.4 All delegations will be heard at standing committee. Where a delegate has spoken at committee, a further delegation request by the delegate, or a related party, will not be permitted on the Council agenda unless the delegation is bringing forward new information. Only the new information will be heard.

46.5 The Clerk will provide the Chair with all requests to delegate submitted after the deadlines stated in section 46.1, for Council consideration. A majority vote is required to permit the delegate to speak.

46.6 Delegations will be permitted without prior registration during any public meeting as required by sections 17 (19.2), 34 (14.2) and 51(20) of the *Planning Act, R.S.O. 1990, c.P.13.*
Delegations are strongly encouraged to register before the standard delegation registration deadline and will be asked to fill in an attendance form to fulfill legislative notice requirements.

46.7 Delegations to the Pipeline to Permit Committee will only be accepted in a written format. In person delegations may be permitted at the discretion of the committee Chair.

46.8 Delegations will be permitted to speak for a maximum of ten minutes at

committee and five minutes at Council. The allotted time includes any audio or video presentations but does not include answering questions from members. If there are numerous delegates taking the same position on a matter, the Clerk will encourage them to select one spokesperson to present their views within the time allocation.

46.9 The speaking time for a delegation may only be extended by majority vote of the members present.

46.10 Delegations must abide by the rules of procedure and public conduct at meetings. They will accept any decisions of the Chair and not enter into cross debate with members, other delegations, or staff. Any discourse between members and the delegation will be limited to members asking questions for clarification and obtaining additional, relevant information only.

46.11 Where the CAO or the Clerk determines that a person requesting to delegate is likely to engage in unreasonable or offensive conduct, make unreasonable or offensive statements or demands, repeatedly speak on a subject matter that is not within the City's jurisdiction, or otherwise misuse the privilege of addressing committee or Council, the person will not be permitted to appear as a delegate at the meeting.

46.12 At the discretion of the Mayor/Chair, CAO or Clerk, written delegation material may be requested in advance of the meeting prior to confirming registration as a delegation. Upon review of that material by the Mayor/Chair, CAO or Clerk, if it is deemed not applicable to the business of Council or standing committee, the delegation will not be registered to speak at the meeting.

46.13 If a request to delegate has been denied in accordance with section 46.1, the CAO or the Clerk will:

(a) notify the requester that they will not be permitted to appear as a delegate and provide reasons for the decision; and

(b) inform the members of the decision to deny the request.

46.14 Delegations are not permitted at Council Workshops.

47. Correspondence

47.1 Every correspondence that meets the requirements set out in section 47.2 pertaining to a matter on a meeting agenda that the Clerk is in receipt of will form part of the public record. It is the duty of the Clerk to ensure that all correspondence received is circulated to members of Council and made publicly available in advance of the meeting, and if necessary, during a meeting.

47.2 All correspondence must meet the following conditions:

(a) be legible;

(b) delivered in person, or sent by mail, email or fax;

(c) be addressed to Council, a committee, or to the Clerk;

(d) not contain any impertinent or improper language;

(e) be signed by at least one person and include either a mailing address or a phone number for contact purposes;

(f) must be within the jurisdiction of the City.

47.3 Clerk shall list every correspondence and petition that relates to an item on the agenda and has been received no later than 12 noon on the day before the meeting. If the meeting is held on a Monday, correspondence must be submitted by 12 noon the Friday before the meeting.

47.4 Correspondence that pertain to a standing committee decision that has yet to be ratified by Council will be forwarded to the Council agenda to be listed. Communication on a matter, that is received after a Council decision has been rendered will be circulated to Members of Council, form part of the public record but will not be listed on a minute record.

47.5 Communications that do not pertain to a matter on the agenda must be sponsored by a member of Council. The member must include a motion memorandum which clearly outlines the reasons for sponsoring the communication and the remedy sought. The correspondence and the accompanying motion memorandum must be received on or before the Wednesday the week the meeting agenda is published. Items received after the deadline may be circulated as part of an addendum and requires a 2/3 vote to add the item to the agenda.

47.6 At the discretion of the Clerk, correspondence may be redacted to protect personal information that has been included by the author.

48. Petitions

48.1 Council will be the only body that can receive a petition.

48.2 A petition may be delivered in person or sent by mail, fax or email to:

(a) the Clerk if the petition relates to a matter on the agenda; or

(b) to a member if the petition does not relate to a matter on the agenda.

48.3 A petition must contain the following:

(a) the date of when the petition commenced;

(b) the name and civic address, telephone number or email address of the organizer who started the petition for contact purposes;

(c) the name and postal code of each person who signed or

electronically submitted their name to the petition, if possible, the civic address of all participants; and

(d) a clear statement which communicates the purpose of the petition. All petitions must be on matters within the jurisdiction of the City.

48.4 The Clerk shall determine whether a petition submitted to Council is complete. A petition shall be deemed to be complete if it substantially complies with section 48.3 of this by-law, and if in the opinion of the Clerk any deficiencies noted do not substantially detract from the integrity of the petition. A petition not deemed complete by the Clerk shall be referred back to the submitter with an explanation as to why the petition is incomplete. Petitioners may re-submit complete petitions if they so choose.

48.5 Petitions respecting items on the agenda must be received by the deadline as outlined in section 47.3.

48.6 Petitions that relate to a matter on the agenda will be dealt with during the Petitions portion of the meeting. At that time any petitions received will be read into the record by stating the purpose of the petition and indicating how many individuals have signed.

48.7 Unless otherwise directed by City Council by way of motion, petitions, pertaining to a matter on the agenda, will be received and filed as information.

48.8 A petition not relating to an item on the agenda may be sponsored by a member. The member must include a motion memorandum which clearly outlines the reasons for sponsoring the petition and the remedy sought. When introducing the matter, the Member will read into the record the purpose of the petition, how many individuals have signed it and then present their motion. The motion memorandum and accompanying petition must be received on or before the Wednesday of the week the meeting agenda is published. Reports received after the deadline requires a 2/3 vote to add the item to the agenda.

49. Questions/Speaking

49.1 Members will be permitted to ask each delegation two questions at a time directly relating to the matter under consideration.

49.2 Prior to accepting a motion, the Chair will permit two questions at a time from each member directly relating to the matter under consideration.

49.3 That each member will have a limit of one minute to ask a question. Any unused time cannot be reclaimed. A member may ask a question only for the purpose of obtaining facts relevant to the matter under discussion and necessary for a clear understanding. All questions will be stated succinctly and will not be used as a means of making statements, or assertions.

49.4 All members will address their questions and comments through the Chair.

49.5 Members are encouraged to provide questions to staff prior to the meeting and address any answers received during the comments portion of the discussion.

49.6 When all questions have been addressed a member may move a motion. The Chair will allow the mover to address Council first.

49.7 To address Council, a member will request to speak by placing themself in the speaking queue and wait to be recognized by the Chair.

49.8 The Chair will recognize the members who wish to speak in the order that they come to the Chair's attention. When a member has been recognized by the Chair as having the floor, the member will direct their comment to the Chair and speak only to the matter under consideration.

49.9 When a member is speaking, no other member will interrupt, except to raise a point of privilege or point of order.

49.10 Any member may require the motion under discussion to be read at any time during the debate so long as they do not interrupt a member while speaking.

49.11 No member will be permitted to speak a second time on an item of business until every member who desires to speak has spoken.

49.12 That each member will have a limit of three minutes to speak on a motion and will be given the option of an additional three minutes after every member has been allowed to speak. Any unused speaking time cannot be reclaimed. An additional three minutes will only be provided to members through the passing of a two-thirds vote.

49.13 During a Council Workshop or discussion of a workshop agenda item, the following speaking rules shall generally apply:

(a) members shall be permitted to speak, make a statement, ask questions, or seek clarification without a motion; and

(b) members shall be permitted to speak more than two times without suspending the rules of procedure.

49.14 The Chair may ask questions, or comment in a general manner without leaving their position. If the Chair wishes to make a motion or speak to a motion taking a definite position, then they must first leave the Chair position by calling on the Vice-Chair to fill their place until their comments are finished.

50. Motions at the Meeting

50.1 In Council, the following motions may be introduced verbally, without notice and without leave, except as otherwise provided by this by-law:

(a) a point of order or privilege;

(b) to suspend the rules of procedure;
(c) to postpone definitely (deferral motion with a specified date/meeting);
(d) to refer;
(e) to amend;
(f) to postpone indefinitely (deferral motion without specifying a date/meeting);
(g) to close debate;
(h) to adjourn;
(i) any other procedural motion.

50.2 The mover and seconder may withdraw a motion or a notice of motion at any time prior to it being opened for discussion by the Chair.

50.3 After a motion has been opened for discussion by the Chair, it will be deemed to be in the possession of Council but may be withdrawn by the originator at any time before a decision or amendment, provided Council does not object.

50.4 When a motion is under consideration, no new main motion will be accepted. Non-main motions are acceptable including procedural motions, and motions to refer, defer, and amend.

50.5 After a motion has been put to vote by the Chair, no member may speak to the motion nor will any other motion be made until after the vote is taken and the result has been declared.

50.6 A motion regarding a matter that is beyond the jurisdiction of Council will not be in order except a matter that, in the opinion of the majority of Council, has to do with the welfare of the citizens generally. The question of the opinion is to be decided without debate.

50.7 Schedule A of this by-law describes the form and standard descriptive characteristics of subsidiary and privileged motions commonly used in Committee and Council.

51. Voting

51.1 Every member present at a meeting when a question is put shall vote, unless they are prohibited from voting by legislation, in which case the reason shall be recorded.

51.2 Failure to vote for any reason by a member who is present at the meeting at the time of the vote and who is qualified to vote shall be deemed to be a negative vote.

51.3 Voting will be conducted in the following order:

(a) amendment to any amending motion;

(b) upon determination of a) above, any subsequent amendment to the amending motion;

(c) the amending motion;

(d) the main motion (as amended or as originally presented).

51.4 When the motion under consideration contains stand-alone recommendations, a member may request that the vote be taken separately on each recommendation and no vote will be required to be taken on the matter as a whole.

51.5 When a vote is called by the Chair, each member present, except a member who is disqualified from voting by any statute, will vote by a clear show of hands. The Chair will first ask those in favour to raise their hands, followed by those opposed and will then declare the result of the vote. A vote will never be taken by secret vote, or ballot.

51.6 Except as provided elsewhere in this by-law, a motion will be considered carried when a majority of the members present and voting have voted in favour of the motion. When there is a tie vote the motion is lost.

51.7 In a Council meeting, a recorded vote conducted by the Clerk will be taken on all motions that move the business of the organization. During a recorded vote, the Clerk will conduct the vote by using the roll call to ask each member their vote. Members will reply with their response, at the conclusion the Chair shall determine whether the vote carried or lost.

51.8 At Council the following items are classified as routine and their associated votes can be conducted orally without a recorded vote:

(a) Motion to approve council minutes

(b) Motion to approve standing committee minutes

(c) Council Information Package

(d) Motion to receive and file information items

(e) Motion to confirm proceedings of the Council meeting; and

(f) Motion to adjourn meeting.

51.9 No further questions or comments from members will be accepted by the Chair on the question voted on after the vote has been called.

51.10 In the event that a member has miscast their vote, they may change their vote if the result of the vote has not been announced by the Chair. If the result of the vote has been announced, the member cannot change their vote unless a motion to reconsider is approved in accordance with the rules in section 52.

51.11 Upon request made by a member at any time during consideration of an item, a standing committee may conduct a recorded vote in accordance with the process outlined by section 51.8.

52. Reconsideration

52.1 Any proposal to reconsider, amend or rescind a previous decision of Council made within its current term shall require a motion of reconsideration.

52.2 A motion to reconsider a previous decision of Council made earlier in a meeting:

(a) may be presented at any time prior to the meeting's adjournment by any member who voted in the majority when the decision was made;

(b) may not be applied to a decision to postpone indefinitely; and

(c) requires an affirmative vote of the majority of the members present.

52.3 A motion to reconsider a previous decision of Council at a subsequent meeting:

(a) may only be introduced by a member who was present at the meeting and voted in the majority when the decision was made or who was not present at the meeting when the decision was made;

(b) will be introduced as a notice of motion in accordance with sections 36.5 and 36.6 for consideration; and

(c) requires an affirmative vote of two-thirds of the members present.

52.4 The mover of a motion to reconsider will specify whether the reconsideration will address the entire original decision of Council or part of the original decision.

52.5 Debate on a motion for reconsideration will be confined to reasons for or against reconsideration.

52.6 Discussion of the previous decision will not be in order until the motion to reconsider has been adopted.

52.7 Where the motion to reconsider is approved, reconsideration will become the next order of business unless the motion to reconsider included direction to postpone reconsideration to a definitive date.

52.8 A decision of Council can only be reconsidered once during a term of Council. A motion to reconsider a previous reconsideration will never be in order.

53. Repeals

53.1 By-laws 31-2021, 60-2021, 72-2021, 86-2022, and 48-2023 are hereby repealed; and

54. General

54.1 This by-law may be referred to as the "Procedural By-law" or the "Burlington Procedural By-law".

54.2 If a court of competent jurisdiction declares any provision or part of a provision of this by-law invalid, the provision or part of a provision is deemed severable from this by-law and it is the intention of Council that the remainder of this by-law shall continue in force.

55. Schedules

55.1 The following Schedules affixed hereto form part of this by-law

a) Schedule A Common Motions

b) Schedule B Closed Meeting Protocol; and

56. Commencement

56.1 This by-law will come into full force and take effect on October 1, 2024.

Passed this 17th day of September 2024.

Mayor Marianne Meed Ward _____

City Clerk Samantha Yew _____

SCHEDULE A - COMMON MOTIONS

1. Motion to Adjourn

1.1 A motion to adjourn:

(a) is always in order except as provided by this by-law;
(b) is not debatable;
(c) is not amendable;
(d) is not in order when a member is speaking or during the verification of the vote.
(e) is not in order immediately following the affirmative resolution of a motion to close debate; and
(f) when resulting in the negative, cannot be made again until after some proceedings have been completed by Council.

1.2 A motion to adjourn without qualification, if carried, brings a meeting or a session of Council to an end.

1.3 A motion to adjourn to a specific time, or to reconvene upon the happening of a specified event, suspends a meeting of Council to continue at such time.

2. Point of Privilege

2.1 A member may at any time raise a point of privilege directing attention to a matter that affects the integrity, character or reputation of an individual, individuals or the entire Council, or the ability of an individual to participate.

2.2 A point of privilege will take precedence over any other matter and a member will not be permitted to enter into any debate or introduce any motion not related to the point of privilege.

2.3 The Chair will decide upon the point of privilege and advise the members of the decision.

2.4 The Chair's decision is final unless a member immediately appeals the decision.

2.5 If the decision of the Chair is appealed, the Chair will immediately call a vote on the decision. The vote will occur without debate and the results will be final, based on a two-thirds vote.

3. Motion to Close Debate (Previous Question)

3.1 A motion to close debate:

(a) is not debatable;
(b) is not amendable;
(c) cannot be moved with respect to the main motion when there is an amendment under consideration;

(d) should be moved by a member who has not already debated the question.
(e) requires a two-thirds majority vote of members present for passage; and
(f) when resolved in the affirmative, the question is to be put forward without debate or amendment.

4. Motion to Postpone Definitely (Motion to Defer)

4.1 A motion to postpone definitely:

(a) will state a fixed time, or date;
(b) is debatable, but only as to whether the matter should be postponed and to what time;
(c) is amendable as to time and/or date;
(d) requires a majority vote of members present to pass; and
(e) will have precedence over the motions to refer, to amend, and to postpone indefinitely.

5. Motion to Refer (To Committee or Staff)

5.1 A motion to refer:

(a) will state the committee, or staff member where the motion is to be referred to;
(b) is debatable;
(c) is amendable; and
(d) will take precedence over all amendments of the main question and any motion to postpone indefinitely.

6. Motion to Amend

6.1 A motion to amend:

(a) is debatable;
(b) is amendable;
(c) will be relevant and not contrary to the principle of the motion under consideration; and
(d) may propose a separate and distinct disposition of a question provided that such altered disposition continues to relate to the same issue which was the subject matter of the question.

6.2 Only one motion to amend an amendment to the original motion will be allowed at one time. Further amendments will be considered after a vote on the amendment to the proposed amendment.

7. Motion to Postpone Indefinitely

7.1 A motion to postpone indefinitely:

(a) stops a motion and avoids a direct vote on the question;
(b) is debatable;

(c) is not amendable; and
(d) requires a majority vote.

8. Point of Order

8.1 A member may raise a point of order when they consider a matter to be a departure from or contravention of the rules, procedures and/or generally accepted practices of Council.

8.2 A member will raise the point of order by requesting the floor, and after being granted the floor by the Chair, they will state the point of order to the Chair. The Chair will make a timely decision on the point of order. Thereafter, the member will only address the Chair for the purpose of appealing the decision to Council.

8.3 If the member does not appeal, the decision of the Chair will be final. If the member appeals, the Chair will immediately call a vote on the decision. The vote will occur without debate and the results will be final, based on a two-thirds vote.

9. Motion to Suspend the Rules (Waive the Rules)

9.1 A motion to suspend the rules:

(a) is not debatable;
(b) is not amendable;
(c) requires a two-thirds majority vote to carry; and
(d) takes precedence over any motion if it is for a purpose connected with that motion.

SCHEDULE B – CLOSED MEETING PROTOCOL

Corporate Policy

Closed Meeting Protocol

Approved by Council on: June 21, 2022

Report Number: CM-18-22

Effective: June 21, 2022

Policy Statement:

This Closed Meeting Protocol is intended to assist The Corporation of the City of Burlington (the "City") ensure compliance with the statutory requirements for holding Closed Meetings as well as to enhance the transparency of the City decision-making process.

This Protocol is based upon the following principles:

- Mature, responsible local government is fostered by an informed electorate;
- A decision-making process which is open and transparent to the public enhances the democratic legitimacy of local government;
- To the greatest extent possible, the public should be able to observe municipal government in process;
- In some circumstances, the public interest is best served by maintaining the confidentiality and privacy of certain information and decisions;
- The law recognizes that there are legitimate reasons for various enumerated subject matters to be discussed and debated in the absence of the public.

This Protocol is intended to support and enhance the provisions of the *Municipal Act, 2001* and Council's Procedure By-law, as amended from time to time, and is not intended to be separately enforceable.

Statutory Framework:

The “Open Meeting Rule” is enshrined in section 239 of the *Municipal Act, 2001*. It provides that, unless otherwise permitted, all meetings of Council (and committees of Council) must be open to the public. There are fourteen (14) subject matter exceptions which permit a Closed Meeting to be held, as set out in subsections 239(2), (3) and (3.1) of the *Municipal Act, 2001*. Section 239 of the *Municipal Act, 2001* also contains certain procedural requirements for holding and conducting Closed Meetings.

The Open Meeting Rule seeks to increase public confidence in local government, and prevent secrecy in decision-making. The Open Meeting Rule also seeks to balance the public interest in open and transparent municipal decision-making, while also recognizing that in certain circumstances, meetings in the absence of the public are required to protect municipal interests.

Definitions:

For the purpose of this Protocol, unless otherwise stated, the following terms shall have the following meanings:

“Chair” means the Member presiding over a meeting.

“City Manager” means the City Manager of The Corporation of the City of Burlington.

“City Solicitor” means the Executive Director of Legal Services & Corporation Counsel of The Corporation of the City of Burlington.

“Clerk” means the City Clerk of The Corporation of the City of Burlington.

“Closed Meeting” means a meeting, or part of a meeting, that is closed to the public.

“Confidential Report” means a Staff Report intended to be considered in a Closed Meeting.

“Council” means the Council of The Corporation of the City of Burlington, and includes committees of Council.

“Department Head” means the member of City staff responsible for one of the City’s departments.

"Member" means a member of Council, and includes a member of a committee of Council.

"Open Session" means a meeting, or part of a meeting, that is open to the public.

Any reference to a member of City staff shall include their designate or successor position.

Roles and Responsibilities:

Council as a whole is responsible for making decisions that affect the City, the electorate, and those having business with the City. While Council will consider the recommendations of City staff in making its decisions, Council bears ultimate responsibility and accountability for those decisions. This includes decisions in relation to Closed Meetings, such as whether it is appropriate to convene a Closed Meeting, which exception should be relied upon, and the appropriate level of public disclosure following a Closed Meeting.

City staff carry out the decisions and policies of Council, and provide professional advice and recommendations to Council on a range of matters affecting the City. In the course of performing these duties, City staff will also make recommendations regarding the conduct of Closed Meetings. City staff are responsible to provide reasoned advice on such matters as the application of closed meeting exceptions, the practices and procedures of Council, and whether information should be kept confidential on account of various municipal interests.

Individual Members are guardians of the public trust, and the individual decision-makers who, when acting together as a quorum of Council, make decisions that bind the City. In performing these duties, Members will receive confidential information during Closed Meetings. Members bear ethical obligations to preserve the confidentiality of such information. Inadvertence or indiscretion in relation to Closed Meeting matters may significantly harm the City's interests – financial, legal and reputational – and the overall public interest.

Closed Meeting Protocol:

A.Before a Closed Meeting

1. Selecting a Closed Meeting Exception

Council's business is often initiated by City staff, who report their professional recommendations on various municipal matters. The City recognizes that staff reports and the agenda review process will play an integral role in ensuring compliance with the

Open Meeting Rule and fostering a transparent decision-making process.

The relevant Department Head shall be responsible for identifying whether a matter should be considered in a Closed Meeting. In making such a determination, the Department Head should, when necessary, consult with the Clerk, the City Manager, and/or the City Solicitor as appropriate.

The Department Head shall consider the following two questions in determining whether a matter should be considered in a Closed Meeting:

1. Does the matter qualify for one of the closed meeting exceptions enumerated in subsections 239(2), (3) or (3.1) of the *Municipal Act, 2001*? In other words, can the subject matter be considered and discussed in a Closed Meeting?

2. If the matter is permitted to be discussed in a Closed Meeting, is there a compelling reason why the matter should be considered in a Closed Meeting? What is the corporate, municipal or other interest that is to be protected by holding a Closed Meeting?

In considering the above questions, the Department Head shall have regard for, among other matters, whether full transparency and disclosure in the immediate term would in any way serve to compromise the municipal interests engaged by the matter.

The initial determination as to whether a matter should be considered in a Closed Meeting is the primary responsibility of the Department Head. When necessary, the Department Head should consult with the Clerk, the City Manager and/or the City Solicitor.

2. Naming of Confidential Reports, Agenda Resolution to Convene a Closed Meeting

Before holding a Closed Meeting, Council must pass a resolution stating the fact that it is holding a Closed Meeting, and the general nature of the matter(s) to be considered at the Closed Meeting. Such a resolution should maximize the information available to the public, while at the same time not undermining the reason for excluding the public in the first place. This resolution should not simply restate the applicable closed meeting exception listed in subsections 239(2), (3) or (3.1) of the *Municipal Act, 2001*.

In some limited circumstance, the need for confidentiality may encompass the very fact of considering a matter in a Closed Meeting. This may include, but is in no way limited to, circumstances where the identification of a specific party, property or matter in a resolution to convene a Closed Meeting would, in and of itself, reveal the interest sought to be protected by the Closed Meeting. The City recognizes that these circumstances would be limited.

To assist in ensuring compliance with the *Municipal Act, 2001*, the following standard naming convention shall be used for all Confidential Reports, unless to do so would

undermine the very reason for excluding the public in the first place:

> Confidential Report of the **[Department Head]** with respect to **[Subject Matter / Property / Party / Appeal Reference Number] [Corporate Report Number** (X-00-00)**]** – **[Reference to Closed Meeting Exception]**

For example:

> Confidential Report of the City Manager with respect to the Lease of 426 Brant Street to Burlington Corp. (CM-01-22) – s. 239(2)(c) "proposed or pending acquisition or disposition of land"

The title of a Confidential Report must cite the relevant closed meeting exception from the *Municipal Act, 2001*. Where appropriate, City staff may cite multiple closed meeting exceptions if more than one exception is applicable.

The titles of all Confidential Reports to be considered at a Closed Meeting will be listed on the Open Meeting agenda for the purpose of providing notice to the public, and shall also form the content of the resolution to convene a Closed Meeting.

3. Staff Recommendations

Confidential Reports provide Council with professional advice and recommendations to take action on municipal business and matters. When preparing recommendations that will be considered in a Closed Meeting, City staff must take into consideration the limitations on what matters can be voted on during a Closed Meeting, and what matters must be voted on in Open Session.

A vote may only be taken during a duly-constituted Closed Meeting if it is for one of two purposes:

- Procedural matters (e.g., to receive and file information, to refer a matter, to defer consideration); or

- Giving direction or instruction to City staff or agents or representatives of the City (e.g., the City Manager, the Clerk, external legal counsel, consultants retained by the City).

Recommendations in a Confidential Report may entail a decision which is not permitted to be voted upon in a Closed Meeting (e.g., a decision to adopt a policy, a decision to appoint an individual to a committee). City staff should indicate in Confidential Reports which portions of the recommendations can be voted upon and adopted during the Closed Meeting, and which portions must be voted on in Open Session. Recommendations from City staff should generally follow the following format:

Recommendation:

For Closed Session:

THAT Report CM-00-22 be received and filed.

For Open Session:

THAT Council appoint Mr. Alan Appleby as City Clerk.

4. Written Reports Preferred over Verbal Updates

Written reports from City staff will generally be preferred over verbal presentations or updates. Written reports circulated ahead of a Closed Meeting provide clarity on the subject matter to be discussed, and help justify the reasoning for holding a Closed Meeting. However, in some circumstance, a verbal presentation or update may be permissible, or practically necessary given other constraints or in recognition of the sensitivity of the specific matter.

For the purpose of this Protocol, the relevant Department Head shall treat a request to make a verbal presentation or update during a Closed Meeting as though it were a written Confidential Report. The Department Head shall submit a verbal presentation form to the Clerk, in the form prescribed by the Clerk, as soon as possible in advance of the Closed Meeting for inclusion on the relevant meeting agenda. Where any presentation materials will be relied upon, the Department Head shall provide same to the Clerk for review and to ensure the subject matter of the presentation forms a subject matter that is permitted to be discussed in a Closed Meeting.

Requests to provide a verbal presentation or update will generally not be considered once a Closed Meeting has already commenced and is underway. In the event of a time-sensitive matter or in extenuating circumstances, at the discretion of the Clerk, a verbal presentation or update may be added to the Closed Meeting agenda as an item of “New Business” so long as Council adjourns its Closed Meeting, reconvenes in Open Session, and passes a resolution in accordance with subsection 239(4) of the *Municipal Act, 2001* in respect of the verbal presentation or update.

B.Closed Meeting Materials

Members will require access to highly sensitive, confidential, and privileged materials and information in order to make informed decisions on matters during a Closed Meeting. It is imperative that Members recognize the importance of confidential information, and that they must take every precaution against the unauthorized disclosure of such confidential information. Members shall observe strict compliance with their ethical obligations regarding confidential information outlined in the City’s Code of Good Governance.

Closed Meeting documents and records, including Confidential Reports,

correspondence from external legal counsel, and other confidential information, will be provided to Members through the City's e-Agenda Software. City staff will ensure that the appropriate technical security specifications are applied to confidential information, including time-limited access and limitations on permissions to download or print documents.

In certain circumstances, City staff may circulate hard copies of confidential information to Members during a Closed Meeting, with such copies to be returned to the Clerk immediately upon the conclusion of the Closed Meeting. The Clerk shall be responsible to ensure the shredding or destruction of hard copies of confidential information, and to track whether any hard copies remain in circulation. Members are not to take notes or photographs of any documents or materials.

1. Resolution to Convene in Closed Session

Pursuant to subsection 239(4) of the *Municipal Act, 2001*, before holding a Closed Meeting, Council must pass a resolution stating the fact of holding a Closed Meeting, and the general nature of the matter(s) to be considered at the Closed Meeting. The resolution to convene in a Closed Meeting should maximize the information available to the public, while at the same time not undermining the reason for excluding the public in the first place. This resolution should not simply recite the applicable closed meeting exception.

In some limited circumstances, the need for confidentiality may encompass the very fact that Council is considering a matter in a Closed Meeting. This may include, but is in no way limited to, circumstances where the identification of a specific party, property or matter in a resolution to convene a Closed Meeting would, in and of itself, reveal the interest sought to be protected by the Closed Meeting.

In order to ensure compliance with subsection 239(4) of the *Municipal Act, 2001*, Council shall adopt a resolution in the following standard format, with a list of the descriptive titles of the Confidential Reports and agenda items Council will consider during the Closed Meeting:

6. Procedural Motions

6.1 Motion to proceed into closed session

Moved by Councillor **[name]**

That **[Council/Committee]** move into closed session to consider the following matters:

1. Confidential Report of the **[Department Head]** with respect to **[Subject Matter / Property / Party / Appeal Reference Number] [Corporate Report Number** (X-00-00)**]** – **[Reference to Closed Meeting Exception]**

2. Confidential Report of the **[Department Head]** with respect to **[Subject Matter / Property / Party / Appeal Reference Number] [Corporate Report Number** (X-00-00)**]** – **[Reference to Closed Meeting Exception]**

3. Confidential Verbal Update of the **[Department Head]** with respect to **[Subject Matter / Property / Party / Appeal Reference Number] [Corporate Report Number** (X-00-00)**]** – **[Reference to Closed Meeting Exception]**

The resolution to convene in a Closed Meeting shall be prepared in advance of the Closed Meeting by the Clerk and shall generally form part of the relevant meeting agenda. Where items are added to the agenda for a Closed Meeting as addenda items, the resolution shall be updated to reflect those new items.

2. Individuals Entitled to Attend a Closed Meeting

Attendance at a Closed Meeting shall generally be limited to those individuals required to ensure the Closed Meeting matters are fully and properly considered. This includes the Members who are not otherwise prohibited from attending the Closed Meeting and generally includes the Clerk, the City Manager, and the responsible Department Head for the matter under consideration.

Other individuals may be requested to attend a Closed Meeting where their attendance may become necessary in the course of Council business. Where appropriate, other individuals shall only be permitted to attend the portion of the Closed Meeting to which their presence is relevant or necessary.

3. Virtual Participation at Closed Meetings

Council's Procedure By-law allows for "Hybrid Meetings" whereby some Members attend a Closed Meeting in-person at Council Chambers, while others participate remotely through electronic means.

Closed Meetings may be conducted as a Hybrid Meeting. Members participating in a Closed Meeting remotely shall be responsible for ensuring they are in a physically and technologically secure location, and for taking precaution against authorized viewing or listening to the proceedings of a Closed Meeting.

At the commencement of the Closed Meeting, the Chair shall provide the following instruction:

> "A reminder for those joining us in closed session, both committee members and staff, please ensure that you are alone in the room. If you cannot be alone, please use headphones to ensure that the conversations held in closed session are kept confidential."

Whether participating in a Closed Meeting virtually or in person, Members shall not use any other form of electronic communication (e.g., email, text messaging, instant messaging, cell phone) to communicate with any other person during a Closed Meeting, including other Members.

Where a Hybrid Meeting is used to conduct a Closed Meeting, the Clerk shall ensure that a separate virtual meeting event is created for the Closed Meeting, which is separate and distinct from the meeting event which the public and other individuals may have access to.

4. Chair to Preside over Closed Meetings

In addition to their responsibilities under the Procedure By-law, the Chair shall be responsible for presiding over a Closed Meeting. It is incumbent on the Chair to educate themself on the statutory requirements that govern a Closed Meeting, including the subject matters which may be permitted to be discussed in a Closed Meeting and the procedural requirements for conducting a Closed Meeting, including voting.

The Chair shall preside over deliberations in a Closed Meeting to ensure that Members do not inadvertently discuss matters which are not permitted to be discussed in a Closed Session, or matters which are not necessarily incidental to the main topic of discussion. Where a Member begins to stray from an appropriate Closed Meeting topic, the Chair shall promptly advise the Member of their obligation to remain on topic and to refrain from discussing unrelated or unpermitted topics.

5. Voting During Closed Session

Except where otherwise permitted, no voting shall take place during a Closed Meeting. Voting during a Closed Meeting may only occur if the rules in subsection 239(6) of the *Municipal Act, 2001* are satisfied.

First, the Closed Meeting must be permitted under subsection 239(2) or required under subsection 239(3) of the *Municipal Act, 2001*.

Second, the vote can only be taken for one of two purposes:

- Procedural matters (e.g., to receive and file information, to refer a matter, to defer consideration); or

- Giving direction or instruction to City Staff or agents or representatives of the City (e.g., the City Manager, the Clerk, external legal counsel, consultants retained by the City).

During a Closed Meeting, Council shall not make an “informal decision” where no formal vote of the Members is taken. Council is not permitted to make an informal decision by consensus, “head nodding,” or to take a “straw poll” during a Closed Meeting. Such

decisions constitute a “vote” on the matter, and where not taken for a permitted purpose, such decisions do not comply with the *Municipal Act, 2001.*

The Chair will ensure that any vote taken during a Closed Meeting complies with subsection 239(6) of the *Municipal Act, 2001*. The Chair may rule a vote out of order where it does not comply with the requirements of subsection 239(6) of the *Municipal Act, 2001*.

D. After a Closed Meeting

1. Reporting Out of Closed Session

“Reporting out” or “reporting back” immediately following a Closed Meeting is not a requirement in the *Municipal Act, 2001*. However, it is recognized as a best practice for enhancing the transparency of municipal decision-making. The extent of Council’s obligation to report out will be enshrined in the Procedure By-law, as amended from time to time. Further, the content of or details contained in a resolution to “report out”, not being statutorily prescribed, is within Council’s purview.

While the City is committed to enhancing the transparency of its decision-making process, it also recognizes that, in certain circumstances, full or substantial disclosure of the deliberations of Council in a Closed Meeting in the immediate term is simply not appropriate.

Council’s resolutions to report out will be based on the recommendation of City staff as presented in the corresponding Confidential Report. Where appropriate, City staff may also recommend the release of any appendices to a Confidential Report following Council’s final consideration of the matter.

City staff will generally base a recommendation as to the content of the resolution to report out on the following options:

Option A: A recommendation that Council report out as much general context and substance of the Closed Meeting matter as possible.

> ***Application:*** This option aims to provide the public with the most amount of general information from a Closed Meeting, while refraining from disclosing the sensitive confidential details. Examples may include where Council is provided a general update about ongoing labour negotiations, or where Council considers and reviews a draft agreement with a known entity. Confidential details about advice or recommendations provided to Council need not be disclosed. However, where there would be no harm to the corporate interests in advising the public that the specific matter was considered, those details should be disclosed.

Option B: A recommendation that Council make a substantive decision in relation to the Confidential Report in Open Session, based upon the discussion and

consideration in the Closed Meeting.

Application: This option is appropriate where an immediate Council decision is required to give effect to a recommendation in a Confidential Report, but entails a substantive decision that is not permitted to be voted on in a Closed Meeting. Examples may include the appointment of individuals to fill various positions in the City or on committees or local boards, or a decision to declare municipal lands surplus and authorize the sale of those lands.

Option C: A recommendation that Council report out that the Confidential Report was received for information, and/or direction was given to City Staff, and providing general details about the information received and the direction given.

Application: This option is reserved for matters where sensitive and non-sensitive information can be separated. For example, Council may report out the fact of having considered and given direction on the sale of City property, but without disclosing precisely what direction was given.

Option D: A recommendation that Council only report out that the Confidential Report was received for information, and/or direction was given to City Staff, without providing any specific details.

Application: This option is reserved for matters which are highly sensitive in nature and where full disclosure in the immediate term is not appropriate. This could include receiving legal advice on a highly sensitive or confidential matter, or considering highly confidential information from another level of government.

In making a determination on the content of the resolution to report out, the Department Head responsible for the Confidential Report shall consider whether full or substantial disclosure of the of the deliberations of Council or the matters considered in the Closed Meeting in the immediate term would be prejudicial to the interest considered at the Closed Meeting.

2. Waiving Privilege, Confidentiality

Council will often seek and be provided with legal advice during a Closed Meeting. Such advice is protected by solicitor-client privilege, which is itself enshrined as a closed meeting exception in clause 239(2)(f) of the *Municipal Act, 2001*. Solicitor-client privilege is designed to protect the interests of the client in seeking or receiving legal advice, but may be waived where prudent to do so. However, as the City (i.e., the client) can only act through Council, privilege can only be waived through an express resolution of Council, voted on by a majority of Members present at a meeting. Solicitor-client privilege cannot be waived by any single Member of Council, even if purporting to be acting in the public interest.

Similarly, the City, through Council, may also wish waive the confidentiality of materials and information distributed or discussed at a Closed Meeting.

In general, Council will not waive solicitor-client privilege or confidentiality unless advised by the City Solicitor that doing so would not prejudice the interests of the City.

Should Council wish to waive solicitor-client privilege or confidentiality and release information from a Closed Meeting, Council may do so by adopting a resolution in the following general format during the Closed Meeting:

> Report **#000-00**
>
> Moved by Councillor **[Name]**
>
> Seconded by Councillor **[Name]**
>
> That Council waive **[solicitor-client privilege / confidentiality]** in and authorize the release of **[Document / Staff Report]**, **[in its entirety / in part]**, but only insofar as **[extent of waiver]**.

Any such waiver of privilege or confidentiality shall not include such confidential information which the City is required by law not to disclose or release. For example, the *Municipal Freedom of Information and Protection of Privacy Act* generally prohibits the City from disclosing the personal information of an identifiable individual. The Clerk will review all documents to be disclosed and apply any redactions as may be necessary.

Members should acknowledge that the waiver of privilege or confidentiality in a matter does not automatically authorize the public release or discussion of *all* information from the Closed Meeting which is not otherwise authorized to be disclosed. For example, if Council authorizes the release of a legal opinion considered at a Closed Meeting, Members are not automatically entitled to publicly release or discuss the substance of Council's deliberations at the Closed Meeting on that item.

3. Closed Session Minutes

The Clerk shall be responsible for recording, without note or comment, all resolutions, decisions and proceedings in a Closed Meeting in the form of meeting minutes. Generally, the minutes of a Closed Meeting will be action- or decision-oriented, recording both the procedural and substantive resolutions and motions of a Closed Meeting. The minutes of a Closed Meeting shall be maintained by the Clerk in a highly confidential manner.

Appendix "A"

Closed Meeting Investigation Protocol

PURPOSE

This Closed Meeting Investigation Protocol (the "Investigation Protocol") applies to the conduct of all closed meeting investigations pursuant to section 239.2 of the *Municipal Act, 2001* in respect of Council, committees of Council, and local boards to which section 239 of the *Municipal Act, 2001* applies.

INVESTIGATOR

The City has appointed Local Authority Services Inc. ("LAS") as its Closed Meeting Investigator (the "Investigator") pursuant to subsection 239.2(1) of the *Municipal Act, 2001*. LAS has delegated its authority to Aird & Berlis LLP to act as Investigator for the City.

In conducting a closed meeting investigation, the Investigator shall have all the powers and authority as set out in section 239.2 of the *Municipal Act, 2001*.

INVESTIGATION PROCESS

1. Any person may submit a request pursuant to section 239.1 of the *Municipal Act, 2001* to the Investigator relating to compliance with section 239 of the *Municipal Act, 2001* or the applicable procedure by-law for meetings or part of meetings that are closed to the public. The request must contain the following information:

    a. contact information of the person making the request;

    b. the date and time of the meeting under consideration;

    c. the nature and background of the occurrence;

    d. reasonable and probable grounds of the alleged contravention(s);

    e. any other relevant or information or evidence; and

    f. a direction with respect to the release of the requestor's identity.

2. A request for an investigation must be submitted in writing in the Request Form attached to this Investigation Protocol and directly forwarded by email or mail to the Investigator at the following address:

John Mascarin
c/o Aird & Berlis LLP
Brookfield Place, 181 Bay Street, Suite 1800
Toronto, Ontario M5J 2T9
Email: jmascarin@airdberlis.com

3. A request for an investigation will be treated as confidential. Unless authorization is given by the person making the request, the identity of the requestor will be considered confidential.

4. Upon receipt of a request, the Investigator shall:

   a. assign a file number and record a file number on the envelope or email;

   b. log the file number together with the date and time received; and

   c. confirm receipt of the request to the requester.

5. The Investigator may, but is under no obligation to, seek additional information to supplement or augment the request for an investigation, or to clarify the matters set out therein, either from the requester or otherwise.

6. If a request, on its face, does not deal with non-compliance with section 239 of the *Municipal Act, 2001* or a procedure by-law, the Investigator will advise the person making the request of same and shall decline to investigate.

7. The Investigator will conduct a preliminary review of the request for an investigation to ascertain the substance of the allegations. If, after considering the information set out in the request and making any other inquiries it deems appropriate, the Investigator determines that the request:

   a. is frivolous or vexatious,

   b. is not made in good faith,

   c. constitutes an abuse of process, or

   d. discloses no reasonable or probable grounds to warrant a full investigation, including raising a matter outside the jurisdiction of the Investigator to consider,

the Investigator will not be required to conduct an investigation. The Investigator is authorized, in its sole discretion, to terminate the inquiry and summarily dismiss the request for an investigation by providing written notice to the person making

the request. The Investigator may also exercise its discretion to terminate and

inquiry and summarily dismiss the request where this becomes apparent during the course of an investigation.

8. For all requests, the City or its local board shall supply forthwith to the Investigator any information and documentation as may be requested by the Investigation, including:

    a. a certified copy of the Notice of Meeting;

    b. a certified copy of the Meeting Agenda, both open and closed session, including all reports and attachments;

    c. a certified copy of the Meeting Minutes, both open and closed session;

    d. any relevant resolutions;

    e. a municipal or local board contact list;

    f. any audio or video records or a transcript of a closed meeting, and

    g. any other relevant information as requested by the Investigator.

9. The City and its local boards and all members of Council, local boards and the committees of each shall commit to full cooperation, including the provision of all information requested by the Investigator, either written or through interviews, to assist the Investigator in an investigation.

The Investigator will commence an investigation within two (2) weeks of having made a determination that the request warrants a full investigation.