1.1 GENERAL OVERVIEW:

Generally speaking, all persons employed at City of Hamilton workplaces must provide assistance and cooperation to Ontario Ministry of Labour (“MOL”) Inspectors while they are carrying out or performing their duties and powers under the Occupational Health and Safety Act (“OHSA”). The powers of MOL Inspectors are currently set out in Section 54 of the Occupational Health and Safety Act, a copy of which can be found at e-Net/You Should Know/Workplace Safety and WSIB/Legislation (http://enet/you_should_know/Workplace%20Safety%20and%20WSIB/legislation.htm).

The MOL has a practice in place regarding steps that its Inspectors will follow after they identify the possibility that charges may be laid under the OHSA or its Regulations. Regardless of the reason for an MOL Inspector’s visit, should the Inspector, at any time, determine that sufficient evidence has been discovered which may cause the Inspector to pursue “legal” action (i.e., charges) against the workplace parties under the OHSA and/or Regulations, the Inspector will immediately notify the workplace parties of his/her decision to change the direction of the visit and allow the workplace parties an opportunity to seek legal advice prior to continuing the visit/investigation.

Should any City of Hamilton employee feel that by providing the information requested by the MOL Inspector he/she may be exposing himself/herself or the City to possible prosecution, it is advised that they immediately contact one of the following persons, prior to providing the requested information: their supervisor; a Department Safety/Wellness Specialist; a representative of the Workplace Safety Section; a representative of the Labour Relations Department; or a lawyer in the Legal Services Division.

If the police are investigating, or if they lay charges against, a City of Hamilton supervisor for criminal negligence in connection with his or her actions in a supervisory capacity, the Legal Services Division must be contacted immediately. For lesser charges laid by a MOL Inspector, or for charges against any employee in connection
with non-supervisory actions, Legal Services need only be consulted where the employee legitimately and for good reason believed he or she was following safe and lawful workplace practices. In such circumstances, the employee may be entitled to coverage under the City’s Indemnification By-law.

1.2 PROCEDURE:

(1) Attendance of an Inspector at the Workplace:

(a) Immediate Response

Whenever an Inspector arrives at the workplace the following steps shall be taken by the senior person present at the workplace:

i) If the senior person does not have supervisory responsibilities, he or she shall contact his or her supervisor immediately.

ii) The supervisor who is either present at or responsible for the workplace shall:

- Determine the reason for the visit (e.g., inspection, complaint investigation, basic contact visit, etc.)
- Determine the identity of any employee with whom the Inspector wishes to speak; and
- Make that person and/or a worker member of the Joint Health and Safety Committee readily available.

iii) The Department Manager, the Department Health, Safety & Wellness Specialist (if applicable) and a representative of the Workplace Safety Section, shall be made aware that an Inspector is on site and the reason for the visit.

iv) A worker member of the Joint Health and Safety committee must be notified of the Inspector’s presence and made available to accompany the Inspector for the required activity.

v) If the matter is identified as an investigation in which the City or a City employee may be prosecuted, senior staff should consider whether the Legal Services Division ought to be consulted at the outset in connection with the investigation.

vi) Subject to advice from the Legal Services Division, the Inspector must be provided with photocopies of all required and requested documents, reports, etc. pertinent to the occupational health and safety issues being
reviewed, and City staff must make a note of what has been provided to the Inspector.

(b) Posting of Notices

All MOL written reports and compliance notices issued must be posted at the workplace for a period of fourteen (14) days (on the appropriate OHS Bulletin Boards). Copies shall be provided to the Co-chairs of the JHSC and copies sent to the Department Safety & Wellness Specialist (if applicable) and the Workplace Safety Section.

(2) Compliance Notification Procedures:

(a) Orders/Requirements

All orders/requirements issued by an Inspector will be complied with by the date cited in the order/requirement.

If the orders are deemed to be inappropriate, a review will be conducted with the supervisor, the Department Manager, the Department Safety & Wellness Specialist, a representative of the Workplace Safety Section and, if necessary, a lawyer in the Legal Services Division, to determine whether an appeal of the order may be appropriate and should be commenced. This review needs to be conducted immediately, as any appeal of an Inspector’s order must be made to the Board within 30 days.

Discussions and notification to the worker member of the JHSC, involved in the action, will be conducted if a decision is made to pursue an appeal of the order.

(b) Compliance notices

All compliance notices will be completed in full (referencing appropriate order number(s)) and signed by management (supervisor) and worker representatives involved in the action.

Compliance notices will be delivered to the local MOL district office, per Ministry of Labour web site – [http://www.labour.gov.on.ca/english/hs/index.html](http://www.labour.gov.on.ca/english/hs/index.html), to the attention of the inspector who issued the order(s), either by hand or faxed, within the time frame required in the compliance notice.

Compliance notices will be posted in the workplace, on the appropriate OHS Bulletin Board, for a period of 14 days and copies provided to the Co-chairs of the JHSC, the Health, Safety/Wellness Specialist (if applicable) and the Workplace Safety Section.
(3) Stop Work Orders:

Stop work orders are issued under subsection 57(6) of the Act, where workers are endangered.

In order to comply with these types of orders, the danger or hazard must be removed or eliminated as directed by the Inspector in the order and the response form must be signed off by the supervisor and the worker member of the JHSC confirming that the hazard has been eliminated. Work activity may then resume.

Upon removal or elimination of the danger or hazard, the responsible Inspector must be notified, by delivery of a notice by hand or faxed, within the time frame required in the stop work order.

(4) On the Spot Offence Notices - Tickets:

All MOL Inspectors now have the authority to issue such tickets, with associated monetary fines, for 81 violations established by the MOL. These tickets are similar to tickets issued by the Police, under the Highway Traffic Act, and the responsibility for resolving such issues with the MOL and the Courts usually rests with the employee receiving the ticket. However, there may be cases where the employee legitimately and for good reason believed he or she was following safe and lawful workplace practices, and in such cases, the City’s Indemnification By-law may result in the City providing legal counsel and/or indemnification to the employee.

Copies of any written communications between the MOL and the workplace parties, including offense notices and compliance responses must be provided to the Department Health, Safety/Wellness Specialist (if applicable) and the Workplace Safety Section.

NOTES:

- Contact your JHSC representative, Department Safety/Wellness Specialist (if applicable) and/or the Workplace Safety Section for additional information.

- In addition to this “guideline”, City of Hamilton employees are expected to be aware of and comply with the Occupational Health and Safety Act and City of Hamilton procedures and guidelines which are found at: e-Net/You Should Know/Workplace Safety and WSIB/OHS Policy, Procedures and Guidelines OR http://www.myhamilton.ca/myhamilton/CityandGovernment/CityServices/Careers/EmployeeOrientation/PoliciesProcedures/OccupationalHealthSafetyPoliciesProcedures.htm