CODE OF CONDUCT FOR MEMBERS OF COUNCIL

A. PREAMBLE

Members of Council for the City of Winnipeg recognize that they hold office for the benefit of the public and that their conduct must adhere to the highest ethical standards, exceeding the minimum obligations required by law.

A written Code of Conduct demonstrates that Members of Council share a common understanding of the ethical obligations which are essential to the fair and effective operation of government.

Members of Council first instituted a Code of Conduct in 1994. This Code of Conduct stems from the principles set out in that Code.

Although the Preamble cannot support a stand-alone contravention of the Code of Conduct, together with the Key Principles listed below, it provides a helpful framework within which to review the actions of Members of Council.

To further assist Members of Council and members of the public in understanding and interpreting the Code of Conduct, the Code of Conduct document shall be made available in a version which includes commentary provided by the Integrity Commissioner.

That commentary, which will be updated from time to time by the Integrity Commissioner, does not form part of the Code of Conduct itself.

B. APPLICATION AND INTERPRETATION

1. This Code of Conduct ("Code") applies to all Members of Council, including the Mayor ("Members").

2. It is intended that this Code operate together with and supplemental to the statutes, By-laws and policies which govern the conduct of Members, including but not limited to:

    - *The City of Winnipeg Charter*
    - *The Municipal Council Conflict of Interest Act ("MCCIA")*
    - *The Human Rights Code of Manitoba*
    - *The Freedom of Information and Protection of Privacy Act*
    - *The Criminal Code of Canada*
    - *City of Winnipeg Policies, By-laws and Protocols*
    - *Codes of Conduct for City Boards or Commissions*

3. Members are responsible to be familiar with the requirements of the By-laws, policies, protocols and legislation which govern their conduct together with the provisions of this Code.

4. This Code is to be given a broad and liberal interpretation in accordance with the Key Principles set out herein and applied in a reasonable and pragmatic manner.

5. Members should seek the advice of the Integrity Commissioner in determining how this Code is to be interpreted and applied.

C. DEFINITIONS

"**Appendix A**" means the Advice Protocol for Members of Council, attached to and forming part of the Code.

"**Appendix B**" means the Complaint Protocol, attached to and forming part of the Code.

"**Duties of Office**" include those activities that are reasonably related to a Member's office, taking into consideration the different interests and the diverse profiles of their constituents as well as the Members' different roles on committees, agencies, boards and commissions.

"Staff" includes Directors, Managers, Supervisors, salaried staff, hourly staff, part time staff, temporary/seasonal staff, contract staff, students, interns and volunteers.

D. KEY PRINCIPLES

The public interest is best served when Members:

- perform their duties of office honestly and with integrity, impartiality and transparency, putting the public interest before private and self-interest;
- conduct themselves in such a way as to promote respect for Council and municipal government;
- serve their constituents and the City in a conscientious and diligent manner and approach decision making with an open mind; and
- perform their duties of office and manage their private interests in a manner that promotes public confidence and trust in the political process.

E. RULES OF CONDUCT

1. Confidential Information

a. Members must not disclose and shall only use confidential information as required for their duties of office.

> **Confidential information** is information which is otherwise not available to the general public, including information contained in the agenda for or discussed at an *in camera* meeting held pursuant to the City's *In Camera By-law*, and information in the possession of or received in confidence by the City that the City is either prohibited from disclosing, is required to refuse to disclose, or may refuse to disclose pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act*.

b. Members must not intentionally access or attempt to access confidential information which is in the custody of the City unless it is necessary for the performance of their duties of office.

2. Conflict of Interest

a. Members must not act in situations in which they have a real or apparent conflict of interest, whether during a meeting of Council or Committee of Council or at any other time while performing their duties of office.

> A **conflict of interest** exists when a Member exercises his or her duties of office and at the same time knows that in the performance of those duties there is the opportunity to further his or her private interests.
>
> A **private interest** includes any personal benefit, whether pecuniary or not.
>
> A **real conflict of interest** exists when a Member has knowledge of a private interest that is sufficient to influence the exercise of his or her duties of office.
>
> An **apparent conflict of interest** exists when there is a reasonable perception, which a reasonably well-informed person could properly have, that the Member's ability to perform any official duty or function must be influenced by his or her private interest.

b. Interests which do not give rise to a conflict of interest include:

- interests in matters of general application;
- interests in matters that affect a Member as one of a broad class of the public;
- interests that concern the remuneration and benefits of the Member as a Member of Council; and
- interests that are trivial.

c. A Member is presumed not to have an interest in any appointment to serve in his or her official capacity on any commission, board or agency, or in matters arising in relation to that commission, board or agency.

d. A Member who has a conflict of interest with respect to any matter must refrain from influencing the matter and from discussing or voting on any decision with respect to the matter.

e. Should a conflict of interest, real or apparent, arise with respect to a matter that will be discussed or determined at a meeting of Council or a Committee of Council, the Member must:

i. disclose the general nature of the Member's interest, and

ii. withdraw from the meeting without voting or participating in the discussion.

f. Where a Member does not disclose an interest under Rule 2.e. because they are not in attendance at the meeting at which the matter arose, the Member must disclose the general nature of his or her interest at the next meeting of the same body before which the matter arose.

g. Where, by reason of withdrawal from a meeting because of non-pecuniary interests, there would be fewer Members remaining than are needed to meet quorum, those Members who have withdrawn by reason of a non-pecuniary interest must disclose their interest, but may still vote in respect of the matter.

3. Gifts and Benefits

Acceptability

a. Members must not accept any gift or personal benefit that would, to a reasonable, well-informed person, create the appearance that the donor is seeking to influence the Member or gain the favour of the Member.

b. For these purposes, a gift or benefit provided with the Member's knowledge to a Member's dependant or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.

> **Dependant** means
> (a) the spouse of a Member,
> (b) the common-law partner of a Member, and
> (c) any child, natural or adopted, of the Member,
> who resides with the Member.

c. For clarification, it is generally not a violation of Rule 3.a. to accept the following:

i. compensation authorized by law;

ii. gifts or benefits received as an incident of accepted protocol or normal expression of courtesy;

iii. a political contribution otherwise authorized and reported in accordance with the law;

iv. services provided without compensation by persons volunteering their time;

v. admission to charitable or community organized events, widely-attended events such as conventions or conferences, or training and education programs, provided that:

1. admission is offered by the entity responsible for organizing and presenting the event;

2. admission is unsolicited by the Member; and

3. the Member is attending or participating in his or her official capacity;

vi. food, lodging, transportation and entertainment provided by federal, provincial or municipal governments or their political subdivisions or by the government of a foreign country, as long as these benefits are received by the Member during the performance of their duties of office; and

vii. sponsorships and donations for community events organized or run by a Member or a third party on behalf of a Member.

d. Except for political contributions allowable by law, Members must never accept gifts or benefits provided by a registered lobbyist, or their lobbyist client or employer.

Disclosure Requirements

e. Members must provide the Integrity Commissioner with a quarterly Disclosure Statement identifying the receipt of any gift or benefit connected to the performance of the Member's duties of office, with the exception of gifts falling under 3.c.i., iii., or iv., above. The Disclosure Statement must identify the following:

i. the nature of the gift or benefit;

ii. its source and date of receipt;

iii. the circumstances under which the gift was given or received;

iv. the gift's estimated value; and

v. what the recipient intends to do with the gift.

f. Disclosure Statements provided under this rule will be a matter of public record.

4. Use of Influence

Members must not use the influence of their office for purposes other than for the proper exercise of their duties of office.

5. Use of City Staff, Resources and Property

Members must not use or permit the use of their staff, City staff, or City resources or property for purposes other than those connected with the discharge of their duties of office.

6. Election-Related Activity

a. Members are required to follow all applicable election legislation and By-laws, including without limitation, *The City of Winnipeg Charter*, *The Municipal Councils and School Boards Elections Act* and all relevant City of Winnipeg By-laws.

b. Members must not use the facilities, equipment, supplies, services or other resources of the City (including Members' newsletters or websites linked through the City's website) for any election campaign or campaign-related activities.

c. Members must not use the services of City staff for election-related purposes during hours in which those staff members are in the paid employment of the City.

7. Conduct Concerning Staff

a. Members must not directly or indirectly, request, induce, encourage, aid, or permit City staff or their own staff to do something which, if done by the Member, would be a breach of this Code of Conduct.

b. Members must not compel City staff or their own staff to engage in partisan political activities or subject them to reprisal of any kind for refusing to engage in such activities.

c. Members must not use, or attempt to use, their authority for the purpose of intimidating, coercing, or influencing City staff or their own staff with the intent of interfering with such staff's duties.

d. Members must not maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of City staff or their own staff and must at all times show respect for staff's professional capacities.

8. Respectful Conduct

a. All Members have a duty to treat members of the public, one another, City staff and their own staff with respect and without abuse, harassment, or intimidation.

Harassment includes:

i. any behaviour, whether a single incident or a course of conduct, that a reasonable person should have known would be unwelcome, and that is inappropriate, demeaning, humiliating, embarrassing, or otherwise offensive, including but not limited to:
   a. verbal or written insults, abuse or threats;
   b. racial or ethnic slurs, including racially derogatory nicknames;
   c. leering or other offensive gestures;
   d. bullying; or
   e. patronizing or condescending behaviour; and

ii. objectionable and unwelcome sexual solicitations or advances.

b. While Members may passionately debate issues and promote ideas, they must maintain proper decorum during meetings of: Council, Committees of Council, and boards, agencies or commissions on which they serve as part of their duties of office.

9. Adherence to Council Policies and Procedures

Members must adhere to all By-laws, policies and procedures adopted by Council.

10. Reprisals and Obstruction

a. It is a violation of this Code to obstruct the Integrity Commissioner in the carrying out of his or her duties and responsibilities.

b. No Member shall threaten or undertake any reprisal against a person who makes a complaint under this Code or against a person who provides information to the Integrity Commissioner in any investigation of such a complaint.

F. ENFORCEMENT

1. Annual Meeting with Integrity Commissioner

Members shall meet with the Integrity Commissioner at least once annually in order to discuss their obligations under this Code and under other policies, By-laws or Acts which govern their ethical behaviour.

2. Investigation of Complaints

The Integrity Commissioner may: receive and investigate complaints alleging that the Rules set out in this Code have been breached; make findings; and report to Council, in accordance with the provisions of the Complaint Protocol attached as Appendix B to the Code.

3. Reliance on Advice Provided to Member by Integrity Commissioner

a. Members may seek advice from the Integrity Commissioner in accordance with the provisions of the Advice Protocol attached as Appendix A to the Code.

b. Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter, as long as the facts presented by the Member to the Integrity Commissioner were accurate and complete.

4. Sanctions for Misconduct

Where the Integrity Commissioner has determined there has been a violation of the Code, the Integrity Commissioner may recommend to Council that:

i. the Member be reprimanded;

ii. the Member be required to make a public apology;

iii. the Member be requested to return a gift or benefit or, where the gift or benefit cannot be returned, reimburse the donor for the value of the gift or benefit;

iv. the Member be removed from a committee; and/or

v. the Mayor be requested to remove the Member from his or her position as Chair of a committee.

Appendix A to the Code of Conduct
for Members of Council

ADVICE PROTOCOL FOR MEMBERS OF COUNCIL

Circumstances and Effect of Seeking Advice from the Integrity Commissioner

1. Any written advice given by the Integrity Commissioner ("Commissioner") to a Member of Council ("Member") binds the Commissioner in any subsequent consideration of the Member's conduct in the same matter, as long as the facts presented by the Member to the Commissioner were accurate and complete.

2. The Commissioner may, on his or her own initiative, reconsider advice that has been provided to a Member. The Commissioner will let the Member know that the advice is being reconsidered, but that the original advice will stand unless and until amended.

3. Advice that is general in nature will only be given informally by the Commissioner and is subject to change by the Commissioner when applied to specific facts that may not have been known at the time the general advice was provided.

4. The Commissioner will not provide advice as to whether or not the Member's past conduct was in contravention of the Code of Conduct, but will provide information, in a general way, as to how the Member may govern himself or herself, in similar situations in the future.

5. It is inappropriate for a Member to use advice sought from the Commissioner to attack or malign the behaviour of another Member.

6. Communication between the Commissioner and a Member is confidential, subject to any disclosure required by law, except:

    a. The fact that advice was sought may be reported by the Commissioner in a report following the investigation of a complaint; and

    b. At any time, should a portion of the advice provided by the Commissioner to a Member be made public, the Commissioner shall be at liberty to make public the entirety of the advice that was provided.

7. The Commissioner may include a summary of advice given to Members, in a general and anonymous way, in Annual Reports to Council and in commentary on the Commissioner's website.

Appendix B to the Code of Conduct
for Members of Council

COMPLAINT PROTOCOL

Part A: Informal Complaint Procedure

1. Any individual who identifies or witnesses behaviour or activity by a Member of Council ("Member"), which includes the Mayor, that they believe contravenes the Rules of the Code of Conduct may seek to address the prohibited behaviour or activity in the following way:

   a) contact the Member directly to advise that the behaviour or activity appears to contravene the Code of Conduct, identifying the specific provision(s) of the Code of Conduct that may have been contravened, in an attempt to settle or resolve the matter;

   b) ask the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to settle or resolve the matter;

   c) if applicable:

      i) confirm to the Member that his or her response is satisfactory, or

      ii) advise the Member that his or her response is unsatisfactory; or

   d) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B of this Protocol, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.

2. Individuals are encouraged to pursue the Informal Complaint Procedure as the first means of remedying behaviour or activity of a Member that they believe violates the Code of Conduct.

3. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal complaint resolution process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint.

4. The Integrity Commissioner has the discretion to withdraw from any informal complaint resolution process at any time.

5. Any participation by the Integrity Commissioner in an informal complaint resolution process will not preclude the Integrity Commissioner from undertaking a formal investigation of the same matter pursuant to the Formal Complaint Procedure set out in Part B of this Protocol.

6. The Informal Complaint Process is not a precondition or a prerequisite to pursuing the Formal Complaint Procedure.

Part B: Formal Complaint Procedure

Formal Complaints

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Rules of the Code of Conduct may file a formal complaint requesting an investigation by the Integrity Commissioner as to whether the Member has contravened the Rules of the Code of Conduct, in accordance with the following requirements:

   a. all complaints shall be in writing on the prescribed Formal Complaint Form (attached to this Part) and shall be dated and signed by an identifiable individual; and

   b. all complaints shall be sent directly to the Integrity Commissioner by mail, e-mail or fax to the address or number identified on the Integrity Commissioner's webpage: http://www.winnipeg.ca/council/integritycommissioner/default.stm.

2. The details of the complaint will be disclosed to the respondent Member, however, the name of the person complaining will only be disclosed in circumstances where fairness requires such disclosure.

3. Council may, by resolution, direct the Integrity Commissioner to investigate any matter that is within the Integrity Commissioner's jurisdiction and the Integrity Commissioner will, upon receiving such resolution, commence the investigation in accordance with the provisions of this Protocol.

Time for Filing Complaints

4. Complaints must generally be made: (a) within 60 days after the date of conduct giving rise to the complaint; or (b) within 60 days after the Complainant became aware of the conduct giving rise to the complaint. Subject to section 25 of this Part, the campaign period prior to a general Municipal election will not be counted as part of the 60 days in which a complaint may be made.

   The "campaign period" is as defined in section 31(1) of *The City of Winnipeg Charter*.

5. The Integrity Commissioner may accept a complaint filed after the expiry of the time limit set out in section 4 if the Integrity Commissioner is satisfied that:

   a. the delay was incurred in good faith;

   b. it is in the public interest to conduct an investigation, or give consideration to whether or not to conduct an investigation; and

   c. no substantial prejudice will result to any person because of the delay.

Complaints Outside Integrity Commissioner's Jurisdiction

6. If the complaint is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or if the complaint relates to matters addressed by other legislation or complaint

procedure under another City of Winnipeg procedure, policy or rule, the Integrity Commissioner shall advise the Complainant in writing as follows:

Criminal Matter

(a) If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code* of Canada, the Complainant shall be advised that if the Complainant wishes to pursue any such allegation, the Complainant must pursue it with the appropriate police service;

The Municipal Council Conflict of Interest Act

(b) If the complaint on its face is regarding non-compliance with *The Municipal Council Conflict of Interest Act* as opposed to the Code of Conduct, the Complainant shall be advised to review the matter with the Complainant's own legal counsel;

Freedom of Information and Protection of Privacy Act

(c) If the complaint is more appropriately addressed under the *Freedom of Information and Protection of Privacy Act*, the Complainant shall be advised that the matter must be referred to the City of Winnipeg Clerk to deal with under the City's access and privacy policies under the legislation;

Other Legislation or Procedure, Policy or Rule Applies

(d) If the complaint appears to fall within the scope of other legislation or another procedure, policy or rule of the City, the Complainant shall be advised to pursue the matter under such legislation or procedure, policy or rule;

Lack of Jurisdiction

(e) If the complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner, the Complainant shall be so advised and provided with any additional referrals as the Integrity Commissioner considers appropriate; and

Matter Already Pending

(f) If the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding related to *The Municipal Council Conflict of Interest Act*, a complaint under the Manitoba *Human Rights Code* or similar process, or to a civil matter that is pending before the courts, the Integrity Commissioner may, in his or her sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process.

Refusal to Conduct Investigation

7. If the Integrity Commissioner is of the opinion that:

a. the conduct described in the complaint is not within the Integrity Commissioner's jurisdiction to investigate; or

b. the complaint is frivolous, vexatious or not made in good faith; or

c. there are no grounds or insufficient grounds for an investigation, or that it is unlikely that the complaint will succeed;

the Integrity Commissioner shall not conduct an investigation and, where this becomes apparent in the course of an investigation, shall terminate the investigation.

8. The Integrity Commissioner may request further information from the Complainant before deciding whether or not there are reasonable grounds for believing that a violation of the Code of Conduct may have occurred and an investigation is warranted.

9. In the event that the Integrity Commissioner receives multiple complaints concerning the same matter, the Commissioner may combine those complaints for the purposes of investigating and reporting to Council.

10. The Integrity Commissioner, in considering a complaint, may have regard to all of the Rules of the Code of Conduct and not simply those which the Complainant identifies as having been contravened.

Opportunities for Resolution

11. Following receipt and review of a Formal Complaint, or at any time during an investigation, where the Integrity Commissioner believes that an opportunity to resolve the matter informally may be successfully pursued, and both the Complainant and the Member agree, efforts may be pursued to achieve such an informal resolution.

Investigation

12. If a complaint is within the Integrity Commissioner's jurisdiction and is not rejected by the Integrity Commissioner on one of the grounds listed in section 7, the Integrity Commissioner will investigate the complaint as follows:

    a. provide the Member whose conduct is in question with the details of the complaint and any supporting material determined to be relevant by the Integrity Commissioner, by mail or e-mail, together with a notice of intention to conduct an investigation.

    b. request that the Member provide a written response to the complaint, any supporting documents or materials, and a list of relevant witnesses, within ten (10) days.

    c. provide a copy of the Member's response to the Complainant with a request that any written reply be provided by the Complainant within ten (10) days. A copy of that reply will be provided to the Member.

13. The Integrity Commissioner may seek information from anyone relevant to the complaint and may receive such information either in person or in writing.

14. The Integrity Commissioner may review all books, financial records, electronic data, processing records, reports, files and any other papers, things or property belonging to or used by the City of Winnipeg and enter any relevant City of Winnipeg work location which the Integrity Commissioner deems necessary for the purpose of the investigation.

15. Where, during the course of an investigation, the Integrity Commissioner becomes aware of any additional complaint which is within the Integrity Commissioner's jurisdiction and is not rejected by the Integrity Commissioner on one of the grounds listed in section 7, the Integrity Commissioner shall, upon notice to the Member, investigate such complaint in accordance with the provisions of this Protocol.

Reporting

16. Where the Integrity Commissioner finds that the complaint has been sustained either in whole or in part, the Integrity Commissioner shall report to Council outlining his or her findings and any recommended corrective action or sanctions.

17. The Integrity Commissioner shall not issue a report to Council which finds a violation of the Code of Conduct on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and recommended sanction and an opportunity either in person or in writing to comment to the Integrity Commissioner on the proposed finding and recommended sanction. In preparing his or her report to Council, the Integrity Commissioner shall take the Member's response into consideration and shall attach a copy of the response to his or her report.

18. The Complainant will be provided with a copy of the Integrity Commissioner's report to Council when the report is placed on the agenda for the meeting at which the report will be considered.

19. The Integrity Commissioner may make interim reports to Council as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation.

20. If the Integrity Commissioner determines that there has been no breach of the Code of Conduct, he or she will advise the Member and the Complainant of that determination, and will generally, not report to Council about his or her determination, except as part of an Annual Report.

Member not Blameworthy

21. If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct, or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence, or an error of judgment made in good faith, the Integrity Commissioner may so state in a report to Council and may make appropriate recommendations.

Duty of Council

22. When Council receives a report from the Integrity Commissioner following an investigation it shall consider and act on that report forthwith.

23. A Member who is the subject of an Integrity Commissioner's report following an investigation shall be entitled to make a delegation to Council on the matter, but shall not participate in the deliberations of Council or in any vote of Council on the matter. The ability to make such delegation, however, is subject to the provisions of *The Municipal Council Conflict of Interest Act* which prohibit a Member from influencing Council in any way where the Member has a pecuniary interest in the matter.

Election Year

24. During the campaign period, with respect to complaints alleging that a Member of Council has breached the Code of Conduct, the Integrity Commissioner will:

    a. not receive any complaints;

    b. suspend any ongoing investigation of a previously filed complaint; and

    c. not submit any report to Council, of findings with respect to complaints.

    The "campaign period" is as defined in section 31(1) of *The City of Winnipeg Charter*.

25. Following the Municipal election, investigations or reports concerning the conduct of a former Member while that individual was still a Member, will only be commenced or continued at the request of Council, by resolution.

Public Disclosure

26. The Integrity Commissioner and every person acting under the Integrity Commissioner's jurisdiction shall preserve confidentiality of the investigation process, except as required by law and as required by this Protocol.

27. If the Integrity Commissioner finds that the Code of Conduct has been breached, the identity of the Member who is the subject of the complaint shall not be treated as confidential.

28. All reports from the Integrity Commissioner to Council will be made available to the public.

Formal Complaint Form

Confidential Complainant Information:

Name: _____

Permanent Residence: _____

Mailing Address: _____

Phone Number: _____

Email Address: _____

Note: The name of the Complainant will only be disclosed in circumstances where fairness requires disclosure or where required by law. The Complainant will be notified in advance if their identity is to be disclosed.

Member(s) of Council in Question: _____

Rule(s) of the Code of Conduct believed to have been contravened: _____

Outline the details of your Complaint. Include names of any witnesses. Use additional pages as necessary. Provide clear and specific information. If you refer to any documents please attach copies of these documents to this Complaint Form:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Complainant **Date**