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 Procedures*
    - *Codes of Conduct for City Boards or Commissions*

3. Members are responsible to be familiar with the requirements of the By-laws, policies, procedures 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 Procedures for Members of Council, attached to and forming part of the Code.

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

"**Campaign Period**" means:

(a) in a general election begins on May 1 in the year of the election and ends on the start of the new term of Council as defined in Section 18(1) of *The City of Winnipeg Charter*; and

(b) in an election to fill a vacancy, begins on the day when the senior election officer receives the direction from the City Clerk to hold the election and ends on the start of the term as defined in section 18(2) of *The City of Winnipeg Charter*.

"**Child**" means a child of a Member, and includes a child born within or outside of marriage, a Member's natural child, adopted child, or a person for whom a Member has demonstrated a settled intention to treat as a child of their family.

"**City**" means the City of Winnipeg.

"**Code**" means the Code of Conduct for Members of Council.

"**Council**" means Winnipeg City Council.

"**Duties of Office**" are the duties and activities that relate to the position of the Member, namely participation in activities relating to the proceedings and work of Council and activities undertaken in representing the City or the Member's ward or constituents but do not include:

- activities related to the private interests of the Member;
- a Member's election-related activities; and
- activities including fundraising activities designed, in the context of a federal, provincial or municipal election, or any other local election, to support or oppose a political party or an individual candidate.

~~"**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.~~

"**Election**" means an election for Winnipeg City Council, whether a general election or an election to fill a vacancy (a by-election).

"**Family**" means a Member's Spouse, a Member's Child, the parents of a Member and the parents of a Member's Spouse.

"**General Election**" means an election of the Mayor and Councillors for all wards required to be held in October in every fourth year.

"**Gift or Benefit**" means an item or service of value that is received by a Member for their personal use or for the use of their family or staff. It includes, but is not limited to: money, gift cards, tickets to events, clothing, jewelry, pens, food or beverages, discounts/rebates, free or subsidized meals, entertainment, participation in sport and recreation activities, and invitations to paid social functions.

"**Member**" means a member of Council whether the Mayor or a Councillor.

"**Private Interest**" includes any personal benefit, whether or not pecuniary, but does not include an interest:

(a) in matters of general application;
(b) in matters that affect a Member as one of a broad class of the public;
(c) that concerns the remuneration and benefits of the Member as a Member of Council; or
(d) that is trivial.

"**Spouse**" means a person to whom a Member is married or with whom the Member is living in a conjugal relationship outside marriage.

"**Staff**" means City staff and the Member's own staff, regardless of how the individual is paid and includes a student, intern or volunteer.

D. KEY PRINCIPLES

1. 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.

2. The Key Principles form a helpful framework within which to review the actions of Members of Council.

Like the Preamble, however, they do not identify a stand-alone set of obligations the alleged violation of which can be the subject of a complaint.

E. RULES OF CONDUCT

1. Confidential Information

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

> **Confidential information** is information contained in the agenda for or discussed at an *in camera* meeting ~~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*.~~
>
> which may include any of the following:
>
> - Reports or information concerning personnel-related matters;
> - Reports or information which, if disclosed, could prejudice contractual or other negotiations carried on by or on behalf of the City of Winnipeg, including collective bargaining;
> - reports or information which, if disclosed, could be prejudicial or injurious to existing or anticipated claims or legal proceedings;
> - reports or information which, if disclosed, would violate solicitor-client privilege;
> - reports or information containing personal information which, if disclosed, would be deemed to be an unreasonable invasion of an individual's privacy under section 17 of *The Freedom of Information and Protection of Privacy Act*;
> - reports or information containing information about a business, disclosure of which would be prohibited under section 18 of *The Freedom of Information and Protection of Privacy Act*; or
> - reports or information containing information provided explicitly or implicitly in confidence by another government or governmental body, disclosure of which is prohibited under section 20 of *The Freedom of Information and Protection of Privacy Act*.

b. Members ~~must~~shall 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~~shall 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.

i. A conflict of interest exists when a Member exercises their duties of office and at the same time knows that in the performance of those duties there is the opportunity to further their private interests.

ii. A **real conflict of interest** exists when a Member has knowledge of a private interest that is sufficient to influence the exercise of their duties of office.

iii. 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 their private interest.

b. A Member is presumed not to have a private interest in any appointment to serve in their official capacity on any commission, board or agency, or in matters arising in relation to that commission, board or agency.

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

d. 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~~shall:

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

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

e. Where a Member does not disclose a private interest under Rule 2.d. because they are not in attendance at the meeting at which the matter arose, the Member ~~must~~shall disclose the general nature of their interest at the next meeting of the same body before which the matter arose.

~~f. 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. Fundraising

Members ~~must~~shall not solicit funds from any person or organization if doing so would constitute an improper use of the influence of their office.

4. Gifts ~~and~~ or Benefits

Acceptability

a. Members ~~must~~shall not solicit or 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~~family 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.

c. For clarification, it is generally not a violation of Rule 4.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 to further the interests of the City or the Member's ward;

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 their 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~~shall ~~never~~not accept a gift or benefit provided by a registered lobbyist, or their lobbyist client or employer. It is generally not a violation of this Rule to accept light refreshments given in the context of an interaction with a lobbyist where the Member is not able to obtain refreshments at their own cost.

e. Where a Member or their dependant or their staff is offered or given a gift that is not acceptable, the Member ~~must~~shall refuse it or, at the earliest opportunity, return it to the donor without making any personal use of it.

<u>Disclosure Requirements</u>

f. Members ~~must~~shall 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 4.c.i., iii., or iv., or a gift or benefit valued at less than $50.00. The Disclosure Statement ~~must~~shall 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.

g. Disclosure Statements provided under this rule ~~must~~shall be a matter of public record.

5. Use of Influence

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

6. Use of Staff, Resources and Property

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

7. 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~~shall 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-related activities.

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

d. Members shall not make any form of public funding announcement, including but not limited to press conferences, media releases and social media statements, pertaining to expenditures from the Land Dedication Reserve, Community Incentive Grants, Per Capita grants and/or the Mayor's Civic Initiative's fund in the sixty (60) day period prior to an election.

8. Conduct Concerning Staff

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

b. Members ~~must~~shall not compel 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~~shall not use, or attempt to use, their authority for the purpose of intimidating, coercing, or influencing staff with the intent of interfering with such staff's duties.

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

9. Respectful Conduct

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

~~**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.~~

Harassment includes:

i) Any behaviour, whether a single incident or a course of conduct that is unwelcome or that a reasonable person would know is unwelcome and that is inappropriate because it is demeaning, humiliating, intimidating or otherwise offensive; and

ii) **Sexual harassment**, which is behaviour of a sexual nature, whether a single instance or a course of conduct, that is committed, threatened or attempted and that is unwelcome or that a reasonable person would know is unwelcome. It includes behaviour that is directed to or about an individual because of their sexuality, sexual orientation, gender identity or expression.

b. The Integrity Commissioner shall interpret Rule 9 in a manner which is consistent with the Manitoba *Human Rights Code*, C.C.S.M. c. H175.

c. ~~While Members may passionately debate issues and promote ideas, they must maintain proper decorum during meetings of Council and Committees of Council., and boards, agencies or commissions on which they serve as part of their duties of office.~~ The Integrity Commissioner will generally not accept a complaint about a Member's conduct if it has already been dealt with by the Speaker or Presiding Officer of the relevant meeting of Council, or of a Committee of Council.

~~10. 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 their 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. This requirement can be satisfied by the Member attending an education session for Council offered by the Integrity Commissioner or by contacting the Integrity Commissioner to seek advice on a proactive basis.

The Integrity Commissioner may comment on the number of Members who have complied with this obligation in their annual report.

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 Procedures 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 Procedures 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;

v. the Mayor be requested to remove the Member from their position as Chair of a committee; and/or

Appendix A to the Code of Conduct
for Members of Council

ADVICE PROCEDURES 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 their own initiative, reconsider advice that has been provided to a Member. The Commissioner ~~must~~shall let the Member know that the advice is being reconsidered, but that the original advice ~~must~~shall stand unless and until amended.

3. Advice that is general in nature ~~must~~shall 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 ~~must~~shall not provide advice as to whether or not the Member's past conduct was in contravention of the Code of Conduct, but ~~must~~shall 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;

    b. A Member is entitled to make public, advice the Member receives from the Integrity Commissioner; and

    c. 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 PROCEDURES

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 their response is satisfactory, or

      ii) advise the Member that their 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 these *Procedures*, 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.~~ The Integrity Commissioner may at any time after receiving a formal complaint attempt to resolve the complaint through an informal complaint resolution process. The Integrity Commissioner may act 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 ~~must~~shall 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 these *Procedures*.

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

7. The sections relating to confidentiality and public disclosure contained in Part B – Formal Complaints – sections 19-30 apply with necessary modification to Part A - Informal Complaint Procedure.

8. The Integrity Commissioner may include anonymized information about informal complaints in the Annual Report the Integrity Commissioner provides to Council.

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 ~~must~~shall be disclosed to the respondent Member, however, the name of the person complaining ~~must~~shall 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 ~~must~~shall, upon receiving such resolution, commence the investigation in accordance with the provisions of these *Procedures*.

Time for Filing Complaints

4. Complaints ~~must~~shall 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.~~ Consistent with section ~~28~~ 36(a) of this Part, the campaign period prior to a Municipal election ~~must~~shall not be counted as part of the 60 days in which a complaint may be made.

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:~~. When deciding whether to accept a complaint filed after the expiry of the time limit set out in section 4, the Integrity Commissioner shall consider the following factors:

    a. the date that the complainant became aware of the conduct giving rise to the complaint;

    b. whether the complainant knew or ought to have known about the conduct giving rise to the complaint at an earlier date;

    c. whether the complainant has unreasonably delayed in filing the complaint;

    d. whether the delay was incurred in good faith;

    e. whether ~~no~~ substantial prejudice will result to any person because of the delay; and

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

Preliminary Assessment

6. Upon receipt of a formal complaint, the Integrity Commissioner shall perform a preliminary assessment of the matters alleged in the complaint to determine if they will conduct an investigation of the complaint.

~~6.~~7. The Integrity Commissioner may request further information from the Complainant or others 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.

~~7.~~8. 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.

~~8.~~9. The Integrity Commissioner, in considering the allegations which are set out in 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.

Refusal to Conduct Investigation

~~9.~~10. 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;

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

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

d. an investigation would serve no useful purpose;

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

Complaints Outside Integrity Commissioner's Jurisdiction

~~10.~~11. 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 be dealt with with under the City's access and privacy policies under ~~the~~that 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.

Matter Already Pending

~~11.~~12. To avoid incurring unnecessary costs associated with duplication, and/or to avoid inappropriately interfering with the conduct of another process, if the complaint is in relation to a matter which is subject to an outstanding complaint or pending investigation under another process, including a matter that is pending before the Courts, the Integrity Commissioner may determine that they will not conduct an investigation of the complaint and may suspend any ongoing investigation pending the result of that other process.

Notice to the Member

~~12.~~13. Where the Integrity Commissioner has declined to conduct an investigation, the Integrity Commissioner ~~will~~ shall provide the Member who is the subject of the complaint with both an anonymized copy of the complaint and the Integrity Commissioner's response to the Complainant.

Opportunities for Resolution

~~13.~~14. Following receipt and review of a Formal Complaint, or at any time during an investigation, where the Integrity Commissioner believes it to be appropriate ~~that an~~

~~opportunity to resolve the matter informally may be successfully pursued~~, efforts may be pursued to achieve ~~such~~ an informal resolution.

Investigation

~~14.~~15. 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~~10, the Integrity Commissioner ~~will~~shall investigate the complaint as follows:

a. ~~provide~~ advise the Member whose conduct is in question of their intention to conduct an investigation, and provide them with the details of the complaint and any relevant 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; and

c. share portions or all of the Member's response with the Complainant. ~~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.~~

~~15.~~16. The Integrity Commissioner shall seek and share information with and from the parties and any witnesses as is necessary to complete the inquiry, in a manner that is procedurally fair.

~~16.~~17. 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.

~~17.~~18. Where, during the course of an investigation, the Integrity Commissioner becomes aware of any additional complaint made by a Complainant 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~~10, the Integrity Commissioner shall, upon notice to the Member, investigate such complaint in accordance with the provisions of ~~this Protocol~~. these *Procedures*.

Confidentiality

~~18.~~19. 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 these *Procedures*.

~~19.~~20. If the identity of a Complainant is to be disclosed to the Member during the investigation, the Integrity Commissioner shall notify the Complainant of the disclosure in advance.

~~20.~~21. Where a complaint includes allegations that a Member has breached Rule 9, the Member is required to maintain confidentiality over the identity of the Complainant unless it becomes public for other reasons. A failure to do so may result in an adverse finding against the Member.

~~21.~~22. All parties and witnesses involved in an investigation shall maintain confidentiality over the investigation process. This obligation extends to any information or document they receive as a result of participating in the investigation process.

~~22.~~23. If a party to an investigation or anyone acting on their behalf fails to maintain confidentiality over the investigation, the Integrity Commissioner shall take that into account in conducting the investigation and may dismiss the complaint or may make an adverse finding against the party.

~~23.~~24. For greater certainty, neither the Complainant nor the Member has to keep the existence of a complaint, confidential.

~~24.~~25. The Integrity Commissioner has discretion over whether and to what extent the identity of the Complainant is to be kept confidential when publishing a report to Council.

~~26. If the Integrity Commissioner finds that the *Code* has been breached, the identity of the Member who is the subject of the complaint shall not be treated as confidential they shall not treat the identity of the Member who is the subject of the complaint as confidential when they publish their report to council.~~

Reporting

~~25.~~26. Where the Integrity Commissioner finds that the Code has been contravened either in whole or in part, the Integrity Commissioner shall provide a report to Council outlining their findings, their opinion as to how the Member has contravened the Code and any recommended corrective action or sanctions. The Member's name will be disclosed in that report.

~~26.~~27. 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 their report to Council, the Integrity Commissioner shall take the Member's response into consideration and shall attach a copy of the response to their report.

~~27.~~28. Where the Integrity Commissioner finds that the *Code* has been breached, the Complainant ~~will~~shall 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~~shall be considered.

~~28.~~29. 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.

~~29.~~30. ~~If~~ Where the Integrity Commissioner determines that the *Code* has not been contravened, ~~has been no breach of the Code of Conduct,~~ the Integrity Commissioner ~~will~~shall provide a

report to the Member and the Complainant advising them of that determination, and ~~will~~shall not report to Council about their determination, except as part of an Annual Report.

Member not Blameworthy

~~30.~~31. If the Integrity Commissioner determines 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

~~31.~~32. When Council receives a report from the Integrity Commissioner following an investigation it shall consider and act on that report forthwith.

~~32.~~33. 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.

Imposition of Sanctions by Council

~~33.~~34. When Council receives a report from the Integrity Commissioner which identifies that there has been a violation of the *Code*, Council may impose any or all of the following sanctions:

i. That the Member be reprimanded;

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

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

v. That the Mayor be requested to remove the Member from their position as chair of a committee.

~~34.~~35. When deciding whether to impose any of the sanctions for misconduct listed in paragraph 37 above, Council ~~will~~shall consider the following factors:

a. The nature of the Code of Conduct contravention;

b. The length or persistence of the Code of Conduct contravention;

c. Whether the Member knowingly contravened the Code of Conduct;

d. Whether the Member took steps to prevent, mitigate or remedy the Code of Conduct contravention;

e. Whether the contravention was committed through an error of judgment made in good faith; and

f. Whether the Member previously contravened the Code of Conduct.

Election Year

~~35.~~36. During the campaign period the Integrity Commissioner ~~will~~shall:

a. not receive any complaints alleging that a Member of Council has breached the Code of Conduct;

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

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

Former Member

~~40.Following the 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.~~

~~36.~~37. The Integrity Commissioner shall not commence an investigation and shall suspend an ongoing investigation if, before the investigation is commenced or completed, the Member whose conduct is the subject of the investigation resigns, is not re-elected following an election, or is otherwise removed from office.

~~37.~~38. Suspended investigations may only be continued if the Integrity Commissioner is of the opinion that it is in the public interest to do so.

~~**Public Disclosure**~~

~~30. 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 these Procedures.~~

~~31. If a complaint becomes a matter of public record at any time whether before, during or after the Integrity Commissioner has undertaken an investigation, the Member about whom the complaint is made is permitted to speak publicly about the complaint.~~

~~32. 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.~~

~~33. 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 Integrity Commissioner will only disclose the name of the Complainant in circumstances where fairness requires disclosure. The Complainant will be notified in advance if their identity is to be disclosed. Note the identity of the Complainant may be evident from the nature of the complaint itself.

Member(s) of Council in Question: _____

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

Date that the conduct complained about occurred: _____

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's Signature **Date**