

The Manitoba Association of Landscape Architects

A component organization of the Canadian Society of Landscape Architects

Code of Conduct

Introduction

The Manitoba Association of Landscape Architects (the "Association") represents and sets standards for Landscape Architects in the Province of Manitoba. The Association is one of the nine provincial, regional or territorial bodies that constitute the Canadian Society of Landscape Architects (CSLA). As a component organization of the Canadian Society of Landscape Architects, and as an organization of self-governing professionals, the Association understands the importance of maintaining public trust.

Landscape Architecture is the profession that applies knowledge of the earth's natural systems and human cultures to the planning, design and management of urban and rural developments. Its goals are to promote attitudes of respect, care and responsibility in conserving the landscapes of human heritage and the habitat of other species, and understanding the physical and cultural environments in which landscape architects create new places. The Landscape Architect's foremost responsibility is to inspire high respect and confidence in the profession. Sustained public acceptance is not only essential for professional achievement and progress, but it is vital in the role of promoting and serving general public welfare.

The *Code of Conduct* (the "Code") is designed to ensure that Members act honestly and with dignity and integrity in serving clients and in dealing with other Members and the public. The Code applies equally to all members of the Association, whether Fellows, Members, Associates or Student Affiliates. References in the Code to "Members" apply equally to all categories of membership.

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1: General Professional Responsibilities

A Member **shall**:

- 1: use the name "Manitoba Association of Landscape Architects" and/or the title "Landscape Architect" only as permitted by the Association;
- 2: act fairly, honestly and in a manner that he/she would be prepared to defend publicly;
- 3: perform all services on the client's behalf to the standard of a competent landscape architect;
- 4: not give or accept any commissions or gifts or other inducements or show undue favour to any person or body in the provision of his/her services;
- 5: respect the fact that price competition for professional fees may not be in the long term interests of clients, professionals or the public, and should encourage clients to adopt qualification-based selection practices;
- 6: provide or offer to provide only those services for which the Member has the requisite training or expertise and recognize personal and professional limitations, using reasonable care to retain such staff and consultants as necessary to provide the client with a professional standard of service;
- 7: sign or seal only those drawings or other documents for whose production the Member has had direct responsibility;
- 8: obtain and maintain in force insurance coverage relating to the services provided by the Member:
 - a: as would be prudent for any person providing such services, and
 - b: as may otherwise be required by the Association from time to time;
- 9: in the case of a Member in public sector employment, not use the benefits of that employment to compete unfairly with other Members;
- 10: take all due care to remain current with professional and technical standards in Landscape Architecture;
- 11: maintain and continue to develop a greater level of knowledge and skill including assessment of emerging technologies and research as may be required to provide competent services as a Landscape Architect;
- 12: take available opportunities to disseminate research and examples of good practice in Landscape Architecture;
- 13: ensure that the Member's personal and professional finances are managed in such a way that they do not prejudice or compromise the Member's ability to provide services as contracted;
- 14: **not** place their own commercial interests, or the commercial interests of their client or employer, above the health, welfare and safety of the public or the integrity of the profession;
- 15: ensure that complaints concerning the Member's professional services and business practices are dealt with as required by this Code of Conduct;
- 16: reply promptly and completely to any communication from the Association;
- 17: cooperate in any investigation initiated by the Association;
- 18: if he/she has reason to believe that another Member is engaged in misconduct which may threaten the welfare of others or the integrity of the profession, report the misconduct to the Association and cooperate in resolving resulting matters;
- 19: exhibit integrity in his/her professional life by acting without discrimination on the basis of any of the protected characteristics set out in the Manitoba Human Rights Code;
- 20: be of good character and conduct himself/herself in a manner that does not bring the profession into disrepute.

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2: *Environmental Responsibilities*

A Member is expected to understand that complex, diversified ecosystems provide stability for the earth's life support processes, and that development and other human activities can undermine this stability and threaten these processes. A Member is expected to assume a responsible position in the protection, regeneration and enhancement of the natural and cultural environments consistent with their role as agents of social and ecological change. A Member is expected to abide by the Stewardship Principle, which strives to understand, protect, preserve, and enhance the earth's environmental resources in order to integrate better the built and natural environments. A Member is also **expected** to be mindful of:

- 1: current local, national or international regulations and standards with respect to habitat protection and animal rights;
- 2: ecological principles affecting all aspects of the Member's professional work;
- 3: the conservation of landscape character and natural, historic, and cultural resources in the execution of the Member's work;
- 4: construction techniques and materials that are conducive to the tenets of sustainable development and which employ principles of life-cycle costs, recyclability and the assimilation of residual wastes by ecological systems;
- 5: the consumption of energy and natural resources in the way that the Member organizes and manages the Member's business practices;
- 6: the use of non-toxic and non-hazardous materials and the proper disposal of wastes, especially chemical wastes, in a manner that will have minimal effect on the environment;
- 7: reducing waste production over the entire time span of a project including design, construction and post construction stages;
- 8: the conservation and enhancement of biodiversity through the promotion and understanding of indigenous ecosystems and the natural processes within these ecosystems;
- 9: using plants appropriate to local ecosystems, particularly local indigenous plants and avoiding the use of non-local plants that may naturalize or otherwise threaten local indigenous ecosystems.

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3: Responsibilities to Society

A Member **shall**:

- 1: be mindful of the short and long term social impacts of the Member's work;
- 2: seek to ensure that information with respect to the Member's work that is of importance to human health and environmental protection is not willfully concealed from the public;
- 3: provide full, clear and accurate information on projects to decision-makers and the public providing that this does not conflict with clients' rights to confidentiality;
- 4: seek to provide "pro-bono" services as part of the profession's commitment to the community (pro-bono services are those rendered without charge for the public good, intended for an impecunious client or not-for-profit organization that would otherwise suffer for lack of professional expertise);
- 5: support communities in environmental protection and enhancement matters by encouraging clients and employers to *consult* and *involve* communities in decision-making and project implementation;
- 6: be mindful of the heritage value of cultural resources and seek to ensure their protection and promotion;
- 7: conduct himself/herself towards the public with respect, courtesy and good faith.

4: Responsibilities to Clients

A Member **shall**:

- 1: declare to pertinent clients any ongoing business relationship that the Member has with any design-build operation wherever such a relationship may conflict with requirements under the Code;
- 2: identify a separate commercial fee for the design component of any design-build project that the Member undertakes;
- 3: provide clients at each date of estimate and invoice for a design-build project with clear statements of the costs of the design and of the construction components of the Member's services;
- 4: **not** work, in the case of a design-build project, for both an owner/client and an independent contractor (the Association recommends that a Member should seek to have a single point of contact, direct liability to one party only and single lines of communication with clients and contractors);
- 5: respect clients' rights to confidentiality, particularly with respect to information gathered through a professional relationship including a client's business affairs, technical methods or processes;
- 6: disclose to clients or employers any direct or indirect personal financial or other interest in a project for which the Member provides services as soon as the Member is aware of them;
- 7: keep clients fully informed of the progress and financial consequences of work undertaken on their behalf;
- 8: ensure the security of monies entrusted to the Member's care in the course of practice or business;
- 9: inform clients of any conflict between their requirements and the requirements set out in the Code;
- 10: **not** commence work on a project without a written agreement with a client describing in sufficient detail the Member's responsibilities and the method, form and timing of remuneration for services performed;
- 11: **not** receive compensation for services from more than one party unless all parties agree to such an arrangement in writing;
- 12: render services in an efficient and cost-effective manner, so as to serve and protect the client's interest while maintaining acceptable standards of safety and quality;
- 13: **not** withdraw services except for good cause and upon reasonable notice to the client.

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A component organization of the Canadian Society of Landscape Architects

5: *Responsibilities to Contractors*

A Member **shall**:

- 1: guard equally the interests of contractors and clients/owners in the administration of any construction contract;
- 2: demand equally that all contractors with whom he/she becomes professionally involved, and who are under the Member's direction, understand fully the qualities of work and materials that are specified in contract documents, and that all work is consistent with accepted standards of good construction practice.

6: *Responsibilities to Fellow Professionals*

A Member **shall**:

- 1: conduct himself or herself towards other Members with respect, courtesy and good faith;
- 2: **not** take over a project from another Member if fees are still due to that Member for work to date on that project;
- 3: **not** either knowingly or recklessly make a false or malicious statement that may injure the professional reputation of another member or another person
- 4: **not** make unauthorized use of any work of another party, including that of other Members or of other environmental planning, design and engineering professionals (the Member will be responsible for breaches of copyright, trademarks, patents and similar rights in his/her work);
- 5: respect the roles and responsibilities of members of other professions, particularly related environmental planning, design and engineering professions.

A Member is **expected** to:

- 1: promote and further the aims of the profession and to participate in and contribute to the activities of the Association;
- 2: acknowledge the contribution to projects by other firms and members of other professions in third party publications and other material covering those projects;
- 3: establish and maintain communication with instructors and students in educational institutions that offer CSLA-accredited courses in Landscape Architecture, and to serve as an advisor to students in those institutions.

7: *Responsibilities as Employers and Supervisors*

A Member who acts as an employer or supervisor of other Members shall recognize the responsibilities set out in the Code for employees, and shall not compromise the ability of employees/subordinates to meet the requirements. A Member who acts in this capacity is **expected** to:

- 1: provide opportunities for professional education, mentoring and development of students and graduates in Landscape Architecture, and to provide opportunities for the continuing professional development of all of the Member's employees/subordinates;
- 2: pay proper attention to the experience and abilities of the Member's employees/subordinates when allocating tasks and responsibilities;
- 3: acknowledge the contribution to projects by individual employees in third party publications covering those projects;
- 4: upon written request, allow employees to take for their personal records reasonable copies of materials on which they have worked;
- 5: compensate employees fairly.

The Manitoba Association of Landscape Architects

A component organization of the Canadian Society of Landscape Architects

8: *Responsibilities as Employees*

A Member who is an employee **shall**:

- 1: respect the employer's and the employer's clients' rights to confidentiality with respect to information gathered through a professional relationship;
- 2: **not** claim credit for work undertaken for a former employer without giving adequate acknowledgement to the former employer on all relevant documents and in all related oral presentations;
- 3: **not** take copies of work undertaken for an employer without written request and the employer's express written consent;
- 4: take available opportunities for professional education, mentoring and development;
- 5: exercise loyalty and respect towards the employer.

9: *Responsibilities to Oneself*

A Member has a responsibility to himself/herself to take pride in the profession, to be honest and fair in assessing his/her own strengths, and to maintain a healthy work-life balance that allows the Member to provide the best professional service possible in his/her practice.

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10: Procedures for Enforcement of Code of Conduct

Failure to comply with any Requirements under these Procedures amounts to a breach of the Code.

A: Complaints

Any person may make a Complaint relating to a breach of this Code by submitting notice thereof to the Association but if the Complaint is submitted in electronic format, a copy of the Complaint shall be sent in writing, signed by the Complainant, to the Manitoba Association of Landscape Architects at 131 Callum Crescent, Winnipeg, Manitoba, R2G 2C7. Complainants must include a description of all facts relevant to the Complaint, including, where applicable, copies of **all** relevant documentation.

The Member who is the subject of the complaint will be made aware of the Complaint by the Association within seven [7] calendar days of receipt of the Complaint.

The Chair of the Association's Ethics Committee (the "Chair") shall determine if, based upon the written Complaint, there is reason to believe that there may have been a breach of the Code. If the Chair believes there may have been a breach, the Chair shall notify the applicable Member under review by written notice via registered mail, enclosing a copy of the Complaint and requesting a written response and explanation within fourteen [14] calendar days of receipt of the registered mail. In appropriate circumstances, at his/her complete discretion, the Chair may grant a reasonable extension of time to the Member under review. Failure of the Member under review to respond as stipulated to the Chair's initial written notice, or to a subsequently approved deadline extension, will constitute, in and of itself, a breach of the Code.

The Chair may also collect and examine **additional** information from all parties involved in the matter and through discussions with these parties attempt to mediate and bring all parties to an agreed resolution of differences. If the Chair is unable to bring all parties to an agreed resolution of differences and believes that the Member under review still has a case to answer, the Chair will immediately notify the Council of the Association ("Council") and refer the matter to a Code of Conduct Incident Review Officer (see B Below). If the Chair is an active member of Council, the Chair must excuse himself/herself from all further Council discussions and deliberations regarding the matter until such time as the report (see B.5 below) is presented at the case hearing.

Should the Chair be unable to fulfill any of the responsibilities set out in this Code with respect to a matter, the Association President (or in his/her absence, the Association Vice-President) shall appoint an Acting Chair who shall have all the power and responsibilities of the Chair with respect to that matter.

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A component organization of the Canadian Society of Landscape Architects

B: *Code of Conduct Incident Review Officer, Inquiries and Recommendations*

1. The Chair shall appoint a Code of Conduct Incident Review Officer (the “Review Officer”) who shall be a Member of the Association who is willing to complete his/her duties on a volunteer basis.
2. Members may not be selected to act as a Review Officer if the Member has any direct or indirect business or personal relationship with the Complainant or the Member who is the subject of the Complaint. Any individuals with a conflict of interest regarding this matter will declare this conflict and excuse themselves from the proceeding at the earliest possible opportunity.
3. Once the Review Officer has been appointed, the Chair shall:
 - a) brief the Review Officer on mandate and responsibilities;
 - b) provide to the Review Officer within fourteen [14] days all documents in the possession of the Chair relating to the Complaint.
4. The Review Officer **shall**:
 - a) provide a clear timeline by which all information and material must be submitted by the Complainant and the Member under review (if required, additional time may be granted at the Review Officer’s discretion);
 - b) review all available materials, becoming familiar with the alleged breach of the Code under review, identifying any additional information necessary to review and recommend action by the Association in the matter;
 - c) require the Member under review to produce any other records, books, papers and other documents or items in that individual’s possession or control that may be relevant to the Review;
 - d) request the Complainant to produce any other records, books, papers and other documents or items in the Complainant’s possession or control that may be relevant to the Review;
 - e) if deemed necessary, conduct in-person interviews with each party (Complainant and Member under review) to ascertain further details of the case (interviews may be recorded);
 - f) if deemed necessary, conduct in-person or phone interviews with any **other** Members or persons involved in the case who have been identified as having knowledge or information related to the alleged infraction by either party (interviews may be recorded);
 - g) if deemed necessary, consider any information that he/she considers to be credible and reliable and is not bound by the rules of law concerning evidence (acceptance or rejection of information pertaining to the complaint is at the discretion of the Review Officer);
 - h) if deemed necessary, consult with an external individual who has expertise in a particular field beyond that of the Review Officer, in order to provide a better understanding of the case (all consultants should be approved by the Chair prior to seeking external input to review potential conflicts of interest);
 - i) **not** consult with Members of Council, other than the Chair.

The Manitoba Association of Landscape Architects

A component organization of the Canadian Society of Landscape Architects

5. Once the Review is complete, the Review Officer shall prepare a written Report (the "Report") addressed to the Chair. The Report should include:
 - a) a description of the nature of the Complaint;
 - b) the process followed by the Review Officer, including a list of research, meeting, and interview dates, and a reference to an appendix of raw data for the case documenting all submissions, research notes and interview recordings;
 - c) the findings of the Review Officer including, but not limited to, the Member under review's level of responsibility and liability in the incident, and if found to be in breach of the Code, that individual's recognition of fault in the incident;
 - d) a recommendation from the Review Officer for Council's consideration, as stipulated below.
6. The Report should conclude with one of the following recommendations, or a combination thereof:
 - a) the Complaint should proceed no further;
 - b) a formal Letter of Reprimand for unprofessional conduct be sent to the Member under review by Council, which will remain in that individual's file for five (5) years from the date of issue;
 - c) a formal Letter of Reprimand for unprofessional conduct be sent to the Member under review by Council, which will remain in that individual's file permanently;
 - d) the Member under review be subject to a one-time levy on that individual's annual dues. The amount of the levy will be proposed by the Review Officer and determined by Council at its discretion, up to a maximum of five (5) times the Member under review's annual dues. Failure to pay the levy upon remittance of the Member under review's annual dues will result in a Temporary Suspension of membership until such time as the levy is paid. A record of the levy will remain on the Member under review's file permanently;
 - e) the Member under review be subject to Temporary Suspension of membership of the Association, forfeiting all rights and privileges therein. The Review Officer shall recommend the length of time based on the findings (final length to be ratified by Council upon review of the Review Officer's findings). The Member under review will remain obligated to pay full membership dues for the duration of the suspension. A record of the suspension will remain on the Member under review's file permanently;
 - f) the Member under review be subject to Permanent Termination of membership of the Association. The Member under review will not be eligible for any refund of the current year's membership dues, in part or in whole, and will not have the opportunity to apply to become a Member of the Association at any point in the future.

Note: In all cases, the Member under review may be required to contribute to any internal or external costs and/or disbursements arising during the course of the investigation as a levy on his/her membership dues.

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A component organization of the Canadian Society of Landscape Architects

C: Council Hearing

The Chair shall review the Report for compliance with the Code, ensuring all required information has been clearly described. Revisions to the format and content of the Report will be made by the Review Officer.

The Chair shall submit the Report to Council, the Member under review, and the Complainant at least seven [7] days prior to the next Council Meeting where a hearing of the matter will take place.

The Member under review shall be given notice of the hearing along with his/her copy of the Report, and advised that he/she may attend the hearing, with a representative (lawyer/legal counsel, friend, spokesperson, fellow professional, advisor, etc) if so desired.

The Complainant shall be given notice of the hearing, along with his/her copy of the Report, and advised that he/she may attend to observe.

At the hearing, the Review Officer shall present the Report and recommendations to Council, and answer any questions that may arise from Council.

Council shall then invite the Member under review to make any submissions or ask any questions regarding the Report. The Member under review may submit any other information that is relevant to the matter for Council to consider.

Except in exceptional circumstances (at the sole discretion of Council) or where clarification or additional information is required, the Complainant may observe the submissions but not participate in the hearing.

The Member under review and Complainant, Review Officer and Chair of the Ethics Committee will then be excused from the meeting and Council shall deliberate ***in camera*** prior to making a formal motion or motions to:

- a) adopt the Review Officer's Report and recommendations as written, OR
- b) adopt the Review Officer's Report and recommendations with minor modifications,
OR
- c) reject the Review Officer's Report and recommendations, asking for more research
to be completed and for a revised Report to be re-submitted at a later date, OR
- d) reject the Review Officer's Report and recommendations and take an alternate
course of action in consultation with the Chair, AND
- e) make an order requiring the Member under review to contribute to the cost of the
hearing, if applicable.

Council shall notify the Member under review and the Complainant of its decision in writing within thirty [30] calendar days of the hearing date.

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A component organization of the Canadian Society of Landscape Architects

D: Rights of Appeal

The Member under review will have the right to appeal in writing within thirty [30] calendar days of receipt of Council's decision regarding the Complaint. Any such appeal must be accompanied by:

- a) reasons in writing specifying the errors alleged to have been made by the Review Officer, AND/OR
- b) additional information previously unavailable that may alter the understanding of the conduct, AND
- c) a cash deposit of \$500.00, unless such deposit is waived by Council.

Council shall refer the matter to an independent arbitrator acceptable to Council and the Member under review. The costs of such arbitration shall be borne by the Member under review, and Council will apply the cash deposit of \$500.00 towards the arbitration costs. The decision of the arbitrator shall be final and binding upon the Member under review and Council. There will be no further right of appeal after arbitration.

E: Confidentiality

All matters dealt with under these procedures shall be treated as confidential until a final decision has been made and all parties involved in the Complaint have been formally notified. The Council of the Association shall make such final decisions public if appropriate, and in the manner that it deems appropriate.

The Review Officer may confer with the Chair of the Ethics Committee on an interim basis to discuss issues relating to the incident, provided that no conflict exists.

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