

March 23, 2021

RECOMMENDATION REPORT TO ADOPT THE REVISED CODE OF ETHICS AND STANDARDS OF PROFESSIONAL PRACTICE

COUNCIL DATE: This report was presented to OALA Council on March 22, 2021

INTRODUCTION: At its meeting March 22, 2021, OALA Council approved the revised Code of Ethics and Standards of Professional Practice as described below subject to ratification by the Association membership at the OALA AGM April 22, 2021.

PURPOSE OF THE REPORT: RECOMMENDATION

RECOMMENDATION: That Members approve the adoption of the revised Code of Ethics and Standards of Professional Practice as presented.

EXECUTIVE SUMMARY:

The Code of Conduct Subcommittee has been meeting since June 2018 to complete a detailed review of the existing Code of Ethics and Professional Practice and recommend updates to advance the mandate of the OALA Strategic Plan 2018-2020. Through this process many different Codes of Ethics, Codes of Conduct and Practice Acts from other provinces and states were reviewed by the committee. This review included those of allied professions to better align our association's commitment and focus to protect public health and safety and advance the profession of landscape architecture in Ontario.

The subcommittee has developed a revised Code of Ethics and Standards of Professional Practice that has been:

- 1) reviewed by the OALA Lawyers on two separate occasions (Fall 2019 and March 2021);
- 2) reviewed by the Practice Legislation Committee (PLC) and OALA Council;
- 3) reviewed by the Professional Practice & Ethics Committee (PP&E);
- 4) presented to the membership via a webinar on January 26, 2021; and
- 5) made available for member review, and received a number of comments from a range of members and allied professionals.

The subcommittee's progress and plan has been provided as an update to the OALA membership at the 2019 and 2020 AGM's.

Based on this input, the subcommittee brings forth the recommendation for this updated Code of Ethics and Standards of Professional Practice pending Council's approval, and members to vote on at the 2021 AGM on April 22nd.

BACKGROUND:

In 2018 a subcommittee of the Practice Legislation Committee (PLC) completed a detailed review of the current Code of Ethics and Professional Practice and reviewed opportunities for creating a more comprehensive and modern Code of Professional Conduct. The intent of this review was to have more formally structured guiding principles for individual members, firms, interns, students, clients and the general public with respect to the professional practice and delivery of landscape architectural services in the province of Ontario. The OALA Act provides Council the ability to create and enforce such a code. Through the subcommittee's review it was determined that the Code of Ethics and Professional Practice should be updated in place of creating a new code.

As a self-regulating body and in continued support of the OALA's mission to 'promote, improve and advance the profession of landscape architecture and maintain standards of professional practice and conduct, consistent with the need to serve and to protect the public interest' a review and necessary upgrades should be undertaken periodically to the OALA Code of Ethics and Professional Practice. The existing code was originally established in 1990, with only minor amendments made in 1994, 2006 and 2016. It was recognized that it was now in need of a more extensive review to see if possible revisions were needed that would better meet the needs of the association and its members moving forward in to the future.

As part of the review several allied professional associations were analyzed as to their Codes of Professional Conduct and their regulation mechanisms. Included were Architects (OAA), Planners (OPPI), Engineers (PEO), Accountants (CPAO), BCSLA, AALA, as well as various ASLA Landscape Architect Chapters in the United States. Using these various Codes of Professional Conduct as guides, the subcommittee proceeded to update the existing OALA Code of Ethics, so it would be better tailored to the OALA and those who the association serves.

OBJECTIVE

The update and revision of the Code and recommendation to change the title to 'Code of Ethics and Standards of Professional Practice' is in support of the OALA Strategic Plan 2018-2020 which outlines several key areas where the OALA is looking to build on its mission and values. The Code's re-development will assist to continue to clearly define the association's responsibility to manage and regulate its members to achieve the highest of standards of professional practice as a landscape architect in Ontario. The overall goal remains to specifically address professional integrity, competence and capacity to act as a professional of site design development within the public and private sectors.

This revised Code will provide the association a strengthened base median as to the expectation of how the membership should act when practicing. In addition, it will provide a more formative tool for the Association to use to assure the protection of the profession from a person's actions that could potentially detract from the set values of the profession of landscape architecture.

KEY RECOMMENDED CHANGES:

The following are a summary of the recommended changes, which include a revised title, text and section amendments.

Revised Title: CODE OF ETHICS AND PROFESSIONAL PRACTICE to be changed to CODE OF ETHICS AND STANDARDS OF PROFESSIONAL PRACTICE

Rational: The updated title better describes the document as it has been revised and updated to include the standards of professional practice for the OALA.

Text Changes:

- Revision of stewardship principle. Original version did not clearly define this principle. The updated version has been expanded to include a Stewardship Mandate that outlines the expectation of the Membership as to the stewardship of the land.

Rational: This is to demark a clear difference in a Landscape Architects in Ontario professional practice versus other design professionals.

- Addition of definitions and membership responsibilities.

Rational: To provide more clarity in areas that were previously not as well defined in the code and to provide a clearer intent as to a member's responsibilities.

Section Updates:

- The ETHICAL PRINCIPLES section has been **revised** to read 'CODE OF ETHICS'. This section has been redefined similar to the OAA and OPPI codes that provide a clear and concise list of ethical expectations.

Rational: The original Ethical Principles were considered dated and were not always clear as to expectations for the Membership. In reviewing other aligned professions and other Landscape Architecture Chapters the committee felt an update was needed to be more in line with the other standards observed of other associations.

- The RULES OF PROFESSIONAL PRACTICE section has been **revised** to read STANDARDS OF PROFESSIONAL PRACTICE. This updated section includes duties of the membership towards the Public, Clients, Environment and the Profession and its Members.

Rational: The original section was considered dated. The update to this section refocused the duties of the membership to ensure the profession is clear in its responsibility to protecting public health, the environment and each other. This was developed as a result of the subcommittee's review of other standards.

- A PROFESSIONAL MISCONDUCT section has been **added** to clearly define the expectations of the Association as to its Members' conduct.

Rational: Misconduct was not clearly defined in the original document. As such there was the potential of future issues to arise if a Member were to not follow this code and disciplinary action was required. Without a clear definition it could lead to confusion by the Association and the Member. This section provides the necessary text to allow the Association to discipline members through our current disciplinary committee process.

- An INSURANCE section has been **added**. This section is to identify that the Association is expecting the Membership to carry proper insurance to protect themselves and the public.

Rational: As the Association reviews these requirements it was felt that there is a need to identify this potential gap in the membership requirements and its responsibilities to ensure that the Association is protecting the public and our members in our day to day delivery of work.

- The EDUCATION section was **removed**, and this information incorporated under the section of the Standard of Professional Practice.

Rational: This is a requirement of the OALA and is included in the by-laws. It was considered by the subcommittee to not be required specifically in its own section. That it is considered instead more relevant to incorporate the education section into the broader responsibilities of the Standards of Professional Practice.

- The section the USE OF SEAL was **removed**. This information is now incorporated into the Standard of Professional Practice section.

Rational: This is a requirement of the OALA and is included in the by-laws. As such it is considered relevant to incorporate this information under the responsibilities of the Standards of Professional Practice.

- The section ADVERTISING was **removed**, and this information incorporated into the Standard of Professional Practice.

Rational: There is a separate policy regarding this. It is not considered part of the ethics of practice or the standards of professional practice. As such given the review it was determined by the subcommittee as to it being not necessary to having it be defined in its own section.

- The CONFLICT OF INTEREST was **removed**, and this information incorporated into the Standard of Professional Practice.

Rational: This is a requirement of the OALA and is included in the by-laws. As such it is considered relevant to incorporate this information under the responsibilities of the Standards of Professional Practice.

MEMBERSHIP CONSULTATION:

The subcommittee prepared a webinar and presented the updated recommendations to the membership on January 26, 2021. This presentation identified specific update recommendations, rationale for updates and responded to direct member questions. There was a total of 78 attendees at this webinar, and the recording has been made available to members.

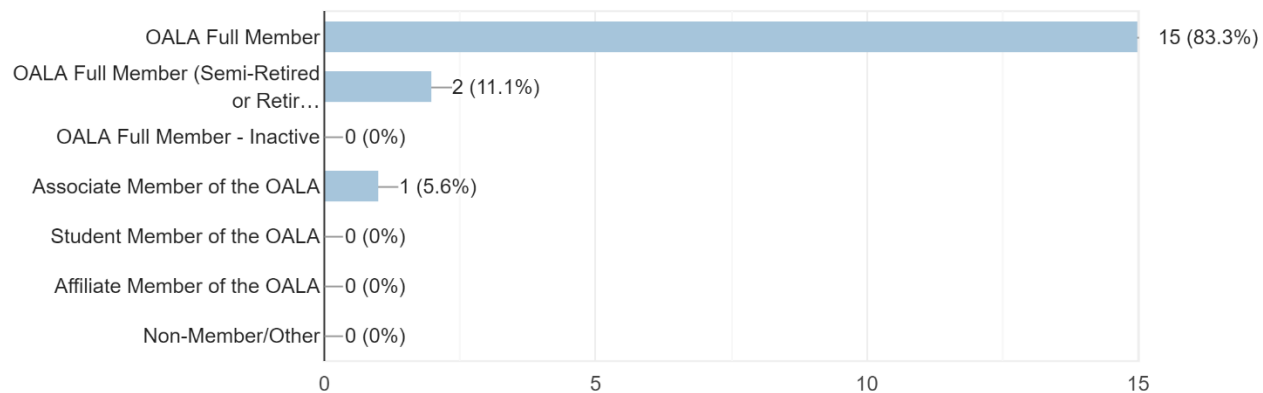
Following the webinar, the updated Code of Ethics and Standards of Practice was circulated to the membership with a questionnaire and comment form. The membership was asked the following questions on this short comment form:

- What is your OALA membership category or indicate if you are a non-member.
- On a scale of 1-5, does The Code read well? I.e. is it comprehensible and comprehensive?
- Are there any general comments or concerns you'd like the committee to consider?

There was a total of 18 respondents to the questionnaire and their response are summarized as follows:

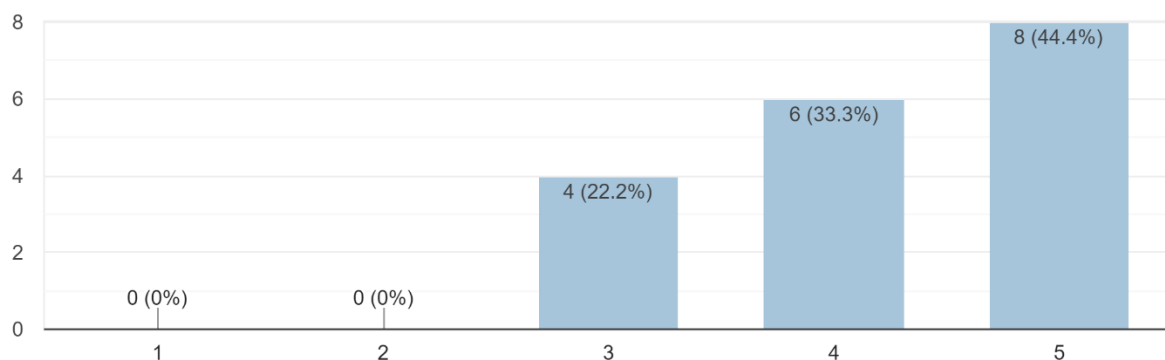
Check mark your OALA membership category, or indicate if you are a non-member

18 responses



On a scale of 1-5, does The Code read well? i.e. Is it comprehensible and comprehensive?

18 responses



We have summarized the written comments in the appended response table to highlight how the comments have shaped the final document.

Overall, the subcommittee found the membership to be in support of the updated Code and their comments typically related to wording adjustments.

In February and March 2021 the subcommittee has revised the Code in response to the members' comments and the recirculated the final document to the lawyer for their review. The lawyer's comments have also been taken into consider in this final draft.

The final draft of the Code of Ethics and Standards of Professional Practice is appended to this report.

CONCLUSION:

The subcommittee has undertaken this process to update the Code with the intent to align to present day practices that are in keeping with the Association and its mandated responsibilities, as well as the expectations the public has of professional landscape architects practicing in Ontario.

The subcommittee wishes to thank Council and all participants who have given their time and countless hours of effort to bringing forward this recommendation to approve the revised Code of Ethics and Standards of Professional Practice to the 2021 AGM for members' approval.

Council recommends that the membership vote in support of adopting the revised Code of Ethics and Standards of Professional Practice at the OALA AGM on April 22, 2021.

POLICY AND BUDGET IMPLICATIONS:

If ratified by the membership, the Code of Ethics and Standards of Professional Practice would be in effect as of May 1, 2021, until it is considered for revision again in the future. The production and lawyer's review of this document has been budgeted for and has not exceeded OALA's budget allotment for this type of work.

Respectfully submitted,

OALA Council

Appendices:

A – Proposed Code of Ethics and Standards of Professional Practice

B – February 2021 Member Comments & Responses

CODE OF ETHICS AND STANDARDS OF PROFESSIONAL PRACTICE

March 2021 – FINAL DRAFT

(Supersedes previous versions of the CODE OF ETHICS AND PROFESSIONAL PRACTICE that were approved and adopted 17 February 1990, amended by Council 12 July 1994, 12 June 2006 and 12 September 2016.)

1. PREAMBLE

1.1 Overview

The aim of this Code of Ethics and Standards of Professional Practice (the “**Code**”) is to articulate the ethical and professional standards by which Members should conduct themselves in all areas of professional practice including public representation of the profession, when acting as a spokesperson for the profession and as an expert witness.

The Code does not cover all possible situations in which questions of ethics or professional practice may arise, either in the present or future. The varied and ever-changing circumstances of landscape architecture precludes any such possibilities. Instead the Code is to provide design professionals, related professionals, clients and the general public with an understanding of what is acceptable conduct for Members of the Ontario Association of Landscape Architects (“OALA”).

1.2 Stewardship Mandate:

All Members, practicing landscape architecture, shall strive to:

- Preserve and enhance the short and long-term sustainability of the social, economic, cultural and natural environment and its resources in non-urban and urbanized settings;
- Enact positive mitigation measures for the environment through stewardship, mentoring, education and design that promote self-sustaining and resilient landscapes that will offset human impacts to our natural, rural and urban environments;
- Protect the earth’s living resources to maintain and enhance the natural bio-diversity of the living environment;
- Act as stewards of the land, water and air in order for all species, flora and fauna, and, human inhabitants to live sustainably and equitably, and to ensure care of each for now and for all future generations to come;
- Promote acceptance, inclusiveness, connectivity, enhancement and celebration of the cultural diversity, values and traditions of all people; and,
- Maintain and enhance all person’s safety, health and wellness, accessibility and security to ensure a positive experiential use and sense of place for private, semi-private and public spaces.

2. APPLICABILITY

The Code applies to all Members when practicing or representing the profession of landscape architecture as a member of the OALA.

3. INTERPRETATION

3.1 For the purposes of this document the definitions set out in the General By-laws of the OALA shall apply to this Code of Ethics and Standards of Professional Practice (the “**Code**”)

3.2 Under the Code the following terminology applies in relation to all persons and human relations and are pursuant to the Ontario Human Rights Code, RSO, 1990, c. H. 19 where applicable:

“RIGHT TO EQUAL TREATMENT AND OPPORTUNITY WITHOUT DISCRIMINATION IN THE WORKPLACE” means:

- (1) Every person has a right to equal treatment and opportunity with respect to all aspects of employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, religion, beliefs, marital status, family status or disability, and association; and
- (2) Every person has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, religion, beliefs, marital status, family status or disability, and association.

“DIVERSITY” means the range of human differences including but not limited to culture, language, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, religion, beliefs, marital status, family status or disability.

“INCLUSIVE” means considering the full range of diversity to maintain an environment that strives for equity and embraces, respects, accepts and values all people’s differences.

“EQUITY” means fostering an environment of equality and inclusion by providing fair, just and equal opportunities for all persons to attain their full potential regardless of demographic, social, economic or geographic strata.

“EQUALITY” means the condition of being equal and ensuring all persons have the same opportunities, access, treatment and support.

“HARASSMENT” means engaging in a course of coercive or vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome and that might reasonably be regarded as interfering in a professional relationship, including sexual harassment and sexual solicitation or advances;

“NEGLIGENCE” means an act or an omission that constitutes a failure to maintain the legislative, technical and contractual standards that a reasonable and prudent Member should maintain in carrying out their work.

“DEFAMATION, LIBEL AND SLANDER” means the willful degradation, harm and damage to another Member’s character, reputation and/or skills through false written, oral or implied statements.

“CONFLICT OF INTEREST” means when a Member is in a position to derive personal benefit or gain from actions or decisions made in their capacity as a landscape architect and/or are not able to perform their duties objectively or neutrally, that are considered unethical and/or in breach of this Code.

3.3 Words imparting the singular number only, include more than one person, party, or thing of the same kind.

3.4 A word interpreted in the singular number has a corresponding meaning when used in the plural.

4. CODE OF ETHICS

4.1 Members shall act with integrity and honesty.

4.2 Members shall represent their professional competence in keeping with their knowledge, skills and/or abilities as a landscape architect.

4.3 Members in the performance of their professional services shall clearly maintain and enhance the public’s health and safety, security and to ensure the accessibility of all persons, in both urban and non-urban environments.

4.4 Members shall strive to maintain an inclusive environment in the public realm and in the workplace.

4.5 Members shall respect and protect the rights, professional opinions and viewpoints of their colleagues and other Members in both the private and public sectors without discrimination.

4.6 Members shall recognize colleagues and other member contributions in a fair, equitable and transparent manner whether in a collaborative or competitive endeavor.

4.7 Members shall protect the integrity of the profession by ensuring that the Members due diligence as a practicing professional is applied throughout all stages of the design from planning to schematic, to design and implementation of construction orientated design projects, and

where applicable the maintenance, monitoring of a project, and, in all stages of policy development in private, academic or governmental undertakings.

5. STANDARDS OF PROFESSIONAL PRACTICE

5.1 Duties to the Public

5.1.1 A Member's primary obligation shall be to protect the health, safety and welfare of the public in the performance of their professional duties.

5.1.2 A Member shall abide by federal laws, provincial laws and local municipal by-laws and shall uphold the public's trust in the integrity of the profession of landscape architecture. Equally, Members shall be responsible to those governments in other jurisdictions that a Member's work and practice is undertaken with the same integrity and trust as a landscape architect in Ontario. A Member shall always conduct themselves, ethically, transparently and with integrity as behooves a professional entrusted by the public and by industry to maintain the highest standards of professional practice.

5.1.3 A Member under oath acting as an expert witness shall abide by '*...the Rules of Civil Procedure in Ontario which states 'it is the duty of every expert engaged by or on behalf of a party to provide evidence in relation to a proceeding under these rules:*

- (a) to provide opinion evidence that is fair, objective and non-partisan;
- (b) to provide opinion evidence that is related only to matters that are within the expert's area of expertise; and
- (c) to provide such additional assistance as the court may require to determine a matter in issue.

5.1.4 A Member has a duty to the public to uphold the public trust in the expertise and judgment of all design professionals.

5.1.5 A Member has a duty to demonstrate design excellence through work in built and natural environments. The intent is to ensure that their work is sustainable, livable and inclusive, and, will provide a sense of place for an imaginative future for all persons and generations.

5.1.6 A Member has a duty to recognize and acknowledge where applicable other landscape architectural designs or products. The intent in so doing is to continue to uphold the trust of the public.

5.1.7 A Member has a duty to act to correct or report a situation to the Association that they believe may endanger the health, safety and/or general welfare of persons and the environment.

5.2 Duties to the Clients

5.2.1 A Member shall provide clients and employers with their professional opinions and judgments.

5.2.2 A Member shall be diligent in maintaining competency so as to be current and up to date in the fields of consultation; obtaining relevant and well-founded facts, and; to be able to consider and evaluate relevant principles, before providing professional services to a client, employer or the general public.

5.2.3 A Member has a duty to ensure their personal and professional limitations are recognized, where appropriate.

5.2.4 A Member shall disclose to clients and employers any interest whether professional or personal, or other circumstance, which may influence or could be perceived either as a Conflict of Interest or as to benefitting one Member over another Member or other professional's services.

5.2.5 When a Conflict of Interest is apparent, including when a Member is unable to remain neutral or objective, a Member shall withdraw their services until a satisfactory arrangement is agreed to between the Member and a client or employer to address the Conflict of Interest.

5.2.6 A Member shall upon becoming aware of a breach of law or ethics on a project with which a Member is associated advise the employer or client in writing of same and withdraw from the project if appropriate action is not taken to rectify the situation.

5.2.7 A Member shall not disclose information concerning clients' or employers' business affairs, technical methods or processes without written consent except as may be required by law.

5.3 Duties to the Environment

5.3.1 A Member shall have due regard to the Stewardship Mandate (as provided in Section 1.2 of the Code) as they apply to the natural environment.

5.3.2 A Member practicing environmental design shall have a basic understanding of ecosystem principles, and the application of human and natural ecology in landscape architectural solutions, for the long-term health of the natural environment and welfare of the public in built environments which celebrate the human experience.

5.3.3 A Member is obligated to maintain their knowledge through continuing education which is to include the assessment and evaluation of emerging technologies and research that is based on found facts and science.

5.4 Duties to the Profession and Members

5.4.1 A Member shall always conduct themselves with fairness, courtesy, kindness, care and respect, as befitting the conduct of one who reflects all members of the profession. This

obligation includes contacts with all those associated with the profession and practice of landscape architecture, including associates, clients, contractors and the public.

5.4.2 A Member shall follow the By-law of the Association, including the Code.

5.4.3 A Member with Seal shall use only the seal issued to the Member by the Association and in accordance with the Policy for Use of Seal in Professional Practice.

5.4.4 A Member shall be transparent and give equitable and fair recognition and acknowledgement of the assistance or contribution of any other Member or related professional with whom the Member is or has been associated on a project.

5.4.5 A Member shall not claim or copy the work of another Member or related professional.

5.4.6 A Member shall not knowingly or recklessly make false, unsubstantiated, malicious or derogatory statements that may injure the professional reputation of another member or other person whether in the public or private sector.

5.4.7 A Member shall respect the opinions and viewpoints of other Members, colleagues, professionals and the general public. Personalizing comments or responses that are negative or disrespectful of another person is considered unacceptable. Furthermore, a Member shall not engage or participate in defamation, libel or slander with respect to the work or reputation of another Member.

5.4.8 A Member shall only use the designation of the title of "Landscape Architect" as set out in the Act, By-law and policy document entitled "Restrictions on the Use of Landscape Architect Title", including with respect to internal and external communications by a Member.

5.4.9 A *To Be Hired Member* shall not solicit or accept work on a project when they know or have reason to believe an *Originally Hired Member* was engaged for the same project, for the same or similar work, without properly informing the *Originally Hired Member*.

The *To Be Hired Member* is not restricted from undertaking this work. However, the *To Be Hired Member* shall, before undertaking the work on the project, inform the *Originally Hired Member* through an official business record that:

- i) the *To Be Hired Member* has been or may be retained by the client to work on the project; and,
- ii) the *Originally Hired Member* shall provide a written response affirming whether (i) their contract with the client is complete or otherwise terminated or (ii) it remains unresolved.

5.4.10 Members are responsible, at a minimum for meeting the continuing education requirements of the most current Association Mandatory Continuing Education (MCE) Program.

5.4.11 Members are responsible to supply documents or information requested by an investigator acting under the direction of the Council and/or Professional Practice and Ethics Committee

6. PROFESSIONAL MISCONDUCT

6.1 All Members shall maintain professional integrity and an ethical approach in their practice of landscape architecture as described in this Code to minimize the risk of harm to the public while upholding their contractual obligations.

Failure to maintain this integrity and an ethical approach may result in “professional misconduct” and be subject to disciplinary actions within the jurisdiction of the Association.

6.2 A Member shall advise Council of any act or omission of another Member that the Member believes to be contrary to the Code.

6.3 A breach of the Code constitutes an act of professional misconduct if the breach results in a finding that the Member has not engaged in the practice of landscape architecture in accordance with the laws of the Province of Ontario or the federal laws of Canada (if applicable) or this Code.

6.4 Professional misconduct shall result in a professional sanction commensurate with the misconduct as recommended and determined by the Professional Practice and Ethics Committee and Discipline Committee.

7. INSURANCE

7.1 Members should ensure that they are covered by adequate professional liability insurance relative to their stage of practice to adequately address risks of the projects in which the Member undertakes for clients and to protect the health and safety of the public. Members that fail to maintain adequate professional liability insurance may be in breach of this Code if they are not carrying appropriate insurance for the types of projects they are undertaking while in practice.

OALA Code of Ethics Update - Response to Comment 2021-03-15

Original Comments	Response	Action
Great work. Like the stewardship mandate section and the expansion of the definitions.	Noted	n/a
What a welcome update! Thank you!	Noted	n/a
Have the proposed changes been reviewed by a lawyer?	The changes have been reviewed by a lawyer and will be review again prior to approval.	Lawyer to review.
Re 7.1. Although I agree with the premise, the wording leaves retired members in violation of the Code of Ethics once their Tailings Insurance ends. The current understanding from the LL Task Force is that Tailings Insurance is only available for 3 years after retirement but the statute of limitations on liability is 15 years. There is a gap of 12 years where our members are exposed to lawsuits and the public may not be adequately protected.	<p>The goal with addition of the section for insurance was to provide a general guidenence for members. Additionally the Insurance Task Force is reviewing the needs for specific requirements which will include tailings insurance. This comment has been forwarded to the Insurance Task Force.</p> <p>A member would not be violating the code as it currently written as it noted as being cover by sufficient professional liability insurance, which for a retired member may or may not include tail insurance.</p>	Comment forward to Insurance Task Force.
no real concerns it reads well and is complete. I especially appreciate the addition of the Stewardship Mandate. This does however raise one question for me that was sort of asked in the webinar, but I did not think was really answered. The Duties of a Landscape Architect are well laid out and clear, but there is no clear hierarchy between them. I do realize this is difficult and might be different for each different project, however for example we have a stewardship mandate and a duty to the environment, should this trump our duty to the Client? if all are equal, it does not give us as much ammunition with a Client who does not share the stewardship way of thinking. Otherwise great work by the committee.	The code has not developed a hierarchy of importance of Duties of a Landscape Architect as the committee did not want to put one ahead of the other in any situation. In the event that a client does not share the stewardship way of thinking then the member has the right refuse work that does not align with our code.	n/a
Agree that this should be treated as a living document and adjustments to be made reflective of current trends and legal conditions.	Noted	Include in recommendation to Council
Should we not consider the verbiage within the Canadian Human Right Act or make reference to it? "For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered." In addition, and noting the above, as well as other global countries who are also discussing the same addition, should we not add "political beliefs"?	<p>The committee has used the Ontario Human Rights Act as the guide for their terminology and approach to this code.</p> <p>Political beliefs has been discussed and at this time the committed as agreed to leave it out of the listed decriminations. This should be reviewed in future updates of the code and/or if they are added to the Ontario Human Rights Act.</p>	n/a

Original Comments	Response	Action
<p>Section 5.4.9 Conflict: "Members will not solicit or accept work on a project . . ." . . . the Member shall before undertaking the work on the project communicate to the former Member . . . " i) the newly hired Member has been retained by the client . . ." How can a member be hired/retained if they are to clear the previous' member's work? the "newly hired member" would be in immediate conflict! "newly hired" should be renamed to something else, not sure what. Also, in 5.4.9 we use the words "original" and "former", which could be misinterpreted, but here is a suggestion that may simplify things: (also if a person was a "former member", that means that the code of ethics does not apply) NOTE: in the text below, items between * are to be in italics and perhaps also bold "5.4.9 Members (for the purpose of this paragraph, hereafter referred to as *New Member*) will not solicit or accept work on a project when they know or have reason to believe another Member (for the purpose of this paragraph, hereafter referred to as *Original Member*) was engaged for the same project for the same or similar purpose. A *New Member* is not restricted from undertaking this work whether it be advisement or project work. However, the *New Member* is obligated to request of the client to provide documentation identifying that the engagement or employment of the *Original Member* working on the project has been terminated. In addition, the *New Member* shall before undertaking the work on the project communicate to the *Original Member* through legally documented written correspondence. This required correspondence between each of the aforesaid parties, should clearly state that: i) the *New Member* may be retained by the client to complete the project and that *New Member* has been informed by the client that all elements of the contract with the *Original Member* have been fulfilled; and ii) the *Original Member* shall provide a written response affirming the fact that their contract with the client is now closed or it remains unresolved. If unresolved the *New Member* should not undertake the work until the contract between the client and the *Original Member* has been resolved and is considered closed." Other suggestions are *to-be-hired Member* & *originally-hired Member* or *Prospective Member* & *Original Member* or *Second Member* & *First Member* etc FURTHERMORE, the entire code of ethics, especially section 5.4.9 should be vetted by OALA's legal team so that the code of ethics can stand up in court, in case a member/former member intends to challenge any action taken against them in court. INSURANCE: great that it was added. one question: should it not have a first sentence statement? e.g.: "Members must be covered by professional liability insurance."</p>	<p>Excellent recommendation. Revisions made to the Code.</p>	<p>Code Revised.</p>
<p>record of offences as a listed item that an employer cannot use to determine someone's eligibility as an employee is not a reasonable statement. Certain criminal offences would be seen as unethical, thus breaching our code and also negative to the environment or clients as a whole. I would suggest this wording be removed</p>	<p>This wording is directly from the Ontario Human Rights.</p>	<p>Lawyer to review this wording.</p>
<p>Thank you to the committee for your work. A few brief comments. Excellent to refer to 'Stewardship Mandate' as part of the code and standards. I suggest 1.2 also contain the word 'adaptation' near the words 'Enact positive mitigation measures...' Adaptation relates to adjusting to change (including climate), and to better address scope of what landscape architects do and can do in environments which include people too. To me, using only 'mitigation' suggests we prefer to take a fix it later approach.</p> <p>4.3 Public health and safety is also inherently related to environment of clean air, land and water now and for future generations. I suggest 'environment' be defined to include ethics regarding ecological systems since people are always somehow impacted by or reliant on same. To say, a Code of Ethics should address obligation to the planet's health too as a governing principle. I agree people are a priority but I have seen too much damage to plants and environment systems to be able to support a people first approach separated from functional nature. Be well.</p>		

Original Comments	Response	Action
<p>Hello Tim and Aina, Thanks for the presentation on the Update to the Code of Ethics and Standards of Practice. Thanks to you and the team for your work on this. Here are suggestions to update the document:</p> <p>Section 1.2 Stewardship Mandate, third bullet: Add in the words "the natural" as follows: Protect the earth's living resources to maintain and enhance "the natural" bio-diversity of the living environment. Rationale: Natural biodiversity refers to the native ecosystem that has developed and continues to develop in a particular place, and in a project, for example, using plant material that is part of or derived from that native ecosystem. Using the word 'biodiversity' on its own could be taken to include using non-native plants in a project - this would result in a diversity or variety of plant material installed, but would not necessarily enhance the living environment.</p> <p>Section 3.2 Terminology Add in the words "gender identity, gender expression, discrimination because of association, and creed or religion" in each of these subsections, as follows: 3.2 Under the Code the following terminology applies: "RIGHT TO EQUAL TREATMENT WITHOUT DISCRIMINATION" means: (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, "gender identity, gender expression", age, record of offences, marital status, family status or disability, or "discrimination because of association"; and (2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, "gender identity, gender expression", age, record of offences, marital status, family status or disability or "discrimination because of association". "DIVERSITY" means the range of human differences including but not limited to culture, language, race, ethnicity, "creed or religion, gender identity and gender expression", sexual orientation, age and physical ability. Rationale: This would align the OALA Code-Standards with the Ontario Human Rights Code http://www.ohrc.on.ca/en/ontario-human-rights-code</p>	<p>Section 1.2 - This comment was reviewed the adjustment to the wording was made to reflect this comment.</p> <p>Section 3.2 - Discrimination because of association is included in the Ontario Human Rights Code reads as follows: Discrimination because of association 12 A right under Part I is infringed where the discrimination is because of relationship, association or dealings with a person or persons identified by a prohibited ground of discrimination. R.S.O. 1990, c. H.19, s. 12. This is a section in the Human Rights Code but not listed as Prohibited Grounds in the Code. We have included but would recommend this specifically be commented by the lawyer.</p> <p>Section 3.2 - gender identity and gender expression have been added.</p> <p>The committee has reviewed the Human Rights Code and is using terminology as established within Code.</p>	
<p>I applaud the abundance of effort evident in this work and I am in fundamental agreement with the majority of this Code. Throughout the Code, Environmental Stewardship needs to be defined as "ecological" rather than the generic "natural". Ecological sustainability is scientifically critical and defensible; and should be first in the list; our responsibility for social, economic, and cultural sustainability are scientifically dependent upon ecological sustainability.</p> <p>"Inclusive" should be "Inclusivity" for a consistent use of nouns.</p> <p>I notice that "impartiality" is absent in defining application of professional standards.</p> <p>There are grammatical errors/typos that affect readability; examples: apostrophes appear to be missing in the use of possessive terms, misplaced plural terms...</p> <p>The separation of "human and natural ecology" in Duties to the Environment is not factual, promoting ignorance of our integrated dependence upon ecological integrity of the environment.</p> <p>I appreciate the requirement of sufficient liability insurance; however, this requirement is likely to financially exclude me from continuing to seek professional standing for independent practice since my age and experience gap due to previous medical issues have been excluding me from available positions. Thus, the ideals of equity, inclusion, and diversity are laudable, but apparently not practical in this profession. Thank you for the opportunity to submit these comments</p>	<p>The Committee has reviewed the term ecology vs. nature. Through our work over the past 2 years we have used nature in the code to be more broad reaching as our practice is just not the science side of nature but also sense of place, connectivity and intangibles that relate more the term Nature.</p> <p>Inclusive has been maintained in the document.</p> <p>Impartiality - should we add?</p> <p>Human and natural ecology has been used to as Human Ecology is equality and important to natural ecology as they are different. The committee did not agree that that this was not a factual means of working with nature. The committee also did not agree with the comments on this statement promoting ignorance as this was meant to embrace all elements of ecology.</p> <p>The intent with the inclusion of the Insurance section was to identify to members that they need to be covered by liability insurance to protect the public and themselves from lawsuits that impact them. The committee has not maintained a minimum coverage for this reason, it is on each member to ensure that they are protecting themselves and the public in the work that they do.</p>	<p>Comments reviewed against the code documents and edits made as warranted.</p>
<p>Should professional Liability and Errors and Omissions Insurance be a requirement</p>	<p>It is our understanding that Professional Liability Insurance includes errors and omissions within Ontario.</p>	<p>n/a</p>

Original Comments	Response	Action
<p>I am concerned with the range of practice the code is intended to apply to. Many terms are used, but not defined. Other aspects are open-ended. For instance the first bullet in section 1.2 is very broad, and technically, a breach of any part of that bullet could expose a Member to the application of section 6. While I recognize the importance of 'stewardship' to the profession and its members, I think the code suffers from section 1.2 being rather too broad. Terms like 'strive', while commendable, are too undefined for a code that is subject to action under section 6.</p> <p>As far as section 6 goes, I think if a member is going to advise Council of another member's conduct, this section ought to also require the member advising Council to provide evidence of the alleged breach. This has two benefits: 1. It specifies the breach, and 2. It provides the member who has allegedly breached the code to defend themselves.</p> <p>Section 7, related to insurance, if we believe landscape architecture professionals as defined in section 2 'must' or 'shall' have insurance, we ought to say so. If we're going to say they 'should' carry insurance and that the 'may' be in breach of the code if they don't, I think the section is unenforceable, and as a result ought to either be removed or re-written.</p> <p>I also have multiple comments related to section 5, too numerous to list here. If the Committee is interested I would be pleased to provide those, perhaps as 'track changes' in a Word document.</p> <p>Lastly, if it hasn't happened already, I would suggest a legal review of the document prior to adoption by Council. As I indicated above, the code has aspects of enforcement, so if it is going to be enforced, it has to be defensible. Thanks for the opportunity to comment.</p>	<p>Our profession is broad and the OALA Represents a range of practices. The code has been updated to try and reflect this broad range of practice and be as inclusive and encompassing as possible. The committee has left broader statements within the code to reflect the broad range of practice for the profession.</p> <p>Section 6 is a formalization of the current complaint process. The process has not changed at all, the code has only formalized the standard members are expected to practice as members of the OALA.</p> <p>Section 7 has not formally required members to have insurance as this is currently under review by the OALA and will be updated with their recommendations or by changes to the By-laws.</p> <p>The committee has reviewed the document in detail and has made revisions to the entire document to increase readability and continuity throughout the document.</p> <p>The document will be reviewed again by the lawyer.</p>	<p>n/a</p>
<p>Three items, 5.1.3 consider adding word witness after expert. 5.1.6 is unclear, why have word products? revisit statement as intent is not clear. 5.3.1 should cross reference 1.2 not 2.2</p>	<p>Section 5.1.3 - Witness added</p> <p>Section 5.1.6 - 'Products' has been included as some members work extends beyond design and they should be recognized for their work.</p> <p>Section 5.3.1 - The cross reference does reference 1.2.</p>	<p>Edits to code made as warranted.</p>
<p>Tracked changes proposed revision Word files sent to Executive Director and Registrar</p>	<p>The sub-committee reviewed the text edits in their entirety and comments in detail. Edits were made where warranted and they were reviewed in conjunction with the other edits received by the membership and the recommendation from our lawyer.</p>	<p>Edits to code made as warranted.</p>