

**MODEL**

**CODE OF ETHICS AND CONDUCT FOR ELECTED OFFICIALS**

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| **WARNING**  This document is a model that you must adapt to your needs. When using it, please remove this box and any notes to the reader that appear in the text.  This model has been designed for a local municipality that is not the central municipality of an agglomeration within the meaning of the *Act respecting the exercise of certain municipal powers in certain urban agglomerations* (RLRQ, c. E-20.001). In the case of MRCs that are required to adopt a code (those whose warden is elected by universal suffrage, in accordance with the article 210.29.2 of the *Act respecting municipal territorial organization* (RLRQ, c. O-9)), as well as in the case of central municipalities, certain adjustments must be made to the text.  For municipalities that have appointed (or plan to appoint) cabinet staff, an adjustment must also be made to the Code to provide for the obligation, for each member of the council to whom the cabinet staff reports, to ensure that the staff for which they are responsible undergoes the training provided for in section 15 of the *Municipal Ethics and Good Conduct Act* (R.R.S.Q., c. E-15.1.0.1).  The passages highlighted in yellow in this model are to be filled in or adapted.  **This model contains the minimum and mandatory rules required by the *Municipal Ethics and Good Conduct Act.* Optional rules are annexed to this Code. They may be added if the municipality so desires. It is understood that the municipality then adopts higher ethical and conduct standards than the minimum required by law. In such a case, an elected official could be in violation of their Code of ethics and conduct even though they respect the law and could be subject to sanctions. If certain optional rules are added, they can also be modified or improved at the discretion of each municipality.**  With the support of |

**WHEREAS** the Council of the Municipality adopted, on (date of adoption of the by By-law enacting the Code of ethics and conduct for elected officials currently in force), By-law number (...) enacting a Code of ethics and conduct for elected officials;

**WHEREAS** pursuant to article 13 of the *Municipal Ethics and Good Conduct Act* (RLRQ, c. E-15.1.0.1, hereinafter: the « LEDMM »), every municipality must, before March 1st following any general election, adopt a revised code of ethics and conduct that replaces the one in force, with or without amendments;

**WHEREAS**, a general election was held on November 7, 2021;

**WHEREAS** the *Act to amend the Act respecting elections and referendums in municipalities, the Municipal Ethics and Good Conduct Act and various legislative provisions* (SQ, 2021, c. 31), which amends the mandatory content of the Code of ethics and conduct for elected officials, came into force on November 5, 2021;

**WHEREAS** it is therefore necessary to adopt a revised Code of ethics and conduct for elected officials;

**WHEREAS** the formalities provided for in the LEDMM, for the adoption of such a revised code, have been respected;

**WHEREAS** the Mayor (or another member of Council or the Clerk or Clerk-Treasurer) states that the purpose of the present by-law is to provide for the main ethical values of the Municipality and the rules of conduct that must guide the conduct of a person as a member of the Council, a committee or a commission of the Municipality or, in their capacity as a member of the Council of the Municipality, of another organization;

**WHEREAS** the Municipality, including its Council members, explicitly adheres to the ethical values and rules of conduct set out in the LEDMM and in the present Code;

**WHEREAS** ethics and good conduct in municipal matters are essential to maintain the bond of trust between the Municipality and its citizens;

**WHEREAS** exhibiting a conduct in accordance with municipal ethics and good conduct must remain a constant concern of the members of the Council in order to ensure the citizens a transparent, prudent, diligent and honest management of the Municipality including its public funds;

**WHEREAS** by applying the ethical values and respecting the rules of conduct set out in the present Code, each member of the council is able to fulfill their role as an elected municipal official, to assume the responsibilities inherent in this function and to meet the expectations of citizens;

**WHEREAS** this Code contains the obligations as well as the guidelines for the conduct of each member of the council, while leaving it up to them to use their judgment in accordance with the values set out therein;

**WHEREAS** this Code aims to identify, prevent and avoid situations of conflict of interest;

**WHEREAS** any breach of the Code may result in serious consequences for the Municipality and the members of Council;

**WHEREAS** it is incumbent upon each member of the council to respect this Code to ensure that high standards of ethics and conduct are met in municipal matters;

**IT IS PROPOSED BY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , SECONDED BY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ AND RESOLVED :**

**TO ADOPT THE FOLLOWING BY-LAW:**

**BY-LAW NUMBER (...) ENACTING THE CODE OF ETHICS AND CONDUCT FOR ELECTED MUNICIPAL OFFICIALS**

**ARTICLE 1: DECLARATORY AND INTERPRETATIVE PROVISIONS**

* 1. The title of this by-law is: By-law number (...) enacting the Code of ethics and conduct for elected municipal officials.
  2. The preamble is an integral part of this Code.
  3. The Code does not replace the laws and by-laws in force that govern the Municipality and, more generally, the municipal field. Rather, it is supplementary and complements the various obligations and general duties applicable to elected municipal officials that are stated in the applicable laws and other regulations.

Thus, the Code must not be interpreted as allowing any exemption from the provisions contained in the laws and regulations in force governing the Municipality, elected municipal officials and, more generally, the municipal field.

**ARTICLE 2: INTERPRETATION**

2.1 The present Code shall be interpreted in accordance with the principles and objectives contained in the LEDMM The rules contained in that Act are deemed to be an integral part of this Code and shall prevail over any incompatible rules contained in the present Code.

2.2 In this Code, unless the context indicates otherwise, the following terms mean:

Benefit: Whether pecuniary or not, a benefit includes any gift, donation, favour, reward, service, gratuity, hospitality, remuneration, compensation, gain, indemnity, privilege, preference, benefit, profit, advance, loan, reduction, discount, etc.

Code: *By-law number (...) enacting the code of ethics and conduct for elected municipal officials*

Council: The municipal council of the Municipality of (…).

Conduct: Refers to the set of rules and duties that govern the function of the members of the council, their conduct, their relationship among themselves as well as their relationship with the municipal employees and the public in general.

Ethics: Refers to the set of moral principles that underlie the conduct of council members. Ethics take into account the values of the municipality.

Personal Interest: Such an interest is related to the individual elected official and is separate from the community they represent.

Council Member: An elected official of the Municipality, a member of a committee or commission of the Municipality or a member of the council of another municipal body, when sitting in their capacity as a member of the council of the Municipality.

Municipality: The Municipality of (…).

Municipal Organization: The council, any committee or any commission:

(1) an organization that is declared by law to be an agent or mandatary of the Municipality;

(2) an organization whose board is composed of a majority of members of the Council, whose budget is adopted by the Municipality or whose financing is ensured for more than half by the Municipality;

(3) a public organization whose board is composed of a majority of Council members from several municipalities;

(4) any other organization determined by the Ministre des Affaires municipales et de l’Habitation.

**ARTICLE 3: APPLICATION OF THE CODE**

3.1 The present Code, and in particular the rules set out in the Code, shall guide the conduct of any member of the Board.

3.2 Certain rules contained in the present Code shall also apply after the mandate of any person who has been a member of the Council.

**ARTICLE 4: VALUES**

4.1 The Municipality's main ethical values:

4.1.1 Integrity of Council Members

Integrity implies probity and honesty above suspicion.

4.1.2 Honour of Council Members

Honour requires remaining worthy of the duties entrusted by the citizens.

4.1.3 Prudence in the pursuit of the public interest

Prudence requires that every council member assume their responsibilities regarding the public interest in an objective and discerning manner. Prudence involves becoming sufficiently informed, considering the consequences of one's actions and examining alternative solutions.

The public interest involves making decisions for the greater good of the community and not for the benefit of private or personal interests at the expense of the public interest.

4.1.4 Respect and civility towards other members of the council, municipal employees and citizens

In general, respect requires treating all people with consideration. Civility involves showing courtesy, politeness and good manners.

4.1.5 Loyalty to the Municipality

Loyalty requires performing one's duties in the best interest of the Municipality, with objectivity and independence of mind. It implies disregarding one's personal interests and disclosing them in a transparent manner, in accordance with the applicable rules. Furthermore, loyalty implies respecting the decisions made by the Council.

4.1.6 Striving for Fairness

Fairness implies impartiality, i.e., objective and independent conduct, and consideration of the rights of all. Fairness requires the lack of discrimination.

4.2 These values must guide the members of the municipal Council in the assessment of the ethical rules applicable to them.

4.3 Where values are incorporated into Section 5 of this Code, these values shall not only guide the conduct of the Council member, but shall be respected and applied by the Council member.

**ARTICLE 5: RULES OF CONDUCT AND PROHIBITIONS**

5.1 The purpose of the rules of conduct is to prevent:

5.1.1 Any situation in which the Council member's personal interest may influence their independence of judgment in the performance of their duties.

5.1.2 Favoritism, embezzlement, breach of trust or other misconduct.

5.1.3 Any misconduct that is detrimental to the honour and dignity of the office of elected municipal official.

5.2 Rules of conduct and prohibitions

5.2.1 Council members shall conduct themselves with respect and civility

It is forbidden for any member of the Council to behave in a disrespectful or uncivil manner towards other members of the Council, municipal employees or citizens by using, among other things, vexatious, derogatory or intimidating words, writing or gestures or any form of incivility of a vexatious nature.

5.2.2 Council members shall conduct themselves with honour.

It is forbidden for any member of the Council to engage in conduct that is detrimental to the honour and dignity of the office of elected officials.

5.2.3 Conflict of Interest

5.2.3.1 It is forbidden for any member of the Council to act, attempt to act or fail to act in a manner that promotes, in the performance of their duties, their own personal interests or, in an abusive manner, those of any other person.

5.2.3.2 It is forbidden for any Council member to use their position to influence or attempt to influence the decision of another person in order to favour their personal interests or, in an abusive manner, those of any other person.

5.2.3.3 It is forbidden for any Council member to contravene to articles 304 and 361 of the *Act respecting elections and referendums in municipalities* (R.S.Q., c. E-2.2), subject to the exceptions set out in articles 305 and 362 of that Act.

5.2.4 Receiving or soliciting benefits

5.2.4.1 It is forbidden for any member of the Council to solicit, induce, accept or receive for themselves or for any other person any benefit in exchange for taking a position on any matter that may come before the Council or any committee or commission of which they are a member.

5.2.4.2 It is forbidden for any members of the Council to accept any gift, hospitality or other benefit of any value from a supplier of goods or services that may influence the member's independence of judgment in the performance of their duties or that may compromise the member's integrity.

5.2.4.3 Any gift, hospitality or other benefit received by a member of the Council that is not of a purely private nature or covered by the article 5.2.4.2 shall, when its value exceeds $200 (*a municipality may provide for a lesser amount*), be the subject of a written declaration by that member to the Clerk-Treasurer of the Municipality within 30 days of its receipt.

Such statement shall contain an adequate description of the gift, hospitality or benefit received and shall state the name of the donor and the date and circumstances of its receipt.

5.2.5 Council member shall not use the Municipality’s resources

5.2.5.1 It is forbidden for any member of the Council to use any resources of the Municipality or any other municipal organization within the meaning of the present Code for personal purposes or for purposes other than activities related to the performance of their duties. This prohibition does not apply, however, when a member of Council uses, on non-preferential terms, a resource that is generally available to citizens.

5.2.6 Privileged Information

5.2.6.1 It is forbidden for any council member to, both during and after their mandate, use, disclose or attempt to use or disclose information obtained in the course of or in connection with the performance of their duties that is not generally available to the public to further their personal interests or those of any other person.

5.2.7 After mandate

5.2.7.1 It is forbidden for any member of the Council, during the twelve (12) months following the end of their mandate, to hold a position as director or officer of a legal person, employment or any other position, in such a way that they or any other person derives undue benefit from their previous duties as a member of the Council of the Municipality.

5.2.8 Announcement during a political fundraising activity

5.2.8.1 It is forbidden for any member of the Council to make an announcement at a political fundraising event that a project, contract or grant has been awarded by the Municipality, unless a final decision on the project, contract or grant has been made by the competent authority within the Municipality.

**ARTICLE 6: ENFORCEMENT, CONTROL AND SANCTIONS MECHANISM**

6.1 The enforcement and control mechanisms of the present Code are those provided for in the LEDMM;

6.2 A breach of a rule provided for in the present Code by a member of the Council of the Municipality may result in the imposition of the sanctions provided for in the LEDMM namely:

6.2.1 reprimand;

6.2.2 participation in a training course on ethics and conduct in municipal matters, at the expense of the Council member, within the period prescribed by the Commission municipale du Québec;

6.2.3 the remittance to the Municipality, within 30 days of the decision of the Commission municipale du Québec:

1. of the gift, hospitality or advantage received or the value thereof;
2. any profit received in contravention of a rule set out in the present Code;

6.2.4 the reimbursement of any remuneration, allowance or other sum received, for the period determined by the Board, as a member of a council, committee or commission of the Municipality or of an organization;

6.2.5 a penalty, not exceeding $4,000, to be paid to the Municipality;

6.2.6 the suspension of the Council member for a period not exceeding 90 days, which suspension may extend beyond the day on which their mandate expires if they are re-elected in an election held during their suspension and the suspension has not ended on the day on which their new mandate begins.

When a member of the Council is suspended, they may not hold any office related to their position as Mayor or Councillor and, in particular, they may not sit on any council, committee or commission of the Municipality or, in their capacity as a member of the Council of the Municipality, of any other organization, nor receive any remuneration, allowance or other sum from the Municipality or any such organization.

**ARTICLE 7: REPLACEMENT**

7.1 This regulation replaces By-law number (...) enacting a code of ethics and conduct for elected officials, adopted on (date of adoption of the current code).

7.2 Any mention or reference to a code of ethics and conduct for elected officials, whether in a by-law, a resolution, a policy, a contract, etc., is deemed to refer to this regulation.

**ARTICLE 8: COMING INTO FORCE**

8.1 This regulation shall come into force in accordance with the law.

**PASSED BY THE MUNICIPAL COUNCIL, on** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **2022**

**APPENDIX: Optional rules**

**The following rules may be added to the Code of ethics and conduct for elected officials if the Municipality so desires. It is understood that the Municipality will then adopt higher ethical and conduct standards than the minimum required by law. In such a case, an elected official could be in contravention of their Code of ethics and conduct even though they respect the law and could be subject to sanctions. If certain optional rules are added, they can also be modified or improved at the discretion of each Municipality**

**Continued from section 5.2.1 – Respect and Civility**

* Specifically, every board member shall:

1. Be civil and courteous in their interactions and communications, including those on the web and social media;
2. Respect the dignity and honour of other Council members, municipal employees and citizens.

* Every member of the Council shall engage in frank and honest dialogue with other members of the Council in order to arrive at an informed decision.
* Every member of the Council shall maintain decorum in a public or private meeting of the council. In particular, a member of the Council shall respect the directions of the assembly President.
* In their communications with municipal employees, partners of the Municipality, citizens, the media and the general public, a member of the Council may not use their position or title to imply that they are acting on behalf of the Municipality, except in the case of a resolution duly passed to that effect by the Municipal Council.

This prohibition does not, however, apply to the mayor who is acting within the scope of the specific powers vested in them by law.

**Continued from section 5.2.2 – Honour attached to the functions**

* Every member of the Council shall make reasonable arrangements to attend public and private meetings of the Council. The same applies when presenting the Municipality at various meetings or events.
* No member of the Council shall make any expense in contravention of the *Act respecting the remuneration of elected municipal officers* (R.S.Q., c. T-11.001) or seek reimbursement for such expense.
* In the context of their travel and expenses that involve reimbursement by the Municipality, every member of the Council must, as far as possible, limit the costs to what is reasonable in the circumstances.

**Continued from section 5.2.3 – Conflicts of interest**

* Every member of the Council shall avoid knowingly placing themselves in a position where they are likely to have to choose between their personal interest or the interest of another person and the interest of the Municipality or any other organization when serving as a member of the Council.
* Every member of the Council shall act impartially and fairly. They shall not show favoritism, particularly with respect to suppliers to the Municipality.
* Every member of the Council shall be independent in spirit and objective in judgment without self-interest so as to make the best decisions for the Municipality.
* A Council member who becomes aware of or is informed of a conflict of interest shall take steps to resolve it as soon as possible after becoming aware of the conflict.
* Every member of the Council shall prevent and avoid situations in which they are likely to be unduly influenced by a decision that is likely to favour their personal interest or, in an abusive manner, those of any other person.
* Every member of the Council shall ensure at all times that their activities other than those related to their elected office do not conflict with the performance of their duties as an elected official.

**Continued from section 5.2.4 – Receiving or soliciting benefits**

* When a member of the Council represents the Municipality at an event and receives a participation prize or benefit of any kind, without the member of the Council having to pay any personal fee to receive it, the member of the Council shall surrender it to the Municipality, which shall decide how to receive or dispose of it.

**Continued from section 5.2.5 – Use of Municipal resources**

* A member of the Council shall not permit a municipal employee or a third party to use the resources of the Municipality or any other municipal organization related to the Municipality for personal purposes unless it is for a service or activity that is offered generally by the Municipality.
* It is forbidden for any member to misappropriate any property or money belonging to the Municipality for their own benefit or for the benefit of a third party.

**Continued from section 5.2.6 – Privileged information**

* It is forbidden for any member of the Council to use or disclose, for their own benefit or for the benefit of any third party, any privileged information or information in their possession that would not otherwise be available or that has not been disclosed by the municipal Council.
* A member of the Council shall not disclose in any way, directly or indirectly, the opinion expressed in closed session by another member of the Council or any other person participating in the meeting.
* All Council members shall exercise caution in their communications, including on the web and social media, to avoid directly or indirectly disclosing privileged or non-public information.
* For the purposes of this section, and without limiting the generality of the foregoing, the following are considered to be privileged information and information that is not of a public nature: documents and information that cannot be disclosed or whose confidentiality must be insured under the *Act respecting access to documents held by public bodies and the Protection of personal information* (RLRQ, c. A-2.1), discussions held during closed session and anything protected by professional secrecy, as long as the Municipality has not waived the latter.

**A new section can be added:**

5.2.9 Interference

5.2.9.1 A member of the Council shall not interfere in the day-to-day administration of the Municipality or give instructions to municipal employees, other than in the course of making a decision at a public meeting of the Council. In such a case, the directives shall be carried out with the municipal employees by the Director general.

It is understood that a member of the Council who is a member of a committee or commission formed by municipal Council or who is mandated by municipal Council to represent the Municipality in a particular matter may still be required to co-operate with the Director general and municipal employees. Such co-operation shall be limited to the mandate given to then by the municipal Council.

In no case shall this provision be applied or construed to limit the Mayor's statutory right of supervision, investigation and control.

5.2.9.2 Any member of the Council shall forward any complaints received to the Director general of the Municipality who shall make the appropriate follow-up. If the complaints are against the Director general, they shall refer them to the Mayor.