

CANADA

PROVINCE DE QUÉBEC

MUNICIPALITÉ DE SAINT-GABRIEL-DE-VALCARTIER

M.R.C. DE LA JACQUES-CARTIER

BY-LAW NO. 245

BY-LAW CONCERNING THE CODE OF ETHICS AND GOOD CONDUCT FOR ELECTED MEMBERS OF COUNCIL

WHEREAS the Council of the Municipality adopted, on March 10, 2014, By-law number 192 enacting a *Municipal Ethics and Good Conduct Act* for elected members of council

WHEREAS in accordance with section 13 of the *Municipal Ethics and Good Conduct Act* (R.S.Q., c. E-15.1.0.1, hereinafter referred to as the "Act"), every municipality must, before March 1st following any general election, adopt a revised code of ethics and good conduct to replace 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* (LQ, 2021, c. 31), which amends the mandatory content of the Code of Ethics for elected members of council, will come into force on November 5, 2021

WHEREAS it is therefore necessary to adopt a revised Code of Ethics and Good Conduct for Elected Members of Council

WHEREAS the formalities provided for in the Act for the adoption of such revised code have been complied with

WHEREAS Mayor Brent Montgomery states that the purpose of this By-law is to provide for the principal ethical values of the Municipality and the rules of conduct which shall guide the conduct of a person as a member of council, of a committee or commission of the Municipality or, in his or her capacity as a member of council of the Municipality, of another organization

WHEREAS the Municipality, including the members of its council, explicitly adheres to the ethical values and rules of conduct set out in the Act and in this Code

WHEREAS ethics and deontology in municipal matters are essential to maintain the bond of trust between the Municipality and the citizens

WHEREAS a conduct in conformity with the municipal ethics and deontology must remain a constant preoccupation of the members of the council in order to assure 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 this Code, each member of council is able to fulfill his or her role as an elected municipal official, to assume the responsibilities inherent in this position and to meet the expectations of citizens

WHEREAS this Code contains obligations as well as guidelines for the conduct of each member of council, while leaving it up to the latter to use his or her judgment according to the values set out therein

WHEREAS the purpose of this Code is 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 members of council

WHEREAS it is the responsibility of each member of council to abide by this Code to ensure high standards of ethics and conduct in municipal matters.

**IT IS PROPOSED BY
SECONDED BY**

AND UNANIMOUSLY RESOLVED that by-law number 245 be and is hereby adopted:

SECTION 1 DECLARATORY AND INTERPRETIVE PROVISIONS

- 1.1 The title of this by-law is: *By-law Number 245 Concerning the Code of Ethics and Good Conduct for Elected Members of Council.*
- 1.2 The preamble is an integral part of this Code.
- 1.3 The Code does not replace the laws and regulations in force governing the Municipality and, more generally, the municipal field. Rather, it supplements and complements the various obligations and general duties applicable to elected members of council that are provided for in the applicable laws and other regulations.

Thus, the Code must not be interpreted as allowing derogation from the provisions contained in the laws and regulations in force that govern the Municipality, the elected members of council and, more generally, the municipal field.

SECTION 2 INTERPRETATION

- 2.1 This Code shall be interpreted in accordance with the principles and objectives contained in the Act. The rules set out in that Act shall be deemed to be part of this Code and shall prevail over any conflicting rules set out in this Code.
- 2.2 In this Code, unless the context indicates otherwise, the following terms mean:

Advantage:	Whether pecuniary or not, any gift, donation, favor, reward, service, gratuity, hospitality, remuneration, compensation, gain, indemnity, privilege, preference, compensation, profit, advance, loan, reduction, discount, etc. constitutes an advantage.
Code:	<i>The By-law Number 245 Concerning the Code of Ethics and Good Conduct for Elected Members of Council.</i>
Council:	The Municipal council of Saint-Gabriel-de-Valcartier.
Ethics:	It refers to the set of moral principles that are the basis for the conduct of council members. Ethics takes into account the values of the Municipality.
Good Conduct:	Refers to the set of rules and duties that govern the function of council members, their conduct, their relationships with each other, and their relationships with municipal employees and the public in general.
Member of Council:	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 serving as a member of council of the Municipality.
Municipality:	Municipality of Saint-Gabriel-de-Valcartier.

Personal interest: Such an interest is linked to the person of the elected municipal official and is distinct from that of the community he represents.

Municipal body: The Council, committee, or 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 council, whose budget is adopted by the Municipality or whose financing is provided for more than half by the Municipality

3° a public body whose board is composed of a majority of council members from several municipalities

4° any other body determined by the Minister of Municipal Affairs and Housing

SECTION 3 APPLICATION OF THE CODE

3.1 This Code, and in particular the rules set out in this Code, shall guide the conduct of any member of council.

3.2 Certain rules contained in this Code shall also apply after the term of office of any person who has been a member of council.

SECTION 4 VALUES

4.1 The Municipality's key ethical values:

4.1.1 Integrity of the members of council

Integrity implies probity and honesty above suspicion.

4.1.2 Honor in the office as Member of Council

Honor 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 board member assume his or her responsibilities in the public interest in an objective and discerning manner. Prudence means being sufficiently informed, thinking through the consequences of one's actions and considering alternatives.

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 council, employees of the municipality and citizens

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

4.1.5 Loyalty towards 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 Council.

4.1.6 Search for equity

Fairness implies impartiality, in the sense of objective and independent conduct, and consideration of the rights of everyone. Fairness requires not discriminating.

4.2 These values must guide the members of council on the Municipality in their 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 member of council but shall be respected and applied by the latter.

SECTION 5 RULES OF CONDUCT AND PROHIBITIONS

5.1 One of the purposes of the rules of conduct is to prevent:

5.1.1 Any situation where the member of council's personal interest may influence his or her independent judgment in the performance of his or her duties.

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

5.1.3 Any misconduct detrimental to the honor and dignity of the function of an elected municipal official.

5.2 Rules of conduct and prohibitions

5.2.1 Council members shall conduct themselves with respect and civility

No member of council shall behave in a disrespectful or uncivil manner towards other members of council, municipal employees, or citizens by using, among other things, vexatious, derogatory, or intimidating words, writings or gestures or any form of incivility of a vexatious nature.

- Specifically, each member of council shall:
 - a) Demonstrate civility and courtesy in interactions and communications, including those on the web and social media
 - b) Respect the dignity and honor of other council members, municipal employees, and citizens.
- Each member of council shall engage in frank and honest dialogue with other council members in order to arrive at an informed decision.
- Every member of council shall maintain decorum in a public or private meeting of council. In particular, the council member shall respect the directions of the presiding officer.
- In his or her communications with municipal employees, the Municipality's partners, citizens, the media, and the public in general, a member of council may not use his or her position or title to imply that he or she is acting on behalf of the Municipality, unless a resolution to that effect has been duly passed by Council.

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

5.2.2 The member of council shall conduct himself/herself with honor

No member of council shall engage in any conduct that is derogatory to the honor and dignity of the office of elected official.

- Every member of council shall make reasonable arrangements to attend public and private meetings of Council. The same applies when presenting the Municipality at various meetings or events.
- No council member shall incur an 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 an expense.
- In connection with travel and expenses that involve reimbursement by the Municipality, every member of council shall, as far as possible, limit the costs to what is reasonable in the circumstances.

5.2.3 Conflicts of interest

5.2.3.1 No member of council shall act, attempt to act or fail to act in a manner that promotes, in the performance of his or her duties, his or her personal interests or the improper interests of any other person.

5.2.3.2 No member of council shall use his or her position to influence or attempt to influence the decision of any other person in such a way as to further his or her personal interests or the personal interests of any other person in an improper manner.

5.2.3.3 No member of council shall contravene sections 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 sections 305 and 362 of that Act

- Every member of council shall avoid knowingly placing himself or herself in a position where he or she is likely to have to choose between his or her personal interest or the interest of another person and the interest of the Municipality or any other body, when serving as a member of council.
- Every member of council shall be impartial and fair. He or she shall not show favouritism, particularly with respect to suppliers to the Municipality.
- Every member of council shall be independent in spirit and objective in judgment without self-interest so as to make the best decisions for the Municipality.
- A member of council who becomes aware of or is advised of a conflict of interest shall take steps to resolve it as soon as possible after becoming aware of the conflict.
- Every member of council shall prevent and avoid situations in which he or she is likely to be unduly influenced in a decision that is likely to further his or her personal interest or, in an improper manner, those of any other person.
- Every member of council shall ensure at all times that his or her activities other than those related to his or her elected office do not conflict with the performance of his or her elected duties.

5.2.4 Receiving or soliciting benefits

- 5.2.4.1 No member of council shall solicit, induce, accept, or receive for himself or herself or for any other person any benefit in exchange for taking a position on any matter that may come before Council or any committee or commission of which he or she is a member.
- 5.2.4.2 No council member shall accept any gift, hospitality, or other benefit of any value from a supplier of goods or services that may influence the member's independent judgment in the performance of his or her duties or that may compromise the member's integrity.
- 5.2.4.3 Any gift, hospitality or other benefit received by a member of council that is not of a purely private nature or covered by Section 5.2.4.2 must, when its value exceeds \$200, be declared in writing by the member to the Clerk-Treasurer of the Municipality within 30 days of receipt.

This 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 The council member shall not use any resources of the municipality

- 5.2.5.1 No member of council shall use any resources of the Municipality or any other municipal body within the meaning of this Code for personal purposes or for purposes other than activities related to the performance of his or her duties. However, this prohibition does not apply where a member of council uses, on non-preferential terms, a resource that is generally available to citizens.
 - A member of council shall not permit a municipal employee or a third party to use the resources of the Municipality or any other municipal body related to the Municipality for personal purposes unless it is for a service or activity that is generally provided by the Municipality.
 - No council member shall misappropriate for his or her own benefit or for the benefit of a third party, any property or money belonging to the Municipality.

5.2.6 Privileged information

- 5.2.6.1 No member of council shall use, disclose or attempt to use or disclose, either during or after his or her term of office, any information obtained in the course of or in connection with the performance of his or her duties that is not generally available to the public for the benefit of his or her personal interests or those of any other person.
 - No member of council shall use or disclose, for his or her own benefit or for the benefit of a third party, any privileged information or information in his or her possession that would not otherwise be available or that has not been disclosed by the Council.
 - A member of council shall not disclose in any way, directly or indirectly, the opinion expressed in closed session by another member of council or any other person participating therein.
 - All council members must 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 public nature: documents and information that cannot be disclosed or whose confidentiality must be ensured under the *Act respecting Access to documents held by public bodies and the Protection of personal information* (R.S.Q., c. A-2.1), discussions held during private meetings and anything protected by professional secrecy, as long as the Municipality has not waived the latter in the case of the latter. A-2.1), discussions held during private meetings, and anything protected by professional secrecy, as long as the Municipality has not waived it in this last case.

5.2.7 Post mandate

5.2.7.1 No member of council shall, for a period of twelve (12) months following the end of his or her term of office, hold any office as a director or officer of a corporation, employment or any other office, in such a manner that he or she or any other person derives improper benefit from his or her previous service as a member of council of the Municipality

5.2.8 Announcement at a political fundraising event

5.2.8.1 No member of Council shall make any announcement at a political fundraising event regarding the completion of a project, the entering into of a contract or the awarding of a grant by the Municipality, unless a final decision regarding such project, contract or grant has already been made by the appropriate authority of the Municipality.

5.2.9 Meddling

5.2.9.1 A member of Council shall not meddle 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 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 Council who is a member of a committee or commission formed by City Council or who is mandated by City Council to represent the Municipality in a particular matter may, however, be required to co-operate with the Director General and City employees. Such co-operation shall be limited to the mandate given to him or her by City 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 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, he/she shall refer them to the Mayor.

SECTION 6 ENFORCEMENT, MONITORING AND SANCTIONS MECHNISM

6.1 The enforcement and control mechanism for this Code are those set forth in the Act

6.2 A breach of any of the rules set forth in this Code by a member of the Council of the Municipality may result in the imposition of the penalties set forth in the Act, namely:

6.2.1 reprimand;

- 6.2.2 participation in training on municipal ethics and good conduct, at the council member's expense, within the time frame prescribed by the Commission municipale du Québec;
- 6.2.3 the delivery to the Municipality, within 30 days of the decision of the Commission municipale du Québec:
 - a) the gift, hospitality or benefit received or the value thereof, de la marque d'hospitalité ou de l'avantage reçu ou de la valeur de ceux-ci;
 - b) any profit made in contravention of a rule set out in this Code
- 6.2.4 the reimbursement of any remuneration, allowance or other sum received, for such period as the Board may determine, as a member of a board, committee or commission of the Municipality or of an agency;
- 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 the council member's term of office expires if the council member is re-elected in an election held during the suspension and the election is not concluded by the day on which the council member's new term of office begins.

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

SECTION 7 REPLACEMENT

- 7.1 This by-law replaces *By-law Number 192 concerning the Code of Ethics and Good Conduct for Elected Members of Council*, adopted on March 10, 2014.
- 7.2 Any mention or reference to a code of ethics and professional conduct for elected officials, whether in a by-law, resolution, policy, contract, etc., is deemed to refer to this by-law.

SECTION 8 ENTRY INTO FORCE

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

Adopted at Saint-Gabriel-de-Valcartier on the ____ of February 2022.

Brent Montgomery
Mayor

Heidi Lafrance
Director General and Clerk-Treasurer

Notice of motion: January 11, 2022
Filing of the draft by-law: January 11, 2022
Adoption of the by-law: February 8, 2022
Notice of promulgation: February 9, 2022