

11-12-941

BY-LAW NUMBER 09-11 - TO ENACT THE STANDARDS THAT ARE APPLICABLE TO THE MEMBERS OF THE PONTIAC MUNICIPAL COUNCIL – CODE OF ETHICS AND PROFESSIONAL CONDUCT ON A MUNICIPAL LEVEL

WHEREAS on June 10, 2010, the Quebec government introduced a draft of bill 109 concerning the *Act with respect to ethics and professional conduct on a municipal level* submitted by Mr. Laurent Lessard, Minister of Municipal Affairs, which was adopted on November 30, 2010 and sanctioned on December 2, 2010 ;

WHEREAS the *Act with respect to ethics and professional conduct on a municipal level* among others, creates an obligation for local municipalities to adopt a code of ethics and professional conduct that is applicable to elected representatives, which shall be revised following each general election;

WHEREAS the said Act foresees that the rules stated in the code of ethics and professional conduct for elected representatives notably must affect conflicts of interest, favouritism, malpractice, breach of trust or other misconduct, donations and other advantages, the use of the municipality's resources as well as in the aftermath of the mandate;

WHEREAS this council deems it necessary and of public interest to conform to the Ministry of Municipal Affairs demands;

WHEREAS a notice of motion was given at a regular Council meeting held on October 11, 2011 to the effect that the present by-law would be submitted for approval;

FOR THIS REASON, it is

Moved by Inès Pontiroli
Seconded by Roger Larose

AND RESOLVED THAT it is ordered and ruled on by the Council of the Municipality of Pontiac, and the said municipal Council orders and rules the following by the present by-law :

ARTICLE 1 – PREAMBLE

The preamble is an integral part of the present by-law.

ARTICLE 2 – OBJECT – GENERAL PRINCIPLE

2.1 The object of the present by-law is to set a code of ethics and professional conduct for the Council members of the Municipality of Pontiac, notably by subscribing to values based on the integrity, the honour related to the duties of a member of a municipal Council, caution in the pursuit of public interest, respect, loyalty, equity, honesty, objectivity, impartiality, and sound management in a perspective of public interest to govern the Municipality of Pontiac.

2.2 The members of the municipal Council must hold office and organize their personal affairs so as to preserve and maintain public trust with integrity, objectivity and impartiality in the Municipality of Pontiac's decisions. Furthermore, the members of municipal Council must act with integrity, objectivity and impartiality but must also preserve appearances and promote transparency by adopting a behaviour that will preserve and maintain public confidence with integrity, objectivity and impartiality of the municipal corporation.

ARTICLE 3 – RANGE OF APPLICATION

Unless otherwise specified, the present by-law applies to all Council members of the Municipality of Pontiac.

ARTICLE 4 – DEFINITIONS

For interpretation purposes of the present by-law, unless the context specifies otherwise, the words and expressions mean the following, without limitation:

- 4.1 **Advantages :** Any gift, donation, favour, reward, service, commission, pay, retribution, indemnity, compensation, benefit, profit, advance, loan, discount or anything else of the same nature that is useful or profitable, or any promise of such advantages.
- 4.2 **Code of ethics :** In an extensive way, the code of ethics is first and foremost an educational tool, a group of rules of conduct, a code of honour, which could lead to the imposition of a sanction of the law, foreseen in articles 31 and 32, section III, of the *Act with respect to ethics and professional conduct on a municipal level*, and have consequences of a political nature for whomever does not comply to its precept.
- 4.3 **Committee :** A committee consisting of the Municipality of Pontiac municipal Council, as constituted by municipal by-law and in virtue of article 82 of the Municipal Code.
- 4.4 **Council :** The municipal Council of the Municipality of Pontiac.
- 4.5 **Professional conduct :** The Professional conduct concerns rules of conduct which are expected under the sense of duty and responsibility and results from values and ethical principles.
- It exercises a regulation in view of directing the conduct and aims at codifying that which is banned and what is permitted. Its application is often quasi-judicial and founded on judicial principles. Its principles have a binding power.
- 4.6 **Employee** Any officer or salaried personnel in the employ of the Municipality.
- 4.7 **Binded organization :** Society, company, cooperative, association or corporation which has a business relation, or other, with a Council member of the Municipality of Pontiac.
- 4.8 **Ethics :** The sense of ethics is a concept which attempts to guide a person in a choice of behaviour to be adopted when faced with a given situation. It's a group of regulations which outlines the human conduct, its application is founded on a subject's self-discipline.
- It is good practice to use one's judgement on the basics of values, standards and issues at hand in order to direct self

conduct and make well informed decisions in a given situation. For practical purposes, it refers to a group of values, rules and judgements which will direct an individual's and a group's behaviour.

It should not be seen as a control system, but rather as the exercise which is responsible for the use of judgement and discretion in difficult situations.

4.9 Honour associated with the duties of a member of the

municipal Council : Every member of the municipal Council protects the honour associated to their duties, which presupposes the constant practical use of values : integrity, prudence, respect, loyalty and equity.

4.10 Integrity : The members of the municipal Council shall promote honesty, strictness and justice.

4.11 Personal interest: Interest shown by the person concerned, be it a direct or indirect interest, financial or not, real, apparent or a potential interest. It is distinct, without necessarily being exclusive of that of the public in general, or may be perceived as such by a reasonably informed person. Excluded from this notion, is the case where personal interest consists of payment, allocations, reimbursement of expenses, of fringe benefits, or other conditions related to the duties of the person concerned, within the Municipality or a municipal organization.

4.12 Interest of close relations :

Interest from the spouse of the person concerned, from his/her children, from people in his/her ascending line or interest from a public corporation, a company, a coop or association with whom he/she has any business relations. It may be of direct or indirect interest, financial or not, real, apparent or a potential interest. It is distinct, without necessarily being exclusive of that of the public in general, or may be perceived as such by a reasonably informed person.

4.13 Loyalty towards the Municipality :

The members of the municipal Council shall seek the interest of the Municipality of Pontiac.

4.14 Member : A committee member, be it a municipal Council member or not.

4.15 Member of the

immediate family : The spouse, in the sense of the *Act respecting labour standards*, as well as people in his/her ascending line, brothers or sisters and their spouses or a binding entity.

4.16 Member of Council : The mayor and councillors forming the members of Council of the Municipality of Pontiac.

4.17 Municipality : The Municipality of Pontiac.

4.18 Municipal

Organization :

1. An organization which the government declares as being an authorized or a municipal agent ;
2. an organization whose council consists in majority of council members of a municipality ;
3. an organization whose budget is adopted by the municipality or whose funding is assured for more than half its worth by the municipality ;
4. a council, a commission or a committee formed by the municipality, which is in charge of examining and studying a question that is submitted by council ;
5. a business, corporation, company or association in which a person is designated or recommended by the municipality, in order to represent its interests.

4.19 Resource person:

Person appointed by the municipal Council to participate in the activities of the Planning advisory committee, or other committees, but who is not a member and has no right to vote. The resource person is subjected to the same duties and responsibilities of a member, but may have a contract with the Municipality. The fact that a resource person is an employee of the Municipality or that he/she has a professional mandate as a consultant for the Municipality, is not reputed as being a conflict of interest. Holding an interest, in the sense of article 305 of the *Act respecting elections and referendums in municipalities* is not the intent of the present document.

4.20 Prudence in pursuit

of public interest :

The members of the municipal Council assume their responsibilities in view of the mission of public interest, that is incumbent upon them to do. In accomplishing this mission, they shall act with professionalism as well as vigilance and discretion.

4.21 Searching for

equity :

The members of the municipal Council shall treat everyone with justice and, as far as possible, by interpreting the laws and regulations, in accordance to their ethics.

4.22 Respect towards

other members, the employees of the Municipality and all citizens :

The members promote respect in the aspect of human relations. He/she has the right to this and acts with respect towards all people that they deal with, in the scope of their employment.

ARTICLE 5 – CONFLICT OF INTEREST

- 5.1 For the purpose of the present document, a conflict of interest exists when a personal interest may potentially, or apparently, prevent a member of Council to act objectively, in his/her executive capacity and in the sole interest of the Municipality of Pontiac.

- 5.2 The members of the municipal Council must perform their duties in the interest of the public and take all necessary measures to value the public's interest. To that effect, and without limiting its range, he/she must pay particular attention to each file submitted to committees or others, so as to evaluate their merit, keeping in mind the advantages and inconveniences and the impact on the community as a whole.
- 5.3 The members of the municipal Council must faithfully assume their duties in conformity with the applicable legislations, including the current municipal by-laws. He/she subscribes to and accepts the principles of a sound municipal administration and must fulfill his/her duties and responsibilities with integrity, dignity and impartiality.
- 5.4 The members of the municipal Council must not place themselves in a situation where their personal interest, or that of a member of their immediate family could influence them in their executive capacity.
- 5.5 The members of the municipal Council must refrain from soliciting or possessing for themselves, for a close relative or a corporation in which he/she has a personal interest, a contract with the Municipality.
- 5.6 In order to prevent any real or potential situation of conflict of interest, none of the members of the municipal Council may directly or indirectly participate in any invitation to tender, and cannot have a direct or indirect interest in a contract with the municipality or a municipal organization, with the exclusion of the exceptions foreseen in articles 305 of the *Act respecting elections and referendums in municipalities* (L.R.Q. c. E-2.2 and 269 of the Quebec municipal code L.R.Q. c. -27.1).
- 5.7 None of the members of the municipal Council may solicit, accept, or receive, any payment, profit or advantage whatsoever, other than those provided for by Law, in exchange for a statement regarding a by-law, a resolution or any question submitted or that shall be submitted to the municipal Council or to any of their committees.
- 5.8 Any member of Council, upon their election or during their mandate or employment, who is placed in a situation where there is a conflict of interest, following the implementation of a law, a marriage, common-law marriage or the acceptance of a donation or legacy, must put an end to the situation as soon as possible following the election or the occurrence of an event that will generate the conflict of interest.
- 5.9 The members of Council must make it publicly known on their annual declaration of financial interests, the facts and situations that are directly or indirectly susceptible to create a conflict with the public's interest, or their duties and personal interests or that of their immediate family's, in a way that the citizens may establish that he/she is acting within their duties with integrity, impartiality and objectivity or, where appropriate, to observe that he/she is derogating to the correct way of acting by keeping the said declaration to date, as soon as he/she is aware of any fact or situation of this nature, by submitting an amended declaration to the Secretary-treasurer or Director general.

5.10 **Communication**

- (i) The members of Council will transmit the Council's decisions with precision and in an adequate fashion even if he/she is in disagreement with a majority decision.

- (ii) The members must respect the Council's decision-making process.
- (iii) The members must lead and transmit Council's business in an open and public fashion so that interveners may understand the process, logic and justification used to draw conclusions and make decisions.
- (iv) The municipal Council will regularly take advantage of official or unofficial occasions to obtain the tax payers' ideas as part of the decision-making process regarding questions that have major repercussions on the community.
- (v) The members of Council will show respect during discussions concerning their peers, the personnel, the municipality and all of the Council's decisions.
- (vi) The members of Council will refrain from giving comments that could denigrate their peers or the personnel's professional competence or credibility.

ARTICLE 6 – GIFTS – DONATIONS

- 6.1 The members of the municipal Council must refuse all gifts, offers of hospitality or other advantages, whatever its value may be, that would risk having an influence on their judgement or their duties, or that may give rise to the perception of a such risk.
- 6.2 Notwithstanding article 6.1, a member of the municipal Council may receive certain advantages when these advantages:
 - a) are conform with the rules of courtesy, of protocol, hospitality or usage ;
 - b) are not from an anonymous source ;
 - c) do not represent a sum of money, an action, an obligation, a commercial paper or any financial title ;
 - d) are not of a nature that would leave any doubt on their integrity, their independance, or their impartiality, that of the Municipality or a municipal organization.
- .3 Any donation, act of hospitality or any other advantage received by a member of the municipal Council and that which is not purely of a private nature or aimed at what is applicable to article 6.1, if its value is greater than \$200, the said member of Council must make a written declaration within 30 days of its reception and submit it to the Secretary-treasurer and Director general of the Municipality of Pontiac. This declaration must include an adequate description of the donation, of the act of hospitality or the advantage received, and specify the name of the donor as well as the date and the circumstances of its reception. The Secretary-treasurer and Director general keeps a public register of these declarations.
- .4 The present rule does not apply:
 - a) When the act of hospitality or the advantage comes from a government or a municipality, from a government or municipal agency or any of their official representatives ;
 - b) If the member of the municipal Council hands over the said advantage that was received, to the Municipality ;
 - c) If it consists of a meal enjoyed in the presence of the person who has offered it and is less than \$200.

- 6.5 When a member of the municipal Council directly or indirectly receives an act of hospitality or another advantage as part of a training activity or professional development, in accordance with article 6.2, he/she must inform the Director general. The declaration of the member of the municipal Council must be the object of a description by the Director general specifying the circumstances. The present article does not apply to an act of hospitality or any other advantage when the member of the municipal Council has received them in his/her executive capacity, on behalf of a representative or a government agency, or a professional association to which he/she is a member of.
- 6.6 Each donor receives a copy of the present by-law regarding ethics, so that he/she knows that the gift or donation cannot be accepted. Professionals and businesses who do business with the Municipality will receive a copy of the present by-law.

ARTICLE 7 – DUTY OF DISCRETION

- 7.1 The members of the municipal Council may not use information which he/she receives in their executive capacity and which is not generally passed on to the public, to their personal advantage or benefit.
- 7.2 The members of the municipal Council may not transmit to a third party, information which he/she receives in their executive capacity and which is not generally passed on to the public.
- 7.3 The members of the municipal Council may not transmit to a third party, information which is nominative in the sense of the *Act with respect to access to public organization documents and on the protection of personal information*. The Director general is the person responsible, designated in virtue of the said Act, and exclusively possesses the delegated authority to decide on the nominative nature of the information.
- 7.4 The members of the municipal Council, with the exception of the mayor, may not transmit information that is not nominative and is not generally passed on to or known by the public, without the municipal Council's authorization.
- 7.5 In order to protect the secret with respect to information of a confidential nature, the members of Council must :
- a) refrain from using such information at the Municipality's prejudice or in view of directly or indirectly obtaining an advantage for him/herself or for others ;
 - b) take the necessary measures to ensure that his/her colleagues and entourage do not use or relay such information that has come to their knowledge in their executive capacity,

ARTICLE 8 – USE OF MUNICIPAL RESOURCES – NAME – ARMORIES OR LOGO

- 8.1 The members of the municipal Council must refrain from using or allowing the use of municipal resources, goods or services for other purposes than those intended, or those of municipal organizations, or to use the authority in their executive capacity for their personal interest or that of a member of their immediate family.
- 8.2 Despite article 8.1, a taxpayer may use certain of the Municipality's goods or services for personal purposes, if it is a service that is offered on a general basis by the Municipality or a municipal organization.

- 8.3 The members of the municipal Council must refrain from using the municipality's name or logo when concluding contracts and agreements in a personal capacity with a third party, so that the other party is not led to believe that the contract or agreement was concluded with the Municipality or that the Municipality becomes surety for them or is implicated in any way whatsoever.
- 8.4 The members of the municipal Council must refrain from using municipal letterhead for their personal activities.
- 8.5 The members of the municipal Council who has or acquires interest in a company or business, must avoid using their position at the Municipality for publicity purposes or promotional support to the business in question.

ARTICLE 9 – BUSINESS WITH THE MUNICIPALITY

The members of the municipal Council must refrain from directly or indirectly having an interest in a contract with the Municipality or a municipal organization, subject to the exceptions provided by the Law.

ARTICLE 10 – RESPECT FOR THE DECISION-MAKING PROCESS – EMPLOYEE RELATIONS – HIRING PROCESS

- .1 The members of the municipal Council must respect the legislative and administrative prescription governing the Municipality's and municipal organizations' decision-making process.
- .2 The members of the municipal Council must maintain respectful relations with other members of the municipal Council, with the employees and the citizens of the Municipality of Pontiac.
- .3 The members of the municipal Council must refrain from participating or influencing anyone when hiring, supervising, promoting or evaluating an employee's performance when the employee is a member of his/her immediate family or a person to which he/she legally or personally is indebted to.
- .4 The members of the municipal Council must disclose all family ties or social affiliation via a candidates possessions, that may affect his/her creditibility and must withdraw from any selection committee.

ARTICLE 11 – PARTICIPATION IN TRAINING SESSIONS – DECLARATION OF OATH OF THE ELECTED REPRESENTATIVE

- 11.1 The members of the municipal Council shall participate, within four (4) months of assuming his/her duties, to a training session on ethics and professional conduct that is specially created for the municipal sector and to additional information sessions offered periodically for the duration of the mandate.
- 11.2 The members of the municipal Council must take the oath, according the the *Act respecting elections and referendums in municipalities*, in keeping with the rules of the Code of ethics and professional conduct.

ARTICLE 12 – PROCESS OF APPLICATION AND CONTROL - SANCTIONS

- 12.1 Any person who has reasonable motive to believe that a member of the municipal Council has committed a violation of a rule provided for in the code of ethics and professional conduct, which can be applicable to him/her, may contact the Ministry of Municipal Affairs within three years following the end of this member's

mandate, in accordance with articles 20 to 30 of the *Act respecting ethics and professional conduct* on a municipal level.

12.2 In order for any complaint, with respect to the present by-law to be complete, it must be written, witnessed on oath, justifiable and accompanied by any supporting document, if necessary.

12.3 According to articles 7 and 31 of the *Act respecting ethics and professional conduct* on a municipal level : A breach of the *Code of ethics and professional conduct* by a member of Council of the Municipality of Pontiac may lead to the imposition of the following sanctions :

1. A reprimand.
2. Handing over to the Municipality, within 30 days of the Quebec Municipal Commission's decision :
 - a) The donation received as a hospitality of advantage, or their value ;
 - b) Any profit taken for the breach of a rule, stated in the municipal Code.
3. The reimbursement of any payment, allocation or other sums received as a member of the municipal Council, of a committee or a commission of the Municipality or an organization, for the duration that the breach of a rule, provided for in the municipal Code, existed.
4. The suspension of the member of Council for no more than 90 days, which cannot have effect past the last date of his/her mandate.

12.4 When a member of the municipal Council is suspended, he/she may not attend any council meeting, committee or Municipal commission or, in his/her capacity as member of the Municipality of Pontiac Council, of another organization, and may not receive neither payment, allocation or any other sum from the Municipality or a such organization.

ARTICLE 13 – POST-MANDATE

13.1 The members of the municipal Council who ceased to perform his/her duties must act in such a way as to avoid drawing unfair advantage of his/her previous duties.

13.2 The members of the municipal Council shall refrain from disclosing confidential information that is not available to the public, obtained in the scope of their employment.

13.3 The members of the municipal Council must refrain from disclosing confidential information that he/she obtains, or to use it to his/her advantage or someone else's ; such information that is not available to the public, obtained while in their executive capacity.

ARTICLE 14 – REVISION OF THE LISTED RULES – CODE OF ETHICS AND PROFESSIONAL CONDUCT

The members of the municipal Council agree to revise and adopt, at the beginning of each new four (4) year mandate, the rules governing the code of ethics and professional conduct in order to reiterate their commitment regarding respect and promoting the rules therein and that it reflects the evolution of local concerns as well as the elected representatives' leanings and priorities.

ARTICLE 15 – DECLARATORY PROVISIONS

The masculine and the singular are used in the present by-law without discrimination in order to reduce the size of the document, and includes the feminine and the plural.

ARTICLE 16 – COMING INTO EFFECT

.1The present by-law will come into effect after the accomplishment of formalities enacted by Law.