



TOWNSHIPSHIP OF MONTAGUE COUNCIL CODE OF CONDUCT

SCHEDULE 'A' TO BY-LAW 3413-2014

Pursuant to the Municipal Act, S.O. 2001, as amended, which provides municipalities with the authority to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues, the Corporation of the Township of Montague passed By-law 3413-2014 on May 6th, 2014 which adopted this document, being the "Township of Montague – Council Code of Conduct".

Pursuant to By-law 3413-2014, this Code of Conduct applies to and binds all members of the municipal Council and shall be acknowledged by signature by members of Council.

This document will better the Township's ability to govern the affairs of the Township of Montague.

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SECTION 1

COUNCIL & STAFF - ROLES & RESPONSIBILITIES

The role of Council and staff is traditionally one of the first items to be clarified for a new Council. Clearly defined roles, distinguishing between the concepts of “governance” and “management”, are critical to the success of a municipality. It should be reinforced at the outset of a term of Council, that Council sets the policy for the community; it does not participate in the daily operations of the municipality.

1. Legislated Responsibilities - Municipal Act, 2001

It is the role of Council:

- a) to represent the public and to consider the well-being and interests of the municipality;
- b) to develop and evaluate the policies and programs of the municipality;
- c) to determine which services the municipality provides;
- d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
- e) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- f) to maintain the financial integrity of the municipality; and
- g) to carry out the duties of Council under this and any other Act.

It is the role of the Head of Council:

- a) to act as the chief executive officer of the municipality;
- b) to preside over Council meetings so that its business can be carried out efficiently and effectively;
- c) to provide leadership to the Council;
- d) without limiting Clause (c), to provide information and recommendations to the Council with respect to the role of Council described in Clauses 224(d) and (d)(1);
- e) to represent the municipality at official functions, and
- f) to carry out the duties of the head of Council under this or any other Act.

It is the role of officers and employees of the municipality:

- a) to implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions;
- b) to undertake research and provide advice to Council on the policies and programs of the municipality; and
- c) to carry out other duties required under this and any other Act and other duties assigned by the municipality.

2. Interaction with Staff

Over the years, the Township has worked diligently at creating a positive working relationship between Council and staff. To a large degree this has been successful due to a mutual respect for each others' roles and responsibilities.

Council, acting as a body, can dictate that staff perform such duties as are necessary for the efficient management of the affairs of the municipality and/or research such matters as the Council deems necessary. Individual Council members do not have authority to direct the C.A.O. or staff.

The role of the C.A.O. is to direct the day-to-day management of the municipality and assign duties to the staff placed under his/her supervision. To encourage the efficient management of the community, individual Council members are requested to be cognizant of that fact and are advised of the following:

- i) Members of Council will respect and adhere to the policies set by Council and will, under no circumstances, take it upon themselves, individually, to circumvent established policies.
- ii) Council, as a body and as individuals, will liaise with the C.A.O. only. This requirement is not designed to interfere with the normal flow of information with those staff members (administrative assistant, clerk,) who have been assigned the responsibility of providing information to members of Council such as meeting times, copies of documents, information on standard operating procedures, etc. by the C.A.O.
- iii) Questions or issues surrounding operational concerns or complaints, excluding the basic issues covered in (ii) above, shall be directed to the department head through the C.A.O. Members of Council who still have concerns about operational issues, after addressing them with the C.A.O., should raise these concerns at Committee of the Whole.
- iv) The municipality has never had a practice of providing secretarial and/or research services for individual members of Council. Should information be required by individual Council members, a request should be made to the C.A.O., who will then decide which staff member will obtain the data.
In the extended absence of the C.A.O., or in the case of an urgent matter where the C.A.O. is not available, inquiries should be directed through the Deputy C.A.O. or, failing that, the Clerk or Deputy Clerk.
- v) Provincial downloading and municipal downsizing has resulted in each municipal staff person being asked to carry a substantial workload. When attending at the Township Office, Council members should respect the fact that these are busy people. Placing staff members in the awkward position of having to explain to their supervisor why they are not getting their assigned work done is not appropriate behaviour for a member of Council. It is unfair to the employee to take up an inordinate amount of their time engaging in conversation. Ongoing e-mail and/or frequent telephone conversations are equally time consuming and will be discouraged as well.

3. Statutory Provisions Regulating Conduct

This Code of Conduct operates along with and as a supplement to the existing statutes governing the conduct of members. The following provincial legislation governs the conduct of members of Council:

- *The Municipal Conflict of Interest Act;*
- *The Municipal Elections Act, 1996;*

- The *Municipal Act, 2001*; and
- The *Municipal Freedom of Information and Protection of Privacy Act*.

The *Criminal Code* of Canada also governs the conduct of members of Council.

SECTION 2

STANDARDS OF CONDUCT

1. Rules of Etiquette – Meetings

Adhering to generally accepted rules of etiquette and the observation of common courtesy will go a long way toward fostering good working relations between Council and staff.

- a) The professional and personal conduct of members of Council must be above reproach and avoid even the appearance of impropriety. Councillors shall refrain from abusive conduct, derogatory comments, personal charges, verbal attacks or gossip upon the character or motives of municipal employees, Councillors, committee appointees or the public. All dealings between Council, committee appointees, municipal employees and the public are to exhibit a high degree of professionalism and are to be based on honesty, respect, impartiality and fairness. Service to the public is of paramount importance.
- b) The regular practice should be for a member of Council to make an inquiry of the C.A.O., prior to a Council meeting for any matter they wish to raise at said meeting, if the issue requires research or a response from staff.
- c) The Chairperson should never allow members of Council or delegations at Council or Committee of the Whole to publicly criticize identifiable employees. It is the responsibility of the Chair to ensure that both procedure and rules of etiquette are observed by those in attendance.
- d) Members of Council may make reports in accordance with the procedural by-law. When there is more than one member of Council on a board/committee, the members of Council will share the reporting in a fair and equitable manner.
- e) In Camera Meetings – Note Taking
 - i) It is the policy of the Township of Montague that no recordings will be kept for any meeting of Council, Committee of the Whole or standing committee, or part of any meeting of Council, Committee of the Whole or standing committee that is closed to the public, except those which are required by the Municipal Act 2001, S.O. 2001, C.25, as amended.
 - ii) Recordings shall include the taking of minutes or other recording of proceedings, taking notes, the making of basic calculations, etc., by staff other than the Clerk or his/her designate.
 - iii) It is recognized that members of Council and staff members may do basic calculations on paper in the course of a closed meeting. Any such calculations shall be collected by the Clerk and destroyed prior to the closing of the meeting. Any recordings outside of basic calculations shall not be permitted except those which are required by the Municipal Act 2001, S.O. 2001, C.25, as amended.
 - iv) Where, in accordance with Section 239(6) of the Municipal Act 2001, S.O. 2001, a vote is held for a “procedural matter or for giving directions or

instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under contract with the municipality or local board”, the appropriate staff member may record the direction for their use if necessary and approved by the Council or standing committee.

- v) Anyone making recordings which exceed these limits may be expelled for improper conduct at a meeting. Repeated offences may be dealt with under the “Breach of Policy” section of this Code of Conduct.

2. Rules of Etiquette - Public Inquiries

Operational Inquiries/Complaints

- a) Members of Council who are approached by the public with inquiries/complaints regarding operational matters should inform the party to contact the Township office and file an official inquiry/complaint which will then be forwarded to the appropriate department for review/resolution.
- b) Where the member of the public is reluctant to contact the Township office directly, the member of Council should take the person’s name, phone number and details of the inquiry/complaint and advise them that the matter will be referred to the C.A.O. for review/resolution.

Policy Inquiries/Complaints

- c) If a member of the public approaches a member of Council with an enquiry concerning policy issues decided by the Council, they should be requested to put the issue in writing to Council and forward it to the Clerk so that it can be considered by Council at their next meeting.
- d) Where the member of the public is reluctant to put their concern in writing, the members of Council may request the issue be placed on a Council agenda for consideration.

3. Interpersonal Behaviour of Members of Council

- a) **Treat Every Person with Dignity, Understanding and Respect**
Members of Council shall abide by the provisions of the *Human Rights Code* and, in doing so, shall treat every person, including other Members of Council, corporate employees, individuals providing services on a contract for service, students or placements, and the public, with dignity, understanding and respect for the right to equality and the right to an environment, that is safe and free from harassment and discrimination.
- b) **Not to Discriminate**
In accordance with the *Human Rights Code*, Members of Council shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, religious affiliation or faith, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability. "Age", "disability", "family status", "record of offences", "same sex partnership status" shall be as defined in the *Human Rights Code*.

- c) **Not to Engage in Harassment or Bullying (Psychological Harassment)**
In accordance with the *Human Rights Code*, harassment shall mean engaging in a course of vexatious comment or conduct that is known, or ought to be known, to be unwelcome. Bullying is the on-going health or career-endangering mistreatment of an employee or colleague, by one or more of their peers or higher-ups. Unlikely to involve physical violence, it usually takes the form of psychological abuse. Often verbal and strategic insults are intended to prevent targets from being successful in their job. Pressuring an employee to deviate from a policy or to provide a favour is a form of bullying.

4. Other Behaviour

- a) **Use of Municipal Property & Resources**
Council, committee appointees and municipal employees must not use the municipality's property, equipment, supplies or services, which are not available to the general public, for purposes not associated with the discharge of their official duties.
- b) **Compliance with Policies and By-laws**
Members of Council should lead by example and shall conform with the Township's policies and by-laws.
- c) **Discreditable Conduct**
All members of Council have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario *Human Rights Code* applies and if applicable, the Township's Human Rights and Anti-Harassment Policy.
- d) **Avoiding and preventing situations that could give rise to a conflict of interest, or the appearance of a conflict of interest or to the eroding an employee's roles and responsibilities is one of the primary means by which a member of Council maintains public confidence in the impartiality and objectivity of the Corporation.**

SECTION 3

CONFIDENTIALITY

1. Council members shall keep confidential any information:
 - a) Disclosed or discussed at a meeting of Council, Committee of the Whole or standing committee or part of a meeting of Council, Committee of the Whole or standing committee that was closed to the public.
 - b) That is circulated to members of Council which is marked confidential.
 - c) Any documentation marked confidential shall be kept securely until no longer required in the course of business and shall at that time be destroyed by the member of Council or returned to the office of the Clerk for destruction.
 - d) That is received in confidence verbally in preparation of the in camera meeting.
2. The obligation to keep information confidential applies even when the member ceases to be a member of Council.
3. Protection of Privacy (Confidential Information)

Confidential information includes information in the possession of, or received in confidence by the municipality that the municipality is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (often referred to as "MFIPPA"), or other legislation. Generally, the *Municipal Freedom of Information and Protection of Privacy Act* restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal and information that is subject to solicitor-client privilege.

No member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

Nor shall members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. As one example, no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of municipal property or assets.

A matter that has been discussed at an in-camera (closed) meeting remains confidential. No member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

The following are examples of the types of information that a member of Council

must keep confidential:

- Items under litigation, negotiation, or personnel matters;
- Information that infringes on the rights of others (e.g., sources of complaints where the identity of a complainant is given in confident);
- Price schedules in contract tender or Request for Proposal submissions if so specified;
- Information deemed to be "personal information" under the *Municipal Conflict of Interest Act*; and
- Statistical data required by law not to be released (e.g., certain census or assessment data).

Members of Council should not access, alter or gain access to confidential information in the custody of the municipality unless it is necessary for the performance of their duties and not prohibited by Council policy.

SECTION 4

GIFTS, HOSPITALITY & OTHER BENEFITS

The objective of these policies is to ensure that members of Council make Council decisions based on impartial and objective assessments of each situation, free from the influence of gifts, favours, hospitality or entertainment.

In this policy, gifts, commission, hospitality, reward, advantage or benefit of any kind, may be interchanged and shall be deemed to include, but not be limited to, all of the following:

1. The stipend paid to each member of Council is intended to fully remunerate members of Council for service to the Corporation.
2. Members of Council are prohibited from soliciting, accepting, offering or agreeing to accept any gifts, commission, hospitality, reward, advantage or benefit of any kind, personally or through a family member or business connection, that is connected directly or indirectly with the performance of the duties of office or could reasonably be construed as being given in anticipation of future, or recognition of past, "special consideration".

Members of Council are prohibited from accepting, directly or indirectly, any gifts, hospitality or other benefits that are offered by persons, groups or organizations having dealings with the Township.

3. The above policy does not preclude members of Council from accepting:
 - i) Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee, for speaking at an event or for representing the Corporation at an event;
 - ii) Political contributions that are otherwise offered, accepted and reported in accordance with applicable law.
 - iii) Food and beverages at meetings, banquets, receptions, ceremonies or similar events.
 - iv) Food, lodging, transportation, entertainment provided by other levels of governments, by other local governments or by local government boards or commissions;
 - v) A stipend from a board or commission that the member of Council serves on as a result of an appointment by Council;
 - vi) Reimbursement of reasonable expenses incurred in the performance of office;
 - vii) Reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
 - viii) Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office.
 - ix) Services provided without compensation by persons volunteering their time for election campaigns.

4. Where it is not possible to decline unauthorized gifts, hospitality or other benefit, members of Council shall report the matter to the C.A.O. The C.A.O. may require that the gift be retained by the Corporation or be disposed of for charitable purposes.
5. Members of Council shall not place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment.

SECTION 5

BREACH OF POLICY (ENFORCEMENT AND SANCTIONS)

1. Protection for Alleging a Contravention – With respect to confidential and anonymous submissions regarding an alleged contravention of the policy, to the extent practicable, the identity of any person who makes reports pursuant to this policy shall not be revealed, except where, and to the extent the disclosure of the reporting person's Identity and confidential information is necessary to permit a fair, thorough and effective investigation, or as required by law or court proceedings. In addition, the municipality will not tolerate any effort made by any other person or group, to ascertain the identity of any person who makes a good faith allegation anonymously.

Consistent with the policies of the municipality, the municipality shall not retaliate, and shall not tolerate any retaliation by management or any other person or group, directly or indirectly, against anyone who, in good faith, makes an allegation or provides assistance to management or any other person or group, including any governmental, regulatory or law enforcement body, investigating an allegation. Such reprisals shall constitute a breach of the Code of Conduct.

2. Compliance with the Code – Complaint Protocol
Members, Township employees or members of the public who have reasonable grounds to believe that a Member has contravened the Code may proceed through Option A, Option B or Option A and B.

2.1. Option A: Informal Complaint Procedure

2.1.1. The Complainant shall:

- a) advise the Member that his/her behaviour or activity contravenes the Code;
- b) request that the Member immediately discontinue the prohibited behaviour or activity;
- c) keep a written record of the incident including date, time, location, other persons present and any other relevant information;
- d) if applicable, advise the Member regarding his/her satisfaction with the response, or, if applicable; advise the Member of his/her dissatisfaction with the response; and
- e) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Option B or in accordance with an applicable judicial process.

- 2.1.2. An individual is encouraged to initially pursue the informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. However, it is not a precondition or a prerequisite that the informal complaint procedure be initiated or

completed prior to pursuing the formal complaint procedure in Option B.

2.2. Option B: Formal Complaint Procedure - Integrity Commissioner - Complaint Review Request

2.2.1. The Complainant shall submit:

- a) a completed signed form as provided by the Township to the Clerk;
- b) a fee set out in the Township's Municipal Fee By-law, which shall be the equivalent to the fee for filing an appeal to the Ontario Municipal Board.

2.2.2. The Complaint Review Request form, accompanied by the fee, shall be dated and submitted to the Clerk by mail or personal delivery.

2.2.3. The Complaint Review Request shall be issued a file number by the Clerk for tracking purposes. The number shall consist of the year the request was received followed by a consecutive number as assigned to Complaint Review Requests for that year.

2.2.4. Upon receipt of a complete Complaint Review Request, the Clerk shall prepare a package to be forwarded to the Integrity Commissioner that shall include the following:

- a) the Complaint Review Request form;
- b) a certified copy of the code; and
- c) such other information or documentation supplied by the Complainant that the Clerk deems relevant.

2.2.5. The information package referred to above shall be forwarded to the Integrity Commissioner in hard copy format by courier or first class mail, whichever is deemed appropriate in the circumstances.

3. Initial Classification by Integrity Commissioner

3.1 The Integrity Commissioner will determine if the matter is, in fact, a complaint with respect to non-compliance with the Code and not covered by other relevant legislation or other Council policies.

3.2 If the complaint does not on its face pertain to non-compliance with the Code or is covered by other legislation or a procedure under another Council Policy, the Integrity Commissioner shall advise the complainant in writing as follows:

- a) where the complaint is of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised to pursue the matter with the Ontario Provincial Police;
- b) where the complaint addresses non-compliance with the *Municipal Conflict of Interest Act*, to pursue the matter with the complainant's own legal counsel;

- c) where the complaint addresses non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, to pursue the matter with the Privacy Commissioner;
- d) where the complaint addressed non-compliance with a more specific Council policy with a separate complaint procedure, to pursue the matter under the appropriate process specified in that specific Council policy; and
- e) in other cases, if the matter, or any part thereof, is not within the jurisdiction of the Integrity Commissioner to process, he/she shall provide any additional reasons, or referrals as the Integrity Commissioner considers appropriate.

4. Integrity Commissioner Investigation

- 4.1 If a complaint is within the Integrity Commissioner's jurisdiction, the Integrity Commissioner shall investigate and is authorized to attempt to settle the complaint.
- 4.2 The Integrity Commissioner will proceed as follows:
 - a) Serve the complaint and supporting material upon the Member whose conduct is in question requesting a written response to the allegation which response shall be filed with the Integrity Commissioner within ten (10) business days from the date on the correspondence from the Integrity Commissioner; and
 - b) Serve a copy of the Member's response provided upon the complainant with a request for a written response to the Integrity Commissioner from the complaint which must be filed with the Integrity Commissioner within ten (10) business days from the date on the correspondence from the Integrity Commissioner.
- 4.3 The Integrity Commissioner will determine what is the most effective means of communication e.g. email, fax, courier when corresponding with the complainant and the alleged offender.
- 4.4 If necessary, and subject to the relevant legislation and rules of law, after reviewing the written materials, the Integrity Commissioner may speak to anyone considered relevant to the complaint, examine any other documents considered relevant to the complaint and may enter any Township office relevant to the complaint for the purposes of investigation and settlement.
- 4.5 The Integrity Commissioner may make interim reports to Council as required to address any instances of interference, obstruction or retaliation encountered during the investigation.
- 4.6 The Integrity Commissioner shall submit a final report on the complaint to Council, no later than ninety (90) days after the filing of the complaint, outlining the findings, the terms of any settlement, recommended corrective action, and/or penalty.

5. Refusal to Conduct Inquiry or No Penalty Imposed

- 5.1 If the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or not made in good faith or that there are no grounds or insufficient grounds for an inquiry, the Integrity Commissioner shall not conduct an inquiry and shall provide a written report to Council outlining the reasons for not doing so.
- 5.2 If the Integrity Commissioner determines that there has been no contravention of the Code or that a contravention occurred although a Member took all reasonable measures to prevent it, or that a contravention occurred which was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

6. Non-Compliance with the Code

- 6.1 Where the Integrity Commissioner decides that a Member has contravened this Code, he/she is authorized to:
- a) censure the Member;
 - b) reprimand the Member;
 - c) recommend that Council remove the Member from an advisory committee or local board;
 - d) recommend that the appropriate Committee or local board remove the Member as Chair of a Committee or local board;
 - e) have the Member repay or reimburse monies received;
 - f) have the Member return the property or item, or reimburse the value;
 - g) request the Member apologize to Council, the complainant, or both;
 - h) suspend the remuneration paid to the Member in respect of their services as a Member for a period of up to ninety (90) days.

7. Copy of the Report

- 7.1 The Integrity Commissioner shall file a copy of the final report with the Clerk who will then provide a copy of the report to the complainant and the Member whose conduct it has addressed.

8. Report to Council

- 8.1 The Clerk shall submit the report to Council at its next meeting and the report shall be listed with matters considered in open session.

9. Annual Report

- 9.1 The Integrity Commissioner shall report annually to Council on complaints filed.

10. Refundable Fee

- 10.1 The fee charged for filing a complaint shall be refunded to the complainant upon the Integrity Commissioner's report being received by Council, unless the Integrity Commissioner's report notes a finding in accordance with 5.1 or 5.2 of this Code.

11. Implementation

- 11.1 The CAO shall retain the services of an Integrity Commissioner within 10 days from the Clerk receiving a Complaint Review Request.
- 11.2 At the beginning of each term of Council, Township Clerk will provide:
 - a) each Member with a copy of the Code;
 - b) each Member a copy of the Municipal Conflict of Interest legislation;
 - c) as part of the Council orientation process a review of the Code; and
 - d) an "Acknowledgment of Receipt of Policy by Member" form to be executed by each Member indicating that they have read and understood the Code.
- 11.3 Members are expected to formally and informally review the provisions of this Code on a regular basis or when so requested by Council.

SIGNATURE

ACKNOWLEDGEMENT OF RECEIPT OF POLICY BY MEMBER

The undersigned member of Council hereby acknowledges receipt of a copy of By-law 3412-2014, being the Council Code of Conduct By-law.

Signature of Member of Council

Acknowledgement of Receipt of Code of Conduct Policies

Date of Signature

PRINTED NAME

NOTE: The member of Council acknowledges that two copies of the Code of Conduct were provided to the member. One signed copy of the Code of Conduct was returned to the Clerk and the duplicate copy was retained by the member of Council.