



BY-LAW NO. : GEN-2022-52

CODE OF ETHICS AND CONDUCT OF ELECTED OFFICERS OF THE TOWN OF KIRKLAND

DRAFT

ADOPTION PROCEDURE

Notice of motion:	January 17, 2022
Tabling of draft by-law:	January 17, 2022
Public notice - Draft by-law:	January 21, 2022
Adoption of by-law:	February 7, 2022
Publication:	February 11, 2022
Coming into force:	February 11, 2022
Submission to the Ministry:	February 11, 2022

WHEREAS under section 13 of the *Municipal Ethics and Good Conduct Act* (CQLR, c. E-15.1.0.1), the municipal council must, before March 1st following any general election, adopt a revised code of ethics and conduct that replaces the current one, with or without amendments;

WHEREAS the *Act to amend the Act respecting elections and referendums in municipalities, the Municipal Ethics and Good Conduct Act and various legislative provisions* (Bill 49), assented to on November 5, 2021, provides for amendments to the *Municipal Ethics and Good Conduct Act* that must be incorporated into the code of ethics and conduct of elected officers of the Town of Kirkland;

WHEREAS pursuant to section 356 of the *Cities and Towns Act* (CQLR, c. C-19), notice of motion of this by-law was given and a draft of this by-law was tabled at the regular sitting of the municipal council held on January 17, 2022;

WHEREAS copy of this by-law was made available to the public;

WHEREAS the formalities provided for in the *Municipal Ethics and Good Conduct Act* have been respected;

WHEREAS the Preamble forms an integral part of this by-law;

THE MUNICIPAL COUNCIL DECREES AS FOLLOWS:

SECTION 1: TITLE

The title of this code is: *Code of Ethics and Conduct of the Elected Officers of the Town of Kirkland.*

SECTION 2: APPLICATION OF THE CODE

The present code is applicable to every member of the municipal council of the Town of Kirkland.

SECTION 3: PURPOSE OF THE CODE

The present code aims to:

- 1) Prioritize the values upon which a member of the municipal council shall base his or her decisions and contribute to a better understanding of the municipality's values;
- 2) Establish standards of conduct that facilitate the integration of these values in the elected officers' decision-making process and generally, in their conduct as council members;
- 3) Prevent ethical conflicts and, if they arise, facilitate their resolution efficiently and with discernment;
- 4) Ensure the application of control measures to ethical breaches.

SECTION 4: VALUES OF THE MUNICIPALITY

The following values shall guide the decision-making process of the members of council, and in general, their conduct as municipal elected officers, in particular when encountering situations that are not explicitly provided for in this code or in the municipality's various policies.

1) Integrity

All members value honesty, rigor and justice.

2) Prudence in the pursuit of the public interest

All members take responsibility for the public interest mission they are entrusted with. In fulfilling this mission, they act with professionalism, vigilance and discernment.

3) Respect and civility towards other council members, employees of the municipality and citizens

All members promote respect and civility in human relations. They are entitled to it and shall act with respect and civility towards all those with whom they have dealings in the course of their duties.

4) Loyalty to the municipality

All members act in the best interest of the municipality.

5) Quest for equity

All members treat every person fairly and, as far as possible, interpret applicable laws and regulations in accordance with their spirit.

6) Honor attached to the office of council member

All members protect the honor attached to their office, which presupposes the constant practice of the above-mentioned values: integrity, prudence, respect and civility, loyalty and equity.

SECTION 5: RULES OF CONDUCT**5.1 Application**

The rules of conduct set out in this section must guide elected officers in carrying out their duties of office as members of the council, of a committee or of a commission:

- a) of the municipality; or
- b) of another body when they serve in their capacity of members of the municipal council.

5.2 Purpose

These rules, in particular, aim to prevent:

1. Any situation where the private interest of a council member may influence his or her independence of judgment in carrying out the duties of office;
2. Favoritism, embezzlement, breach of trust or other misconduct.

5.3 Conflicts of interests

5.3.1 It is prohibited for any member to act or attempt to act, or omit to act, in any way, in carrying out the duties of office, so as to further his or her private interests or improperly further those of another person.

5.3.2 It is prohibited for any member to use his or her position to influence or attempt to influence another person's decision so as to further his or her private interests or improperly further those of another person.

The member is deemed to not be contravening to this section when he or she falls under the exceptions listed in the fifth and sixth paragraphs of section 5.3.7.

- 5.3.3 It is prohibited for any member to solicit, elicit, accept or receive any benefit, whether for himself or herself or for another person, in exchange for taking a position on a matter that may be brought before a council, a committee or a commission on which the council member sits.
- 5.3.4 It is prohibited for any member to accept any gift, hospitality or other benefit, whatever its value, that is offered by a supplier of goods or services or that may impair his or her independence of judgment in carrying out the duties of office, or that may compromise his or her integrity.
- 5.3.5 Any gift, hospitality or other benefit received by a council member that is not of a purely private nature or covered by section 5.3.4 shall, where its value exceeds \$200, be reported in a written disclosure statement with the Town Clerk of the municipality within 30 days after receiving such gift, hospitality or other benefit. The disclosure statement must contain an accurate description of the gift, hospitality or benefit received and specify the name of the donor as well as the date on which and the circumstances under which it was received.

The Town Clerk keeps a public register in which such disclosure statements are recorded.

- 5.3.6 It is prohibited for any member to contravene section 304 of the *Act respecting elections and referendums in municipalities* (CQLR, c. E-2.2). A member may not knowingly have an interest, directly or indirectly, in a contract with the municipality or a body referred to in section 5.1.

A member is deemed to not have such an interest where:

1. The member acquired his or her interest by succession or gift and renounced or divested himself or herself of it as soon as practicable;
2. The interest of the member consists in holding shares of a business corporation which he or she does not control, of which he or she is neither a director nor an executive officer and of which he or she possesses less than 10% of the voting shares issued;
3. The interest of the member arises from the fact that he or she is a member, director or executive officer of another municipal body, a public body within the meaning of the *Act respecting Access to documents held by public bodies and the Protection of personal information* (CQLR, c. A-2.1), a non-profit organization or an organization of which he or she is required by law, as a member of the council of the municipality or the municipal body, to be a member, a director or an executive officer;
4. The object of the contract is a remuneration, an allowance, the reimbursement of expenses, social benefits, goods or services to which the person is entitled as a condition of employment attached to his or her duties with the municipality or municipal body;
5. The object of the contract is the appointment of the person to a position as an officer or employee, provided that the position is not one that makes its holder ineligible;
6. The object of the contract is the furnishing of services offered to the public by the municipality or the municipal body;
7. The object of the contract is the sale or leasing, on non-preferential terms, of an immovable;
8. The contract consists of bonds, notes or other securities offered to the public by the municipality or the municipal body or in the acquisition of such bonds, notes or securities on non-preferential terms;

9. The object of the contract is the furnishing of goods or services that the person has an obligation to furnish to the municipality or municipal body pursuant to a legislative or regulatory provision;
10. The object of the contract is the furnishing of goods by the municipality or municipal body and where the contract was entered into before the person held office as a member of the municipality or body and before he or she became a candidate at the election in which he or she was elected;
11. In a case of irresistible force, where the general interest of the municipality or municipal body requires that the contract be entered into in preference to any other contract.

5.3.7 It is prohibited for any member to contravene section 361 of the *Act respecting elections and referendums in municipalities* (CQLR, c. E-2.2).

The member who is present at a sitting when a matter in which he or she has a direct or indirect pecuniary interest is taken up for consideration shall disclose the general nature of his or her interest before discussions on the matter are begun. He or she shall also abstain from participating in the discussions and from voting or attempting to influence the vote on that matter.

Where a sitting is not public, the member, in addition to complying with the requirements of the first paragraph, shall, after disclosing the general nature of his or her interest, leave the sitting while the matter is being discussed and voted on.

Where the matter in which the member has a pecuniary interest is taken up for consideration at a sitting not attended by the member, he or she shall disclose the general nature of his or her interest at the first sitting attended by the member after becoming aware of that fact.

This section does not apply where the member's interest consists of remuneration, allowances, reimbursements of expenses, social benefits or other conditions of employment attached to his or her duties with the municipality or the municipal body.

Nor does this section apply where the interest is so minor that the member could not reasonably be influenced by it.

5.4 Using the resources of the municipality

It is prohibited for any member to use the resources of the municipality or of any other body referred to in section 5.1 for personal purposes or for purposes other than activities related to the duties of office.

This prohibition does not apply where the council member uses, on non-preferential terms, a resource put at the disposal of the citizens.

5.5 Using or communicating confidential information

It is prohibited for any member to use or communicate, or attempt to use or communicate, whether during or after his or her term, information obtained in or in connection with the carrying out of the duties of office that is not generally available to the public so as to further his or her private interests or those of another person.

5.6 Post-term

Within 12 months after the expiry of his or her term, it is prohibited for a member to serve as a director or officer or senior executive of a legal person or hold employment or any other position so as to obtain for himself or herself or another person undue benefit from his or her prior office as council member of the municipality.

5.7 Breach of trust and embezzlement

It is prohibited for a member to divert any asset belonging to the municipality to his or her own use or to the use of a third party.

5.8 Announcement at a political financing activity

It is prohibited for any member to announce, during a political financing activity, the carrying out of a project, the making of a contract or the granting of a subsidy by the municipality, unless a final decision regarding the project, contract or subsidy has already been made by the competent authority of the municipality.

5.9 Respect and civility

It is prohibited for any member to behave in a disrespectful manner toward other members of the municipal council, municipal employees or citizens, in particular by using vexatious, derogatory or intimidating words, writings or gestures or any form of incivility of a vexatious nature.

5.10 Honor and dignity

It is prohibited for any member to behave in a way that undermines the honour and dignity of the office of elected officer.

5.11 Harassment

Members must promote a harmonious work environment, free of all forms of intimidation and harassment, within the bodies in which they are called upon to work, to get involved or to intervene, as well as within the municipality in general.

It is prohibited for any member to hold, adopt or convey, directly or indirectly, including through social media, words, gestures, images or behaviours that are threatening or of a nature to ridicule, injure, humiliate, belittle, discriminate, ostracize or exclude another member, municipal employee or citizen or to cause them to lose their self-esteem.

It is prohibited for any member to engage in concerted, targeted or repeated conduct directed at another member, municipal employee or citizen that has the actual or potential effect of creating a negative or hostile environment for that person, causing that person fear, distress or insecurity, or causing that person bodily, psychological, moral, social or material harm.

SECTION 6: SANCTIONS

A violation by a council member of a rule of the present code of ethics and conduct may entail the imposition of the following sanctions:

- 1) a reprimand;
- 2) the participation in a professional development program on municipal ethics and good conduct, at the council member's expense, within the time prescribed by the *Commission municipale du Québec*;
- 3) the delivery to the municipality, within 30 days after the decision of the *Commission municipale du Québec*:
 - a) of any, or of the value of any, gift or hospitality or benefit received; or
 - b) of any profit made in violation of a rule set out in the present code;

- 4) the reimbursement of the remuneration, allowances or other sums received, for the period determined by the *Commission municipale du Québec*, as member of a council, committee or commission of the municipality or member of a body referred to in section 5.1;
- 5) a penalty not exceeding \$4,000, to be paid to the municipality;
- 6) the suspension of the council member for a period of up to 90 days; such a suspension may continue after the expiry of the member's term if he or she is re-elected in an election during the suspension and the latter has not expired on the day the member's new term begins.

When a council member is suspended, he or she may not perform any duty related to the office of mayor or councillor and, in particular, may not serve on any council, committee or commission of the municipality or in his or her capacity as council member, or of any other body, nor shall he or she receive any remuneration, allowance or other sum from the municipality or such a body.

SECTION 7: REPLACEMENT

The present by-law shall replace By-law No. 2018-52.

SECTION 8: COMING INTO FORCE

The present by-law shall come into force according to law.

(Michel Gibson)

Mayor

(Annie Riendeau)

Town Clerk