



PROVINCE OF QUEBEC
TOWN OF KIRKLAND

BY-LAW NO. : GEN-2023-53

**BY-LAW RESPECTING THE PRE-EMPTIVE RIGHT OF
THE TOWN OF KIRKLAND TO ACQUIRE
IMMOVABLES**

ADOPTION PROCEDURE

Notice of motion:	November 6, 2023
Filing of draft by-law:	November 6, 2023
Adoption of by-law:	December 4, 2023
Publication:	December 8, 2023
Coming into effect:	December 8, 2023

- WHEREAS the *Act to amend various legislative provisions mainly with respect to housing* (SQ 2022, c. 25), assented to on June 10, 2022, amended the *Cities and Towns Act* (CQLR, c. C-19) to give municipalities the power to acquire immovables through a pre-emptive right;
- WHEREAS the provisions of sections 572.0.1 to 572.0.7 of the *Cities and Towns Act* governing the exercise of the pre-emptive right by a municipality;
- WHEREAS pursuant to section 356 of the *Cities and Towns Act*, notice of motion of this by-law was given and a draft of this by-law was filed at the regular sitting of the Municipal Council held on November 6, 2023;
- WHEREAS copy of this by-law was made available to the public;
- WHEREAS the preamble forms an integral part of this by-law;

THE MUNICIPAL COUNCIL ORDERS AND DECREES AS FOLLOWS:

ARTICLE 1 DEFINITIONS

In this by-law, the following words mean:

- « **Council** » : the Municipal Council of the Town
- « **notice of intention** » : the owner's notice of intention to alienate the immovable
- « **notice of pre-emptive right** » : the Town's notice of pre-emptive right identifying the immovable concerned and the purposes for which it may be acquired
- « **owner** » : the holder of a property right
- « **pre-emptive right** » : the pre-emptive right provided for in the *Act to amend various legislative provisions mainly with respect to housing* (SQ 2022, c.25) and by the *Cities and Towns Act* (CQLR, c. C-19)
- « **Town** » : The Town of Kirkland

ARTICLE 2 PURPOSE

The purpose of this by-law is to determine the territory in which the pre-emptive right of the Town may be exercised and the municipal purposes for which immovables may be acquired in that manner.

This by-law applies to owners and immovables subject to a notice of pre-emptive right by the Town.

ARTICLE 3 APPLICABLE TERRITORY

The pre-emptive right that may be exercised by the Town and by which immovables may be acquired in that manner applies to the entire territory of the Town.

ARTICLE 4 SUBJECTION OF IMMOVABLES

Council identifies by resolution any immovable located on its territory that will be subject to a notice of pre-emptive right. This notice contains the designation of the immovable concerned and describes the purposes for which it may be acquired by the Town.

Owners of immovables subject to a notice of pre-emptive right are notified in accordance with the terms and conditions set out in article 6 of this by-law.

ARTICLE 5 MUNICIPAL PURPOSES

The municipal purposes for which an immovable may be acquired by the Town following the exercise of the pre-emptive right are as follows:

- 1) Housing;
- 2) Environment;
- 3) Natural area, public space, playground and park;
- 4) Public road, bicycle and pedestrian network;
- 5) Municipal building;
- 6) Public infrastructure;
- 7) Public utility;
- 8) Public facility;
- 9) School;
- 10) Culture, recreation and community activity;
- 11) Snow dump;
- 12) Local economic development in accordance with Chapter III of the *Municipal Powers Act* (RLRQ, c. C-47.1) and the *Act respecting municipal industrial immovables* (RLRQ, c. I-0.1);
- 13) Preservation of building of heritage interest;
- 14) Land reserve; and
- 15) All other recognized municipal purposes.

ARTICLE 6 NOTICE OF PRE-EMPTIVE RIGHT

When an immovable is subject to the pre-emptive right, the Town notifies the owner of the immovable through a notice of pre-emptive right and registers this notice in the land register. The notice takes effect on being registered and is valid for the period specified in the notice, which period may not exceed 10 years.

The Town Clerk is empowered to sign the notice of pre-emptive right under this by-law.

ARTICLE 7 NOTICE OF INTENTION TO ALIENATE THE IMMOVABLE

The owner of an immovable in respect of which a notice of pre-emptive right has been issued may not, on pain of nullity, alienate the immovable if the owner has not previously notified the Town with a notice of intention to alienate the immovable.

The owner's notice must state the price of the proposed alienation, the conditions to which it is subject, and the name of the person who intends to acquire the immovable. If the immovable is to be alienated, in whole or in part, for non-monetary consideration, the notice must include a reliable and objective estimate of the value of that consideration.

The notice of intention to alienate the immovable must be notified by the owner to the Town clerk and legal affairs department of the Town using the form provided for this purpose.

Regardless of the method of notification used, the owner must be able to provide proof of delivery of the notice of intention to alienate the immovable.

ARTICLE 8 REQUIRED DOCUMENTS

The following documents must be submitted within 10 days of notification of the notice of intention, if they exist:

- 1) Signed promise to purchase;
- 2) Property appraisal report;
- 3) Report establishing the monetary value of the non-monetary consideration when the promise to purchase provides for one;
- 4) Certificate of location of the immovable;
- 5) Plan of the part of the immovable affected by the alienation if the alienation is partial;

- 6) Resolution or power of attorney designating the mandatary;
- 7) Brokerage contract;
- 8) Lease or rental agreement for the immovable;
- 9) Building title report;
- 10) Building inspection report;
- 11) Environmental study;
- 12) Geotechnical study;
- 13) Details of maintenance and capital expenditures made for the building for the five (5) years preceding the promise to purchase;
- 14) Any other document, report or study used in connection with the promise to purchase, including those demonstrating that the promise to purchase conditions have been waived.

The Town may require from the owner any information allowing it to assess the condition of the immovable. It may also, after giving 48 hours' prior notice, access the immovable to conduct, at its own expense, any study or analysis it considers useful.

ARTICLE 9 TOWN DECISION

The Town may, no later than the 60th day following the notification of the notice of intention to alienate the immovable, notify the owner of its intention to exercise its pre-emptive right and acquire the immovable at the price and under the conditions stated in the notice, subject to any subsequent modifications agreed upon with the owner. When the notice of intention to alienate contains an estimate of the value of a non-monetary consideration, the price must be increased by an equal amount.

If the Town does not notify the owner within that 60-day period, the Town is deemed to have waived its pre-emptive right.

ARTICLE 10 COMING INTO EFFECT

The present by-law comes into effect in accordance with the law.

(Michel Gibson)

Mayor

(Annie Riendeau)

Town Clerk