



BY-LAW NO. : GEN-2018-52

CODE OF ETHICS AND CONDUCT OF ELECTED OFFICERS

ADOPTION PROCEDURE

Notice of motion:	November 13, 2017
Tabling of draft by-law:	November 13, 2017
Public notice - Draft by-law:	November 22, 2017
Adoption of by-law:	December 4, 2017
Publication:	December 13, 2017
Coming into force:	December 13, 2017
Submission to the Ministry:	December 14, 2017

- WHEREAS *the Municipal Ethics and Good Conduct Act* requires that local municipalities adopt a code of ethics and conduct applicable to their elected officers;
- WHEREAS the Town of Kirkland adopted its first Code on December 5, 2011;
- WHEREAS the council of a municipality must adopt a revised Code before March 1st of the year following a general election;
- WHEREAS pursuant to section 356 of the *Cities and Towns Act* (CQLR, c. C-19), copy of this by-law was given to the members of the Council not later than two working days before the sitting at which it is to be approved;
- WHEREAS the formalities dictated by 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:

ARTICLE 1: TITLE

A code of ethics and conduct of elected officers is hereby adopted. Said document shall be titled: *Code of Ethics and Conduct of the Elected Officers of the Town of Kirkland*.

ARTICLE 2: APPLICATION OF THE CODE

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

ARTICLE 3: OBJECTIVES 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 provide him or her with a better understanding of the values of the municipality;
- 2) Introduce standards of conduct that facilitate the integration of these values in the elected officer's decision-making process and generally, in his or her conduct as a council member;
- 3) Prevent conflicts of interests and, where such occur, facilitate their resolution efficiently and with discernment;
- 4) Ensure that control mechanisms are applied for violations of the Code.

ARTICLE 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 where the issue at hand is not explicitly provided for in the present code or in the various policies of the municipality.

1) Integrity

A council member values honesty, thoroughness and justice.

2) Prudence in the pursuit of the public interest

A council member takes responsibility for the public interest mission he is entrusted with. In fulfilling this mission, he or she acts professionally, with vigilance and discernment.

3) Respect to be shown to the other council members, to the employees of the municipality and to the citizens of the municipality

A council member fosters respect in human relations. He or she is entitled to respect and treats everyone with respect while carrying out his or her duties of office.

4) Loyalty to the municipality

A council member acts in the best interest of the municipality.

5) Quest for equity

A council member treats everyone justly and, whenever practical, interprets applicable laws and regulations within their intended spirit.

6) Honor attached to the office of council member

A council member protects the honor attached to his or her office, which presupposes the continued practice of the five preceding values of integrity, prudence, respect, loyalty and equity.

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

The rules of conduct framed in this section must guide an elected officer in carrying out his or her duties of office as a member of council, of a committee or of a commission:

- a) of the municipality; or
- b) of another body when he serves in his capacity of member of the municipal council.

5.2 Aims

These rules must, in particular, aim to prevent:

1. Any situation where the private interest of a council member might impair his or her independence of judgment in carrying out the duties of office;
2. Any situation that would be contrary to sections 304 and 361 of the *Act respecting elections and referendums in municipalities* (R.S.Q., chapter E-2.2);
3. Favoritism, embezzlement, breach of trust or other misconduct.

5.3 Conflicts of interests

5.3.1 It is prohibited for any council 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 council 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 council member is deemed to not be contravening to this section when he or she falls under the exceptions listed in the fourth and fifth paragraphs of article 5.3.7.

5.3.3 It is prohibited for any council 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 council member to accept any gift, hospitality or other benefit that is not of a purely private nature and whose value exceeds \$200.

The present rule does not apply where the gift, hospitality or other benefit comes from a government or a municipality, from a government or municipal body, or from one of their official representatives.

- 5.3.5 Notwithstanding the foregoing, the member of council who receives a gift, hospitality or other benefit not prohibited under article 5.3.4 whose value exceeds \$ 200., must file a disclosure statement in writing with the 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 clerk keeps a public register in which such disclosure statements are recorded.
- 5.3.6 A member of council may not, knowingly, have an interest, directly or indirectly, in a contract with the municipality or a body referred to in article 5.1.

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

1. he or she 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 council 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 council 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*, a non-profit organization or an organization of which he or she is required by law, as a member of the council of that municipality or that 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 The council 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 council 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 council 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 article 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 article 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:

A council member is prohibited from using the resources of the municipality or of any other body referred to in article 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:

A council member is prohibited from using or communicating, or attempting 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 council 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

A council member is prohibited from converting to his or her own use or to the use of a third party an asset belonging to the municipality.

5.8 Political financing activity

A council member is prohibited from announcing, 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.

ARTICLE 6: CONTROL MECHANISMS

6.1 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 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 Code;
- 3) the reimbursement of the remuneration, allowances or other sums received as member of a council, committee or commission of the municipality or member of a body referred to in article 5.1 while the violation of a rule of the code continued;
- 4) the suspension of the council member for a period of up to 90 days and not exceeding the expiry of his or her term.

When suspended, a council member may not sit on any council, committee or commission of the municipality or on any other body in his or her capacity as council member, nor may the council member receive any remuneration, allowance or other sum from the municipality or such a body.

ARTICLE 7: REPLACEMENT

The present by-law shall replace By-law No. 2014-51 for all legal intents and purposes.

ARTICLE 8: COMING INTO FORCE

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

Mayor

Town Clerk