



PROVINCE OF QUÉBEC  
TOWN OF KIRKLAND

## BY-LAW NO. : 2013-52

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**INTERNAL BY-LAW OF THE MUNICIPAL COUNCIL  
PERTAINING TO THE DELEGATION OF POWERS IN  
MATTERS RELATING TO CONTRACTS AND TO  
HUMAN RESOURCES**

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Amendments

2013-52-1, 2013-52-2, 2013-52-3. 2013-52-4&  
2013-52-5

**NOTICE**

This consolidation has not been officially adopted by the Municipal Council. It has been compiled on September 19, 2019 in order to facilitate the reading of the texts. The official text is to be found in the text of the original by-law and each of its amendments.

**ADOPTION PROCEDURE**

Notice of motion:	January 14, 2013
Adoption of By-law:	February 4, 2013
Publication:	February 13, 2013
Coming into force:	February 13, 2013

- WHEREAS notice of motion of this by-law was given at the regular sitting of the Municipal Council;
- WHEREAS pursuant to section 356 of the *Cities and Towns Act* (CQLR, c. C-19), a draft of this by-law was filed at the regular sitting of the Municipal Council;
- WHEREAS pursuant to section 356 of the *Cities and Towns Act* (CQLR, c. C-19), copies of this by-law were made available to the public;
- WHEREAS the Preamble forms an integral part of this by-law;

### THE MUNICIPAL COUNCIL DECREES AS FOLLOWS:

#### CHAPTER I – GENERAL PROVISIONS

1. The Director General, or a Town Director who grants an authorization of expenditures under the present by-law, shall indicate it in a report that he/she shall submit to the council at the next regular sitting held, following the authorization.
2. A power delegated by virtue of this by-law must be exercised in conformity with all applicable provisions of the law and regulations, and in compliance with the contract management policy and the management directives.
3. The Director General may make the financial commitments resulting from the exercise of the powers granted to him by the “*Politiques d’emploi des employés cadres de la Ville de Kirkland*” (Kirkland Management Personnel Employment Policies).
4. The Director General and the Town directors are authorized to sign the contracts, acts or other documents arising from the powers that are granted to them by virtue of the present by-law.
5. The appointment of the selection committee members and the choice of the evaluating and bid weighting criteria for professional services offers and contracts for which sound management principles favour the use of a bid weighting and evaluating system, are delegated to the Director General.
6. The powers delegated by virtue of this by-law are delegated to the Director General. The latter may, in writing, delegate to Town directors or other management personnel, certain powers delegated to him.
7. An employee to whom a power has been delegated according to the present by-law is authorized to sign the contracts, acts or other documents in relation to the exercise of said power.
- 7.1 The delegation of power to a management employee shall include the delegation of said power to his immediate superior, to the latter’s immediate superior and so on up to the Director General.
- 7.2 This by-law cannot in any way be interpreted as a means to override the provisions contained in the different regulations and laws governing the activities of the Town of Kirkland, including, with regard to control regulations and budgetary monitoring, as well as the rules governing the awarding of contracts.

#### CHAPTER II – AUTHORIZATION OF EXPENDITURES

8. The power to authorize an expenditure includes the power to grant a contract of the same amount. The Director General may sign a contract where no expenditure is foreseen.

To determine the amount of an expenditure or the value of a contract related to a delegation under this by-law, the management employee incurring the expense or signing the contract must consider all of the following elements:

- 1) the amount of the contract as determined according to one of the following situations:
  - a) the total amount stated in the contract for its entire period when there is no option or renewal clauses;

- b) the total amount stated in the contract for its initial term plus the value of all automatic option or renewal clauses or that are at the sole discretion of the Town of Kirkland;
  - 2) all previously authorized expenditures and all additional expenditures provided for in the contract;
  - 3) the net taxes;
- 8.1 The power to authorize any modification to an already awarded contract may be exercised when this modification is an accessory to the contract and does not change its nature.
9. An authorization of expenditures, where the financial commitment by the municipality does not extend beyond the current fiscal year, is delegated:
- a) To the Director General, for all expenditures of fifty thousand dollars (\$50,000) or less;
  - b) To the Assistant Director General, for all expenditures of fifteen thousand dollars (\$15,000) or less;
  - c) To a director, for an expenditure of ten thousand dollars (\$10,000) or less pertaining to the relevant department;
  - d) To a division head, for an expenditure of five thousand dollars (\$5,000) or less pertaining to the relevant division;
  - e) To a section head or a foreman, as the case may be, for an expenditure of two thousand dollars (\$2,000) or less pertaining to the relevant section;
  - f) To any other management employee, for an expenditure of one thousand dollars (\$1,000) or less pertaining to said employee's functions.

Any authorization to commit expenditures beyond the current fiscal year must first be the object of a verification with respect to available funds for the part that is accountable in the current fiscal year.

During the preparation of the budget for the following fiscal year, each person accountable for budget activities must make sure that the budget covers the expenditures that have been committed for in the past so that they be accounted for the financial activities of the following fiscal year.

The Treasurer must also make sure that the necessary funds for such expenditures be correctly appropriated within the budget.

- 9.1 In the case of disaster or major equipment or infrastructure failure servicing the population or for the purposes of civil or public security, the Director General is authorized to carry out any expenses deemed useful in order to preserve life or health, to protect public or private property, as well as for any action intended to fight against crime or any other public mischief.
- 9.2 The Director General has the power to alienate a movable property of the Town of Kirkland that is in excess or obsolete, when its merchant value is equal to five thousand dollars (\$5,000) or less.
10. Notwithstanding the foregoing, the treasurer may authorize the expenditures and the payments for the following services:
- a) All expenditures related to the remuneration and the benefits owed to the employees under the collective agreements;
  - b) All expenditures related to the remuneration and the benefits owed to the municipal elected officials;
  - c) All interest fees on loans and all management fees of finances of the town;
  - d) All expenditures relating to public utility services, electricity, heating, telecommunication, which are paid upon receipt of an invoice;
  - e) All shares of inter-municipal boards;
  - f) All expenditures foreseen in a global agreement;
  - g) All expenditures relating to the pension fund of the supplementary retirement plan for the employees of the Town of Kirkland;
  - h) All payments of redemption and of interests of bond issues and long-term loans.

- 10.1 The Municipal Council of the Town of Kirkland delegates to the treasurer the power to award, on behalf of the Town, a financing contract to the person entitled thereto in accordance with section 554 of the *Cities and Towns Act* (CQLR, c. C-19).
- 10.2 The treasurer must act within his area of authority and agree to the following conditions:
- 1) The Town shall sell the bonds it is authorized to issue, by adjudication, on written tenders, after a notice, published in accordance with the prescribed means and time limit, to the person who has made the most advantageous tender within the time fixed, unless it has obtained the prior authorization of the Minister of Finance to award the contract to any person other than the one who has made the most advantageous tender within the time fixed;
  - 2) The Minister of Finance may, authorize the Town to sell its bond by mutual agreement without the formalities prescribed by the previous section, on the conditions that he may deem expedient to impose. If so, the borrowing conditions shall be approved by the Minister of Finance before the transaction can be closed.
- 10.3 The Municipal Council of the Town of Kirkland does not commit itself to recognize nor authorize the awarding of a contract not made in compliance with the present by-law.
- 10.4 Notwithstanding article 9, the Town Clerk and Director of Legal Affairs may authorize the expenditures and sign any contract or other document with the same prerogatives and powers as those attributed to the Director General for:
- a) the organization of an election;
  - b) the organization of any registration and referendum processes contemplated by Title II of the *Act respecting elections and referendums in municipalities* (CQLR, chapter E-2.2) in the *Cities and Towns Act* (CQLR, chapter C-19), in the *Act respecting land use planning and development* (CQLR, chapter A-19-1) or in any other law;
  - c) the recovery of any amount due to the Town of Kirkland, the decision to institute legal proceedings or not, to settle any claim out-of-court, to appeal a decision or not, to hire an expert, the payment of an amount, of an expenditure, of a bill of costs, and of experts' costs and the approval to strike off an amount due, with the exception of property taxes and duties on transfers of immovable, when the amount involved is ten thousand dollars (\$10,000) or less and, with the approval of the Director General, when the amount involved is fifty thousand dollars (\$50,000) or less.
- 10.5 The Town Clerk and Director of Legal Affairs may also, regardless of the amount involved:
- a) provide the Town of Kirkland with the advice and the legal support necessary for its activities;
  - b) represent, in defence or impleaded as third person, the interests of the Town of Kirkland before any judicial or administrative body;
  - c) represent, in demand, the interests of the Town of Kirkland before any judicial or administrative body when it comes to enforcing its municipal by-laws;
  - d) manage the legal mandates of the Town of Kirkland to external firms, except with regards to the legal mandates for services related to labour relations;
  - e) manage complaints of any nature addressed to the Town of Kirkland, administer the insurance portfolio as well as any reserve fund created for the purpose of financing any self-insurance program;
  - f) make decisions pursuant to the Procedure for receiving and examining complaints filed with the Town about the tendering or awarding process for contracts, when the time limits do not allow to submit this decision to the Municipal Council at a regular sitting. When absent, the Assistant Director General may take the decisions under this procedure;
  - g) require the registration of a legal hypothec, of a notice related to the exercise of a hypothecary right, the striking off of a hypothec affecting a property of the Town of Kirkland and initiate legal proceedings to execute a hypothecary right or to strike off a hypothec affecting a property of the Town of Kirkland;

- h) intervene in a deed, consent to a deed and sign a deed as a mortgage creditor on behalf of the Town of Kirkland;
- i) consent to a discharge or give release following an out-of-court settlement that is duly authorized;
- j) establish or modify a classification list contemplated in section 16 of the *Act respecting access to documents held by public bodies and the protection of personal information* (CQLR, chapter A-2.1) and establish or modify a retention schedule as referred to in section 7 of the *Archives Act* (CQLR, chapter A 21.1).

### CHAPTER III – HUMAN RESOURCES

#### Hiring of non-management employees

11. For the purposes of the present section, the term “employee” has the same meaning as the definition found in the Labour Code.

The power to hire an employee to fill an existing position within the Town’s organizational structure is delegated to the Assistant Director General, who exercises this power after having consulted the Director of the department concerned and the Director General.

The power to create a new position in the Town’s organizational structure and the power to hire an employee to fill such a position is reserved to the municipal council.

Permanent employee status may only be granted by municipal council.

#### Hiring of management employees

12. Any application submitted for a management position shall be reviewed by a selection committee made up, among other members, of the Director General, the Assistant Director General and the Director of the concerned department.

Said committee shall assess all applications and submit a recommendation to the municipal council, who shall then make the decision and, where applicable, appoint the accepted candidate.

Permanent status may only be granted to management employees by municipal council.

#### Termination of temporary employees

13. Where the termination date applicable to the employment of a temporary employee is specified in said employee’s work contract, and where the actual termination date of said employee exceeds the date specified in the contract, all proceedings relating to the termination of said employment, shall be carried out by the Assistant Director General after consultation with the Director General.

The power to establish the date on which a temporary employee will be terminated, where no such termination date is specified in the employee’s work contract, is delegated to the Assistant Director General, who shall exercise this power after having consulted the Director General.

The Director General may, after consulting municipal council, extend the probation and nomination periods of any employee.

#### Termination of permanent employees

14. The power to terminate a permanent employee’s work contract, or to lay off such employee, is reserved for the municipal council, who shall exercise this power after having consulted the Director General.

Disciplinary actions

- 15. The power to impose disciplinary actions, with the exception of a discharge or a suspension, is delegated to the Assistant Director General, who exercises this power after having consulted the Director of the department concerned and the Director General.
- 16. The power to suspend an employee is reserved to the Director General.  
The Director General must report any suspension to the municipal council.

Settlement of grievances

- 17. The Director General is authorized to settle or negotiate a grievance of a dispute, with an employee or the union, for an amount not exceeding ten thousand dollars (\$10,000.00).

**CHAPTER III.1 – STATUS BEFORE THE COMMISSION MUNICIPALE DU QUÉBEC**

- 17.1 The Town Clerk and Director of Legal Affairs is authorized to intervene on the Town’s behalf with regards to applications for recognition leading to a tax exemption submitted to the *Commission municipale du Québec*.”

**CHAPTER IV – COMING INTO FORCE**

- 18. By-law 2011-51 is hereby repealed.
- 19. The present by-law comes into force according to law.

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Mayor

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Town Clerk