



PROVINCE OF QUEBEC
TOWN OF KIRKLAND

BY-LAW NO. : 2013-54-11

**BY-LAW AMENDING BY-LAW NO. 2013-54 RELATING
TO NUISANCES ON NOISE AND OTHER NUISANCES**

ADOPTION PROCEDURE

Notice motion:	December 2, 2024
Filing of draft by-law:	December 2, 2024
Adoption of by-law:	January 13, 2025
Publication:	January 17, 2025
Coming into force:	January 17, 2025

- WHEREAS pursuant to section 59 of the *Municipal Powers Act* (CQLR, c. C-47.1), the Town of Kirkland may adopt by-laws concerning nuisances;
- 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 filed at the regular sitting of the Municipal Council held on December 2, 2024;
- WHEREAS 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:

ARTICLE 1 DEFINITIONS

Chapter I of the by-law is amended by adding the following definitions in alphabetical order:

“competent authority” means any municipal officer employed by the Town of Kirkland whose duty is to issue permits and/or enforce by-laws as well as any person mandated by the Town for such purposes;”

ARTICLE 2 POWERS OF THE COMPETENT AUTHORITY

Chapter II of the by-law is amended by modifying the Chapter title and Article 2, and by adding Articles 2.1 to 2.6 so that they read as follows :

“ CHAPTER II – POWERS OF THE COMPETENT AUTHORITY

2. The competent authority may enter, visit, inspect and examine any property, building, accessory building or accessory, both inside and outside, conduct analyses or tests, take samples, install measuring equipment, take photographs or recordings, for the purposes of enforcing this by-law.
- 2.1 Any owner, tenant, occupant or other person must allow the competent authority to enter a property, building, accessory building or accessory.
- 2.2 It is forbidden to inconvenience, insult, hinder, deny access to or obstruct the competent authority in the execution of its duties.
- 2.3 The competent authority must, upon request, identify themselves and provide the reasons for their presence.
- 2.4 The competent authority, having reasonable grounds to believe that an offence has been committed, may order anyone causing, tolerating or allowing a nuisance, to cease or to have it ceased immediately.
- 2.5 The competent authority may issue a statement of offence for any violation of the provisions of this by-law.
- 2.6 In the absence of other evidence, it is permissible to infer the occurrence of a nuisance or neighbourhood disturbance from the evidence provided by the competent authority regarding what they have seen, heard or smelled.”

ARTICLE 3 NUISANCES RELATING TO AN IMMOVABLE

Chapter III of the by-law is amended by adding paragraph p) to Article 3 so that it reads as follows:

- “ 3. Constitutes a nuisance on a property or outside a building, the presence of:
[...]
p) hazardous materials, except where the use of such materials is authorized.”

ARTICLE 4 NUISANCES RELATING TO NOISE

Chapter IV of the by-law is amended by modifying Articles 7 and 7.1, and repealing Article 7.2 so that they read as follows:

- “ 7. With the exception of normal neighbourhood annoyances, it is forbidden to cause, tolerate, or allow the emission of any noise likely to disturb the peace of one or more persons in the neighbourhood by any means.

The prohibition provided for in the first paragraph constitutes a general offence distinct from the other articles of this by-law.

- 7.1 Between 11:00 p.m. and 7:00 a.m. the following day, it is forbidden to emit, tolerate, or allow the emission of the following noises outside or inside a building or a road vehicle when they are audible outside or in a neighboring room:

- a) The noise of shouting, barking, clamor, singing, altercations or any other form of disturbance;
- b) The noise of bells, sirens, whistles, chimes or any other object used as such;
- c) The noise produced by a musical instrument, an object, or any other sound-producing device;
- d) The noise from any device, equipment, machinery, tools, or any other element likely to disturb the peace of one or more persons in the neighborhood;
- e) The noise of rapid starting, acceleration, or unjustified revving of an engine.

7.2 *(Repealed)*”

ARTICLE 5 NUISANCES RELATING TO PUBLIC DOMAIN

Chapter V of the by-law is amended by modifying paragraph g) and adding paragraph g.1) to Article 11 so that they read as follows:

“ 11. Constitutes a nuisance, the act of :

- g) moving or damaging a public tree in any way, without causing its loss;
- g.1) felling or otherwise causing the loss of a public tree; ”

ARTICLE 6 INFRACTION AND OFFENCES

Chapter VII of the by-law is amended by modifying Article 13 and adding Articles 13.1, 13.2 and 13.3, as well as Article 14.1 after Article 14, so that they read as follows :

“ 13. Anyone who creates, tolerates, or allows a nuisance as defined by this by-law, or who violates or allows a violation of any provision of this by-law, commits an infraction and is liable to the following fine:

- 1) for a first infraction, a minimum fine of TWO HUNDRED DOLLARS (\$200) and a maximum of ONE THOUSAND DOLLARS (\$1,000) in the case of a natural person, or a minimum of SIX HUNDRED DOLLARS (\$600) and a maximum of TWO THOUSAND DOLLARS (\$2,000) in the case of a legal person;
- 2) for a repeated infraction, a minimum of FOUR HUNDRED DOLLARS (\$400) and a maximum of TWO THOUSAND DOLLARS (\$2,000) in the case of a physical person, or a minimum of ONE THOUSAND DOLLARS (\$1,000) and a maximum of FOUR THOUSAND DOLLARS (\$4,000) in the case of a legal person.

13.1 Notwithstanding Article 13, anyone who damages or allows damage to a public tree in any way in contravention of Article 11 g) of this by-law commits an infraction and is liable to the following fine:

- 1) for a first infraction, a minimum of FIVE HUNDRED DOLLARS (\$500) and a maximum of ONE THOUSAND DOLLARS (\$1,000) in the case of a natural person, or a minimum of ONE THOUSAND DOLLARS (\$1,000) and a maximum of TWO THOUSAND DOLLARS (\$2,000) in the case of a legal person;
- 2) in the case of a repeated infraction, a minimum of ONE THOUSAND DOLLARS (\$1,000) and a maximum of TWO THOUSAND DOLLARS (\$2,000) in the case of a natural person, or a minimum of TWO THOUSAND DOLLARS (\$2,000) and a maximum of FOUR THOUSAND DOLLARS (\$4,000) in the case of a legal person.

13.2 Notwithstanding Article 13, anyone who fells or allows the felling of, or otherwise causes the loss of, a public tree in contravention of Article 11 g.1) of this by-law commits an infraction and is liable to a fine of a minimum amount of FIVE HUNDRED DOLLARS (\$500) plus:

- 1) in the case of felling on an area of less than one hectare, a minimum amount of FIVE HUNDRED DOLLARS (\$500) and a maximum of ONE THOUSAND DOLLARS (\$1,000) per tree felled illegally, up to a maximum of FIFTEEN THOUSAND DOLLARS (\$15,000); or
- 2) in the case of felling over an area of one hectare or more, a fine of a minimum of FIFTEEN THOUSAND DOLLARS (\$15,000) and a maximum of ONE HUNDRED THOUSAND DOLLARS (\$100,000) per hectare deforested, in addition to an amount determined in accordance with paragraph 1) for each fraction of a hectare.

These amounts are doubled in the event of a repeat offence.

13.3 If the infraction is ongoing, each day during which the nuisance continues to exist shall constitute a distinct infraction and the fine established for such an infraction may be charged for each day that the infraction endures.

In all cases, applicable costs are added to the fine.”

“14.1 Neither the issuance of a notice of infraction nor the payment of a fine deprives the Town of other civil or criminal remedies that may belong to it for failure to fulfill any of the obligations imposed by this by-law, to claim damages it has suffered, or to assert any other right.”

ARTICLE 7 COMING INTO FORCE

This by-law shall come into force in accordance with the law.

(Michel Gibson)

Mayor

(Annie Riendeau)

Town Clerk