



## BY-LAW NO. : 2013-54

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### BY-LAW RELATING TO NUISANCES

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#### Amendment

2013-54-1, 2013-54-2, 2013-54-3,  
2013-54-4, 2013-54-5, 2013-54-6, 2013-54-7,  
2013-54-8, 2013-54-9, 2013-54-10  
and 2013-54-11

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#### **NOTICE**

This consolidation has not been officially adopted by the Municipal Council. It has been compiled on January 20, 2025, 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:	March 4, 2013
Publication:	March 13, 2013
Coming into force:	March 13, 2013

- 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), a draft of this by-law was presented at a 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 - DEFINITIONS**

1. In this by-law, unless the context indicates otherwise:

“accessory” means any accessory located on the property of the immovable, including, a fence, a wall, a gazebo, a pergola, a pool or spa and their equipment, a terrace, garden furniture, a play structure, an outdoor gas fireplace, a barbecue, a ground surface or any other structure present on the property of the immovable;

“accessory building” means a building that is either isolated, attached or integrated to the main building of which use is complementary to the main use and which is located on the same property, including a garage, a greenhouse or a shed;

“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;

“graffiti” means one or more drawings, symbols, letters, signatures (tags), engravings (sgraffito), figures, inscriptions, stains, produced and affixed in any manner, or other marks applied to a property;

“harmful plant” means living organism of the kingdom Plantae likely to threaten the ecological integrity of the ecosystems as well as human and animal health;

“hazardous material” means material which, because of its properties, presents health or environmental hazards and that is explosive, gaseous, flammable, toxic, radioactive, corrosive, combustive or leachable;

“public domain” means all municipal movable and immovable property owned or administered by the Town. The public domain includes any public place including any building, land, park or public square, any public road (boulevard, street, road, alley, etc.), any sidewalk, curb and right-of-way of the public road, any municipal infrastructure (retention basin, ditch, sewer, aqueduct, electric conduit, etc.), any tree and vegetation located on the public domain and any urban furniture (bench, garbage can, lamppost, sign, fence, playground equipment, etc.);

“road vehicle” has the same meaning as it does in the Highway Safety Code (R.S.Q., c. C-24.2); a physical person who resides within the territory of the Town of Kirkland or a legal person who occupies a business establishment within the same territory;

“residual material” means a residue, matter or object that has been rejected or abandoned;

“wild plant” means a weed or shrubs that grow in abundance without any care.

**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.

**CHAPTER III – NUISANCES RELATING TO AN IMMOVEABLE**

3. Constitutes a nuisance on a property or outside a building, the presence of:
  - a) a road vehicle that is stored, discarded, unlicensed for road use for the current year or that is not in working order. A road vehicle is presumed not in working order when one or more tires are missing, deflated, or damaged, when the hood is open, when windows are broken or missing, when it exhibits visible structural damage such as significant deformations of the body or chassis, or when essential parts such as mirrors, headlights, doors, etc., are absent;
  - b) a road vehicle containing material, equipment (construction, landscaping or other) or any other visible element not covered by a truck cap or Tonneau cover;
  - c) residual material other than in a way permitted by the by-law governing the removal of residual material;
  - d) the presence of any foul odor. Is presumed a foul odor any smell of mold, rotten eggs, gas, decomposition, garbage, or any other odors that, due to their frequency or intensity, become a public nuisance;
  - e) grass of a length of more than twenty (20) centimeters except in areas where permitted by the zoning by-law;
  - f) wild plants of more than twenty (20) centimeters except in areas where permitted by the zoning by-law;
  - g) branches, brush, weeds, plant residue, dead tree parts, dead trees, scrap metal, garbage, waste, paper, empty bottles or foul smelling substances other than in accordance with any waste management by-laws;
  - h) vegetation, including branches, that reaches beyond the property on which it is planted in such a way as to be a hazard to public security;

- i) a pile of paper, metal, rags, textile in a state of waste or rubbish unless such items serve an industrial or commercial business in accordance to the zoning by-law;
- j) of graffiti;
- k) a unfenced excavation or an open air foundation;
- l) standing, putrid, dirty or contaminated water or any other putrid matter;
- m) any obstruction of an emergency exit, a service stairway or any part thereof including any entrances or landings; and
- n) a piece of indoor furniture or an electrical appliance.
- o) a pallet of wood or plastic, construction or excavation materials, tires, rims or other mechanical parts or an accumulation of garden items.
- p) hazardous materials, except where the use of such materials is authorized.

3.1 Constitutes a nuisance on a vacant lot not occupied by a main building, the presence of :

- a) any accessory building, accessory, or any other object whatsoever, except for a fence delimiting the lot;
- b) any road vehicle, snowmobile, all-terrain vehicle, trailer, boat, tractor, equipment for snow removal, landscaping equipment, or any other equipment, whatever it may be;
- c) any element mentioned in Article 3;

For the purposes of interpreting this article, a vacant lot not occupied by a main building is considered to be any lot on which there is no visible above-ground building. A lot with only the foundation of a main building is considered to be a vacant lot not occupied by a main building.

This article does not apply to municipal lots.

4. The presence of any of the following plants on a property constitutes a nuisance:

- *Rhus radicans*, known as Ragweed;
- *Ambrosia artemisiifolia*, *Ambrosia trifida* and *Ambrosia psilostachya*, known as Poison Ivy;
- *Heracleum mantegazzianum*, known as Giant Hogweed;
- *Fallopia japonica*, known as Japanese Knotweed;
- *Datura stramonium*, known as Jimsonweed or Datura;
- *Rhamnus cathartica*, known as Common Buckthorn;
- *Lythrum salicaria*, known as Purple loosestrife; and
- *Phragmites australis*, known as Common Reed.

4.1 Is considered a nuisance and is prohibited for the owner, the tenant or the occupant of a property to let harmful plants grow on said property.

5. Dumping any type of matter on an empty lot constitutes a nuisance.

6. When a nuisance identified in sections 3 to 5 is observed, the Town or one of its representatives shall give the owner or occupant of the property affected by the observed nuisance a written notice and inform said person that they must take the necessary measures to eliminate the nuisance within twenty-four (24) hours of receipt of said notice. In the event of failure or refusal to do so, the Town may charge the person required to make the repair or cleaning the cost of the repair or cleaning that it has carried out in its place.

#### CHAPTER IV – NUISANCES RELATING TO NOISE AND LIGHT

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*)

- 7.3 The emission of any noise from a road vehicle used to transport merchandise or from any equipment attached thereto, including a refrigeration device, is prohibited between 11:00 p.m. and the following 7:00 a.m. while the vehicle is parked one hundred (100) meters or less from any building used in whole or in part as a dwelling.

The owner, tenant or occupant of the property on which a vehicle referred to in the first paragraph is parked with the consent of such owner, tenant or occupant, is in contravention of this By-law as is the owner or lessee of the road vehicle.

- 7.4 It is prohibited to carry out or permit the carrying out of loading or unloading of merchandise, materials or other items, at a domicile, place of business or a property, between 11:00 p.m. and the following 7:00 a.m., the operation of which is of such a nature as to disturb the peace, well-being, comfort, and tranquility of the public or of the neighbourhood in the immediate vicinity.

- 7.5 Work on a building site, a renovation site or a demolition site less than one hundred and fifty (150) meters from a building used for residential purposes, is prohibited at any time other than between 7:00 a.m. and 9:00 p.m., Monday to Sunday.

The first paragraph of this article does not apply to emergency work on public or private infrastructures or to work expressly authorized by the Town.

- 7.6 Constitutes a nuisance and is prohibited to use or permit the use of a chainsaw, lawn mower, leaf blower, grass-trimmer, hedge trimmer, mechanical, electric or pneumatic tool or any similar tool:

- a) before 7 a.m. and after 9 p.m., Monday to Friday;
- b) before 9 a.m. and after 6 p.m. on Saturdays;
- c) before 10 a.m. and after 4 p.m., on Sundays and holidays.

8 Articles 7 to 7.6 do not apply to the production of noise:

- a) from machinery or equipment used in public utility works for work carried out in an emergency in order to build, repair or demolish elements of a public utility network or to build, repair or demolish a civil engineering work to ensure public safety;
- b) from the public authority or its mandatary in connection with an activity related directly to the protection, maintenance or restoration of peace, order or public safety;
- c) from sound amplification equipment or musical instruments used during a public event, a community activity, a sports activity, a show or any other type of performance authorized by the Town and held in the public;
- d) from snow removal operations, residual waste collection, grass cutting, trimming trees, cleaning streets or any other similar activity carried out by the Town or any person mandated by the Town for such purposes.
  - d.1) from the operations of pushing of snow and spreading of de-icing salt or abrasives carried out by a person during a snowfall or freezing rain or within a period of six (6) hours following such precipitation, being understood that any snow handling, loading or transport operation is subject to articles 7.1 and 7.2.
- e) from road vehicles, with the exception of the noises prohibited in article 7.3.

9 The installation, use or maintaining of any flashing or rotating light or any light of which the intensity or the colour shall not be constant or stationary, within a distance of thirty (30) meters of any public road, constitutes a nuisance.

Any light or projectors producing a lighting of a colour or an intensity so as to trouble the peace of a neighbourhood constitutes a nuisance.

The present section shall not be construed as prohibiting the use or maintaining of an illuminated sign as permitted by other Town by-laws.

## CHAPTER V – NUISANCES RELATING TO THE PUBLIC DOMAIN

10 Any person who damages, alters or soils the public domain must carry out the repair or cleaning if required by the Town or one of its representatives. The repair or cleaning must be done immediately or within the timeframe allotted for this purpose. In the event of a refusal, the Town may require that such person pay for the cost of the repair or cleaning that it has carried out in its place.

11 Constitutes a nuisance, the act of:

- a) soiling, damaging or altering the public domain in any way, including graffiti;
- b) loitering in a public place or in front of a commercial establishment;
- c) stick, staple, install or attach anything (sign, sticker, rope, cable, etc.) to the public domain;
- d) refusing to move along from the public domain after having been asked to do so by a police officer or a representative of the Town;
- e) causing a disturbance in the public domain by shouting, swearing, singing or being intoxicated;

- f) damaging, altering, moving or relocating a public sign, traffic sign, lamp standard, hydrant or fence;
- 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;
- h) dumping snow, ice, earth, sand or any other matter originating from a private property on a public street, sidewalk, alley, park, place, field or ditch;
- i) soliciting donations or engaging in commercial activities on the public domain without being authorized to do so by permit issued by the Town;
- j) impeding, in any way, access to a fire hydrant or other municipal infrastructure;
- k) operating a road vehicle or other motorized vehicle elsewhere than where permitted by the Highway Safety Code;
- l) operating a snowmobile or an all-terrain vehicle;
- m) leave or abandon any vehicle or object on the public domain;
- n) neglect to landscape or maintain the right-of-way (cutting grass, etc.);
- o) leave any object or material on the public road;
- p) discard, or deposit anything, including ash, paper, empty bottles, waste, earth, sand, stones, building materials, plant residues, textiles or anything else harmful on the public domain;
- q) discard, deposit or dump dirty water, urine, feces, chemicals, cleaning or petroleum products or any other foul, flammable or hazardous product on the public domain.
- r) making or writing, on the public domain, in any manner whatsoever, hate speech;

## CHAPTER VI – NUISANCES RELATING TO PUBLIC SECURITY

12 Each of the following activities constitutes a nuisance:

- a) throwing any rock, snow, ice or other projectile or using a bow and arrow, slingshot, catapult or blowpipe;
- b) trespassing on any public or private property;
- c) participating in, encouraging or attending an act or demonstration that is depraved, indecent or sexual on public property or on private property within sight of the public;
- d) preventing, impeding or interfering with the duties of any authorized Town representative;
- e) lighting any fire crackers or fireworks without the authorization of the *Service des incendies de Montréal*;
- f) lighting or maintaining any fire or bonfire outdoors on public or private property, using an exterior wood burning stove or fireplace;
- g) possessing or consuming alcohol on public property without the required licence.

**CHAPTER VII – INFRACTION AND FINES**

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 In addition to requiring payment of the fine and fees, the court dealing with a violation of this by-law may order the owner, tenant or occupant of the property to remove the nuisance or to carry out the necessary work to ensure that the nuisance does not recur within the time it sets and that, failing that person to perform, the nuisance is removed or the work is carried out by the Town.

The sums due to the Town through the application of the first paragraph are recoverable in the same manner as a special tax.

- 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.

**CHAPTER VIII – REPEALING AND FINAL PROVISIONS**

- 15 The present by-law shall come into force in accordance with the law.

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Mayor

\_\_\_\_\_  
Town Clerk