



PROVINCE OF QUEBEC
TOWN OF KIRKLAND

DRAFT
BY-LAW NO.: PARK-2022-56

**BY-LAW CONCERNING CONTRIBUTIONS FOR THE
ESTABLISHMENT, MAINTENANCE AND IMPROVEMENT
OF PARKS, PLAYGROUNDS AND NATURAL AREAS**

ADOPTION PROCEDURE

Notice of motion and filing:	May 2, 2022
Adoption – draft:	May 2, 2022
Publication:	May 6, 2022
Public consultation:	May 31, 2022
Adoption of by-law:	
Publication:	
Coming into force:	

- CONSIDERING sections 117.1 to 117.16 of the *Act Respecting Land use Planning and Development* (Chapter A-19.1);
- CONSIDERING that, in accordance with section 356 of the *Cities and Towns Act* (Chapter C-19) notice of motion, filling and adoption of the draft by-law was done at the regular sitting of the municipal Council held on May 2, 2022;
- CONSIDERING that copies of the draft by-law were made available to the public;
- CONSIDERING that the preamble forms an integral part of this by-law;

THE MUNICIPAL COUNCIL DECREES AS FOLLOWS :

Chapter 1 - DECLARATORY AND INTERPRETIVE PROVISIONS

Division 1.1 Applicability

1. This by-law applies to all persons, whether natural or legal, and throughout the Town of Kirkland.

Division 1.2 Scope of application

2. This by-law applies to :
- 1) any subdivision permit application for the approval of a cadastral operation;
 - 2) any building permit application relating to the establishment of a new main building on an immovable in respect of which no subdivision permit has been issued under registration as a separate lot by reason of the fact that the registration resulted from a cadastral renewal;
 - 3) any building permit application for the intensification of existing activities on an immovable;
 - 4) any building permit application in order to permit new activities on an immovable.

Division 1.3 Definitions

3. When interpreting this by-law, unless otherwise indicated by the context, the words or expressions that follow have the following meaning and significance :

“INTENSIFICATION OF EXISTING ACTIVITIES”:

Any construction project whose purpose is:

- 1) the addition of 2 or more dwellings in a building; or
- 2) the extension of a commercial building by more than 25% of its original floor area.

“NEW ACTIVITIES”:

Any change in the usage of an existing building, other than the addition of a complementary usage in a single-family residential building.

“SITE”:

In a case referred to in paragraph 1) of section 2, corresponds to the land included in the plan relating to a cadastral operation.

In a case referred to in paragraphs 2), 3) or 4) of section 2, corresponds to the “site of the immovable”.

“SITE OF THE IMMOVABLE”:

In the case of a building that is not the subject of a divided co-ownership, corresponds to the total area of the land on which it is established, regardless of the undivided ownership agreement, if applicable.

In the case of a divided co-ownership, corresponds to the portion of the land equal to the surface area of the private portion targeted in relation to the sum of the surface areas of all the private portions, that is: (surface area of the private portion / sum of the surface areas of the private portions) X area of the land.

“TOWN”:

Town of Kirkland.

Division 1.4 Interpretation

4. This by-law is enacted chapter by chapter, division by division, section by section, paragraph by paragraph and subparagraph by subparagraph, so that the repeal or declaration of nullity of any chapter, division, section, paragraph or subparagraph, or part thereof, shall not affect the validity of other chapters, division, sections, paragraphs or subparagraphs of this by-law.
5. Irrespective of the verb tense used in any of the provisions of this by-law, such provisions shall be considered to have effect during any period and under any circumstance in which they may apply.
6. In this by-law, use of the masculine shall include the feminine, unless otherwise indicated by the context.
7. In this by-law, use of the singular shall include the plural, unless otherwise indicated by the context.
8. In the event of an inconsistency between a provision of this by-law and a provision contained in a different urban planning by-law of the Town, the most restrictive or prohibitive provision shall prevail.
9. In the event of a discrepancy between the English version and the French version of this by-law, the French version shall prevail.

Chapter 2 – PROVISIONS REGARDING CONTRIBUTIONS**Division 2.1 Conditions prior to the issuance of a subdivision permit**

10. As a condition prior to the issuance of a subdivision permit referred to in paragraph 1) of section 2, the owner of the immovable must fulfill one of the following obligations :
 - 1) undertake to transfer to the Town, free of charge, a parcel of land of the site, the area of which is equal to 10% of the area of the site and which, in the opinion of the Town, is suitable for the establishment or enlargement of a park or playground or the preservation of a natural area;
 - 2) pay to the Town an amount of money equal to 10% of the value of the site;
 - 3) undertake to transfer to the Town, free of charge, a parcel of land of the site and pay the Town an amount of money that together represent 10% of the value of the site;
11. The Council decides in each case which obligation must be fulfilled. Nothing in this by-law shall be interpreted as requiring the Town to accept the transfer of an area of land or the payment of an amount of money.
12. The Town may allow the owner to transfer land or undertake to transfer land that is not included in the site and that lies within the boundaries of the Town's territory.

13. The undertaking to transfer land must be the subject of a promise of transfer signed by the owner of the land and the Town.

Division 2.2 Conditions prior to the issuance of a building permit

14. As a condition prior to the issuance of a building permit referred to in paragraphs 2), 3) or 4) of section 3, the owner of the immovable must fulfill one of the following obligations :

- 1) undertake to transfer to the Town, free of charge, a parcel of land of the site, the area of which is equal to 10% of the area of the site and which, in the opinion of the Town, is suitable for the establishment or enlargement of a park or playground or the preservation of a natural area;
- 2) pay to the Town an amount of money equal to 10% of the value of the site;
- 3) undertake to transfer to the Town, free of charge, a parcel of land of the site and pay the Town an amount of money that together represent 10% of the value of the site;

15. The Council decides in each case which obligation must be fulfilled. Nothing in this by-law shall be interpreted as requiring the Town to accept the transfer of an area of land or the payment of an amount of money.

16. The Town may allow the owner to transfer land or undertake to transfer land that is not included in the site and that lies within the boundaries of the Town's territory.

17. The undertaking to transfer land must be the subject of a promise of transfer signed by the owner of the land and the Town.

Division 2.3 Exemptions regarding contributions

18. Where the site or part of the site has already been the subject of a transfer of land, an exemption of transfer or payment shall be granted either :

- 1) in full, if the previous transfer was for the entire site; or
- 2) partially and proportionally, if the previous transfer was for only a portion of the site;

19. Where the site or part of the site has already been the subject of a payment in accordance with sections 10 and 14, the owner shall pay the difference between the amount already paid and the amount due.

20. For the purposes of sections 18 and 19, the onus is on the owner to demonstrate that a land area has already been the subject of a land transfer or payment.

21. Sections 10 does not apply in the following cases :

- 1) a cadastral operation for the purpose of cancelling, correcting or replacing lot numbers resulting in no increase in the number of lots;
- 2) a cadastral identification of parcels of land to permit the transfer of ownership to the Town;
- 3) a cadastral identification of parcels of land to allow expropriation.

Division 2.4 Establishment of the area and the value of the site

22. The following rules apply to establishing the area or value of the site:

- 1) the value of the site is considered, as the case may be, on the date of receipt by the Town of the plan relating to the cadastral operation or on the date of receipt by the Town of the building permit application;

- 2) the value of the site is determined, at the owner's expense, by a chartered appraiser appointed by the Town;
- 3) the area or the value of any land or part of land to be transferred to the Town is included in the calculation, as well as the streets to be transferred to the Town.

Division 2.5 Transfer of land

23. Any transferred land must be free of mortgages, priorities, charges or real rights.
24. Any transferred land must not be contaminated beyond the standards provided for in the *Environment Quality Act* (Chapter Q-2) and its regulations for the prescribed use.
25. The notary and publication fees are at the expense of the owner.

Chapter 3 – DOCUMENTATION

26. The owner must submit to the Town, after the filing of the application for a building permit or subdivision permit but before the approval of any of these applications, the following documents, where appropriate:
 - 1) a notarized certificate certifying that the owner is the sole owner of the land to be transferred to the Town and that the land is free of mortgages, priorities, charges or real rights;
 - 2) a characterization study of the land to be transferred to the Town in order to determine the degree of contamination of the land. This study must meet the requirements of the guide developed under section 31.66 of the *Environment Quality Act*, (Chapter Q-2) and be certified by an expert within the meaning of section 31.65 of the *Environment Quality Act* (Chapter Q-2);
 - 3) a certificate of location or a plan and technical description of the land to be transferred to the Town;
 - 4) the payment of the amount of money due and/or the promise of transfer signed by the owner, to surrender the land or part of the land to the Town free of charge.

Chapter 4 – ADMINISTRATIVE PROVISIONS

Division 4.1 Administration and application

27. The administration and application of the by-law is incumbent to the Director of the Urban Planning Environment Department or the Assistant Director General and Treasurer.
28. The Council may, by resolution, appoint other persons in addition to those above-mentioned for the application of this by-law.

Division 4.2 Offences, sanctions, recourses and actions

29. Any person who contravenes this by-law is guilty of an offence and is liable :
 - 1) in the case of a natural person :
 - a) for a first offence, to a fine of \$500;
 - b) for a second offence, to a fine of \$1,000;
 - c) for any subsequent offence, to a fine of \$1,500;
 - 2) in the case of a legal person :
 - a) for a first offence, to a fine of \$1,000;
 - b) for a second offence, to a fine of \$2,000;
 - c) for any subsequent offence, to a fine of \$3,000.

Division 4.3 Coming into force and repeal

30. This by-law comes into force according to law.

31. This by-law repeals Section 2.3 of by-law no. 90-59 entitled: *Subdivision By-Law*.

(Michel Gibson)

Mayor

(Annie Riendeau)

Town Clerk

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