



## **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

**NOTICE**

This consolidation has not been officially adopted by the Municipal Council. It has been compiled on January 15, 2021, 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:

“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 – PROHIBITED NUISANCES**

2. It is prohibited to cause or to allow enduring a nuisance described by the present by-law.

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

3. Constitutes a nuisance the presence on a property or outside of a building of one of the following:

- a) a road vehicle that is stored, discarded, unlicensed for road use for the current year or that is not in a working order;
- 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) a residual matter container that emits a foul odor even though it is closed;
  - 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) 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.
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.
- 4.1.1. 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 warning and said person that the necessary measures must be taken in the following twenty-four (24) hours in order to eliminate the nuisance.

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

7. It is prohibited to make, cause or incite any person to make, in any manner whatsoever, noise that is likely to disturb the peace, tranquility, comfort, rest, well-being of residents or that is of such a nature as to prevent the peaceable enjoyment of properties in the immediate vicinity, except for normal neighborhood annoyances.

Contravention of this article constitutes a general infraction distinct from that provided for in articles 7.1 and 7.2.

- 7.1. The emission of noise of a decibel level of 55 dBA or higher is prohibited between 11:00 p.m. and the following 7:00 a.m., at the boundary of the property from which the noise emanates.
- 7.2. The emission of noise of a decibel level of 60 dBA or higher, is prohibited between 7:00 a.m. and 11:00 p.m., at the boundary of the property from which the noise emanates.
- 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. It is prohibited, between May 1<sup>st</sup> and September 30, to use or permit the use of a chainsaw, lawn mower, power tool or any similar tool or machinery, the operation of which is of such a nature as to disturb the peace, well-being, comfort or tranquility of the public or of the neighbourhood in the immediate vicinity:
- a) between 11 p.m. and the following 7 a.m., from Monday to Friday;
  - b) between 6 p.m. and the following 9 a.m., Saturday and Sunday;
  - c) between 6 p.m. and the following 9 a.m. on statutory 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. The following acts constitute a nuisance:
- 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) cutting, damaging, destroying any tree on or along a street, park or public place;
  - 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, petroleum or chemical products or any other foul, flammable or hazardous product on the public domain.

## 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 contravening a provision of this by-law, tolerating or permitting such a contravention, commits an infraction and is liable to the following fine:
- for a first infraction, a minimum of one hundred (\$100) and a maximum of one thousand dollars (\$1,000) if the offender is a natural person or a minimum of five hundred (\$500) and a maximum of two thousand dollars (\$2,000) if the offender is a legal person;
  - for a repeated infraction, a minimum of two hundred dollars (\$200) and a maximum of two thousand dollars (\$2,000) if the offender is a natural person or a minimum of one thousand dollars (\$1,000) and a maximum of four thousand dollars (\$4,000) if the offender is a legal person;

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. The court called upon to rule on an infraction established by this by-law may, in addition to the fine and costs, order the removal of the nuisance which was the subject of the infringement within the delay it grants, by the owner, the lessee or occupant, and on failure by such person to comply within such delay, the removal of the nuisance by the Town at the expense of said person.

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

**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

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Town Clerk