



PROVINCE OF QUEBEC  
TOWN OF KIRKLAND

## BY-LAW NO: 2016-53

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### BY-LAW CONCERNING BUILDING OCCUPANCY AND MAINTENANCE

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Amendments

2016-53-1 and 2016-53-2

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**NOTICE**

This consolidation has not been officially adopted by the Municipal Council. It has been compiled on July 7, 2023 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:	February 1, 2016
Adoption of by-law:	March 7, 2016
Publication:	March 16, 2016
Coming into force:	March 16, 2016

- WHEREAS pursuant to section 145.41 of the *Act respecting land use planning and development* (CQLR, c. A-19.1), the Municipal Council may, by by-law, set standards and prescribe measures for the occupancy and maintenance of buildings;
- WHEREAS pursuant to sections 55 to the 61 of the *Municipal Powers Act* (CQLR, c. C-47.1), the Municipal Council may, by by-law, set standards and prescribe measures pertaining to sanitation and nuisances;
- WHEREAS pursuant to section 369 and 411 of the *Cities and Towns Act* (CQLR, c. C-19);
- WHEREAS notice of motion of this by-law was given at the regular sitting of the Municipal Council held February 1, 2016;
- WHEREAS pursuant to section 356 of the *Cities and Towns Act* (CQLR, c. C-19), a draft of this by-law was tabled at the regular sitting of the Municipal Council ~~held on August 5, 2019;~~
- 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:

#### DIVISION I – SCOPE OF APPLICATION AND TERMINOLOGY

##### SECTION 1

The provisions of this by-law apply to the entire territory of the Town of Kirkland.

##### SECTION 2

This by-law applies to any building or part of a building used or intended to be used for residential purposes, to any accessory building as well as all accessories.

##### SECTION 3

This by-law does not apply to a building that is:

- (1) exclusively institutional; or
- (2) occupied or intended to be occupied exclusively by an establishment referred to in the *Act respecting Health Services and Social Services* (CQLR, c. S-4.2), including a residential and long-term care centre.

##### SECTION 4

In this By-law, unless the context requires 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 it is to issue permits and/or enforce by-laws as well as any person mandated by the Town for such purposes.

"ground surface"	means any concrete surface, concrete pavers, asphalt surface or any other ground surface covering;
"immovable"	means an immovable within the meaning of the <i>Civil Code of Québec</i> (CQLR, c. C-1991);
"main building"	means the building in which the main use is carried on;
"Town"	means the Town of Kirkland
"unsanitary"	means unhealthy, dangerous to health;

## DIVISION II – POWERS OF THE COMPETENT AUTHORITY

### SECTION 5

The competent authority may, at any reasonable time, enter a building, an accessory building or any accessory, visit it and inspect the interior or exterior for the purposes of this by-law.

### SECTION 6

The competent authority must, on request, present an identification card bearing his or her photograph as issued by the Town.

### SECTION 7

No person may refuse to allow a competent authority to enter a building, an accessory building or any accessory nor may any person hinder the authority in the performance of his or her work.

### SECTION 8

The competent authority may conduct tests and take photographs or make video recordings in a building, an accessory building or an accessory.

## DIVISION III – SANITATION

### SECTION 9

No building, accessory building or accessory may constitute a health hazard or present a danger for the security of property or persons because of the use that is made of it or because of the condition it is in.

The following are prohibited and must be eliminated or removed from a main building, an accessory building or an accessory:

- (1) Uncleanliness, deterioration or obstruction;
- (2) The presence of dead animals;
- (3) The storage or use of products or substances that give off foul odours or toxic fumes;
- (4) The disposal of household waste, trash or recyclable materials elsewhere than in receptacles provided for that purpose;
- (5) The presence of clutter or the accumulation of miscellaneous objects, scrap, debris, materials, branches, papers, waste, damaged materials, spoiled or putrid matter, excrements or other state of uncleanliness or obstruction;
- (6) The presence of rodents such as rats, mice and field mice, vermin, insects or parasites and the conditions favouring their proliferation;

- (7) The presence of water or snow infiltration, mould or rot as well as the conditions favouring their proliferation;
- (8) The presence of stagnant, putrid, dirty or contaminated water;
- (9) A plumbing system in such a state that it is a cause of insalubrity. There is an insalubrity condition, when:
- a) sanitary fixtures are not supplied with water;
  - b) the evacuation piping is obstructed to the point of preventing flushing of the fixtures;
  - c) piping that is not watertight allows for the circulation of rodents, vermin, insects, parasites, gas or smoke or allows water infiltration.

#### DIVISION IV – MAINTENANCE

##### SECTION 10

All main buildings, accessory buildings or accessories must be maintained in a good state of conservation and cleanliness and must be able to be used for their intended purposes.

No main building, accessory building or accessory may be left to deteriorate by lack of maintenance, improper use or degradation manoeuvres.

##### SECTION 11

All main building, accessory building and accessory components must be sufficiently solid to withstand the live and dead loads to which they may be subjected, and must be repaired or replaced as required.

##### SECTION 12

The owner of a vacant main building must close or board it up to prevent entry through any of its openings, such as doors, windows or the roof. He must do the same with any accessory building.

##### SECTION 12.1

With the exception of municipal properties, any vacant lot not occupied by a main building must be free of any accessory building, any accessory and any other object whatsoever, with the exception of a fence delimiting the lot.

In addition to the prohibited items mentioned in Section 9, the following are also prohibited and must be removed from a vacant lot not occupied by a main building:

- 1° Any type of vehicle as defined in the *Highway Safety Code*, chapter C-24.2;
- 2° Any type of equipment, including but not limited to: snowmobiles, all-terrain vehicles, trailers, boats, tractors, trailers, snow removal equipment, landscaping equipment, etc.

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.

#### DIVISION V – INTERVENTION OF THE TOWN

##### SECTION 13

Every owner of an immovable must comply with all standards pertaining to immovables stipulated in this by-law.

In the event of violation of such standards, the Town shall send a written notice to the owner of the immovable specifying:

- (1) The work that must be done to render the main building, the accessory building or the accessory compliant to the applicable standards;
- (2) The measures stipulated by the by-law;
- (3) The deadline by which the work must be carried out to render the main building, the accessory building or the accessory standard-compliant. The Town may extend the deadline.

#### **DIVISION VI – CIVIL RECOURSES**

##### **SECTION 14**

With leave of the Superior Court, the Town of Kirkland may, in the event of default by the owner of an immovable, in addition to any other recourse provided for by law, carry out or have carried out, at the owner's expense, anything that the owner is required to do under this By-law in relation to that immovable.

With leave of the Superior Court, the Town may also, at the owner's expense, eliminate or remove the unsanitary conditions described in section 9.

##### **SECTION 15**

The expenses incurred by the Town under section 14 constitute a prior claim on the immovable concerned, and are collocated in the same order as, and rank equally with, the claims referred to in paragraph (5) of article 2651 of the *Civil Code of Québec* (RSQ, c. C-1991). The aforementioned expenses are also secured by a legal hypothec on the immovable.

#### **DIVISION VII – INTERPRETATION**

##### **SECTION 16**

This By-law may not in any manner be interpreted as restricting or limiting the scope of a more specific or more stringent requirement stipulated in any other Town by-law.

#### **DIVISION VIII – PENAL PROVISIONS AND SANCTIONS**

##### **SECTION 17 FINES**

Any person who contravenes a provision of this By-law, or who tolerates or allows such a contravention, is liable:

- (1) in the case of a natural person:
  - a) for a first offence, to a fine of \$100 to \$1,000;
  - b) for a second offence, to a fine of \$300 to \$2,000;
  - c) for a subsequent offence, to a fine of \$500 to \$2,000;
- (2) in the case of a legal person:
  - a) for a first offence, to a fine of \$300 to \$2,000;
  - b) for a second offence, to a fine of \$600 to \$4,000;
  - c) for a subsequent offence, to a fine of \$1,000 to \$4,000;

##### **SECTION 18 CONTINUING OFFENCE**

Where an offence continues for more than one day, each day the offence continues constitutes a separate offence and the fines provided for each offence may be imposed for each day the offence continues.

**DIVISION IX – COMING INTO FORCE**

**SECTION 19 COMING INTO FORCE**

This by-law comes into force in accordance with the law.

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Mayor

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Town Clerk