



PROVINCE OF QUEBEC
TOWN OF KIRKLAND

BY-LAW NO. : 2015-52

BY-LAW CONCERNING THE USE OF PESTICIDES

Amendment

2015-52-1

NOTICE

This consolidation has not been officially adopted by the Municipal Council. It has been compiled on April 13, 2016, 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:	August 3, 2015
Adoption of by-law:	October 5, 2015
Publication:	October 14, 2015
Coming into force:	October 14, 2015

- WHEREAS pursuant to section 85 of the *Municipal Powers Act* (CQLR, c. c-47.1), the Town of Kirkland may adopt a by-law to ensure peace, order, good government and the general welfare of its citizens;
- WHEREAS the Municipal Council considers it worthwhile to revise the by-laws in force concerning the use of pesticides;
- WHEREAS pursuant to section 356 of the *Cities and Towns Act* (CQLR, c. C-19), copy of this by-law was given to the members of the Council not later than two juridical days before the sitting at which it is to be approved;
- WHEREAS all Council members present declare that they have read this by-law and waive the reading thereof;
- 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

In this by-law, unless the context requires otherwise:

- "application"** means any method of applying pesticides including by dusting, watering or spraying, or vaporization in gaseous, granular, powder or liquid and any other method of depositing or discharging a pesticide;
- "competent authority"** means any municipal officer in the employ of the Town of Kirkland responsible for issuing permits, enforcing by-law compliance or providing environment support services as well as any eco-technician or expert in agronomy, biology, entomology or related discipline mandated by the Town for such purposes;
- "fertilizer"** means any substance or mixture of substances containing nitrogen, phosphorous, potassium as well as any other plant nutrient, manufactured, sold or represented for use as a plant nutrient, pursuant to the *Fertilizers Act* (R.S.C.(1985). c. F-10);
- "infestation"** means the presence of insects, mildew or other toxic agents, except noxious weeds, on more than 50% of a lawn area or on more than 5 m² of a plant bed area. There is also infestation where the presence of noxious weeds, insects, mildew or other toxic agents, regardless of their extent, constitutes or may constitute a safety hazard, a health hazard, a tree or shrub hazard or an animal health hazard;
- "neonicotinoids:** means the class of pesticides whose active ingredient is acetamiprid, clothianidin, imidacloprid, thiacloprid or thiamethoxam;
- "pesticide"** means any substance, matter or micro-organism intended to directly or indirectly control, destroy, mitigate, attract or repel any organism that is injurious to or noxious or troublesome for humans, animal life, vegetation, crops or other objects, or intended for use as a plant growth regulator, except a vaccine or a medication within the meaning of the *Pesticides Act* (CQLR., c. P-9.3);
- "registered commercial applicator":** means any legal or natural person registered with the Town in accordance with this by-law and who has a permit or a certificate issued by a government authority, which permit or certificate is required for the application of pesticides;

"sensitive areas"	means child care centres, day care centres, stop over centres, nursery schools or home childcare centres governed by the <i>Act Respecting Childcare Centres and Childcare Services</i> (CQLR, c. C-8.2); institutions providing preschool education services, or elementary or secondary school instructional services governed by the <i>Education Act</i> (CQLR, c. I-13.3) or by the <i>Act respecting Private Education</i> (CQLR, c. E 9.1); institutions providing instructional services at the college level governed by the <i>Act respecting Private Education</i> (CQLR, c. E 9.1) or by the <i>General and Vocational Colleges Act</i> (CQLR, c. C-29); educational institutions at the university-level referred to in subsections 1° to 10° of section 1 of the <i>Act Respecting Educational Institutions at the University Level</i> (CQLR, c. E-14.1); health and social service institutions governed by the <i>Act respecting Health Services and Social Services</i> (CQLR, c. S 4-2); and places of worship, residences for senior citizens, and municipal park play areas and sports grounds used by children under 14 years of age.
"Town"	means the Town of Kirkland; and
"user"	means any natural or legal person who applies or plans to apply a pesticide.

DIVISION II – PRESCRIPTIVE PROVISION

SECTION 3

The use or application of pesticides is prohibited outside buildings.

DIVISION III – EXCEPTIONS

SECTION 4

Notwithstanding section 3, pesticides, other than neonicotinoids, may be used in the following circumstances:

- 1° if the pesticide is a biopesticide, as designated by the Canadian Pest Management Regulatory Agency (PMRA), mineral oil, azadirachtin or an active ingredient authorized under Schedule II of the *Pesticides Management Code* (CQLR, c. P-9.3, r. 1);
- 2° in the event of an infestation, unless it is in a sensitive area, and provided that a permit is obtained in accordance with sections 5 and 8;
- 3° in pools and decorative ponds or self-contained artificial basins;
- 4° within a 5-metre radius of food warehouses, food processing plants and pharmaceutical manufacturing plants to ensure vermin control, and provided that a permit is obtained in accordance with sections 5 and 8;
- 5° on the base of a building and on a 30-centimetre strip around the building, for ant control, provided that a permit is obtained in accordance with sections 5 and 8.

No product referred to in subsection 1° may be used if it has been fortified with another active anti-parasitic agent.

DIVISION IV – TEMPORARY PESTICIDE APPLICATION PERMIT

SECTION 5

Any person wishing to use a pesticide for one of the exceptions referred to in subparagraphs 2°, 4° and 5° of the first paragraph of section 4 must first be issued a permit for that purpose.

SECTION 6

A temporary pesticide application permit may be issued to the owner, to the occupant with the owner's permission or to the user with the owner's permission, on the following conditions:

- 1° upon payment of the fee stipulated in the annual by-law respecting tariffs;
- 2° in the case of an application referred to in subparagraphs 2°, 4° and 5° of the first paragraph of section 4;
- 3° where the area to be treated is not in a sensitive area;
- 4° where the area to be treated is more than 100 metres from a water intake;

To determine whether an infestation pursuant to subparagraph 2° of the first paragraph of section 4 is involved, the Town may require that a competent authority conduct a site inspection before issuing the requested permit.

SECTION 7

A temporary pesticide application permit issued under this Division is valid for 10 days from the date of issuance.

DIVISION V – REGISTRATION OF COMMERCIAL APPLICATORS

SECTION 8

Where the applicant is a person performing work involving the use of pesticides and/or a fertilizer, on behalf of another person for remuneration, the applicant must, in addition to satisfying the conditions stipulated in section 6, and prior to being granted an annual permit, hold any other permit or certificate required under a federal or provincial law or regulation.

SECTION 9

Every commercial applicator must first obtain a permit to apply pesticides from the Urban Planning Department, even if the applicator uses bio-pesticides exclusively or low-impact pesticides.

Every permit application must be accompanied by the following documents:

- 1° payment of the fee stipulated in the annual by-law respecting tariffs;
- 2° a copy of the permit issued by the *Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques* for each class of pesticide used;
- 3° a copy of the document evidencing that the person responsible for the pesticide application has a certification of competency recognized by the *Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques*;
- 4° any other information required by the competent authority.

If the Director of Urban Planning Department is of the view that the application complies with Town by-laws, then the Director shall issue the permit for the application of pesticides and/or fertilizers. The permit is valid for one year commencing January 1 of each year.

SECTION 10

A copy of the annual permit must be kept in every vehicle used by the commercial applicator operating in the territory of the Town.

The permit is valid for the year specified.

DIVISION VI – CONDITIONS OF APPLICATION**SECTION 11**

The application of pesticide referred to in subparagraphs 2°, 4° and 5° of the first paragraph of section 4 must be carried out as follows:

- 1° between 7:00 a.m. and 5:00 p.m.;
- 2° more than 3 metres from a watercourse or body of water where the land has a slope of less than 30%, and more than 15 metres from watercourse or body of water where the land has a slope equal to or greater than 30%;
- 3° more than 3 metres from a ditch;
- 4° when it is not raining;
- 5° where winds do not exceed 11 km/h, if the pesticide is applied by spraying;
- 6° where the temperature is less than 25°C, if the pesticide is applied by spraying;
- 7° where no smog is forecast by the Meteorological Service of Canada of Environment Canada; and
- 8° in accordance with the product manufacturer's specifications.

The reference weather conditions for the purposes of subparagraphs 4° to 6° of the first paragraph are those issued by the Meteorological Service of Canada of Environment Canada, for Montreal.

SECTION 12

For any pesticide application referred to in subparagraphs 2°, 4° and 5° of the first paragraph of section 4, the pesticide user must ensure that:

- 1° all toys, bicycles, wading pools or other equipment used by children are removed;
- 2° vegetable gardens and pools are protected from contamination.

SECTION 13

For any pesticide application referred to in subparagraphs 2°, 4° and 5° of the first paragraph of section 4, a written notice must be distributed, between 72 and 48 hours before a pesticide application, to the occupants of every immovable in the area to be treated, specifying the date and time scheduled for the application, the name and telephone number of the person applying the pesticide, as well as the name, type and registration number of the pesticide that will be used.

For the purposes of the first paragraph, in the case of a multi-unit building with only one main entrance, instead of sending a notice to each occupant, the written notice may be posted in the entrance in plain view of all occupants. The notice must contain the information set forth in the first paragraph.

For any pesticide application referred to in subparagraphs 2°, 4° and 5° of the first paragraph of section 4, an easy-to-read sign must also be put up between 72 and 48 hours before the scheduled time of the pesticide application in the area surrounding the area to be treated. The sign must specify the proposed pesticide application and the time of the application.

Where it is not possible for the pesticide to be applied at the time specified in the notice that is sent or posted, and where it is postponed to a later date, a new notice must be sent or posted in accordance with this section.

SECTION 14

For any application of a Class 3 pesticide within the meaning of the *Regulation respecting permits and certificates for the sale and use of pesticides* (CQLR, c. P-9.3, r.2), immediately after the pesticide application and for the next 72 hours, at least two signs or one sign every 10 metres must be put up around the treated area and be easy to read without having to walk on the treated surface. The signs must comply with section 72 of the *Pesticides Management Code*, (CQLR, c. P-9.3, r. 1).

DIVISION VII – APPLICATION OF THE BY-LAW

SECTION 15 POWERS AND DUTIES PERTAINING TO INSPECTIONS

Town employees responsible for applying this by-law may, at any reasonable time, visit and inspect any immovable or movable property. They may also visit and inspect the interior or exterior of any establishment to determine by-law compliance, to note any fact or verify any information required in relation to the exercise of the powers vested in them. In that respect, they may record any information manually or electronically.

DIVISION VIII – PENAL PROVISIONS AND SANCTIONS

SECTION 16 FINES

Any person who contravenes a provision of this by-law, or who tolerates or permits any such contravention, commits an offence and 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 subsequent offences, to a fine of \$1,000 to \$4,000.

DIVISION IX – REPEAL AND COMING INTO FORCE

SECTION 17 REPEAL

This by-law repeals and replaces by-law No. 04-041 and its amendments and comes into force in accordance with the law.

Mayor

Town Clerk