

BY-LAW 2470

BY-LAW TO REGULATE NUISANCE

At the Regular Council Meeting of the Côte Saint-Luc City Council, held at the City Hall, 5801 Cavendish Boulevard, on Monday, August 12, 2019 at 8:00 p.m., at which were present:

Mayor Mitchell Brownstein, B. Comm., B.C.L., L.L.B. presiding

Councillor Sidney Benizri

Councillor Dida Berku, B.C.L.

Councillor Mike Cohen, B.A.

Councillor Steven Erdelyi, B.Sc., B.Ed.

Councillor Ruth Kovac, B.A.

Councillor Mitch Kujavsky

Councillor Oren Sebag, B.Sc. RN MBA

Councillor David Tordjman, ing.

ALSO PRESENT:

Ms. Tanya Abramovitch, City Manager

Ms. Nadia Di Furia, Associate City Manager

M^e Jonathan Shecter, Co-City Manager and City Clerk

M^e Jason Prévost, Assistant City Clerk and acted as Secretary of the meeting

WHEREAS the City of Côte Saint-Luc wishes to enact and enforce regulations related to nuisance and noise on the territory of the municipality;

WHEREAS the *Municipal Powers Act* (C.Q.L.R. chapter C-47.1) allows the City to adopt by-laws on Nuisances;

WHEREAS the Côte Saint-Luc City Council has adopted, and amended various By-laws governing nuisance and noise, *inter alia*, By-laws number 44, 46, 107, 921, 1499, 1535, 1697 and 2159.

WHEREAS it is expedient to consolidate and update the above-described By-laws;

THAT it be ordained and enacted as By-Law No. 2470 entitled “By-Law to Regulate Nuisance” as follows:

CHAPTER 1
DECLARATORY AND INTERPRETATIVE PROVISIONS

Article 1.1 – Territory subject to this By-Law

This By-Law shall apply to the territory of the City, as defined in the present By-law.

Article 1.2 – Definitions

In this By-Law, unless the context indicates otherwise, the following expressions:

- a) “Building” means a structure with a roof supported by walls or columns to shelter Persons, animals or objects;
- b) “City” means the City of Côte Saint-Luc and includes the entire territory of the municipality;
- c) “Construction Materials” means concrete, brick, tiles, stone, glass, ceramics, plaster, gypsum, wood, paper, cardboard, metal, plastics and any other similar material resulting from construction, renovation or demolition work;
- d) “Council” means the Côte Saint-Luc City Council;
- e) “Designated Authority” means the Persons responsible for the application and enforcement of the present By-law, as defined in article 2.1 of the present By-law;
- f) “Noise” means any sound or combination of sounds, harmonious or not, perceivable by the organ of hearing or a hearing device;
- g) “Person” means any physical person, according to the definition of this term provided in the *Act respecting Municipal Taxation* (C.Q.L.R. chapter F-2.1) or any legal person, according to the definition of this term provided for in the *Civil Code of Quebec* (C.Q.L.R. chapter CCQ-1991);
- h) “Park” means a public greenspace or square designed for the purpose of recreation or leisure, and including the parking lots thereof;
- i) “Public Domain” means any property, Building, installation or equipment owned by a governmental authority, including but not limited to a Building, vehicle, Urban Furniture, street, sidewalk, or by a public utility, including electrical pole, mailbox or switching cabinet;
- j) “Private Property” means a Building and the land on which it is built, which is not part of the Public Domain, and includes a residential, commercial, industrial or institutional space, building or vehicle;
- k) “Special Event” means a sporting, cultural, educational or community event organized or sanctioned by the City;
- l) “Street” means road, highway, thoroughfare or homologous space, opened or acquired by the City for the use of the public, and intended as a principal means of access to contiguous property, including parking lots;
- m) “Urban Furniture” means any equipment, utility or ornament installed by the City or other competent authority, indoors or outdoors, including benches, tables, fire hydrants, signs and posts, fountains, valve chambers, street lights and posts, parking meters, Waste bins, trees, bushes, flower pots or planted areas, grass, traffic control or traffic calming devices, artwork, statue, manhole covers, fences, cables, pipes or similar;
- n) “Waste” means refuse, recyclable material, organic material, rubbish, container, glass, metal, plastic, cardboard, packaging, paper, rag, cigarette butt, old material, debris, discarded equipment, brush, pruning residue, syringe,

- needle, bandage, drug container, vermin, insects or any unhealthy, dangerous or unhygienic material;
- o) “Wild animals” means any undomesticated animal, including birds, squirrels, stray cats or dogs or an animal classified by the *Ministère des forêts, de la faune et des parcs*.

CHAPTER 2
GENERAL PROVISIONS

Article 2.1 – Delegation

The employees and/or agents of the City of Côte Saint-Luc Public Safety department, the employees of the City of Côte Saint-Luc Urban Planning department and of the *Service de police de la Ville de Montréal* (“SPVM”) shall be responsible for the enforcement of this By-law and shall take any measures necessary to ensure the observance thereof. The employees and agents of the aforementioned services shall be designated the Designated Authority for the purposes of the present By-law.

Nothing in the preceding article abrogates or derogates from the powers already conferred to any other authority to apply or enforce the *Criminal Code* (R.S.C., c. C-46, the *Code of Penal Procedure* (C.Q.L.R. chapter C-25-1) or any other legal authorization.

Article 2.2 – Control

A Designated Authority is authorized to take or have taken any means necessary, as permitted by law, to eliminate the nuisance deemed to contravene the provisions of the present By-law and to issue statements of offence for violations of the present By-law.

Article 2.3 – Inspection

A Designated Authority is authorized to visit and examine, at any reasonable time, all movable and immovable property, as well as the interior or exterior of any house, building or structure whatsoever, to verify any information or determine any necessary fact in order to ascertain compliance with the present by-law.

The Designated Authority who carries out an inspection shall, on request, produce identification and show an identification car issued by the municipality attesting their authority.

The owner or occupant of Private Property shall be compelled to admit a Designated Authority for the purpose of the first paragraph.

Article 2.4 – Obstruction

It shall be unlawful to obstruct or interfere with a Designated Authority enforcing any provision of the present By-law.

**CHAPTER 3
ENVIRONMENT**

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 3.1 – Dumping

Dumping, throwing, spreading or dirtying the following onto the Public Domain, a sewer, pool, pond, drain or catch basin, or onto the Private Property of another Person without their authorization:

- a) Waste
- b) Leaves, trees and/or branches;
- c) Snow and/or ice;
- d) Water containing visible solids;
- e) Construction Materials;
- f) Earth, stones, mud, ashes or glass;
- g) Animal excrement;
- h) Tires.

Article 3.2 – Toxic, harmful or noxious substances

Placing, pouring or dumping any toxic, hazardous or noxious substance onto the Public Domain, into a sewer, drain or catch basin or allowing the same to escape into the environment.

Article 3.3 – Smoke

Allowing or causing the emission of smoke, cinders, soot, dust, sparks, ashes, vapours or noxious odors, in a way that causes a prejudice or disturbance to another Person or to the City.

Article 3.4 – Burning of leaves

Burning leaves, branches or Waste Materials.

Article 3.5 – Stagnant water

Allowing stagnant water to accumulate on a Property in a manner that may pose a danger to public health.

**CHAPTER 4
PUBLIC PROPERTY**

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 4.1 – Public property

Damaging, defacing, modifying, destroying, installing, relocating, climbing on or affixing an object to the Public Domain, or using it other than intended, other than by employees of the City or contractors hired by the City for this purpose.

The provisions related to climbing shall not apply to a playground structure designed for that specific purpose.

Article 4.2 – Use of a City facility

Disregarding, ignoring or disobeying the directives and instructions of the employees and/or volunteers responsible for a Public Domain or a program organized or sanctioned by the City.

Article 4.3 – Revocation of privileges

For a Person whose privileges have been revoked, in writing, by virtue of a City policy adopted by the City Council, and for the duration specified, entering or participating in a City Building, space or program.

Article 4.4 – Use of a fire hydrant

Using, tampering with, opening or closing a fire hydrant, other than by employees of the City, the Montreal Fire Department or any Person authorized to do so by the City.

CHAPTER 5
PARKS

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 5.1 – Curfew

Being in a Park between 11 PM and 7 AM the next day.

Article 5.2 – Alcohol

Possessing, distributing, consuming or selling alcohol in a Park, without a permit issued by the *Régie des alcools, des courses et des jeux du Québec*.

Article 5.3 – Use of parks

Having rented or been authorized by the City to use a Park or part thereof, and not ensuring its cleanliness and proper condition, including any damages caused by the Persons attending the event, and returning the space to its original condition or better.

Article 5.4 – Open fires

Lighting a bonfire in a Park.

Article 5.5 – Barbecue

A Person is permitted to use a barbecue in a Park, provided that:

- a) the barbecue is installed and used on a fully fire-proof surface;
- b) the use of the barbecue does not cause damage to the Public Domain;
- c) the barbecue is installed away from playgrounds and water play features;
- d) that all flames, coals and embers are fully extinguished and properly disposed of;
- e) that all equipment is removed following its use.

The use of a barbecue is also subject to the appropriate fire prevention regulations and the manufacturer's instructions regarding its use.

Article 5.6 – Sports

Failing to respect the usage, location and signage installed in Parks governing the practice of certain sports.

Article 5.7 – Vehicles

Entering with or using a go-kart, snowmobile, golf cart and similar vehicles in a Park, other than vehicles owned, operated or leased by the City.

CHAPTER 6
MAINTENANCE OF PRIVATE PROPERTY

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 6.1 – Maintenance of a property

Accumulating dead trees, dead branches, scrap metal, refuse of any type, empty bottles, large boulders, mounds of earth or anything else that may pose a safety hazard.

Article 6.2 – Grass and weeds

Allowing long grass, weeds or branches to grow in excess of 15 cm on a Property.

Article 6.3 – Obstruction

Allowing grass, trees, shrubs, fences or bushes to obstruct or deteriorate a City sign, a Sidewalk, a Street or other Public Domain.

Article 6.4 – Light

Allowing illumination from one Property to fall outside of the limits of the Property from which it originates.

Article 6.5 – Encroachment

Obstructing or encroaching upon a Street, Sidewalk or a public right-of-way with any play or sports equipment or other installations, permanent or temporary, including the vertical projections above the Street or Sidewalk.

Article 6.6 – Vacant lot

Storing, depositing or allowing any equipment or materials on a vacant lot other than if a valid permit has been issued by the City, in conformity with the construction and zoning By-laws of the City.

Article 6.7 – Scrap vehicles

Parking or storing on a Property one or several vehicles that are not registered or are not in a condition to be driven.

**CHAPTER 7
SOLICITATION AND SALES**

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 7.1 – Solicitation

- a) Selling products or services on the Public Domain or door-to-door;
- b) Distributing or posting banners, placards, circulars or advertisement on the Public Domain;
- c) Distributing or delivering circulars, leaflets or advertisement to a Private Property, unless said material is inserted entirely into the mailbox or area specifically designated to receive mail;
- d) Soliciting, begging, panhandling or seeking money, goods or services;
- e) Using a sound-producing or sound-amplifying device, whistle, horn, bell, music, drum or other instrument, in order to solicit, advertise or offer a product or service.
- f) Parking a motor vehicle or trailer for the exclusive purpose of posting advertisements.

Article 7.2 – Exceptions

The previous article shall not apply to:

- a) a student who is engaged in fundraising for a school;
- b) the distribution of newspapers;
- c) offering or sale of products or services during a Special Event, for suppliers contracted by the City, and only in the immediate area where the Special Event is taking place.

**CHAPTER 8
ANIMALS**

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 8.1 – Feeding of wild animals

Feeding Wild Animals.

Notwithstanding the first paragraph, a Person participating in the City's trap, neuter and release program ("TNR") program shall be allowed to feed a cat.

Notwithstanding the first paragraph, the presence of birdfeeders on private residential properties is permitted.

Article 8.2 – Trapping of wild animals

Trapping, capturing, disturbing, injuring or killing wild animals, unless certified to do so by the *Ministère des forêts, de la faune et des parcs du Québec*.

Notwithstanding the first paragraph, a Person participating in the City's trap, neuter and release program ("TNR") program shall be allowed to trap a cat.

**CHAPTER 9
NOISE**

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 9.1 – Noise

Creating or tolerating excessive or unreasonable Noise that disturbs the peace and tranquility of the neighbourhood.

Article 9.2 – Noise-making devices

Creating or tolerating any excessive or unreasonable Noise emanating from or amplified by a speaker, bell, chime, horn, whistle, amplifier or other sound producing equipment that is projected beyond the borders of the Property from which it originates.

Article 9.3 – Deliveries

Permitting or performing a delivery between 11 PM and 6 AM, other than in the case of an emergency.

Article 9.4 – Landscaping equipment

Creating or tolerating any Noise emanating from landscaping equipment, including a leaf-blower, lawnmower or hedge-trimmer, between 11 PM and 7 AM.

**CHAPTER 10
MOTOR VEHICLES**

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 10.1 – Motor Vehicle Noise

Operating a Motor Vehicle that creates undue noise, except by a road service vehicle, a vehicle equipped with a back-up signal when reversing, or an emergency vehicle recognized under the *Highway Safety Code* (C.Q.L.R., chapter C-24.2).

Article 10.2 – Squealing of tires

Squealing the tires of a Vehicle unnecessarily.

Article 10.3 – Horn

Honking the horn of a Vehicle unnecessarily.

Article 10.4 – Muffler

Driving or running a motor vehicle that is not equipped with a functional muffler designed to prevent excessive noise.

Article 10.5 – Brakes

Driving a motor vehicle with brakes that squeak, grind or make undue noise.

**CHAPTER 11
GOOD CONDUCT**

It shall be unlawful for a Person to cause, commit or allow any of the following, which shall constitute a nuisance:

Article 11.1 – Good conduct

Not being able to maintain proper decorum and conduct when on the Public Domain, including screaming, swearing, urinating, defecating, fornicating, fighting, rioting or engaging in any other behaviour that causes a disturbance, mischief or disturbs the peace.

Article 11.2 – Alcohol and illicit drugs

Consuming, transporting an open container of, or being under the influence of alcohol or illicit drugs on the Public Domain.

Article 11.3 – Obstruction

Obstructing the passage of another Person or motor vehicle by standing in its path, or by refusing an order to move by a Designated Authority.

Article 11.4 – Projectiles

Throwing or launching rocks, snow, food, liquid or any other material onto the Public Domain.

Article 11.5 – Emergency services

Causing unnecessary alarm for or obstructing the intervention of an emergency service, including the police, fire, ambulance, first responder or Public Security service.

Article 11.6 – Fireworks

Igniting, launching or throwing fireworks, firecrackers, sparklers or similar, without the approval of the City and the Montreal Fire Department.

**CHAPTER 12
CONSTRUCTION**

For the purposes of the present By-law, statutory holidays are as indicated in the *Code of penal procedure* (C.Q.L.R., chapter C-25.1).

Article 12.1 – Construction hours

It shall be unlawful to create or allow any Noise related to the construction, demolition, renovation, alteration or repair of a Property, building, structure, vehicle, engine or machine, before 7 AM or after 7 PM, from Monday to Friday.

On Saturday, Sunday or statutory holidays, the restrictions of the first paragraph are applicable before 9 AM or after 7 PM.

Article 12.2 – Excavation

Excavation work is prohibited before 7 AM or after 7 PM from Monday to Friday and at any time on Saturday, Sunday or statutory holidays.

Article 12.3 – Exterior work

Exterior work related to the construction, demolition, renovation, alteration or repair of a Building or structure is prohibited before 7 AM or after 7 PM from Monday to Friday and is not permitted on Saturday, Sunday or statutory holidays.

The provisions of the previous paragraph shall not apply to an accessory Building or structure, as defined in the zoning By-laws of the City, such as a shed, car shelter or similar.

CHAPTER 13 PENALTIES AND INFRACTIONS

Article 13.1 – Penalty

Any Person contravening a provision of this By-Law, or tolerating or permitting such a contravention, commits an infraction and is liable to a fine, plus costs, and in default of payment of such fine and costs within the delay fixed by the judge, the said judge shall impose penalties and order the procedures for execution of the judgment as are set forth in the *Code of Penal Procedure* (C.Q.L.R. chapter C-25.1).

With the exception of infractions provided by sections 3.2, 4.1, 4.2, 4.3 and 4.4 of the present by-law, in the case of a natural person, the minimum fine shall be \$100.00 and the maximum fine shall be \$1,000.00; in the case of a legal person, the minimum fine shall be \$200.00 and the maximum fine shall be \$2,000.00.

For infractions provided by sections 3.2, 4.1, 4.2, 4.3 and 4.4 of the present by-law, in the case of a natural person, the fine shall be \$1000.00 and in the case of a legal person, the fine shall be \$2000.00.

Article 13.2 – Subsequent offence

If the infraction continues, the offender shall be liable to the fine and penalty above-mentioned for each day until the infraction ceases.

With the exception of infractions provided by sections 3.2, 4.1, 4.2, 4.3 and 4.4 of the present by-law, in the case of a subsequent offence for the same infraction within two (2) years of the first offense, the City may issue a statement of offence up to the maximum fine indicated in section 13.1 of the present By-law.

For infractions provided by sections 3.2, 4.1, 4.2, 4.3 and 4.4 of the present by-law, in the case of a subsequent offence for the same infraction within two (2) years of the first offense, the City may issue a statement of offence with a maximum fine which will be double the amount provided by section 13.1 of the present by-law.

Article 13.3 – Recovery of costs

The offender shall be responsible for all costs incurred by the City as a result of a contravention of this By-law, including the removal of a thing, the cleaning or restoration of the Public Domain or the repair, including care of trees and other damaged plantations, the replacement or replacement of Urban Furniture.

Article 13.4 – Repairing a Property

In the case of an infraction to chapter 6 of the present By-law, the Owner of the Property must correct the defects within the delay prescribed by the Designated Authority. If the Owner fails to respect their obligations, the City may perform or have performed the necessary works so as to ensure the safety of the public, at the expense of the Owner of the Property, plus administrative costs of 15% of the total amount due, plus applicable taxes.

**CHAPTER 14
EFFECT**

Article 14.1 – Replacement

By-Law number 44, 46, 107, 921, 1499, 1535, 1697, 2159, and all amendments related thereto are hereby replaced.

Article 14.2 – Coming into Force

This By-Law comes into force according to the law.

MITCHELL BROWNSTEIN
MAYOR

JASON PRÉVOST
ASSISTANT CITY CLERK

BY-LAW NO. 2470

BY-LAW 2470 TO REGULATE NUISANCE

ADOPTED ON: _____

IN FORCE ON: _____

CERTIFIED TRUE COPY