BY-LAW CONCERNING NUISANCE

NUMBER 795

2022-05-11
Version 1.12

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AMENDED AND CONSOLIDATED VERSION

NOTICE

The consolidation of By-laws and annexes is not official. It has been compiled on May 11, 2022, by the Town Clerk's office to facilitate the reading of the text. The official text is to be found in the original By-law and in each of its amendments.

Amendments included in this version

Number	Purpose	Notice of motion	Coming into force
795-1	Amendment to section: 4.	9 July 2012	6 August 2016
795-2	By-law 795 and amendment 795-1 repealed.	4 February 2013	2 July 2013
795-3	Amendment to section: 9.	7 July 2014	4 August 2014
795-4	Amendment to section: 3 and Annex A	30 March 2015	13 April 2015
795-5	Amendment to section: 4 in French only.	4 May 2015	15 June 2015
795-6	Amendment to section: 4.	8 September 2015	21 September 2015
795-7	Amendment to section: 3.	7 August 2017	12 September 2017
795-8	Amendment to section: 1, 3 and 4.	3 February 2020	6 April 2020
795-9	Amendment to section: 4 in French only.	2 November 2020	16 November 2020
795-10	Amendment to section: 4.	25 May 2021	7 June 2021
795-11	Amendment to section: 3.	19 July 2021	2 August 2021

SECTION 1 DEFINITIONS

In this By-law, unless otherwise indicated by the context, the following words shall have the following meanings:

1.1. "Town" – means the Town of Hampstead.

1.2 "Excessive noise" – means a sound or a combination, succession or repetition of sounds, loud or prolonged, which:

a) disturb the quiet, peace, rest, enjoyment or comfort of the neighbourhood or persons in the vicinity;

b) exceed 85 dB (A) as measured at 8 feet from the source if the source is on public property or at the property line if the source is on private property.

(795-8, Sec. 1, 4/6/2020)

1.3 ***"Mechanical equipment" – Includes any device used in the mechanical services of a building including, but not limited to, a heat pump, air conditioner, exhaust fan, swimming pool filtration system, a generator, heating device and all similar devices which are motor driven.***

(795-8, Sec. 2, 4/6/2020)

1.4 "Nighttime" – means the period of time from 21h00 of one day to 07h00 of the next day.

1.5 "Officer responsible" - means a member, or members, of the Public Security Department of the Town, the Montreal Police Department or a representative of the Urban Planning department.

1.6 "Person" – means a legal or a natural person.

1.7 "Power equipment" – includes any chainsaw, leaf blower, gas power lawn mower, snowblower, hedge trimmer, power tool and any other similar device.

1.8 "Public place" – means all areas and public buildings where maintenance is under the authority of the Town and which are open to the public.

1.9 "Sign" – means all signs, markings and devices placed or erected by the authority of the Town, the Public Security Department or the Montreal Police Department for the purpose of guiding, warning, regulating traffic or securing the safety of the public.

1.10 "Street" – a roadway designed and intended for the passage of vehicles and pedestrians, located within the limits of the Town and under the maintenance of the Town.

1.11 "Park" – an area located within the Town, under its jurisdiction, including playgrounds, dog runs, rest areas, promenades, skating rinks, swimming pools, tennis courts and the grounds and buildings that serve them and, in general, all public places, grassed or not, to which the public has access for the purpose of rest or relaxation, or for any similar purpose.

1.12 "Private property" – any immoveable or building or lot other than a public place.

1.13 "False Alarm" - means the activation of an alarm system resulting in the direct or indirect notification of the Police and/or the Public Security department to go to the address of the alarm system where there has been no unauthorized entry or commission of an unlawful act on or in relation to the building, structure, residence, facility or vehicle, or where there has been no emergency situation. False alarm incidents include but are not limited to:

(i) The testing of an alarm which results in a police or public security response;

(ii) An alarm actually or apparently activated by mechanical failure, malfunction or faulty equipment, which results in a police or public security response;

(iii) An alarm activated by user error or neglect, which results in a police or public security response;

(iv) An alarm reporting an attempt or completed criminal offence or an emergency situation occurring on or in relation to the address in which the alarm system is installed where no evidence exists or where no such event took place, which results in a police or public security response.

1.14 "Gas powered landscaping equipment" - means equipment such as lawn mowers and leaf blowers with gas powered motors. Snow blowers and motor vehicles with mufflers are not considered as landscaping equipment."

1.15 ***"Graffiti and markings" – Any permanent of semi-permanent inscription or drawing on public or private property.***

(795-8, Sec. 3, 4/6/2020)

SECTION 2 GENERAL

2.1 Noncompliance with the provisions of Sections 3 to 10 is considered a nuisance and an infringement of this By-law.

SECTION 3 PUBLIC AND PRIVATE PROPERTY

The following shall constitute a nuisance within the Town:

3.1 The allowing of grass, weeds or similar material to grow over 15 centimeters (6 inches) high on private property, whether such property is either vacant or inhabited.

3.2 The leaving on an immoveable or a lot or an inhabited property, scrap metal or debris or one or several motor vehicles which are not registered for more than two (2) years. Moreover, the repair other than tire repair or replacement, dismantling, or alteration of any road vehicle is prohibited outside a building, unless otherwise provided in a By-law to that effect.

3.3 The storage or depositing of any mechanical equipment on any vacant lot.

3.4 Climbing upon, removing, pruning, planting, cutting, destroying, breaking or otherwise causing damage to any tree, shrub, bush or flower in a public place.

3.5 Breaking, altering, removing or relocating any sign, fence or barricade which has been installed by the Town or its representatives in a public place.

3.6 The allowing of or causing the emission of sparks, cinders, soot, dust, vapor or noxious odors.

3.7 The discharging of water containing any visible solids into a storm sewer.

3.8 The polluting or altering of the quality of water in a wading or swimming pool.

3.9 The burning of or allowing the burning of leaves or other material or refuse outdoors.

3.10 The lighting of fires outdoors with the exception of barbecues or propane patio heaters.

3.11 ***The keeping of any farm animal or other non-domestic animal and the feeding of wildlife on public property.***

This provision on the keeping of animal does not apply to a beekeeping project by an educational institution as part of an educational program under the following conditions:

a- The number of hives is limited to three;

b- Hives must not be accessible to the public at all times without the presence of a qualified person of the institution concerned;

c- The educational institution must inform the Town of its project and indicate the precise location where the hives will be installed;

d- The Town reserves the right to request the removal of the hives if, in his opinion, the designated place is not safe.

(795-7, Sec. 1, 9/12/2017)

3.12 ***The throwing or depositing of paper, garbage, leaves, cut grass, snow or any other similar matters in a public place.***

Notwithstanding the above, private contractors may deposit snow on the street as per the By-law No. 813 – Snow Removal.

(795-4, Sec. 1, 4/13/2015)

3.13 The allowing or tolerating, by owner, tenant or occupant of any lot, whether vacant or not, of dirty or stagnant water of unsanitary or dangerous condition in such a way that may create a danger to public health.

3.14 a) Any excavation, construction site or renovation site which is unfenced, or fenced by a fence of less than 1,8 meters (6 feet) in height, on any lot, either vacant or not.

b) Those sites that are fenced within regulation must be painted opaque or in a uniform material or color, otherwise they constitute a nuisance under this By-law.

3.15 When the Public Security department is unnecessarily called to a resident's property more than twice within a thirty (30) day period.

3.16 ***With the exception of the employees of the Town or principals, it is forbidden to throw, deposit, permit to be deposited, permit to be thrown, snow, ice, eggs, sand, earth, gravel, rocks, glass, trash or any object whatsoever, including construction materials, and / or liquids on private land, on the streets, on cars or in a public place, without the prior authorization of the director general of the Town or his authorized representative.***

Notwithstanding the above, private contractors authorized by the town may deposit snow on private land and on the street as per the By-law No. 813 – Snow Removal.

(795-4, Sec. 2, 4/13/2015)

3.17 The use of a building, vacant land or property to allow construction materials, visible from the street, unless a valid building permit issued by the Town is in force.

3.18 a) To inscribe graffiti or to make a marking, without authorization, on a public building, on a public property itself or on any object which is part of the municipality's urban furniture including buildings, poles, trees, lines, statues, benches, streets and sidewalks;

b) To inscribe graffiti or to make a marking, without authorization, on a building or object, situated on private property;

c) To carry, use or be in possession of any object or material for the purpose of inscribing prohibited graffiti.

d) The fact of not cleaning or removing graffiti and markings on his own property, no matter their author.

(795-8, Sec. 4, 4/6/2020)

3.19 In case of breach of sections 3.18 a) and 3.18 b), the removal of graffiti will be executed at the expense of the offender.

3.20 ***Constitutes a nuisance and is prohibited the fact of entering any land or entering any building without the permission of the owner or that of a responsible person designated by the latter except in the exceptions provided for in the Civil Code of Québec.***

(795-11, Sec. 1, 8/2/2021)

SECTION 4 NOISE NUISANCES

4.1 The act of making, causing, producing or permitting an excessive noise, as hereinabove mentioned, is hereby declared to be a nuisance and an infringement of this By-law. This article does not apply to noise contemplated in articles 4.3 and 4.4 outside of the periods of time mentioned in these articles.

4.2 No person shall ring bells, blow horns or similar devices or shout in a manner that disturbs the peace and quiet of the neighborhood or persons in the vicinity.

4.3 Whereas residents want peace and tranquility on holidays and during certain periods of time when most are not usually working, it is forbidden to engage in construction work, of any nature whatsoever that has the effect of emitting noise outdoors:

a) Before 07h00 and after 19h00 Monday to Friday inclusive;

b) Before 09h00 and after 18h00 on Saturdays and Sundays;

c) On holidays when most residents are not working. These days are listed in Annex 1-B joint to the present By-law.

4.4 ***Whereas residents want peace and tranquility on holidays and during certain periods of time when most are not usually working, it is forbidden to use gas powered landscaping equipment:***

a) Before 08h00 and after 19h00 Monday to Friday inclusive;

b) Before 09h00 and after 18h00 on Saturdays and Sundays;

c) On holidays when most residents are not working. These days are listed in Annex 1-B joint to the present By-law;

d) Notwithstanding paragraph c) of the present section, all lawn mowers may be used on holidays when most residents are not usually working.

e) Gas powered leaf blowers may not be used between June 1 to September 30.

(795-10, Sec. 1, 6/7/2021)

4.5 No person shall operate, or cause to be operated, any power equipment between 19h00 and 07h00.

4.6 ***Any noise produced by a mechanical equipment or similar device which exceeds 55 dB (A) at any point outside of the property line of the lot where such equipment or device is installed. Notwithstanding the foregoing sentence, a generator may not exceed 65 dB (A).***

~~*(795-6, Sec. 3, 9/21/2015)*~~, *(795-8, Sec. 5, 4/6/2020)*

4.7 The provisions of this section of the By-law shall not apply to employees of the Town, public utilities or private contractors engaged by the Town.

SECTION 5 SOUND REPRODUCTION DEVICES

5.1 No person shall operate, or cause to be operated, any sound reproduction device from Monday to Friday between the hours of 23h00 of one day and 07h00 of the next day in a manner which disturbs the peace and quiet of the neighbourhood, on weekends and on holidays when most residents are not working between 23h00 and 09h00 of the next

day.

5.2 No person shall operate, or cause to be operated, any sound reproduction device on any street or other public place in a manner that disturbs the peace and quiet of persons on said street or public place.

5.3 Except in the case where prior written permission has been given by the Town, shows or musical works, instrumental or vocal, inside or outside a building, including those coming from a sound reproduction device or live artist, are forbidden to emit, or permit or allow the emission of noise higher than a decibel reading of 85 db (A), from a distance of 8 feet.

SECTION 6 DELIVERIES

6.1 No person shall deliver any construction materials or merchandise, from a vehicle to the owner or tenant of any property during the nighttime, from 21h00 of one day to 07h00 of the next day, unless proven to be an emergency.

6.2 No person shall load or unload a transport vehicle, during the nighttime, unless proven to be an emergency.

SECTION 7 MOTOR VEHICLES

7.1 No person shall operate, or permit the operation of, an engin of a motor vehicle or items of attached auxiliary equipment for a continuous period exceeding three (3) minutes, while the vehicle is stationary, unless:

a. The operation of such motor is essential to a function of the vehicle or attached equipment including, but not limited to, cement trucks or lift platforms.

b. Weather conditions colder then – 10º Celsius justify the use of heating systems for the safety and welfare of the operator, passengers, animals.

7.2 No person shall cause or permit the sounding of a horn of a motor vehicle unnecessarily when said vehicle is stationary or on a street or any property.

7.3 No person shall operate a motor vehicle in such a manner that the squealing of tires disturbs the peace and quiet of the neighborhood.

SECTION 8 EXTERIOR LIGHTING

8.1 No person shall install, or permit to be installed, at more than one and a half meters (5 feet) from the ground, exterior area lights of which the beam of light is projected outside of the boundaries of the lot on which the light is installed.

SECTION 9 SAFETY AND HEALTH

9.1 Every person riding a bicycle on a public street or public place must have, at all times, full control of the bicycle.

9.2 No person shall make an excavation or opening in the paving of any street without the prior written permission from the Director General or his authorized representative.

9.3 No person shall stand, with one or more persons, in a group on any street or sidewalk or public place in such a manner as to obstruct or interfere with the free passage of pedestrians and/or vehicles.

9.4 It is forbidden for anyone without reasonable cause, which the person must prove, to have on him or in his possession a knife, a dagger, a saber, a machete or any other similar object in a street, sidewalk or public place.

9.5 It is forbidden to be in possession of a gun, rifle, pistol, air rifle or gun, bow and arrow or slingshot in a public place.

9.6 It is forbidden to disturb the peace or tranquility of persons in any manner whatsoever, including shouting and using profane language.

9.7 It is forbidden to intervene or disrupt, in any manner whatsoever, any meeting or gathering authorized by the Town.

9.8 It is forbidden to walk, run, cycle, circulate or engage in sports activities in a public place in a manner that disturbs the peace and quiet of the public.

9.9 No person shall be intoxicated or walk about in a state of intoxication in a public place. Moreover, no person shall consume alcohol in a public place unless present for a public function.

9.10 It is forbidden to sell, or expose for sale, any article in a public place unless authorized by the Director general or his authorized representative.

9.11 Door to door soliciting for monetary donations, fund raising or the promotion of goods and/or services is prohibited unless a written permit is issued by the Director General or his authorized representative.

9.12 Article 9.11 of this By-law does not apply to school children, residing in the Town, who canvas door-to-door in order to raise funds for their non-profit organization.

9.13 ***The existence on any lot or land of any bushes, shrubs, trees, or part thereof, which constitute a danger or hazard to the public, to the occupants of such lot or land, to the occupants of neighboring lots or land, or to public or private property is hereby declared to be a nuisance.***

a) The owner of said nuisance will be served by the Town with a 48 hour notice to do the work of removing or abating such nuisance, failing which the Town may enter upon such lot or land at any time and remove or abate such nuisance, the whole at the cost and charge of the owner of such bushes, shrubs, trees or part thereof.

b) Any person who prevents or attempts to prevent the Town's employees, officers or agents from entering upon any lot or land for the purpose of removing or abating such nuisance or who obstructs or attempts to obstruct such employees, officers or agents in removing or abating such nuisance shall be liable to the penalty hereinafter provided.

c) The existence on any lot or land of any bushes, shrubs or trees which are suffering from a contagious disease, including, without limitation the disease known as Ash tree disease, is hereby declared to be a nuisance, and the owner, occupant or other person having charge of such lot or land (hereinafter called the "Owner") who shall fail to remove or abate such nuisance within fifteen (15) days after his receipt of a notice from the Town requiring such removal or abatement shall be liable to the penalty hereinafter provided.

d) The Town shall have the right after the expiration of the delay prescribed for the removal or abatement of the nuisance specified in above section 9.13 c) to cause the said nuisance to be removed or abated at the cost and charge of the Owner.

(795-3, Sec. 1, 8/4/2014)

SECTION 10 ENFORCEMENT

10.1 The enforcement of this By-law shall be the responsibility of the Public Security Department of the Town of Hampstead, its Urban Planning division and the Montreal Police Department.

SECTION 11 INSPECTION

11.1 The Officer responsible may, at any reasonable time, visit and examine any building or property to determine whether this By-law is being respected.

SECTION 12 OFFENCE

12.1 Every person who infringes any provision of this By-law or allows such a contravention is committing an infraction and is liable to a fine. In the event of a first offence, this fine shall not be less than ONE HUNDRED AND FIFTY DOLLARS ($150) nor to exceed ONE THOUSAND DOLLARS ($1,000). In the case of a second or subsequent offence, the fine shall not be less than THREE HUNDRED DOLLARS ($300) nor exceed TWO THOUSAND DOLLARS ($2,000).

Any legal entity that contravenes a provision of this By-law or allows such a contravention is committing an infraction and is liable to a fine of between THREE HUNDRED DOLLARS ($300) and ONE THOUSAND DOLLARS ($1,000) for a first offence, and a fine of between SIX HUNDRED DOLLARS ($600) and TWO THOUSAND DOLLARS ($2,000) for a second offence.

12.2 Should an offender refuse to comply, or refuse to pay a fine, all costs incurred by the Town in the removal of the nuisance(s) or in returning the municipal property to its former state or in carrying out any measures to eliminate or prevent said nuisance(s) shall be paid by the offender.

12.3 Every property owner where a false alarm is activated more than once in a twelve (12) month period, beginning on the 1st of January of every year and ending on the 31st of December of the same year, according to sections 1.13 and 3.15 of the present By-law, is liable to the following:

(a) On the occurrence of the first false alarm to the same real property, the property owner will be notified in writing of same, without a fine being levied.

(b) On the second false alarm, a fine of $50.00 will be imposed.

(c) On the third false alarm, a fine of $75.00 will be imposed.

(d) Any subsequent false alarms, the fine will be $100.00.

(e) In the event that there are more than one false alarm within the same 24hrs. period, a single fine will be levied based on the number of previous false alarms within the one year period beginning on January 1st. of every year.

SECTION 13 ORDINANCE

13.1 Should the Court render a judgment with respect to an infraction to the provisions of this By-law, it may, above the fine and costs, order that the nuisance be removed by the person who contravened the By-law, within a determined delay, failing which the said nuisance may be removed by the Town at the costs of the said person.

SECTION 14 BY-LAW REPLACED

14.1 ***By-law No. 795 entitled "By-law concerning nuisance" and its amendments are hereby replaced by the present By-law No. 795-2***.

(795-2, art. 14, 7/2/2013)

SECTION 15 COMING INTO FORCE

15.1 By-law No. 795-2 will come into force according to law.

ANNEX A – Repealed

(795-4, Sec. 3, 4/13/2015)

ANNEX 1 – B

ANNEX 1-B **Holidays when most residents are not working**

2012
Jan. 1 (New Year's Day)
April 6 (Good Friday)
April 9 (Easter Monday)
May 21 (National Patriots' Day)
June 24 (Quebec National Holiday)
July 1 (Canada Day)
Sept. 3 (Labour Day)
Sept. 17 and Sept. 18 (Rosh Hashanah)
Sept. 26 (Yom Kippur)
Oct. 8 (Thanksgiving)
Dec. 25 (Christmas)

2013
Jan. 1 (New Year's Day)
March 29 (Good Friday)
April 1 (Easter Monday)
May 20 (National Patriots' Day)
June 24 (Quebec National Holiday)
July 1 (Canada Day)
Sept. 2 (Labour Day)
Sept. 5 and Sept. 6 (Rosh Hashanah)
Sept. 14 (Yom Kippur)
Oct. 14 (Thanksgiving)
Dec. 25 (Christmas)

2014
Jan. 1 (New Year's Day)
April 18 (Good Friday)
April 21 (Easter Monday)
May 19 (National Patriots' Day)
June 24 (Quebec National Holiday)
July 1 (Canada Day)
Sept. 1 (Labour Day)
Sept. 25 and Sept. 26 (Rosh Hashanah)
Oct. 4 (Yom Kippur)
Oct. 13 (Thanksgiving)
Dec. 25 (Christmas)

2015
Jan. 1 (New Year's Day)
April 3 (Good Friday)
April 6 (Easter Monday)
May 18 (National Patriots' Day)
June 24 (Quebec National Holiday)
July 1 (Canada Day)
Sept. 7 (Labour Day)
Sept. 14 and Sept. 15 (Rosh Hashanah)
Sept. 23 (Yom Kippur)
Oct. 12 (Thanksgiving)
Dec. 25 (Christmas)

2016
Jan. 1 (New Year's Day)
Mar. 25 (Good Friday)
Mar. 28 (Easter Monday)
May 23 (National Patriots' Day)
June 24 (Quebec National Holiday)
July 1 (Canada Day)
Sept. 5 (Labour Day)
Oct. 3 and Oct. 4 (Rosh Hashanah)
Oct. 12 (Yom Kippur)
Oct. 10 (Thanksgiving)
Dec. 25 (Christmas)

2017
Jan. 1 (New Year's Day)
Apr. 14 (Good Friday)
Apr. 17 (Easter Monday)
May 22 (National Patriots' Day)
June 24 (Quebec National Holiday)
July 1 (Canada Day)
Sept. 4 (Labour Day)
Sept. 21 and Sept. 22 (Rosh Hashanah)
Sept. 30 (Yom Kippur)
Oct. 9 (Thanksgiving)
Dec. 25 (Christmas)

2018 onwards
New Year's Day
Good Friday
Easter Monday
National Patriots' Day
Quebec National Holiday
Canada Day
Labour Day
Rosh Hashanah
Yom Kippur
Thanksgiving
Christmas

(s) William Steinberg
Dr. William Steinberg, Mayor

(s) Pierre Tapp
M[e] Pierre Tapp OMA, Town Clerk