

BY-LAW NUMBER 1013

BY-LAW ON MINOR EXEMPTIONS

WHEREAS a notice of motion of the present by-law project was given at the regular Council meeting held on April 3rd, 2017;

WHEREAS all Council members received a copy of the by-law no. 1013 and declare having read it;

WHEREAS a public consultation was held on May 1st 2017;

ON MAY 1ST, 2017, THE COUNCIL DECREES THE FOLLOWING:

DIVISION 1 DECLARATORY PROVISIONS

Section 1.1 Title of the by-law

This by-law bears the title « By-law on Minor Exemptions ».

Section 1.2 Interaction of the by-law

This by-law is an integral part of the urban planning by-laws and is thus interconnected with the other urban planning by-laws adopted by the Town under the *Act respecting Land use Planning and Development (c. A-19.1)*.

Section 1.3 Integrity of the by-law

The title page, preamble and table of contents are an integral part of the by-law.

Section 1.4 Repealed by-laws

This by-law repeals and replaces in its entirety, for all intents and purposes, By-law G-18-0005 and its amendments.

This repeal does not affect proceedings instituted under the authority of the by-laws so repealed, up to final judgment and execution.

Section 1.5 Area subject to the by-law

This by-law applies to the territory of the Town of Hampstead.

Section 1.6 Persons subject to the by-law

All individuals and corporations under public or private law are subject to this by-law.

Section 1.7 Enforceability

The Council has adopted this by-law in its entirety, chapter by chapter, division by division, section by section, clause by clause, paragraph by paragraph, subparagraph by subparagraph and subsection by subsection, so that should a chapter, division, section, clause, paragraph, subparagraph or subsection of this by-law be declared null and void by an authorized body, the remainder of the by-law shall continue to apply, insofar as possible.

Section 1.8 Laws and regulations

Nothing in this by-law shall be construed as negating the obligation to comply with the laws and regulations of the provincial or federal government or other municipal by-laws adopted by the agglomération de Montréal.

DIVISION 2 ADMINISTRATIVE PROVISIONS

Section 2.1 Conformity to the by-law

Any application for minor exemption must be made conforming to the provisions of the present by-law.

Section 2.2 Application of the by-law

The application of this by-law is entrusted to any person duly authorized by the Council to act in that capacity hereinafter referred to as the “designated official”. Otherwise, this responsibility rests with the Director General of the Town.

Section 2.3 Responsibilities of the designated official

The responsibilities of the designated official are defined in the By-law on Permits and Certificates no. 1004.

Section 2.4 References

Any reference in this by-law to another by-law, law or standard shall be open, meaning that it shall extend to any amendments made to such by-law, law or standard subsequent to the entry into force of this by-law.

DIVISION 3 INTERPRETATIVE PROVISIONS

Section 3.1 Interpretation of the text

In the present by-law, the interpretation of the text must respect the following rules, unless otherwise indicated:

1. All provisions of the present by-law shall be considered to be in effect at all times and under all circumstances, irrespective of the verb tenses employed herein;

2. The verb « must » is used to mean an absolute obligation; the verb «may» is used to indicate option, except in the expression «may not» which means «must not»;
3. The singular of words is understood to include the plural and vice-versa, whenever the context so dictates;
4. The words “person” and “whoever” or “whomever” refers to any legal or natural person;
5. The masculine shall include the feminine unless otherwise indicated by the context;
6. The word «Town» refers to the Town of Hampstead.

Section 3.2 Conflicting provisions

In case of conflict between two provisions in this by-law, or between this by-law and another by-law, the specific provision shall prevail over the general provision.

When a restriction or a prohibition prescribed by this by-law or any of its provisions conflicts with, or is inconsistent with, another by-law or another provision of this by-law, the more restrictive or prohibitive provision shall apply, unless otherwise indicated.

DIVISION 4 PROVISIONS REGARDING THE APPLICATION FOR MINOR EXEMPTION

Section 4.1 Provisions that may be subject to an application

An application may be subject to:

1. Any provisions of the Zoning By-law with the exception of the ones on the following elements :
 - a. Use
 - b. Density
2. Any provisions in the Subdivision By-law with the exception of the provisions on park tax.

Section 4.2 Eligible applications

An application may be object to:

1. Work not yet been carried-out.
2. Work in progress or carried out that have been subject to a permit or certificate, and carried-out in good faith.
3. Conversion of an immovable to condominiums.

Section 4.3 Conformity to the Urban Development Plan

Any application for minor exemption must respect the objectives of the Urban Development Plan By-law no. 1000.

Section 4.4 Eligibility conditions

Any application for minor exemption must respect the following conditions:

1. The application of the targeted provisions of the by-law must cause a serious prejudice to the applicant if the minor exemption is to be refused.
2. The application of the targeted provisions of the by-law must not hinder the owners of the neighboring immovable in the enjoyment of their right of ownership, if the minor exemption is to be accepted.

DIVISION 5 PROCESS OF AN APPLICATION FOR MINOR EXEMPTION

Section 5.1 Submission of the application

Any application for minor exemption shall be given to the designated official on a form provided by the Town and shall be accompanied by the payment stipulated in the Tariff By-law no. 1010.

Section 5.2 Content of the application

The following information and documents must be submitted with the application:

1. Complete contact information of the owners ;
2. Title of ownership ;
3. A copy of the certificate of location or the site plan ;
4. A copy of the plans necessary for the comprehension of the application ;
5. Any other pertinent information stipulating that the application does not hinder the owners of the neighbouring immovable in the enjoyment of their rights of ownership.

Section 5.3 Verification and transmission of the application

A duly completed application is verified by the designated official and shall be transmitted to the Planning Advisory Committee within 30 days of its reception, provided the Urban Planning Department is satisfied the file is completed.

Section 5.4 Study of the application

The Planning Advisory Committee shall study the application and advises the Town Council by recommendation. The committee can recommend to approve, to refuse or to defer the application for minor exemption.

Section 5.5 Public notice

At least fifteen (15) days before the public meeting at which the Council will rule on the application for a minor exemption, the Town Clerk shall publish a public notice. Payable fees for the publication are defined in the Tariffs By-law no. 1010. If the application is discontinued before publication of the public notice, paid fees may be reimbursed.

The notice shall contain the date, hour and place of the public Council meeting. As well, the notice shall state the nature of the minor exemption and the designation of the

immovable, including its street, civic number or the cadastral number and shall note that any interested person in the present request may address the Town Council.

Section 5.6 Decision of the Town Council

After receiving the recommendations of the Planning Advisory Committee and hearing any interested person, Council shall render its decision at the public meeting mentioned in the public notice. A copy of the resolution announcing the Town Council's decision must be transmitted to the applicant.

Section 5.7 Permit and certificate application

Notwithstanding the obtaining of a minor exemption, an application for the issuance of a permit or certificate conforming to the minor exemption shall be submitted and annexed to all the plans and documents required by the Permits and Certificates By-law no. 1004 and be consistent to all other provisions of applicable by-laws.

DIVISION 6 FINAL PROVISIONS

Section 6.1 Infringements and penalties

Every person who infringes any provision of this by-law commits an infraction and is liable to a fine plus court costs.

When an infraction of the present by-law occurs, the designated official shall inform the concerned person. The person or persons responsible for the infraction must also, at his/their sole cost, remedy the situation so caused. If the person concerned does not then comply with the notice within the applicable delays, he is liable to a fine.

In the event of a first infraction, if the offender is a natural person, this fine shall not be less than \$500 nor exceed \$1,000. In the case of a second or subsequent conviction, if the offender is a natural person, the fine shall not be less than \$1,000 nor exceed \$2,000. In the event of a first infraction, if the offender is a legal person, this fine shall not be less than \$1,000 nor exceed \$2,000. In the case of a second or subsequent conviction, if the offender is a legal person, the fine shall not be less than \$2,000 nor exceed \$4,000.

Any infraction of any provision of this by-law constitutes a separate and distinct infraction for each and every day it continues.

In order to enforce compliance and bring the situation in conformity with the dispositions of the present by-law, the Town may exercise cumulatively or alternatively, with the means of recourse set out in this by-law all appropriate recourses of civil or penal nature.

Section 6.2 Coming into force

This by-law shall come into force according to the law.

(s) William Steinberg
Dr. William Steinberg, Mayor

(s) Pierre Tapp
M^c Pierre Tapp, Town Clerk