BY-LAW CONCERNING SUBDIVISIONS

NUMBER 1002-1

(1002-1, art. 2-3, 12/9/2016)

10-11-2022
Version 1.4

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AMENDED AND CONSOLIDATED VERSION

NOTICE

The consolidation of By-laws and annexes is not official. It has been compiled on October 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
1002-1	By-law 1002 repealed and replaced.	29 August 2016	12 September 2016
1002-2	Amendment to section: 30.	19 April 2021	7 June 2021
1002-3	Amendment to section: 23.	6 September 2022	6 October 2022

SECTION 1 GENERAL INTERPRETIVE PROVISIONS

Article 1 Title and number of the By-law

The title of the present By-law is "By-law ***1002-1*** concerning Subdivisions".

Article 2 Interaction of the By-law

The present By-law forms an integral part of all urban planning By-laws in the sense that it is interrelated with all other urban planning By-laws adopted by the Town of Hampstead under the *Act respecting land use planning and development (chapter A-19.1)*.

Article 3 Integrity of the By-law

The title page, foreword, table of contents and tables, form an integral part of the By-law.

Article 4 Object (Purpose) of the By-law

The present By-law regulates the subdivison of the whole territory following the orientations and goals of the Planning Program of Hampstead. It also includes the principles of parcelling of lots, the conditions relating to the approval of cadastral operations and the provisions regarding lands.

Article 5 Repealing

The present By-law repeals and replaces in its entirety and for all legal purposes the By-law 804 and all its amendments, as well as any previous By-law or provision of By-law relating to subdivision.

This repeal does not affect any legal procedures instituted under the authority of the replaced By-laws, which shall continue under the authority of said By-laws until final judgment and execution.

Article 6 Territory affected

The present By-law applies to the whole territory under the jurisdiction of the Town of Hampstead.

Article 7 Person affected

Any legal person or legal entity in public or private law is subject to the present By-law.

Article 8 Validity

The Council adopts the present By-law in its entirety and section by section, article by article, clause by clause, paragraph by paragraph, sub-paragraph by sub-paragraph and subsection by subsection. If a section, article, clause, paragraph, subparagraph or subsection in the present By-law is declared null and void by a proper authority, the remainder of the By-law continues to apply to the greatest extent possible.

Article 9 Law and By-law

No provision in this By-law may be construed as having the effect of exempting a person from the application of a provincial or federal law or regulation or a regulation adopted by the Agglomeration Council.

Article 10 Jurisdiction

All cadastral operation must be performed in accordance with the provisions of the present By-law. This By-law shall not be applicable to all required cadastral operation for public utility purposes.

No one may erect, restore, renovate, transform, repair, modify, arrange, occupy, demolish or replace a building or a land without conforming to all urban planning By-laws adopted in conformity with the Act respecting land use planning and development (chapter A-19.1), as well as all other By-laws the municipality may have adopted pursuant to other laws.

Notwithstanding the first paragraph, a required cadastral operation by a declaration of co-ownership in virtue of article 1038 of Civil Code shall not be subject to the provisions of this By-law.

Article 11 References

All references to other By-law, law or regulation remain open, that is to say they extend to cover any modification, made after the coming into force of the By-law, law or regulation, to which the By-law may be subject.

SECTION 2 INTERPRETATIVE PROVISIONS

Article 12 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.

Article 13 Incompatibility between provisions

In the event two provisions within this By-law or between this By-law and another By-law are incompatible with each other, the specific provision shall prevail over the general one.

In the event that any restriction or prohibition prescribed by this By-law or by any of its provisions should prove to be incompatible or disagree with any other By-law or with any other provision of this By-law, the most restrictive or prohibitive disposition shall apply unless otherwise indicated.

Article 14 Tables, diagrams and symbols

A table, diagram, symbol or any other form of expression other than the text itself, which is contained in the By-law or referred to, shall form an integral part of the present By-law.

Article 15 Measurements

All measurements used in this By-law are expressed in units of the International System of Units (SI). In case of inconsistency between a written number in Arabic letter and its indication in digits, the written number in Arabic letter prevails. Furthermore, in case of inconsistency between a given measure under the International System of Units (metric system) and imperial units (feet, inches), the International System of Units prevails.

Article 16 Terminology

In the present By-law, *redevelopment plan* means any construction project involving one of the following:

(a) the establishment of a least one new principal building on a site;

(b) the replacement of an existing principal building on a site and for which a demolition permit shall be obtained from the Town;

(c) the substantial modification of a principal building on a site and for which a demolition permit shall be obtained from the Town;

All the words used in the present By-law keep their usual meaning except for those defined in chapter 3 of the Permits and Certificates By-law which are applicable for this By-law.

SECTION 3 ADMINISTRATIVE PROVISIONS

Article 17 Application of the By-law

All person duly authorized by the Council, hereinafter defined as « the Designated Official», is entrusted with the application of the present By-law. Otherwise, the General Director of the Town shall be responsible.

Article 18 Powers and responsibilities of the Designated Official

The powers of the Designated Official are defined in the Permits and Certificates By-law number 1004.

Article 19 Obligation of the owner

The obligations of the owner are defined in the Permits and Certificates By-law number 1004.

Article 20 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 4 PRELIMINARY CONDITIONS TO THE APPROVAL OF A PLAN RELATED TO A CADASTRAL OPERATION

Article 21 Presentation of a plan related to a cadastral operation

Prior execution of a cadastral operation, the owner of the land must first submit a plan to the designated official for approval. The said plan must be prepared and signed by a professional Quebec land surveyor (*Arpenteur géomètre du Québec*) and must provide all information in accordance with the provisions of Permits and Certificates By-law.

In requesting approval for a cadastral operation, the applicant must provide proof of his right to make the application and shall state in detail the reasons for the proposed cadastral operation. The Town may request additional information. The Town's approval for a cadastral operation does not imply in any manner approval of any subsequent project on the land, nor does it guarantee ultimate acceptability of the proposal by the competent authorities of the registry office.

The required fee payable to the Town shall accompany the application.

Article 22 Ceding of land for circulation lanes/ public roads?

As a preliminary condition for approval of a plan related to a cadastral operation, the owner of the land shall commit himself in writing to ceding, without charge, the rights-of-way for circulation lanes and all the public rights-of-way intended for public use, as shown on the plan.

The act of transfer of land to the Town shall not impose any financial obligation on the Town.

If the cadastral operation being proposed will result in part of the private land becoming a public right-of-way or a public circulation lane, the applicant, if the proposal is approved, is responsible for the payment of all professional and legal costs associated with the transfer of ownership to the Town, including all direct and indirect costs incurred by the Town.

Article 23 Cessions for parks

1) Preliminary condition for approval of a plan related to a cadastral operation

To promote the establishment, maintenance and improvement of parks and playgrounds and the preservation of natural spaces, the approval of a plan related to a cadastral operation shall be subject to the condition mentioned in subparagraph 3 of the present section.

2) Preliminary condition for approval of a plan related to a building permit

The approval of a building permit in respect to an immovable shall be subject to the conditions mentioned in subparagraph 3 of the present section where:

a) the immovable is the subject of a redevelopment plan; or

b) the building permit applied for relates to the establishment of a new principal building on an immovable in respect of which no subdivision permit has been issued under registration as a separate lot by reason ~~of the fact~~ that the registration resulted from cadastral renewal.

3) Prerequisite condition

The owner shall pay an amount to the Town that is equal to 10% of the value of the site. The word "site" means the landsite included in the plan referred to in subparagraph 1 or the immovable subject to a redevelopment plan referred to in subparagraph 2 of the present section. Recognized religious institutions in the territory of the municipality are exempt from the payment of the park tax.

(1002-3, art. 1, 06/10/2022)

4) Cadastral operations not subject to cession for parks

The following operations are not subject to the provisions of the present division related to cession for parks, playgrounds or natural space:

a) Cadastral operation required by a cancellation, correction or replacement of a lot number, without increasing the number of lots;

b) Cadastral identification in the official cadaster plan of a lot where there is already erected a main building;

c) Vertical cadaster required and carried out upon the constitution or conversion of an immovable in divided co-ownership;

d) New cadastral identification of an existing location following a modification of its limits without creating a new constructible lot;

e) Cadastral operation required in the context of an expropriation;

f) Cadastral operation involving lots serving as parks, playgrounds or natural space or any other use by the Town;

g) Cadastral identification of parcels used for public purposes;

h) The religious institutions recognized on the municipality's territory are exempt from the payment of the park tax;

i) A building that had lost at least 30% of its value on the roll due to fire or other disaster, and this confirmed by a certificate issued by the Service d'évaluation de la Ville de Montréal, will be exempt from the park tax at the following conditions:

1- The disaster was in no way deliberately provoked by the concerned owner and a letter from the insurer or the Police Department of the Ville de Montréal shall be presented to this effect;

2- Following the project approval by the Town, the construction of the new building begins within 18 months of the event that caused the aforementioned loss of value;

3- An engineer's report shall be submitted to confirm that the concerned building is structurally instable, dangerous or unhealthy and must therefore be demolished;

4- In the event that a building meets the above-mentioned criteria at the coming into force of this by-law, but more than 18 months have elapsed since the event that caused the loss in its value, it may nevertheless benefit from the exemption of the park tax provided the construction of the project approved by the Town begins no later than September 22, 2016.

(1002-1, art. 1, 12/9/2016)

Article 24 Calculation rule

1) General Principle

The value of the site is considered on the date of receipt by the Town of an application for a building permit or of a plan relating to the cadastral operation, as the case may be, and its value is the value entered on the roll for the unit or part thereof corresponding to the land whose value must be established.

2) Calculation Method - Evaluation Role

If the land, including the site (set of lots included in the cadastral operation plan), for which the value to be established constitutes, at the date determined in the previous paragraph, a unit of evaluation registered in the role or in part of one such unit having a value distinctly registered in the role, its value for the purpose of the present By-law is the product obtained when multiplying the value registered in the role for the unit or its corresponding part for the property whose value is to be established, according to the case, by the role's factor established in compliance with section 264 of the *Act respecting municipal taxation* (R.S.Q., Ch. F-2.1).

3) Alternative calculation method – Expropriation value

If the conditions listed in the present section cannot be respected, the value of the land must be established, at the owner's expense, by an accredited appraiser mandated by the Town, according to the concepts applicable in reference to expropriation.

4) Credit to the owner

The rules of calculation must account, to the credit of the owner, all cession or payment for a previous cadastral operation concerning the whole or a part of the set of lots included in the cadastral operation plan, in the case of a phased project or not. The Municipal council can decide to modify the mode of contribution in subsequent phases of the project or upon a new applicable cadastral operation on the concerned property.

In case of a payment, the value of such credit from a previous cadastral operation or redevelopment shall be deemed to be equal to the payment made at the time, as adjusted to reflect its value at the reference date, as determined pursuant to the present section.

Article 25 The non-renunciation of the contribution

In case if the required contribution was not requested in the permit or accompanying correspondence, it does not constitute a renunciation for its future request. The Town reserves all its rights to claim the said contribution even if the permit was already delivered.

Article 26 The costs of infrastructure

Every new land developed in the municipality must be connected to the Town's infrastructure in conformity with the dispositions of the Administration of Water and Sewer Services' By-law.

The request along with plans and specifications must be forwarded to Public Works Director.

No cadastral operation shall be approved if the applicant does not provide sufficient guarantees to cover, if the case may be, all costs of installation of these infrastructures and/or displacement costs of components for water and sewer services, as fire hydrants and service connections, and this in conformity with Tariffs' By-law.

Article 27 Existing or Necessary Servitudes

As a preliminary condition for the approval of a plan for a cadastral operation, the owner must indicate on the plan attached to the request provided to the Town those parts of lots for which servitudes or rights-of-way exist or are required for power lines and equipment, public infrastructure and telecommunications transmission lines and equipment. The plan must be prepared and signed by a professional Quebec land surveyor (Arpenteur géomètre du Quebec).

If required by the Town, documentary evidence must be provided from the authority in whose favor the right on the immovable is given, stating that the servitude or right-of-way is acceptable as presented.

Article 28 Payment of municipal taxes

As a preliminary condition for approval of a plan for a cadastral operation, the owner must pay municipal taxes which are due and outstanding for past and current years as required by law for any immoveable included in the plan.

SECTION 5 STANDARDS RELATED TO STREETS

Article 29 Right-of-Way

1. Any new public or private street shall have a minimum right-of-way of 20.12 metres (66 feet).

2. Where turnarounds are required, the Town of Hampstead will determine the ~~required~~ minimum right-of-way in line with professional practice.

3. The dimensions of all existing rights-of-way shall be maintained as they exist at the time of this By-law coming into force. The width of the paved area of the street and sidewalks, and all technical standards and dimensions related to them, shall be the sole responsibility of the Town of Hampstead.

SECTION 6 Lot Areas and Dimensions of Lots

Article 30 Lot Areas and Dimensions of Lots

The minimum area of a lot and the minimum width of a lot measured at **the front lot line** must correspond to the dimensions in table 6.1 for each zone and category of building.

To be authorized, the cadastral operation must result in the creation of a single lot or, where the tract of land is comprised in several original lots, of a single lot for each original lot.

Through lots shall only be permitted for detached houses on lots having a minimum area of 600 m² (6,458 square feet) and 20 m (65.6 feet} wide along both the front and rear lot lines.

Table 6.1

Building Type or Use	Zone	Interior Lot		Corner Lot		Irregular Lot	
		Minimum Area in m²	Minimum Width in metres	Minimum Area in m²	Minimum Width for Both Frontages in metres	Minimum Area in m²	Minimum Width in metres
Detached single-family dwelling (H1)	RA-1 RA-2 RA-4 I-7	500	15.24	600	18	500	14.63
Detached single-family dwelling (H1)	RB-1 RB-2 RB-4 RB-5 RB-6 RB-8 CW-1 CW-6	550	17.5	600	20	600	16.8
Detached single-family dwelling (H1)	RB-3 RB-7 CW-2 CW-5	500	9.1	500	9.1	500	9.1
Detached single-family dwelling (H1)	RA-3 CW-3	500	15	600	18	N/A	N/A
Semi-detached single-family dwelling (H2)	RA-1 RA-2 RA-4	385	13.4	450	17	400	13.4
Semi-detached single-family dwelling (H2)	RB-1 RB-2 RB-3 RB-4 RB-5 RB-6 RB-7 RB-8 CW-1 CW-2 CW-5 CW-6	400	15	450	19	420	14.4
Semi-detached single-family dwelling (H2)	RA-3 CW-3	300	13	400	17	N/A	N/A
Two-family dwelling or detached duplex (H3)	RA-3	550	16.60	650	19.60	N/A	N/A
Two-family dwelling or detached duplex (H3)	RB-1 RB-2 RB-4 RB-5 RB-6 RB-7 RB-8 CW-1 CW-2 CW-6	550	18.3	600	20	600	17.5

Two-family dwelling or semi-detached duplex (Every building)	RB-1 RB-2 RB-4 RB-5 RB-6 RB-7 RB-8 CW-1 CW-2 CW-6	400	13	450	18	435	13
Two-family dwelling or semi-detached duplex (H3)	RA-3	500	16	600	18	N/A	N/A
Row housing (Townhouse) (H4)	RB-7	185	8.0	204	11.0	N/A	N/A
Multi-family Residential building (H5)	RC-1 CW-4	1 394	45	1 500	49	1 500	49
Multi-family Residential building (H5)	RE-1	2 787	90.0	2 787	90.0	N/A	N/A
Multi-family Residential building (H5) *(1002-2, art. 1, 7/6/2021)*	***RB-7***	***1 200***	***18.0***	***N/A***	***N/A***	***N/A***	***N/A***
Places of Worship (R)	CW-1 CW-2 CW-3 CW-4 CW-5 CW-6	1 000	26	1 800	40	N/A	N/A
Public education institutions (PB-1)	I-7	N/A	N/A	5 500	18.3	N/A	N/A
Municipal facilities open to the public (PB-2)	RA-3 RB-7 I-5	650	18.3	650	18.3	650	18.3
Open public spaces (PB-3)	All zones	N/A	N/A	N/A	N/A	N/A	N/A

Article 31 Acquired Rights

1. If existing lands do not comply with the present By-law, the lands may continue to serve the use, main building, accessory buildings, detached garage and other structures thereon for as long as the use, buildings and structures last. This privilege does not remove from the property owner all other obligations to comply with other By-laws of the municipality, as well as all laws, regulations, orders, By-laws and requirements of governments or other legal authorities and municipal corporations having jurisdiction over the territory of the municipality.

2. If it is proposed that the building undergoes alteration, renovation, reconstruction or change, this may occur without the requirement to amend the Subdivision By-law provided that the use and density of the lands do not change and the proposed building otherwise complies with all applicable laws, regulations, orders, requirements and By-laws affecting the property.

3. New construction must comply with the applicable legislation.

4. No permit authorizing a cadastral operation may be refused in respect of a land on the sole ground that the area or the dimensions of the land do not allow it to satisfy the requirements of a subdivision By-law, if the following conditions are observed:

   1° a land that on December 20, 1983, does not form one or several separate lots on the official plans of the cadastre and the metes and bounds of which are described in one or several acts published to that date, if the following conditions are observed:

a) on the date mentioned above, the area and the dimensions of the land allow it to satisfy, where such is the case, the requirements of the regulation on cadastral operations;

b) a single lot results from the cadastral operation, or where the tract of land is comprised in several original lots, in which case a single lot for each original lot;

2° a land that on December 20, 1983, did not form one or several separate lots on the official plans of the cadastre and that the land was the site of a structure built and used in accordance with the By-laws in force at that time, if such was the case, or protected by acquired rights.

3° a land that is the remainder of a land:

a) part of which has been acquired for purposes of public utility by a public body or other legal person having powers of expropriation, and

b) which at the time of acquisition had sufficient area and dimensions to conform with the By-laws in force at that time or could have been the subject of a cadastral operation pursuant to paragraphs 1 and 2 of the present section.

5. Any cadastral operation which aims to increase the area of a non-conforming land protected by acquired rights is authorized if it creates a single lot or, where the land is comprised of several original lots, of a single lot for each original lot and if it does not make an adjacent land ~~or structure~~ even more non-conforming, or render a conforming adjacent land ~~or structure~~ nonconforming.

6. Furthermore, at the time of the cadastral operation, portion of non-conforming land protected by acquired rights may be detached from that land provided that the area of this portion is smaller than the one that is added to the non-conforming land.

7. When a land is formed of several separate lots or parts of lots, this land cannot be modified if the end result is that one or more of the parcels of land do not meet the subdivision By-law requirements and the specifications charts of zoning regarding the dimensions.

SECTION 7 COMING INTO FORCE OF THE BY-LAW

Article 32 Coming into Force

The present By-law will come into force in accordance with the law.

(s) Jeremy Levi
Jeremy Levi, Mayor

(s) Poovadee Permal-Vardin
Poovadee Permal-Vardin, Town Clerk