



**BY-LAW GOVERNING SPECIFIC
CONSTRUCTION, ALTERATION OR
OCCUPANCY PROPOSALS FOR AN
IMMOVEABLE
NUMBER 1006**

WHEREAS, in accordance with Sections 145.36 to 145.40 of the *Act respecting land use planning and development*, the Council may adopt a by-law concerning specific construction, alteration or occupancy proposals for an immovable;

WHEREAS a notice of motion of the present By-Law was given at the Special Council Meeting held on April 11th, 2016;

WHEREAS the Draft By-law N° 1006 was adopted at the Special Council Meeting held on April 11th, 2016;

WHEREAS the By-law N° 1006 was adopted at the Regular Council Meeting held on May 2nd, 2016;

WHEREAS all the Members of Council have received a copy of By-law n° 1006 and declared to have read it;

ON MAY 2nd, 2016, THE COUNCIL DECREES AS FOLLOWS:

SECTION 1 APPLICATION AND DEFINITIONS

1. This By-law applies throughout the territory of the Town of Hampstead.
2. 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 and the following definitions:

Committee : Planning Advisory Committee;

Council : Municipal Council of the Town of Hampstead.

SECTION 2 OBJECTIVE

3. The Council may authorize, upon request and subject to the conditions of this By-law, a specific construction, alteration or occupancy proposal for an immovable on the territory of the Town of Hampstead which derogates from one or other of the By-laws provided for in Chapter IV of *An Act Respecting Land Use Planning and Development* (L.R.Q., chapter A-19.1)

SECTION 3 REPEALED BY-LAWS

4. This by-law repeals and replaces in its entirety, for all intents and purposes, By-law 766 and its amendments, as well as any earlier by-laws and by-law provisions relating to a specific construction, alteration or occupancy proposal for an immovable.

This repeal does not affect proceedings instituted under the authority of the by-laws so repealed, up to final judgement and execution.

This repeal does not affect permits legally issued under the authority of the by-laws so repealed, nor the acquired rights from before the coming into force of this by-law.

SECTION 4 PROCEDURE TO REQUEST AUTHORIZATION

5. To obtain the authorization provided for in article 3, a request shall be made to the Building Inspector in the following manner:

1. The application form provided by the Town for this purpose shall be fully completed and signed by the owner or his representative;
2. The fees related to the study and follow-up of the request provided in Tariffs By-law shall be paid;
3. The following documents shall be provided:
 - a) the surveyor's plan of the lot to which the specific proposal shall apply;
 - b) a certified copy of all title deeds proving that the applicant is the owner of the land, or a document proving that the applicant has a purchase option on the said land, or, in the case of land belonging to the Town, proof of the applicant's intention to purchase the said land;
 - c) the survey certificate of any construction built on the said lot, including a technical description
 - d) where appropriate, a power of attorney stipulating the mandate of any person authorized to act on behalf the owner;
 - e) a signed declaration by the owner or his mandatary proving the types of occupancy of any building affected by the specific proposal;
 - f) in the event that the property is a residential rental property established in conformity with paragraph e), a list of all tenants of the past 12 months preceding the application, the amount of rent being paid, the terms of the leases, and a declaration of the steps intended to be taken for the relocation and indemnification of tenants in conformity with the law;
 - g) a written document setting out the reasons for the request and a brief description of the contemplated proposal.

6. If the applicant does not file a specific proposal project in conformity with article 9 and this within the time limits prescribed by the said article, the request for authorization is null and void. In this case, the documents provided in conformity with article 5 shall be returned to the applicant.

(1006-1, art. 7(7.1))

7. If a request becomes null and void due to the application of article 6, the applicant may file a new application provided he complies with all of the provisions of article 5, including the payment of the application fee.

(1006-1, art. 7(7.2))

8. For the purposes of article 9, the date of reception of the application for authorization is the date on which it has been duly completed, in conformity with the requirements of article 5. The Building Inspector shall notify the applicant thereof in writing.

(1006-1, art. 7(7.3))

9. Within 120 days of the filing of a request for authorization, the applicant shall deposit with the Building Inspector the specific proposal project referred to in the application. To this end, the following written information shall also be deposited:

- a) the site plan of the existing buildings on the property, as well as their insertion in the built environment;

- b) the type of anticipated uses for the land and the existing buildings or those that may be built;
- c) the density, in term of floor area of existing or anticipated buildings;
- d) the general volumetric measurement and the height of existing or anticipated buildings, and their architectural integration into the built environment;
- e) the anticipated occupancies of the public domain;
- f) proposals with respect to the integration or the demolition of existing buildings, the conservation and highlighting of original architectural elements;
- g) landscaping proposals for the protection of existing or proposed greenery;
- h) vehicular access, signage for pedestrians and vehicles, parking and unobstructed access;
- i) necessary studies to evaluate sun light, wind, air circulation and, if so, noise and emissions;
- j) an indication of the risk of soil contamination by previous occupancies of the land, based on available plans and maps.

The applicant may, in addition, file any document which he deems useful in support of the project. Such documentation shall be studied within the time frame provided for the evaluation of the project.

In addition to the documentation provided for in the previous paragraph, the Building Inspector may require from the applicant additional expertise dealing with the project. A delay of 120 days shall be provided to enable the applicant to file such additional material. This delay shall run from the date the request is made for same by the Building Inspector.

The provided documents become the Town's property.

- 10.** For the purposes of article 15, the date of filing of the specific project shall be the date on which the applicant has provided all required information at article 9. The Building Inspector shall advise the applicant of such date.

(1006-1, art. 7(7.4))

SECTION 5 TYPES OF ADMISSIBLE PROJECTS

11. The following projects may apply for authorization as a particular project:

- 1. *All residential building construction or alteration projects in sectors "A" and "B" as identified in chapter 3 of the Site Planning and Architectural Integration Program By-law which do not comply with the applicable zoning by-laws;*
- 2. *All residential building construction projects in sector "C" as identified in the Site Planning and Architectural Integration Program By-law which are higher or have a density that is superior to the standards set out in the Zoning By-law for the applicable zone or which have a commercial use.*

(1006-1, art. 1)

SECTION 6 EVALUATION CRITERIA

- 12.** *The evaluation criteria of a request for authorization of a particular project are the following:*

1. *Compliance with the Master Plan;*
 2. *Compatibility of the projected occupancies with the surrounding area;*
 3. *Quality of integration of the project in terms of location, volume, density, and management of the area;*
 4. *Advantages of the integration or demolition proposals of existing construction compared to those of the conservation and highlighting of the original architectural elements;*
 5. *Advantages of the proposals for the enhancement of the exterior areas and green spaces;*
 6. *Environmental impact of the project in terms of sunlight, wind, noise, and traffic sounds;*
 7. *Quality of the functional organization of the project, in particular as regards parking and access to security;*
 8. *Advantages of the cultural and social elements of the project;*
 9. *Feasibility of the project in light of the project's timetable;*
- 13.** *In addition to the criteria set out in article 12, the objectives and evaluation criteria in the By-law regulating Site Planning and Architectural Integration Program apply.*
- 14.** *In the case of a commercial use provided for in article 11.2, all commercial uses shall be limited to the sale of the consumer products and must be located on the ground floor, and professional services located on any floor of a building.*

(1006-1, art. 2)

SECTION 7 CONSULTATIONS

- 15.** Within 90 days of receipt of a specific project proposal, the Building Inspector shall provide a copy to the Committee, with or without comment.
- 16.** After review of the project, the Committee shall submit its opinion and recommendations on the project to Council to either accept, with or without conditions, or to reject same.
- 17.** The Building Inspector shall provide the Council a copy of the project along with his recommendation to either grant the request, with or without conditions, or to reject it.

(1006-1, art. 4)

SECTION 8 PENALTIES

- 18.** The breach of any condition contained in the resolution granting authorization as provided for in article 3 constitutes an infraction.
- 19.** Whoever commits an infraction under article 18 is liable:
1. in case of a person:
 - a) for a first offence, to a fine of between \$100.00\$ to \$500.00
 - b) for a second offence, to a fine of between \$500.00 and \$1500.00
 - c) for any subsequent offence, to a fine of between \$1,500.00 and \$3,000.00
 2. in case of a corporation:
 - a) for a first offence, to fine of between \$500.00 and \$1,000.00
 - b) for a second offence, to a fine of between \$1000.00 and \$2,000.00

c) for any subsequent offence, to a fine of between \$2,000.00 and \$4,000.00

(1006-1, art. 5 and 7(7.5))

SECTION 9 COMING INTO FORCE

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

(1006-1, art. 6)

(s) William Steinberg
Dr William Steinberg, maire

(s) Pierre Tapp
Me Pierre Tapp, greffier