

VILLE DE MONTRÉAL
BY-LAW
17-055

BY-LAW CONCERNING THE TRANSFER FOR PURPOSES OF ESTABLISHING, MAINTAINING AND IMPROVING PARKS AND PLAYGROUNDS AND OF PRESERVING NATURAL AREAS ON CITY TERRITORY

In view of sections 117.1 to 117.16 of the Act respecting land use planning and development (CQLR, chapter A-19.1);

In view of section 131 of the Charter of Ville de Montréal (CQLR, chapter C-11.4) and section 47 of schedule C to the Charter;

At its meeting of June 12, 2017, city council enacts:

CHAPTER I
INTERPRETATION AND APPLICATION

1. For the purposes of this by-law, the following words mean:

“redevelopment plan”: any project requiring a building permit for the construction of a principal building having more than 2 dwellings or any project requiring a building permit for the conversion of a building in order to create or add more than 2 dwellings, within a 5-year period. The period is established from the date of issuance of the previous permit or permits, as the case may be, and the filing of the permit application;

the replacement of an existing principal building having more than 2 dwellings by another principal building having more than 2 dwellings, without increasing the number of dwellings, does not constitute a redevelopment plan if the building permit application is filed within 5 years of the date of issuance of the demolition permit or the demolition following a disaster, whichever is later;

“site”: the site of the immovable which is the subject of a redevelopment plan or the land included in the plan relating to a cadastral operation;

“site of the immovable”: for a building not held in divided co-ownership, the site of an immovable is the total area of the land on which the building is laid out, regardless of the indivision agreement;

for a divided co-ownership, the site of the immovable is the portion of the land equal to the surface area of the private portion concerned in relation to the sum of the surface areas for all the private portions, that is: (surface area of the private portion / sum of the private portions surface areas) X the area of the land;

“social housing or community building”: building intended for persons requiring assistance, protection, care or lodging, namely in regards to the social housing program implemented in accordance with the Act respecting the Société d'habitation du Québec (CQLR, chapter S-8).

2. The provisions of this by-law apply to:

- (1) any subdivision permit application for the approval of a cadastral operation to parcel out a lot;
- (2) any building permit application relating to the establishment of a new principal building on land in respect of which no subdivision permit was issued under registration as a separate lot by reason of the fact the registration resulted from cadastral renewal, but which, without such cadastral renewal, would have generated park fees;
- (3) any building permit application to carry out a redevelopment plan.

Paragraph (3) does not apply if the application for a building permit was filed within the 5 years following the date issuance of a subdivision permit covered by paragraph (1) that gives rise to a contribution under article 3.

CHAPTER II

PREREQUISITES TO THE ISSUANCE OF A PERMIT

3. Prior to the issuance of a subdivision permit referred to in paragraph (1) of article 2, the owner must, at the city's discretion:

- (1) undertake to transfer free of charge to the city a parcel of land forming part of the site and equivalent to 10% of the area of the site, which, in the city's opinion, is suitable for the establishment or the enlargement of a park or playground, or for the preservation of a natural area;
- (2) pay the city a compensation equivalent to 10% of the value of the site;
- (3) pay a compensation and undertake to transfer a parcel of land on the site, whose total value must be equal to 10% of the value of the site.

4. Prior to the issuance of a building permit referred to in paragraph (2) of article 2, the owner must pay the city a compensation equivalent to 10% of the value of the site.

5. Prior to the issuance of a building permit referred to in paragraph (3) of article 2, the owner must pay the city a compensation established in the following manner:

Compensation = (10% of the value of the site / total number of dwellings) X (number of dwellings created – number of social and community housing dwellings – number of dwelling with 3 or more bedrooms).

6. The calculation rules used to establish the value of the site referred to in articles 3, 4 and 5 are as follows:

- (1) the area or the value of any land or parcel of land to be transferred to the city under article 3, as well as the streets to be transferred to the city are included in the calculation;
- (2) the value of the site must be established in accordance with the principles applicable to expropriation, at the owner's expense, by a chartered appraiser commissioned by the city. That value must be considered on the date of receipt of the application.

Notwithstanding the first paragraph, the value of the site referred to in article 5 is established by excluding the part of the site that does not comprise dwellings or spaces strictly dedicated to dwellings, as the case may be.

7. Article 3 does not apply in the following situations:

- (1) where the purpose of a cadastral operation is to cancel, correct or replace lot numbers, provided it does not result in an increase in the number of lots;
- (2) where the site concerned is covered by a previous agreement in accordance with article 13;
- (3) where the cadastral operation required in the context of an expropriation;
- (4) where the purpose of a cadastral operation is to transfer property for public purposes;
- (5) where the cadastral operation is related to the creation of a lot where no building is permitted for the purpose of its transfer to an adjacent property.
- (6) where the cadastral operation is related to a divided co-ownership;
- (7) where the cadastral operation is the result of a judgment or boundary determination.

8. Articles 3 and 4 do not apply to a site or part of a site where the construction of social or community dwellings is planned.

9. Articles 3 and 4 do not apply to a cadastral operation or a building permit on a site or part of a site for:

- (1) a preschool, elementary or secondary educational institution, a vocational training institution or an adult education institution within the meaning of the Education Act

(CQLR, chapter I-13.3) or the Act respecting private education (CQLR, chapter E-9.1);

- (2) a college institution, within the meaning of the General and Vocational Colleges Act (CQLR, chapter C-29) or the Act respecting private education (CQLR, chapter E-9.1);
- (3) a university level educational institution within the meaning of the Act respecting educational institutions at the university level (CQLR, chapter E-14.1);
- (4) a local community service centre, a rehabilitation centre, a hospital centre, a residential and long-term care centre or a child and youth protection centre within the meaning of the Act respecting health services and social services (CQLR, chapter S-4.2);
- (5) a day care centre or childcare centre covered by a permit under the Educational Childcare Act (CQLR, chapter S-4.1.1);
- (6) any use on a city immovable;
- (7) any use on an immovable of the Société de transport de Montréal (STM) established under the Act respecting public transit authorities (RLRQ, chapter S-30.01).

10. The executive committee may determine by ordinance any use of a public, institutional or community nature for which it is in the public's interest that articles 3, 4 and 5 not apply.

11. For an application under article 2, where the site or part of the site has already been the subject of:

- (1) a transfer of land, an exemption of transfer or of payment of a compensation is granted, either:
 - (a) totally, if the previous transfer concerned the whole site;
 - (b) partially and proportionally, if the previous transfer concerned only part of the site;
- (2) a payment of a compensation in accordance with articles 3, 4 and 5, the owner must pay the difference between the amount already paid and the amount due.

For the purposes of this article, the owner of the site is responsible for proving that a land area has already been the subject of a land transfer or the payment of a compensation.

12. For the issuance of a subdivision permit, where the cadastral operation covers a built-up lot and consists of parcelling out the lot, and where the value of the building entered on the property assessment roll represents more than 10% of the value of the land included in the cadastral operation plan, the owner is exempt from the transfer and payment under article 3,

in proportion to the area and the value of the built-up lot described in the cadastral operation plan.

13. With the city's agreement, an owner may undertake to transfer land that is not part of the site, but that forms part of city territory. The agreement may provide for the transfer of parcel of land and the payment of a compensation.

That agreement prevails over any calculation rule and any percentage established in articles 3, 4 and 5, but may not establish a percentage lower than 10% of the value of the site.

The notary and publication fees are at the expense of the transferor.

14. The land to be transferred must be free of any hypothec, priority, charge or real right.

15. No transferred land may be contaminated beyond the standards provided in the Environment Quality Act (CQLR, chapter Q-2) and the regulations thereunder for the prescribed use.

16. The owner transferor must also submit to the city, after filing the building or subdivision permit application, but before the approval of either application, the following documents:

- (1) a notarized certificate confirming that the owner is the sole owner of the land to be transferred and that such land is free of any hypothec, priority, charge or real rights;
- (2) a site characterization study in order to determine the level of contamination of the land, and meeting the requirements set out in the guide prepared under section 31.66 of the Environment Quality Act (CQLR, chapter Q-2). For that purpose, the study must be certified by an expert as defined in section 31.65 of the Environment Quality Act (CQLR, chapter Q-2), where the land is covered by the requirements in division IV.2.1 concerning land protection and rehabilitation, of chapter I of that same Act;
- (3) a certificate of location or a plan and a technical description of the land to be transferred;
- (4) the payment of the compensation owed or a letter of undertaking, signed by the owner, to transfer free of charge the land or parcel of land concerned, in accordance with this by-law.

CHAPTER III

PENAL PROVISION

17. Any person who contravenes this by-law is guilty of an offence and is liable:

- (1) in the case of an individual:

- (a) for a first offence, to a fine of \$500 to \$1,000;
 - (b) for a second offence, to a fine of \$1,000 to \$1,500;
 - (c) for any subsequent offence, to a fine of \$1,500 to \$2,000;
- (2) in the case of a corporation:
- (a) for a first offence, to a fine of \$1,000 to \$2,000;
 - (b) for a second offence, to a fine of \$2,000 to \$3,000;
 - (c) for any subsequent offence, to a fine of \$3,000 to \$4,000.

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

18. This by-law takes effect 12 months after the date of its coming into force.

19. This by-law repeals:

- (1) articles 6 to 9 of the By-law concerning cadastral operations (R.B.C.M., chapter O-1);
- (2) articles 6 to 9 of the the by-law “Règlement sur les opérations cadastrales à l’égard du territoire de l’arrondissement Ville-Marie” (R.B.C.M., chapter O-1);
- (3) the By-law concerning the issue of certain building permits (02-065);
- (4) the By-law concerning the transfer for the purposes of establishing, maintaining and improving parks and playgrounds and of preserving natural areas on the territory of Côte-des-Neiges–Notre-Dame-de-Grâce borough (14-049);
- (5) the By-law concerning the transfer of land for the establishment, maintenance and improvement of parks, playgrounds and the preservation of natural spaces, on the territory of Lachine borough (07-012);
- (6) article 4.43 of Zoning by-law 2710 of Lachine borough;
- (7) the by-law “Règlement relatif à la cession pour fins d’établissement, de maintien et d’amélioration de parcs, de terrains de jeux et de préservation d’espaces naturels sur le territoire de l’arrondissement de LaSalle” (10-018);
- (8) the By-law concerning the transfer for the purposes of establishing, maintaining and improving of parks and playgrounds and of preserving natural areas on the territory of Le Sud-Ouest borough (14-027);

- (9) the By-law concerning the transfer for purposes of establishing, maintaining and improving parks, playgrounds, and the preservation of green space on the territory of Mercier–Hochelaga-Maisonneuve borough (14-026);
- (10) the By-law concerning the transfer for the establishment, maintenance and enhancement of parks and play grounds, and the preservation of natural areas, on the territory of Rosemont–La Petite-Patrie borough (13-011);
- (11) the By-law concerning the transfer for the establishment, maintenance and enhancement of parks and playgrounds, and the preservation of natural spaces, on the territory of L'Île-Bizard–Sainte-Geneviève borough (09-002);
- (12) the By-law concerning the transfer for the purposes of establishing, maintaining and improving parks and playgrounds, and the preserving of natural areas, on the territory of Pierrefonds-Roxboro borough (15-053);
- (13) article 16 of the Subdivision by-law for the Borough of Pierrefonds-Roxboro CA29 0041;
- (14) the By-law concerning the transfer for purposes of establishing, maintaining and improving parks and playgrounds, and of preserving natural areas on the territory of Plateau-Mont-Royal borough (12-049);
- (15) the By-law concerning the transfer for the purposes of establishing, maintaining and improving parks, playgrounds and of preserving natural areas on the territory of Rivière-des-Prairies–Pointe-aux-Trembles borough (16-017);
- (16) the By-law concerning the transfer for the establishment, maintenance and improvement of parks and playgrounds, and the preservation of natural areas, on the territory of Saint-Laurent borough (08-005);
- (17) the By-law concerning the transfer for the purposes of establishing, maintaining and improving parks and playgrounds and of preserving natural areas on the territory of the Saint-Léonard borough (15-060);
- (18) paragraph (c) of the first paragraph of article 3.4.2.4 and paragraph (c) of the first paragraph of article 3.4.3.8 of subdivision by-law no. 1885 of Saint-Léonard borough;
- (19) the By-law concerning the transfer for the purposes of establishing, maintaining and improving of parks and playgrounds and of preserving natural areas on the territory of Villeray–Saint-Michel–Parc-Extension borough (14-039);
- (20) articles 5.1 to 5.1.3 of subdivision by-law 1179 of Outremont borough;
- (21) article 17 of by-law 1563 of Montréal-Nord borough titled “Règlement sur le lotissement à l’intérieur des limites du territoire de la municipalité”;

(22) chapter 8 of by-law 1528 of Anjou borough titled “Règlement de lotissement de la Ville d’Anjou remplaçant les règlements numéros 1450 et 1450-1”;

(23) article 24 of subdivision by-law 1751 of Verdun borough.

The public notice relating to this by-law was posted at city hall and published in *The Gazette* on June 19, 2017.