Bienvenue à Baie-D'Urfé!

BY-LAW CONCERNING SPECIAL CONSTRUCTION, MODIFICATION OR OCCUPANCY PROJECTS FOR A BUILDING

NO. 1124

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PROVINCE OF QUÉBEC
TOWN OF BAIE-D'URFÉ

BY-LAW NO. 1124

BY-LAW CONCERNING SPECIAL CONSTRUCTION, MODIFICATION OR OCCUPANCY PROJECTS FOR A BUILDING

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DRAFT

TABLE OF CONTENTS

BY-LAW CONCERNING SPECIAL CONSTRUCTION, MODIFICATION OR OCCUPANCY PROJECTS FOR A BUILDING 1

CHAPTER 1 : DECLARATORY, INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS 3

Section 1.1 : Declaratory provisions 3

1.1.1 : Territory subject to this by-law 3
1.1.2 : Purpose 3
1.1.3 : Concurrent application of other by-laws and laws 3

Section 1.2 : Interpretative provisions 5

1.2.1 : Structure of the by-law 5
1.2.2 : Interpretation of provisions 5
1.2.3 : Terminology 6

Section 1.3 : Administrative provisions 7

1.3.1 : Administration and enforcement of the by-law 7
1.3.2 : Powers of the competent authority 7
1.3.3 : Filing an application 7
1.3.4 : Fees payable 7
1.3.5 : Payment of municipal taxes 7

CHAPTER 2 : ZONES AND PROVISIONS ELIGIBLE FOR PPCMOI AUTHORIZATION ... 8

Section 2.1 : General provisions 8

2.1.1 : Applicable zone 8

Section 2.2 : Evaluation of a PPCMOI 8

2.2.1 : General evaluation criteria 8

CHAPTER 3 : PROCEDURES AND GENERAL PROVISIONS RELATING TO A PPCMOI APPLICATION 10

Section 3.1 : Procedure and processing of a PPCMOI application 10

3.1.1 : Documents and plans required with an application 10
3.1.2 : Review of the application by a designated officer 11
3.1.3 : Suspension of review 12
3.1.4 : Referral of an application to the Planning Advisory Committee 12

DRAFT

3.1.5 : Analysis of the application by the Planning Advisory Committee 12
3.1.6 : Recommendation of the Planning Advisory Committee 12
3.1.7 : Decision of Municipal Council 12
3.1.8 : Unfavourable decision 13
3.1.9 : Favourable decision subject to conditions 13
3.1.10 : Communication of the decision 14
3.1.11 : Procedure for adopting the resolution and its coming into force 14
3.1.12 : Information sign concerning the PPCMOI 14
3.1.13 : Public notice and public consultation meeting 14
3.1.14 : Referendum 15
3.1.15 : Issuance of the permit or certificate 15
3.1.16 : Validity of the resolution 15
3.1.17 : Amendments to plans and documents 15
3.1.18 : False statement 16

CHAPTER 4 : FINAL PROVISIONS 17

Section 4.1 : Penal provisions 17
4.1.1 : Offences 17
4.1.2 : Penalties 17
4.1.3 : Issuance of a statement of offence 17

Section 4.2 : Coming into force 17

4.2.1 Coming into force 17

DRAFT

CHAPTER 1 : DECLARATORY, INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS

Section 1.1 : Declaratory provisions

1.1.1 : Territory subject to this by-law

This by-law applies throughout the territory of the Municipality. It applies to every legal person governed by public or private law and every natural person.

1.1.2 : Purpose

The purpose of this by-law is to empower the Municipal Council, upon application and subject to certain conditions, to authorize a specific construction, alteration or occupancy proposal for an immovable that derogates from one or more of the City's planning by-laws and the by-laws provided for in Chapter IV of the Act respecting land use planning and development. To be authorized, every specific proposal must comply with the objectives of the municipality's planning program.

This by-law also seeks to allow the authorization of proposals that demonstrably contribute to the objectives of the planning program, fit harmoniously into their surroundings and, in light of their particular characteristics, have an overall quality that warrants a specific authorization instead of a general amendment to the planning by-laws.

1.1.3 : Concurrent application of other by-laws and laws

Compliance with this by-law does not relieve any person of the obligation to comply with any other applicable provincial or federal law or regulation or any other applicable municipal by-law.

Every permit or certificate application for an authorized specific proposal must comply with the applicable planning by-laws, except for the provisions from which the Council resolution expressly authorizes a derogation, and must comply with all conditions set out in that resolution.

Subject to a derogation expressly authorized by a resolution adopted under this by-law, the other applicable municipal by-laws continue to apply.

This by-law is adopted as a whole and also chapter by chapter, section by section, article by article, subsection by subsection, paragraph by paragraph and subparagraph by subparagraph. The possible invalidity of a provision does not, insofar as possible, affect the validity of the other provisions.

DRAFT

Unless otherwise indicated, references in this by-law to another municipal by-law include amendments that may be made to that by-law after this by-law comes into force.

DRAFT

Section 1.2 : Interpretative provisions

1.2.1 : Structure of the by-law

The numbering system used in this by-law is as follows (where the text of an article contains no number for a paragraph or subparagraph, it constitutes a subsection):

1. Chapter

1.1 Section

1.1.1 Article

Subsection

1. Paragraph

a) Subparagraph

1.2.2 : Interpretation of provisions

Where two (2) standards or provisions of this by-law apply to a use, building, lot or other matter governed by this by-law, the following rules apply:

1. The specific standard or provision prevails over the general provision;

2. The more restrictive provision prevails.

3. Unless the context indicates a different meaning, it is understood that:

4. The use of “MUST” indicates an absolute obligation;

5. The use of “MAY” indicates discretion, except in the expression “MAY NOT”, which means “MUST NOT”;

6. The word “ANYONE” includes every natural or legal person;

7. The masculine gender includes the feminine gender;

8. The singular includes the plural and vice versa;

9. The present tense includes the future tense.

The table of contents and the titles of the chapters, sections and articles of this by-law are provided to aid understanding of the text. In the event of a conflict between the text and the relevant title or titles or the table of contents, the text prevails.

DRAFT

Plans, schedules, tables, graphs, symbols and any form of expression other than the text itself contained in this by-law form an integral part thereof for all legal purposes. In the event of a conflict between the text and any tables, figures or other forms of expression, the text prevails.

In the event of a conflict between the French and English versions of this by-law, the French version prevails.

Dimensions, areas and other measurements stated in this by-law are expressed in International System of Units (SI) units.

1.2.3 : Terminology

Unless otherwise indicated or unless the context indicates a different meaning, expressions, terms and words have the meanings and applications assigned to them by the By-law respecting the administration of planning by-laws and the issuance of permits and certificates.

With the exception of expressions, terms and words listed in the By-law respecting the administration of planning by-laws and the issuance of permits and certificates, all words used in this document retain their usual meanings.

For the purposes of this by-law, the following terms mean:

“PPCMOI”: Special construction, modification or occupancy projects for a building.

“Specific proposal”: A specific construction, alteration or occupancy proposal for an immovable.

DRAFT

Section 1.3 : Administrative provisions

1.3.1 : Administration and enforcement of the by-law

The Urban Planning Department and any officer designated by resolution of the Council of the City of Baie-D'Urfé are responsible for applying, monitoring and enforcing this by-law. The Urban Planning Department and its authorized representatives, together with designated officers, therefore constitute the competent authority.

1.3.2 : Powers of the competent authority

The powers of the competent authority are set out in the By-law respecting the administration of planning by-laws and the issuance of permits and certificates.

1.3.3 : Filing an application

Applications concerning specific proposals must be submitted to the designated officer.

1.3.4 : Fees payable

A fee of $10,000 is payable for the review of an application for a Special construction, modification or occupancy projects for a building.

1.3.5 : Payment of municipal taxes

An application concerning a specific proposal will be reviewed only if the taxes on the lot to which the application relates have been paid.

DRAFT

CHAPTER 2 : ZONES AND PROVISIONS ELIGIBLE FOR PPCMOI AUTHORIZATION

Section 2.1 : General provisions

2.1.1 : Applicable zone

The provisions of this section apply to zone H-7, as shown in Schedule 1, entitled Zoning Plan, of Zoning By-law No. 1110 in force.

To be admissible, a specific proposal must concern an immovable located entirely in zone H-7 and must be a construction, alteration or occupancy proposal for an immovable for which one or more derogations from the planning by-laws may lawfully be authorized through a PPCMOI.

Despite the first subsection, no PPCMOI may be authorized in a part of the territory where land occupancy is subject to special constraints for reasons of public safety.

Only provisions arising from a power under one of the by-laws provided for in Chapter IV of Title I of the Act respecting land use planning and development (CQLR, c. A-19.1) may be the subject of a PPCMOI application.

Section 2.2 : Evaluation of a PPCMOI

2.2.1 : General evaluation criteria

1. The specific proposal complies with the objectives of the planning program;

2. The proposed uses are compatible with those of the surrounding area;

3. The specific proposal emphasizes the quality of its integration into its surroundings, particularly with respect to siting, massing, density and site layout;

4. The siting of equipment, improvements and structures respects the site's natural topography and hydrography and enhances its natural features;

5. Where the building is taller than neighbouring buildings, strategies are used to minimize the perceived height and shadowing on adjacent properties (e.g., alignment of dominant sightlines with those of neighbouring buildings, generous setbacks, recessed upper storeys, graduated massing and variations in roof form);

DRAFT

6. The proposal favours an architectural approach based on breaking up building masses to avoid monolithic forms and to promote harmonious integration with the residential and rural character of Baie-D'Urfé;

7. Transitions between the different volumes, particularly roofs and façades, are carefully designed to avoid a repetitive or uniform appearance;

8. The proposal minimizes nuisances and effects on the environment and quality of life in the area concerned, particularly with respect to sunlight, preservation of existing trees, wind, noise, emissions and traffic;

9. The feasibility of the proposal within the planned implementation schedule is demonstrated, and the nuisance mitigation measures planned during construction will minimize nuisances;

10. Functional organization is of high quality with respect to parking layout and the location of vehicular entrances and loading and unloading areas;

11. Where relevant, the proposal incorporates universal accessibility principles into entrances, routes, common areas and outdoor layout;

12. The site layout promotes safe and efficient movement for pedestrians, cyclists, persons with reduced mobility, vehicles and emergency vehicles, and provides a coherent connection to surrounding mobility networks;

13. Outdoor parking areas are located and landscaped so as to be as unobtrusive as possible from public property (e.g., location in a side or rear yard and a perimeter vegetation screen);

14. The siting and architectural expression of the building enhance the streetscape through variations in setbacks, angles or other aspects of massing and building placement;

15. The siting of buildings maximizes open space dedicated to shared areas and courtyards. These amenity areas are designed to meet the needs of the intended users (families, older persons, multigenerational households, etc.);

16. For a residential proposal, consideration is given to the diversity of dwelling types and sizes and the proposal's capacity to meet the needs of different kinds of households;

17. The siting of buildings supports a continuous route connecting the different parts of the site. The spatial layout balances openness to the surrounding area with the privacy of private spaces, while favouring the quality and functionality of shared spaces over a predominance of private terraces.

DRAFT

CHAPTER 3 : PROCEDURES AND GENERAL PROVISIONS RELATING TO A PPCMOI APPLICATION

Section 3.1 : Procedure and processing of a PPCMOI application

3.1.1 : Documents and plans required with an application

The applicant must provide the following information with the specific proposal application form:

1. The applicant's and, where applicable, the applicant's representative's surname, given name, mailing address, email address and telephone number;

2. A power of attorney or authorization from the owner, where applicable;

3. A detailed description of the specific proposal, including, in particular, existing and proposed uses;

4. The geographic and cadastral location of the proposal, together with a certificate of location or any other survey document considered necessary by the designated officer;

5. A supporting document demonstrating how the proposal meets each applicable objective and evaluation criterion of this by-law;

6. A precise list of each regulatory provision from which the proposal seeks a derogation, accompanied by a comparison table showing the applicable standard, the proposed standard and the justification for the derogation;

7. A schedule showing the phases of work related to the specific proposal;

8. An estimate of the proposal's implementation costs, broken down by major component, where this information is relevant to assessing feasibility or determining a financial guarantee;

9. Any anticipated occupation of public property, where applicable;

10. The location of existing and proposed public utilities, such as electrical lines, sewer and water supply networks and servitudes;

DRAFT

11. A site plan showing the location of existing or proposed buildings, existing or proposed vehicular accesses, circulation routes, parking areas and loading and unloading areas, as well as the siting of existing neighbouring buildings;

12. A plan showing existing and proposed drainage systems, including infiltration areas and retention basins;

13. Plans, sketches, drawings, sections, elevations and colour perspectives, or any other document showing the footprint, elevations, massing and height of the structures to be erected;

14. A table of the proposal's principal data, including floor areas, site coverage, floor area ratio, density, height, number of dwellings, number of parking spaces and green space area, as applicable;

15. Recent photographs of the site and surrounding area, as well as visual representations permitting assessment of how the proposal fits in as seen from public property and adjacent properties;

16. A snow management plan covering, in particular, road clearing and the loading and transport of snow to authorized disposal sites;

17. 11. A traffic and mobility study, where required by the designated officer, addressing in particular vehicle, pedestrian and bicycle movements, access safety, parking, deliveries and, where relevant, emergency vehicles;

18. 12. A tree clearing plan and tree inventory indicating, in particular, the location, species, diameter and condition of trees and the trees to be retained, felled and replaced;

19. A landscape plan illustrating the proposed layout of outdoor areas and parking areas, including retaining walls and measures to enhance and protect existing and proposed plantings;

20. A sunlight and shadow assessment study;

21. A groundwater table study if the proposal involves construction of a basement deeper than permitted under the Zoning By-law, where applicable;

3.1.2 : Review of the application by a designated officer

The designated officer ensures that the application complies with the procedural requirements for a specific proposal application set out in this by-law. In particular, the officer ensures that all information needed to understand the application has been provided and that the applicable fees have been collected. The application is considered complete only when all required documents have been provided.

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At the designated officer's request, the applicant must provide any additional information needed to understand the application and assess the specific proposal's compliance with the applicable objectives and criteria.

3.1.3 : Suspension of review

If the required information and documents are incomplete or imprecise, review of the application is suspended until the applicant or authorized representative provides the necessary information and documents. The application is deemed to have been received on the date that the additional information and documents are received.

3.1.4 : Referral of an application to the Planning Advisory Committee

Applications deemed complete by the designated officer are referred by that officer to the Planning Advisory Committee for analysis and recommendations.

The designated officer may attach to the application any documents, comments or analyses the officer considers relevant.

3.1.5 : Analysis of the application by the Planning Advisory Committee

The Planning Advisory Committee examines the application in light of the objectives and criteria set out in this by-law. It may require the applicant to provide any additional information necessary to understand the proposal. It may make any useful recommendation to the applicant concerning the proposal. It may also recommend that Municipal Council impose conditions so that the submitted proposal meets the applicable objectives and criteria.

3.1.6 : Recommendation of the Planning Advisory Committee

After its analysis, the Planning Advisory Committee makes a written recommendation to Municipal Council. The recommendation may be:

1. Favourable, with or without conditions;

2. Unfavourable, with or without recommendations for changes to be made if a new application is submitted.

3.1.7 : Decision of Municipal Council

Municipal Council considers the recommendation of the Planning Advisory Committee and grants or refuses the requested authorization for the specific proposal.

Where Municipal Council intends to grant an application for authorization of a specific proposal, it adopts, in accordance with the Act, a draft resolution to that effect. Within

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the City's jurisdiction, the draft resolution may set any condition that must be met in carrying out the proposal. Such conditions may include, without limitation and taking account of the proposal's particular characteristics, the following:

- Guarantees relating to the financial structure and the schedule for carrying out the specific proposal;
- Financial guarantees for carrying out the specific proposal;
- Operations and activities on and near the site;
- Required infrastructure work;
- The architecture and massing of structures;
- Outdoor improvements;
- Signs and signage;
- Management of traffic, parking and access;
- Environmental monitoring and mitigation measures;
- Sanitation, safety and any other measure to protect the living environment.
- Implementation by phase, deadlines, transitional measures and restoration obligations

Conditions applicable to a specific proposal may differ between a draft resolution and the final resolution.

3.1.8 : Unfavourable decision

An unfavourable decision must state reasons. Municipal Council may also suggest changes for the applicant to make if a new application is submitted.

3.1.9 : Favourable decision subject to conditions

In the case of a favourable decision, Municipal Council adopts a draft resolution and may include any condition regarding the carrying out of the specific proposal that falls within the City's jurisdiction.

DRAFT

3.1.10 : Communication of the decision

Following Municipal Council's decision, the Director General and Clerk-Treasurer sends a certified copy of the resolution concerning the application to the applicant and the designated officer.

3.1.11 : Procedure for adopting the resolution and its coming into force

The adoption and coming into force of the resolution granting authorization for the specific proposal are subject to the procedure established in Division V of Chapter IV of Title I of the Act respecting land use planning and development (CQLR, c. A-19.1), with the necessary modifications.

3.1.12 : Information sign concerning the PPCMOI

As soon as possible after the adoption of the draft resolution, the Municipal Clerk-Treasurer must install a poster or sign at the site concerned by the application for authorization of the proposal, indicating the nature of the application and where any interested person may obtain information about the proposal. The obligation to keep the poster or sign in place ends when the City adopts the final resolution granting or refusing authorization. However, if the resolution requires referendum approval, the obligation ends when the referendum process ends.

3.1.13 : Public notice and public consultation meeting

The Clerk-Treasurer sets the date of the public consultation meeting at which the specific proposal application will be presented and, at least 15 days before that meeting, publishes a public notice stating:

1. The date, time and place of the meeting at which Municipal Council is to decide on the application;

2. The nature and effects of the application;

3. The identification of the immovable concerned by the application using the adjacent thoroughfare and civic number or, failing that, the cadastral number;

4. A statement that any interested person may then be heard by Municipal Council concerning the application.

The costs of posting and publishing public notices relating to the specific proposal, in accordance with the provisions in force under the Act respecting land use planning and development (CQLR, c. A-19.1), are included in the costs associated with the application.

DRAFT

At Municipal Council's request, the applicant must attend the public consultation meeting to present the application and/or answer questions.

3.1.14 : Referendum

If a referendum is requested following the registration procedure for qualified voters, the applicant bears its costs. This amount is non-refundable, regardless of the referendum's outcome. At any time before the referendum, the applicant may inform the designated officer in writing of a decision not to proceed.

3.1.15 : Issuance of the permit or certificate

Upon receipt of the Municipal Council resolution approving the specific proposal and the Montréal Agglomeration's notice of conformity, the designated officer may issue the permit or certificate to the applicant, provided that the application meets all conditions of the resolution and complies with the other applicable provisions of the planning by-laws, except for provisions expressly covered by the authorization granted in the resolution.

3.1.16 : Validity of the resolution

The resolution authorizing the specific proposal is null and void if the applicant does not submit a complete application for a building permit or authorization certificate to the designated officer within 24 months after Municipal Council adopts the resolution. If the applicant cannot meet this period of validity of the Municipal Council resolution, the applicant may apply in writing to Municipal Council for an extension.

The resolution may specify a different period or particular implementation deadlines. It may also provide that authorization becomes null and void if a specified stage or deadline is not met, subject to the provisions of the law.

3.1.17 : Amendments to plans and documents

A specific proposal authorized by Council resolution may be modified provided that the modification fully complies with the conditions set out in the Council resolution granting authorization, does not exceed the derogations granted and complies with the other provisions of the planning by-laws in force.

A modification cannot be considered compliant with the original resolution if it increases an authorized derogation, adds a new derogation, or substantially changes the siting, massing, use, density, impacts on the neighbourhood or a condition on which the authorization was based.

DRAFT

If any of these requirements is not met, a new resolution authorizing the changes is required and the application to modify the proposal is subject to a new approval procedure.

3.1.18 : False statement

A false statement or the submission of erroneous documents concerning any provision of this by-law invalidates any resolution, permit or certificate issued under this by-law in relation to the specific proposal application.

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CHAPTER 4 : FINAL PROVISIONS

Section 4.1: Penal provisions

4.1.1 : Offences

Subject to any applicable provision of the other planning by-laws, any person who fails to comply with a condition, makes a false statement or submits erroneous documents as provided for in this by-law commits an offence.

4.1.2 : Penalties

Anyone who contravenes this by-law commits an offence and is liable:

1° if a natural person:

a) For a first offence, to a fine of $100 to $1,000;

b) For any subsequent offence, to a fine of $200 to $2,000;

2° if a legal person:

c) For a first offence, to a fine of $200 to $2,000;

d) For any subsequent offence, to a fine of $400 to $4,000.

In all cases, prosecution costs are additional.

The time limits for payment of fines and costs imposed under this article and the consequences of failure to pay those fines and costs within the prescribed time limits are established in accordance with the Québec Code of Penal Procedure (c. C-25.1).

If an offence continues, it constitutes a separate and distinct offence for each day, and a fine may be imposed for each day the offence continues.

4.1.3 : Issuance of a statement of offence

The competent authority may issue one or more statements of offence and bring penal proceedings for and on behalf of the City against any person who contravenes this by-law.

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Section 4.2: Coming into force

4.2.1 Coming into force

This by-law comes into force in accordance with the law.

Heidi Ektvedt, Mayor

Me Dana Chevalier, Town Clerk

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