

MUNICIPALITY OF THE TOWNSHIP OF HARRINGTON

**BY-LAW NUMBER 229-2014 CONCERNING SPECIFIC CONSTRUCTION,
ALTERATION OR OCCUPANCY PROPOSALS FOR AN IMMOVABLE**

BY-LAW 229-2014

By-law concerning specific construction, alteration or occupancy proposals for an immovable within the territory of the Municipality of the Township of Harrington.

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CHAPTER I - DECLARATORY, ADMINISTRATIVE AND INTERPRETATIVE PROVISIONS

1 DECLARATORY PROVISIONS

1.1 TITLE OF THE BY-LAW

This by-law has the title of By-law on specific construction, alteration or occupancy proposals of an immovable within the territory of the Municipality of the Township of Harrington and is number 229-2014.

1.2 AFFECTED TERRITORY

This by-law, whose provisions apply to persons and business of the public or private sector, is applied to the zones as established in Chapter 4 of this By-law.

1.3 VALIDITY

The council adopts this by-law in its entirety and also chapter by chapter, section by section, article by article, paragraph by paragraph, subsection by subsection, subparagraph by subparagraph, and clause by clause. If a chapter, a section, an article, a paragraph, a subsection, a subparagraph or a clause of this by-law is declared null by an authorized body, the remainder of the by-law continues to apply as much as possible.

1.4 REPEAL

This by-law replaces any inconsistent provision of another by-law.

2. ADMINISTRATIVE PROVISIONS

2.1 ADMINISTRATION AND ENFORCEMENT OF BY-LAW

The administration and enforcement of this by-law is entrusted to the director of urbanism as well as any person appointed as <designated officer> by resolution by the municipal council.

2.2 DESIGNATED OFFICER

The designated officer or officers referred to in Article 1.2.1 is identified in this by-law as being the <designated officer>.

2.3 POWERS OF THE DESIGNATED OFFICER

The powers of the designated officer are outlined in the By-law concerning permits and certificates in force and its amendments.

2.4 INFRACTIONS, CONTRAVENTIONS, PENALTIES AND RECOURSES

The provisions relating to infractions, contraventions, penalties and recourses enacted in the By-law concerning permits and certificates in force and its amendments.

3- INTERPRETATIVE PROVISIONS

3.1 ADMINISTRATION AND ENFORCEMENT OF BY-LAW

In this by-law, unless otherwise indicated, the following rules shall apply:

1. In case of contradiction between the text and a title, the text shall prevail;
2. In case of contradiction between the text and any other form of expression the text shall prevail;
3. In case of contradiction between a provision in the French text and the English text from any translated document, the French text shall prevail;
4. Unless the context indicates a different meaning, it is understood that:
 - a. The singular includes the plural and vice versa;
 - b. The use of the word <MUST> implies absolute obligation;
 - c. The use of the word <MAY> retains its optional meaning;
 - d. The work <ANY> includes moral and physical persons.

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

In case of discrepancy between two specific provisions or two general provisions, the most restrictive provision shall prevail.

In the case where a restriction or prohibition specified in this by-law or any of its provisions is deemed to be incompatible or in disagreement with another by-law or with another provision of this by-law, the most restrictive or prohibitive provision must apply, unless otherwise indicated.

3.2 DIMENSION AND MEASURES

All measures used in this by-law are expressed in the metric system.

3.3 TERMINOLOGY

For the interpretation of this by-law, unless the context indicates a different meaning, any word, term or expression has the meaning and significance given them in the Planning By-law in force; if a word, term or expression is not specifically noted, it is used in the commonly attributed sense of the word or term.

CHAPTER II - PROCESSING OF AN APPLICATION FOR A SCAOPI

1-OBJECT OF A SCAOPI

A SCAOPI must be for the construction of a new building, the modification or the occupation of an immovable on a property, without however affecting the entire zone.

A SCAOPI must be non-conforming to one or another of the Planning By-laws in force.

2-TRANSMISSION OF AN APPLICATION AND STUDY OF THE PROJECT

An application for the approval of a SCAOPI must be transmitted by the applicant or his authorized representative to the designated officer. It must be signed by the applicant or his authorized representative and must include the information and documents required by the By-law in force concerning permits and certificates.

The designated officer transmits the application to the Planning Advisory Committee, with the required documentation. The committee studies the application and may ask the applicant for additional information in order to complete the study and evaluation of the project.

3. APPLICATION FOR AUTHORIZATION OF A SPECIFIC PROPOSAL AND PROGRESSION OF THE FILE

3.1 APPLICATION FOR AUTHORIZATION

Any person who wishes to obtain authorization for a specific construction, alteration or occupancy proposal for an admissible immovable must submit to the Planning

department a formal request in writing, complete a building application or, as the case may be, a certificate of authorization in accordance with the By-law concerning permits and certificates and must also supply the required documents as described in Article 3.2.

Pay the required fees of \$100.00 to open the file.

3.2 REQUIRED DOCUMENTS

Any document relating to a request for derogation to the applicable Planning By-laws for the realization of an admissible specific project submitted to the Municipality must contain the following items:

- a) A plan showing the actual occupation (uses, buildings, constructions and site development) of the site referred to in the application for authorization as well as the occupation of the neighboring properties. By neighboring properties we mean all properties located less than 100 meters from the limits of the site referred to in the application;
- b) Photographs of the immovable or of the site referred to in the application as well as the neighboring properties (within 100 m);
- c) A plan showing the types of projected uses for the site and the existing constructions that are to be kept or transformed;
- d) Sketches showing the different constructions or existing works, modified or not, and their integration in the surrounding built environment;
- e) A plan showing the development proposals of outdoor spaces, of enhancement and protection of existing and planned plantations and green spaces;
- f) The total estimate and also itemized cost of realization (constructions only, finished site development with plantations, etc) as well as a schedule of completion;
- g) Any other information that will help in understanding the nature of the projected work and their evaluation based on the criteria prescribed in Article 1 of Chapter III of this by-law;
- h) A list of non-conforming items to the different applicable norms of the Planning By-laws in respect to the application.

3.3 PROGRESSION OF THE APPLICATION

The building inspector is in charge of checking whether the application is complete. When the application is complete, the inspector transmits the application to the Planning

Advisory Committee within a maximum delay of sixty (60) days from the date of the filing of the duly completed application.

3.4 REVIEW BY THE PLANNING ADVISORY COMMITTEE

The Planning Advisory Committee is responsible for assessing the application in accordance with the evaluation criteria set under by this By-law. If it deems it appropriate, the Planning Advisory Committee may demand a meeting with the applicant and visit the site.

The Planning Advisory Committee is responsible of transmitting, in writing, its evaluation of the application to the council. This evaluation must include a recommendation to approve or refuse the application for authorization of the particular project and in the case of refusal, an indication of the motives inciting the Committee to recommend a refusal.

The evaluation produced by the Planning Advisory Committee may also make suggestions as to conditions that must be met in respect of the implementation to the particular project and modifications to make the application acceptable in regards to the established criteria in this By-law. In this case, these modifications must be approved by the applicant before council makes its decision.

3.5 COUNCIL APPROVAL

Following the review by the Planning Advisory Committee and its recommendation, the council must, by resolution, grant the application for authorization of a particular project or refuse it, as the case may be.

The resolution by which the council grants the application shall provide for any condition, if applicable, having regard to the jurisdiction of the municipality, that must be satisfied in relation to the carrying out of the proposal.

When the resolution states the refusal of the council, the resolution must state the reasons for the refusal.

3.6 MAINTAINING THE ACQUIRED RIGHTS PLAN

The resolution by which the council authorizes the particular project for the replacement of a non-conforming use by another non-confirming use does not exempt this particular project from the acquired rights plan applicable in accordance with Chapter 11 (Particular provisions to non-conforming constructions and uses) of the Zoning By-law, in particular to the standards of the cessation of a non-conforming use and its extension. (By-law number 192-2012).

CHAPTER III: EVALUATION CRITERIA OF A SCAOPI APPLICATION

1-EVALUATION CRITERIA

An application for authorization of a SCAOPI is evaluated according to the following criteria:

- 1o The project is in keeping with the objectives of the existing Development plan;
- 2o The project must not prejudice the enjoyment of neighboring property owners of their property rights;
- 3o The projected occupations of the project are consistent with those of the receiving milieu;
- 4o The density, in terms of the floor area, of the existing constructions or constructions to be built on the lot, the implementation, the general volume and the height of the existing constructions and constructions to be built on the lot is integrated with the existing context.
- 5o The development of original architectural elements is favorable for integration projects and of new constructions and the architecture is in keeping with the receiving milieu and with the existing built context.
- 6o The outdoor areas are enhanced by maximizing the protection of plantations and existing trees and the addition of trees and plantations;
- 7o The accesses for road vehicles, the type of signage for pedestrians and vehicles as well as parking spaces meet the needs of the project;
- 8o The impacts of the project in regards to the sun, the wind, the safety and the functionality of the road network, the noise, the emissions and all pertinent environmental aspects;
- 9o The project supports the occupations of the existing or planned public domain.

CHAPTER IV –COVERED TERRITORY

The whole territory of the Municipality of the Township of Harrington is covered by this By-law.

CHAPTER V – FINAL PROVISIONS

1-COMING INTO FORCE

This By-law will come into force in accordance with the Law.

Certified true copy

Notice of motion:	May 5 th 2014
Adoption of the draft by-law	May 5 th 2014
Transmission of draft by-law and resolution to the MRC	May 7 th 2014
Public Notice concerning the holding of the public consultation meeting and resume	May 6 th 2014
Public consultation meeting	May 13 th 2014
Adoption of by-law with or without changes	
Notice of conformity from the M.R.C.	
Certificate of conformity from the M.R.C.	
Notice of coming into force	

Mayor

General Director