

URBAN PLANNING, CONSTRUCTION AND... BIRDS!

Posted on August 23, 2024

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A growing number of municipal administrations in Québec are concerned about protecting the environment. This bulletin describes an initiative by Montréal's Saint-Laurent borough aimed at protecting birds by amending the planning regulations that apply within the borough. These amendments came into force at the end of July 2024.^[1] It is in property owners' and developers' interests to keep up to date with such amendments to urban planning rules. These may have an impact on their projects, especially when it comes to designing the project and selecting certain materials.

The amendments mainly affect the borough's zoning by-law.^[2] First, there are restrictions on the types of glass that can be used as exterior cladding materials. Restrictions include a ban on clear glass for exterior railings. This means that only certain types of glass will be allowed going forward, including opaque glass, frosted glass and glass incorporating certain markers. Further, the by-law provides for a treatment requirement applicable to the "retail", "service", "industrial" and "park and green space" use types, as well as for certain residential use classes. In buildings with exterior walls made up of at least 50% glass curtain walls, doors or windows, this treatment requirement applies going forward to a significant part of such curtain walls, doors or windows, above a certain height. These requirements apply both to new builds and to enlargements, as well as to curtain wall replacements and alterations to a building's exterior.

In addition, a new special provision (8.82) has been added to the uses and standards table for several dozen zones. In these zones, new standards apply to any land adjacent to land that contains a mosaic of natural habitats, to certain woods and to certain "park" zones identified in the zoning plan. As a result, applications for a building permit to erect a building, alter a building's floor area and install or alter 10% or more of a curtain wall, doors or windows on this type of land are subject to the site planning and architectural integration program (SPAIP) process. In such cases, the applicable goal is expressly related to bird protection, namely "to design buildings and landscaping that minimize the risk of bird collisions." The related criteria consist of, for example, including landscaping that promotes the consolidation of bird habitats in woodlands identified on the zoning plan, as well as avoiding reflective glass doors, windows and curtain walls, and artificial pools or ponds near glass doors, glass windows or curtain walls.

The by-laws implementing the amendments described in this bulletin are part of the Montréal 2030 vision,

more specifically the goal of “Placing biodiversity at the core of decision-making”. These by-laws are also part of the borough’s 2021-2030 Climate Emergency Plan and protecting biodiversity is one of the Plan’s specific goals.

The Saint-Laurent borough, which has expressly stated that it would like to serve as an inspiration to other municipalities,^[3] is not the first to take action to protect birds. Indeed, more than twenty-five cities in Canada are implementing the “Bird-Friendly City” program developed by Nature Canada.^[4]

[1] *By-law RCA08-08-0001-169 amending By-law RCA08-08-0001 on zoning and By-law RCA08-08-0003-31 amending By-law RCA08-08-0003 on internal governance on permits and certificates and By-law RCA08-08-0001 on zoning applicable to the borough of Saint-Laurent* (available in French only)

[2]

<https://www.lapresse.ca/maison/immobilier/2024-07-20/protection-des-oiseaux/nouvelles-normes-de-construction-a-saint-laurent.php> (available in French only)

[3] <https://naturecanada.ca/its-what-we-do/how-you-help-us-take-action/vao/#certified> [retrieved August 14, 2024]

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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