

PROPERTY MAINTENANCE

Chapter 630

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Article 1 INTERPRETATION

630.1.1 Building - defined

“building” means any permanent structure used or intended to be used for the shelter, accommodation or enclosure of persons, animals or goods, but shall not include a lawful boundary wall or fence. A building shall also include any lawfully erected gazebo or pergola.

630.1.2 Corner lot - defined

“corner lot” means a lot situated at the intersection of and abutting upon two streets, or upon two parts of the same street, the adjacent sides of which street or streets (or, in the case of a curved corner, the tangents at the street extremities of the side lot lines) contain an angle of not more than 135 degrees. In the case of a curved corner, the corner of the building lot shall be that point on the lot line abutting a street nearest to the point of intersection of the said tangents.

630.1.3 Corner visibility triangle - defined

“corner visibility triangle” means a triangular area formed within a corner lot by the intersecting lot lines abutting the streets or the projections thereof and a straight line connecting them 7.5 metres (24.6 feet) from their point of intersection.

630.1.4 Corporation - defined

“Corporation” shall mean The Corporation of the City of Kitchener.

630.1.5 Driveway visibility triangle - defined

“driveway visibility triangle” means a triangular area formed by the intersection of the lateral limit of the travelled portion of a driveway and a lot line abutting a street or the projections thereof and a straight line connecting them 4.57 metres (15 feet) from their point of intersection.

630.1.6 Exterior side lot line - defined

“exterior side lot line” shall mean a lot line other than a rear lot line abutting a street on the side that does not include the front lot line.

630.1.7 Exterior side yard - defined

“exterior side yard” means a yard, immediately adjoining a public street, extending from the front yard to the rear yard and from the side lot line of the lot to the nearest part of the main building on the lot.

630.1.8 Fence - defined

“fence” means a barrier, including one for noise attenuation, or any structure except a structural part of a building, that wholly or partially screens from view, encloses or

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divides a yard or other land or any portion thereof, prevents access by people or animals, or marks or substantially marks the boundary between adjoining land. A fence shall include:

- (a) every post, door, gate, or closure that adjoins, abuts, or attaches thereto;
- (b) a railing, guard, or structure joined to, or directly around or on a deck or porch provided that such material does not form a component of a fully enclosed deck or fully enclosed porch; and
- (c) any component or element that physically or visually combines with or appears to contribute to the use or purpose of the fence whether attached thereto or self-supported.

Notwithstanding any other portion of this definition, a fence shall not include self-supported hedges, trees, or other vegetation or a privacy screen erected in compliance with the provisions of this Chapter.

630.1.9 Front lot line - defined

“front lot line” means the shortest lot line abutting a street except in the case of a corner lot where any one lot line abutting a street may be treated as the front lot line for the sole purpose of determining the maximum fence height requirements of this Chapter.

630.1.10 Front yard - defined

“front yard” means a yard extending across the full width of the lot between the front lot line of the lot and the nearest part of the main building on the lot. For the purposes of this Chapter the shortest line abutting the street is the front lot line.

630.1.11 Fully enclose(d) - defined

“fully enclose(d)” shall mean surrounded by walls or screens on all sides and covered by a roof or roof-like barrier.

630.1.12 Grade - defined

“grade” shall mean:

- (a) the finished grade at the base of the fence or privacy screen measured from the side of the fence or privacy screen where such finished grade is the highest and shall not take into account the height of any retaining wall on which the fence or privacy screen is placed;
- (b) in the case of a fence enclosing a pool, “grade” shall mean the finished grade level at the base of the fence measured from outside of the pool enclosure for the purpose of permit issuance; however, once a pool enclosure permit has been obtained, “grade” shall, at the option of the pool owner, mean the finished grade level at the base of the fence measured from the inside of the pool enclosure provided the fence and grade remain substantially the same from the inside of the pool enclosure as shown in the issued pool enclosure permit; and
- (c) in the case of a fence or privacy screen joined to or directly around or on a deck or porch, grade shall be measured from the finished grade of the ground underneath the fence or privacy screen where the deck or porch is two feet or less above ground or, where the walking surface of the deck or porch is more

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than two feet above ground shall be measured from that walking surface.

630.1.13 Height - defined

“height” shall mean, for the purposes of measuring the height of a fence, the measurement of the distance between:

- (a) the grade at the base of any point along the fence or privacy screen; and
- (b) the highest point of the fence or privacy screen directly above the position where the measurement of grade is taken.

630.1.14 Interior lot - defined

“interior lot” means a lot other than a corner lot.

630.1.15 Inside side lot line - defined

“interior side lot line” means a lot line other than a front lot line, rear lot line, or exterior side lot line.

630.1.16 Interior side yard - defined

“interior side yard” means any yard extending from the front yard to the rear yard and from the side lot line of the lot to the nearest part of the main building on the lot other than an exterior side yard.

630.1.17 Lot line - defined

“lot line” means the line formed by the boundary of any lot.

630.1.18 Officer - defined

“officer” means any municipal law enforcement officer or by-law enforcement officer of the Corporation.

630.1.19 Owner - defined

“owner” means the registered owner, occupant or tenant of a property, or a person who, for the time being or permanently, is managing or receiving the rent from a property, whether on his/her own account or on account of an agent or trustee of any other person, or any one of the aforesaid.

630.1.20 Parking space - defined

“parking space” shall mean a parking space as defined by the Zoning By-law.

630.1.21 Privacy screen - defined

“privacy screen” means a visual barrier used to shield any part of a yard from view from any adjacent parcel of land or highway. Notwithstanding any other portion of this definition, a privacy screen shall not include:

- (a) self-supported hedges, trees, or other vegetation;
- (b) a building, trellis, arbor, pergola, arch, gazebo, or obelisk; or
- (c) anything 8 feet (2.44 metres) or less in height from grade unless such thing is a component or element that physically or visually combines with or appears to contribute to the use or purposes of the privacy screen whether attached thereto

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or self-supported.

630.1.22 Rear lot line - defined

“rear lot line” means the lot line farthest from and opposite to the front lot line or in the case of a triangular lot, shall be that point formed by the intersection of the side lot lines.

630.1.23 Rear yard - defined

“rear yard” means a yard extending across the full width of the lot between the rear lot line of the lot and the nearest part of the main building on the lot.

630.1.24 Swimming pool - defined

“swimming pool” means:

- (a) a structure that is designed and capable of holding a minimum of 0.91 metres (36 inches) or more of water, permanently or temporarily located outdoors either above or below the ground, or partly thereabove or therebelow, that is, or is designed to be, used or maintained for the purpose of swimming, wading, diving or bathing; and
- (b) a pool which is subject to the regulations made pursuant to the *Health Protection and Promotion Act*, as amended.

630.1.25 Yard - defined

“yard” means that part of a lot extending from a lot line into a lot to the nearest part of the main building on the lot and measured at right angles to the lot line.

630.1.26 Zoning By-law - defined

“Zoning By-law” means any by-law administered by the City passed pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13 or a predecessor or successor thereof, as may be amended from time to time.

630.1.27 Administrative Penalty By-law - defined

“Administrative Penalty By-law” means the Administrative Penalty By-law of the City, as amended from time to time, or any successor thereof.

630.1.28 Designated provision - defined

“designated provision” means any section of this Chapter designated in accordance with Article 17.

Article 2

FENCES - CONTRARY TO REGULATIONS

630.2.1 Prohibited

No person shall erect, construct or permit to be erected or constructed, any fence that does not comply with the provisions of this Chapter.

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630.2.2 Non-conforming fence - remove

No owner shall have, allow to remain, or fail to remove a fence that does not comply with the provisions of this Chapter.

630.2.3 Unsuitable material - poor workmanship - unsafe

No person shall erect, construct, maintain, have, own, allow to remain, fail to remove, or permit or cause to be erected, maintained, or constructed any fence that has:

- (a) been constructed or partially constructed of materials that are not suitable or sufficient for the purpose for which they have been used;
- (b) been constructed with poor workmanship, or
- (c) not been maintained in a safe manner.

630.2.4 Fence posts - caps - maximum height

Notwithstanding the maximum fence heights set out in sections 630.4.1, 630.5.1, and 630.6.1, fence posts and/or fence post caps may exceed those maximum heights by an additional 4 inches (0.10 metres) provided they are not within a corner visibility triangle or driveway visibility triangle.

630.2.5 Fence - on decks - height requirements

Notwithstanding the maximum fence heights set out in Sections 630.4.1, 630.5.1, and 630.6.1, a fence built on, around, or in conjunction with a deck or porch may exceed these maximum heights to the extent required by the Ontario Building Code, Ontario Regulation 350/06 or any other legislation.

Article 3 VISIBILITY

630.3.1 Obstruction - prohibited

Notwithstanding any of the regulations set out in this Chapter, no person shall erect, construct or permit to be erected or constructed a fence that, in the opinion of the Corporation's Director, Transportation Planning:

- (a) obstructs pedestrian or vehicular traffic; or
- (b) obscures clear visibility of normal approaching pedestrian or vehicular traffic.

Article 4 FENCES ON INTERIOR LOTS

630.4.1 Height - location

A fence located on an interior lot shall conform to the following regulations:

- (a) a fence within the front yard shall not exceed a height of 0.91 metres (3 feet);
- (b) a fence within any rear yard or interior side yard shall not exceed a height of 2.44 metres (8 feet);
- (c) no fence shall block access to a parking space as required by the Zoning By-law

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unless such fence is constructed with a gate at least 2.59 metres (8.5 feet) wide giving access to such parking space.

Article 5 FENCES ON CORNER LOTS

630.5.1 Height - location

Every fence on a corner lot:

- (a) within a front yard shall have a maximum height of 0.91 metres (3 feet);
- (b) within an interior side yard shall have a maximum height of 2.44 metres (8 feet);
- (c) within an exterior side yard or rear yard shall have a maximum height of:
 - (i) 1.82 metres (6 feet) if less than 4.57 metres (15 feet) from the exterior side lot line;
 - (ii) 2.44 metres (8 feet) if at least 4.57 metres (15 feet) from the exterior side lot line;
- (d) within a corner visibility triangle or driveway visibility triangle shall have a maximum height of 0.91 metres (3 feet); and
- (e) shall not be located or constructed so as to block access to parking space required by the Zoning By-law unless such fence is constructed with a gate at least 2.59 metres (8.5 feet) wide giving access to such parking space.

Article 6 SALVAGE YARD

630.6.1 Enclosure - specifications

Notwithstanding any other provision herein, a person may erect, construct, or permit to be erected or constructed a fence to enclose a salvage yard provided that such fence shall:

- (a) be not less than 2.44 metres (8 feet) in height and not more than 3 metres (10 feet) in height;
- (b) be set back from all public rights-of-way a minimum of 7.62 metres (25 feet); and
- (c) if on a corner lot, not be within any corner visibility triangle or driveway visibility triangle.

Article 7 INDUSTRIAL AND COMMERCIAL LOTS

630.7.1 Enclosure - specifications

Notwithstanding clauses (a) and (b) of Section 630.4.1 and clause (a) of Section 630.5.1, a person may erect, construct, or permit to be erected or constructed a fence to enclose a front yard of a lot used primarily for industrial or commercial purposes provided that such fence shall:

- (a) be set back from the front lot line a minimum of 7.62 metres (25 feet); and

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- (b) if on a corner lot, not be within any corner visibility triangle or driveway visibility triangle.

Article 8 BARBED WIRE FENCES

630.8.1 Prohibited - exceptions

No fence, or portion thereof, shall be constructed of barbed wire, except:

- (a) where the fence is situated on land in an agricultural zone as designated by the Zoning By-law and used for the purposes of keeping livestock;
- (b) where the barbed wire is located on the top of a fence that is situated in a commercial or industrial zone, as designated by the Zoning By-law, provided that it projects inwards to the area enclosed by the fence; or
- (c) where the barbed wire is located on the top of a fence that has been erected for security reasons around any recreational, operational or storage facility owned, operated or maintained by the Corporation.

Article 9 ELECTRIC FENCES

630.9.1 Prohibited - exceptions

Any fence equipped with a device for transmitting an electric current thereon or therethrough, must comply will all applicable laws and regulations.

Article 10 FENCES ON CITY PROPERTY

630.10.1 Prohibited - exception

No fence shall be located or allowed to remain on property of the Corporation unless:

- (a) such fence conforms to all requirements as prescribed herein;
- (b) where the fence is not being installed by the Corporation, its employees, or agents, written permission of the Corporation has been obtained.

630.10.2 Permission - received - conditions

Where a person obtains written permission of the Corporation to install a fence on Corporation property, such permission is conditional upon the person:

- (a) meeting the requirements of this Chapter respecting the fence;
- (b) agreeing to remove the fence from property of the Corporation at their own expense within 10 days after the sending by registered mail of written notice to do so by the Corporation to the address last known to the Corporation;
- (c) agreeing that if they fail to remove the fencing when the Corporation has sent notice to do so, that the Corporation may remove the fencing at that person's expense and shall be entitled to dispose of any materials removed from the Corporation's property at the expense of that person: and
- (d) producing a copy of such written permission upon the request of an officer.

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Article 11 SWIMMING POOLS

630.11.1 Enclosure - required

No person shall own, have or maintain a swimming pool unless such pool or the land or a part of the land on which such pool is located is fenced or enclosed in accordance with the provisions set out in Sections 630.11.2 through 630.11.7, inclusive.

630.11.2 Enclosure - defined

“enclosure” means, provided that the same does not facilitate access to the pool by climbing:

- (a) a dwelling house, building or accessory building; and
- (b) the walls, including decks and guardrails, above grade of a swimming pool, provided that any access ladders or stairs thereto are locked unless a responsible adult is present and supervising the swimming pool.

630.11.3 Minimum height

Every fence or enclosure shall be not less than 1.52 metres (5 feet) in height above grade and shall comply with the maximum height requirements prescribed herein or in the Zoning By-law.

630.11.4 Construction - means of entry

Every fence enclosing a swimming pool shall be constructed so that:

- (a) except as set out in Section 630.11.4(b), the fence does not facilitate easy access to the swimming pool and meets the following requirements to render it less climbable:
 - (i) the space between the bottom of the fence and the grade does not exceed 4 inches (0.10 metres);
 - (ii) either the vertical distance between any structural components of the fence that run horizontally throughout the fence shall be at least 3 feet (0.91 metres) apart or the space between any structural components of the fence that run vertically shall not be more than 1.5 inches (0.04 metres) apart; and
 - (iii) the fence is situated at least 1 metre (3.28 feet) away from any fence that does not meet the provisions of Section 630.11.4(a)(i) and (ii) or, where located within 1 metre (3.28 feet) of a fence that does not meet those provisions, the fence is 8 feet (2.44 metres) in height. For the purposes of Section 630.11.4(a)(iii) only, a fence may range between 7 feet 10 inches (2.39 metres) and 8 feet (2.44 metres) in height and still have the benefit of being counted as 8 feet (2.44 metres) in height.
- (b) for chain link fencing installed after September 21, 1992, the maximum size of the opening of the chain link shall not exceed 38 millimetres (1-1/2 inches); and
- (c) it has, as the only means of entry to the swimming pool, gates or doors which shall be:

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- (i) not less than 1.52 metres (5 feet) in height above grade/measured from the exterior side of the fence;
- (ii) supported on substantial hinges; and
- (iii) equipped with a locking device.

630.11.5 Gate - door - outside - locked

No gate or door to the swimming pool area which may be opened from the outside thereof shall be left unlocked unless a responsible adult is present and supervising the swimming pool.

630.11.6 All pools - included

The provisions of this Article with regard to fences shall apply to all swimming pools regardless of the date of construction of such swimming pools.

630.11.7 Hot tub - exemption - conditions

Despite the provisions of Section 630.11.6, a structure known as a "hot tub" shall be exempted from the provisions of this Section provided that it is adequately secured by a cover equipped with a locking device, which cover shall be kept locked in place over the tub when the tub is not in use.

630.11.8 Chain link - exceeding 38 mm (1-1/2") - replaced

For every swimming pool constructed after September 21, 1992, existing chain link fencing exceeding the 38 millimetres (1-1/2 inches) dimension, shall be replaced to meet the requirements of Section 630.11.4 or a new enclosure installed to satisfy the requirements of Section 630.11.4.

630.11.9 Construction - access from pre-existing structure

Every fence enclosing a swimming pool shall be constructed so as not to facilitate easy access into the enclosed area from any pre-existing structure or fixture on neighbouring property.

630.11.10 Movable object - facilitating climbing - prohibited

No person shall place or lean any moveable object against or near the exterior of a fence enclosing a swimming pool in a manner that facilitates the climbing of such fence.

630.11.11 Water prohibited - unless permit issued - enclosed

No property owner shall place water or permit water to be placed or to accumulate in a swimming pool on their property unless:

- (a) they have applied for and obtained a pool enclosure permit; and
- (b) the pool is enclosed as required herein.

630.11.12 Water use - pool liner setting - restriction

Notwithstanding Section 630.11.11, provided a pool enclosure permit has been applied for, a person may place up to 35 inches (0.89 metres) of water in a pool for the purpose of setting the pool liner for a reasonable amount of time until final inspections for the

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pool enclosure permit have been completed and signed off.

630.11.13 Exception - existing - prior to enactment

Section 630.11.11(a) shall not apply in situations where an owner can show that a pool was installed or set up before June 25, 2012.

Article 12 PRIVACY SCREEN

630.12.1 Erection - maintenance - non-comply - prohibited

No person shall erect, construct, maintain, have, own, allow to remain, fail to remove, or permit or cause to be erected, maintained, or constructed a privacy screen on any land if it does not comply with all of the provisions contained in Section 630.12.2.

630.12.2 Requirements - set out

A privacy screen shall comply with the following regulations:

- (a) the privacy screen shall be placed on land that is zoned and being lawfully used for residential or commercial purposes;
- (b) the privacy screen shall be located in a side yard or a rear yard;
- (c) the privacy screen shall be located a minimum of 5.7 metres (18.70 feet) from an exterior side lot line;
- (d) the privacy screen shall be located a minimum of 1.2 metres (3.94 feet) from an interior side lot line;
- (e) the privacy screen shall be located a minimum of 1.2 metres (3.94 feet) from the rear lot line;
- (f) where the area of a lot is less than 0.33 acres (0.13 hectares), the total length of a privacy screen or where more than one privacy screen is installed the total combined length of all privacy screens on the lot shall not exceed 40 feet (12.19 metres) in length;
- (g) where the area of a lot equals or exceeds 0.33 acres (0.13 hectares), the total length of a privacy screen or where more than one privacy screen is installed the total combined length of all privacy screens on the lot shall not exceed 80 feet (24.38 metres) in length;
- (h) no portion of the privacy screen shall exceed 10 feet (3.05 metres) in height above grade;
- (i) the privacy screen shall not be constructed within a corner visibility triangle or a driveway visibility triangle;
- (j) any necessary building permit for the privacy screen shall be applied for and obtained in a timely manner;
- (k) the privacy screen shall be constructed of materials that are suitable and sufficient for the purpose for which they have been used;
- (l) the privacy screen shall be constructed with good workmanship; and
- (m) the privacy screen shall be maintained in a safe manner.

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Article 13 VARIANCES

- 630.13.1** Upon application and payment of the prescribed fee determined from time to time by Council, the City's Director of Planning or designate may grant variances from the requirements of this Chapter upon such terms as are reasonable where there are no objections from the community.
- 630.13.2** Written notice of a request for a fence by-law variance shall be provided to all abutting property owners with the opportunity to comment. In the case of a variance request for a fence in a street flanking yard, written notice shall be provided to all owners within 30 metres of the applicant's property with the opportunity to comment.
- 630.13.3** In the case of any objections from the community, staff shall attempt to address the concerns or seek a compromise. If the community concern is not addressed successfully or if staff do not support the requested variance, community members or the applicants may appeal the matter and/or the staff decision to Council.

Article 14 PUBLIC USE

630.14.1 Substantial compliance - visibility

Notwithstanding anything contained in this Chapter, the City, the Regional Municipality of Waterloo, any local board as defined in the Municipal Affairs Act, the Government of Canada, the Government of Ontario, including the Hydro One Networks Inc., Kitchener-Wilmot Hydro Inc. or any such other local delegate, and any telecommunications company may, for public service purposes, construct or erect any fence on its lands within the City. Provided, however, that the said fence shall be in substantial compliance with the regulations prescribed heretofore in this Chapter to the maximum extent possible and provided that said fence fully complies with the provisions of Section 630.3.1 hereof.

Article 15 CONDITIONS

630.15.1 Development - redevelopment

Notwithstanding any other provision herein, a fence or privacy screen which is required and approved as a condition of development or redevelopment of land, or required by another by-law or any law, statute, or regulation of a regional, provincial, or federal authority having jurisdiction shall be deemed to be in conformance with the provisions of this Chapter to the extent that any conflict with the provisions of this Chapter is necessary for compliance with such requirements.

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Article 16 GENERAL

630.16.1 Avon Road - exception

Notwithstanding any other provisions herein contained, a fence not exceeding 1.2 metres (4 feet) in height may be erected between Avon Road and the building line for Avon Road and behind the rear wall of the building located on Lot 2, Registered Plan 712, municipally known as 867 Frederick Street.

Article 17 ENFORCEMENT

630.17.1 Fine - for contravention

Every person who contravenes any provision of this Chapter is guilty of an offence and is liable, upon conviction, to a fine not exceeding Five Thousand Dollars (\$5,000), exclusive of costs, for each offence, recoverable under the *Provincial Offences Act*.

630.17.2 Inspection - right of entry

An officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not this Chapter is being complied with. Entry to any place actually being used as a dwelling unit shall be subject to the requirements of the *Municipal Act, 2001*.

630.17.3 Inspection - information - documents - testing

For the purposes of an inspection pursuant to this Chapter, an Officer may:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

630.17.4 Non-payment

If a person fails to do a matter or thing, including comply with an Order under this Chapter, it shall be done at the expense of the person directed or required to do it and the Corporation may recover the costs by action or by adding them to the tax roll and collecting them in the same manner as property taxes. Where a person has not paid the administrative penalty within 30 days in accordance with the Administrative Penalty By-law, the City may add the administrative penalty to the tax roll for any property for which the owner or owners are responsible for paying the administrative penalty under Section 630.17.6.

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630.17.5 Administrative Penalty By-law - application

Articles 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Chapter are hereby designated as parts of this Chapter to which the Administrative Penalty 98-72 applies.

630.17.6 Administrative Penalty By-law - notice of contravention

Any person shall be liable to pay an administrative penalty and any administrative fees in accordance with the Administrative Penalty By-law, upon the issuance of a penalty notice for a contravention of this Chapter.

630.17.7 Provincial Offences Act

The Provincial Offences Act continues to apply to the provisions of this by-law in addition to the designated provisions of this by-law.

Article 18 SEVERABILITY

630.18.1 Provision - severable

It is hereby declared that each and every of the foregoing provisions of this Chapter is severable and that, if any provision of this Chapter should for any reason be declared invalid by any court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

By-law 88-5, 11 January 1988; By-law 88-138, 18 July 1988; By-law 92-213, 21 September 1992; By-law 92-229, 13 October 1992; By-law 95-97, 19 June 1995; By-law 98-72, 15 June 1998; By-law 2001-242, 10 December 2001; By-law 2002-211, 4 November 2002; By-law 2006-155, 4 July 2006; By-law 2007-166, 17 September 2007; By-law 2011-047, 28 March 2011; By-law 2011-065, 9 May 2011; By-law 2012-093, 25 June, 2012; By-law 2019-084, 24 June 2019; By-law 2019-142, 16 December 2019; By-law 2024-015, 22 January 2024.