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City of Montréal Publishes New Draft of Bylaw 20-20-20 on Social, Affordable and Family Housing

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Update: On January 26, 2021, the City of Montréal adopted the second version of the *Bylaw to improve the supply of social, affordable and family housing*. The bylaw will come into force on April 1, 2021.

The City of Montréal (City) has published the second version of the draft bylaw known as “20-20-20” to promote the construction of social, affordable and family housing in real estate development projects in the City. The real estate industry was eagerly awaiting this new version of the *Bylaw to improve the supply of social, affordable and family housing* (bylaw), which was initially presented in June 2019 and amended, as now published on November 5, 2020, following the recommendations of the *Office de consultation publique de Montréal*.

Key Concepts

For the purposes of the bylaw, housing is defined as follows:

- **Social housing** means housing that qualifies for or receives a subsidy under a municipal or provincial social, co-operative and community-based housing subsidy program.
- **Affordable housing** means housing whose sale price or rent does not exceed 90% of the established market value, prior to the transfer or rental, by a certified appraiser appointed by the City at the owner's expense.
- **Family housing** means housing that has a minimum of three bedrooms (as defined in the bylaw) and is at least 86 m² (925.7 ft²) in Sector 1 (Downtown) or Sectors 2 and 3 or at least 96 m² (1,033.33 ft²) in all other sectors shown on the attached [plan](#) (in French only). This minimum area is calculated from the exterior face of the exterior walls.

Scope of Application

The bylaw will apply in all City boroughs and to all residential projects of 450 m² (4,843 ft²) or more, subject to a few exceptions listed in the bylaw.

Agreement with the City

A building permit for a residential project greater than 450 m² will be conditional upon the owner entering into an agreement with the City and the City obtaining certain guarantees as set out in the agreement. In the case of a multi-phase project, a master agreement will be required for the entire project prior to the issuance of the first building permit and will remain in effect until the project is completed.

The agreement will be amended to reflect any change in the residential area, the number of dwellings or the location of a residential project in a manner not contemplated in the agreement. In the event of an amendment, any financial contribution already paid will not be reimbursed and any immovable already transferred to the City will not be reassigned to the owner.

Methods of Contribution

Social Housing

For a residential project of 450 m² or more, the social housing contribution will be in the form of:

- a transfer to the City of an immovable described below, in exchange for a financial contribution by the City to the owner of the immovable:¹
 - land exempt from construction that allows for the construction of at least 20% of the residential area of the private project; or
 - turnkey project including a building containing social housing with a residential area of at least 20% of the residential area of the private project;
 - the immovable transferred must be located within 2 km of the residential project and, if the immovable transferred is not contiguous to the project, the requirements increase to 22%. If the project is located in whole or in part within Sector 1 (Downtown), the immovable may be located anywhere in this sector;
- a financial contribution calculated according to the scales set out in the bylaw, based on the surface area and location of the project; or
- a combination of both.

Affordable Housing

The bylaw identifies affordable housing zones.² These zones are located in areas of the boroughs of Saint-Laurent and Île-des-Sœurs that have recently been subject to a density increase authorized in the City's urban plan. New affordable housing zones will be added to the bylaw as such urban plan is amended to increase the residential density in a sector.

In these affordable housing areas, the contribution will consist of the following:

- the construction of affordable housing with at least 10% (in Affordable zone 1) or 20% (in Affordable zone 2) of the residential area of the project, as part of a program meeting certain objectives.³ At least 25% of the residential floor space of the affordable housing units constructed must be affordable family housing;
- the transfer to the City of an immovable consisting exclusively of rental housing units with a residential area of at least 10% (in Affordable zone 1) or 20% (in Affordable zone 2) of the residential area of the private project, for a financial consideration of 90% of the market value of the immovable as evaluated before the transfer by a certified appraiser appointed by the City;
- a financial contribution calculated according to the same terms and conditions as the financial contribution for affordable housing, but reduced by 50% when the project is located in Affordable zone 1; or
- a combination of both.

Outside affordable housing zones, only the residential area exceeding 4,500 m² of a project will be subject to a financial contribution, calculated according to a scale established by the bylaw, depending on the location of the project.

The housing units built or transferred must be located within 2 km of the residential project and, if these units are not contiguous to the project, the 10% or 20% requirements mentioned above will be increased by 2%. If the project is located in whole or in part within Sector 1 (Downtown), the housing units built or transferred may be located anywhere in this sector.

Family Housing

Projects of 50 or more dwellings will have to include 5% (in Sector 1, i.e. Downtown) or 10% (in other sectors, except sectors exempted by the bylaw) of family housing without price controls, in addition to the above-mentioned requirements for affordable family housing.

No financial contribution is possible for family housing. However, the bylaw allows these family dwellings to be built without price controls in another sector in another project located within a 2 km radius of the residential project. If the residential project is located in whole or in part within Sector 1 (Downtown), the family housing may be located anywhere in this sector.

The City has made available a tool to calculate the contributions payable under the bylaw, which can be found at: <https://montreal.ca/en/articles/diverse-metropolis-use-calculation-tool>.

Next Steps and Transitional Regime

A public consultation has been scheduled from November 18 to December 7.

The bylaw is expected to come into force on April 1, 2021.

The bylaw will not apply, subject to compliance with a number of conditions, to projects for which an agreement has already been signed with the City before the bylaw comes into force. The conditions differ depending on whether the agreement was signed before or after June 17, 2019. If the project includes several phases, only the phases covered by the agreement will be exempt. A careful analysis is therefore required with respect to existing agreements.

¹This compensation differs depending on the sector in which the immovable is located.

²See the attached [plans](#) (in French only).

³A program of a government, the City, one of their mandataries or the *Société d'habitation et de développement de Montréal*:

- reduce the buyer's contribution to the down payment to less than 5% of the sale price;
- maintain the affordability of the sale and resale price of homes over a period of at least 30 years; or
- for rental units, reduce the rental income of the entire building below the income potential established in the market value assessment or maintain rents at less than 80% of the median market rent, as long as such objective is maintained over a period of at least 20 years.

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