



BUILDING BY-LAW

NUMBER 1003

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CHAPTER 1

DECLARATORY, INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS

DIVISION 1 DECLARATORY PROVISIONS

SECTION 1 TITLE OF THE BY-LAW

This By-law bears the title “Building By-law No. 1003 of the Town of Hampstead”.

SECTION 2 INTERACTION OF THE BY-LAW

This By-law is an integral part of the urban planning By-laws and is thus interconnected with the other urban planning By-laws adopted by the Town under the *Act respecting Land use Planning and Development (c. A-19.1)*.

SECTION 3 INTEGRITY OF THE BY-LAW

The title page, preamble, table of contents and schedules are an integral part of the By-law.

SECTION 4 PURPOSE OF THE BY-LAW

This By-law aims to regulate buildings to control their quality and safety.

SECTION 5 REPEALED BY-LAWS

This By-law repeals and replaces in its entirety, for all intents and purposes, By-law 729 and its amendments, as well as any earlier By-laws and By-law provisions relating to construction.

This repeal does not affect proceedings instituted under the authority of the By-laws so repealed, up to final judgment and execution.

This repeal does not affect permits legally issued under the authority of the By-laws so repealed, nor the acquired rights from before the coming into force of this By-law.

SECTION 6 AREA SUBJECT TO THE BY-LAW

This By-law applies to the territory of the Town of Hampstead.

SECTION 7 PERSONS SUBJECT TO THE BY-LAW

All individuals and corporations under public or private law are subject to this By-law.

SECTION 8 ENFORCEABILITY

The Council is adopting this By-law in its entirety, chapter by chapter, division by division, section by section, clause by clause, paragraph by paragraph, subparagraph by subparagraph and subsection by subsection, so that should a chapter, division, section, clause, paragraph, subparagraph or subsection of this By-law be declared null and void by an authorized body, the remainder of the By-law shall continue to apply, insofar as possible.

SECTION 9 LAWS AND REGULATIONS

Nothing in this By-law shall be construed as absolving the obligation to comply with the laws and regulations of the provincial or federal government or other municipal By-laws.

SECTION 10 REFERENCES

Any reference in this By-law to another By-law, law or standard shall be open, meaning that it shall extend to any amendments made to such By-law, law or standard subsequent to the entry into force of this By-law.

SECTION 11 COMING INTO FORCE

This By-law shall come into force according to the law.

DIVISION 2 INTERPRETATIVE PROVISIONS

SECTION 12 PRINCIPLE OF INTERPRETATION

The text of the By-law should be interpreted in light of the provisions of the *Interpretation Act (c. I-16)*. Furthermore, headings, tables, sketches, diagrams, charts, symbols and other forms of expression contained in the By-law aside from the actual text are an integral part of the By-law for all intents and purposes. In the event of a contradiction between the headings, tables, sketches, diagrams, charts, symbols and other forms of expression and the actual text, the text shall prevail.

SECTION 13 UNITS OF MEASURE

All measures in this By-law are given in the International System of Units. Whenever there is a discrepancy between a number as written out in letters and its indication in numerals, the written number shall prevail. Furthermore, if there is a discrepancy between a measure given in International System (metric) units and Imperial units (feet, inches), the International System shall prevail.

SECTION 14 CONFLICTING PROVISIONS

Unless otherwise indicated, the following rules shall apply to this By-law:

1. In case of a discrepancy between the text and a title, the text shall prevail;
2. In case of a discrepancy between the text and any other form of expression, the text shall prevail;
3. In case of a discrepancy between data from a table and a chart, the data from the table shall prevail;
4. In case of a discrepancy between the French and English versions, the French version shall prevail.

SECTION 15 TERMINOLOGY

The words used in this By-law retain their customary meaning, with the exception of those words defined in the terminology section of the Permits and Certificates By-law.

DIVISION 3 ADMINISTRATIVE PROVISIONS

SECTION 16 APPLICATION OF THE BY-LAW

The application of this By-law is entrusted to any person duly authorized by the Council to act in that capacity, hereinafter referred to as the "designated official". Otherwise, this responsibility rests with the director general of the Town.

SECTION 17 POWERS AND RESPONSIBILITIES OF THE DESIGNATED OFFICIAL

The powers and responsibilities of the designated official are set out in the Permits and Certificates By-law.

SECTION 18 OBLIGATION OF AN OWNER, OCCUPANT OR APPLICANT

The obligations of an owner, occupant or applicant are stated in the Permits and Certificates By-law.

SECTION 19 OFFENCES AND PENALTIES

Any person who contravenes or allows the violation of a provision of this By-law is guilty of an offence and, for each day that the offence continues, is liable to a fine of:

1. ***A minimum of \$1000 and up to \$2000 if the offender is an individual, or a minimum of \$2000 and up to \$4000 if the offender is a corporation, for a first offence;***
2. ***For subsequent offences, a minimum of \$2000 and up to \$4000 if the offender is an individual, or a minimum of \$4000 and up to \$8000 if the offender is a corporation.***

(1003-1, Sec. 1, 1/16/2018)

Failure to pay the fine imposed and related costs shall render the offender liable to a seizure of available assets.

If the offence is continuous, this continuity shall constitute, day by day, a separate offence, and the penalty decreed for that offence may be imposed for each day that the offence continues.

Any person who fails to comply with an order or notice from the relevant authority or allows an offence to continue shall be in breach of this By-law.

In all cases in which a fine or a fine plus related costs has been incurred by a corporation, association or society recognized by law, such fine or fine plus related costs may be levied by the seizure and sale of the goods and effects of said corporation, association or society in virtue of a writ of execution issued by the municipal court.

The seizure and sale of goods and effects shall be conducted in the manner prescribed for seizure and execution in civil matters.

In order to enforce this By-law, the Town may resort to any other remedy, whether civil or legal in nature, concurrently or alternatively with the remedies provided for under this By-law and, without limitation, the Town may resort to all other remedies provided for under Sections 227 to 233 of the *Act respecting Land use Planning and Development (c. A-19.1)*.

CHAPTER 2 BUILDING STANDARDS

DIVISION 1 CODES AND REGULATIONS

SECTION 20 CONSTRUCTION CODE

The “National Building Code of Canada 2010”, published on 29 November 2010 by the Canadian Commission on Building and Fire Codes of the National Research Council of Canada (publication numbers CNRC 53301F in French and NRCC 53301 in English), as adopted and amended by decree 347-2015 of 15 April 2015 (c. B-1.1, r.2), also known as the “Quebec Construction Code, Chapter I - Building, and National Building Code of Canada 2010 (amended)” (publication numbers CNRC 56189F in French and NRCC 56189 in English) is an integral part of this By-law. The provisions of the Code are subject to the specific provisions of this By-law and deemed to be part of the present By-law as if herein set forth at length.

Any amendments or corrections made to the “Quebec Construction Code, Chapter I - Building, and National Building Code of Canada 2010 (amended)” by the National Research Council of Canada (NRC) or the government of Quebec shall come into force on the date determined by a resolution of the Town Council.

This By-law applies to all buildings exempt from Chapter 1 of the Quebec Construction Code by Article 1.04 of the Construction Code (c. B-1.1, r.2).

SECTION 21 COMPLIANCE WITH THE CODE

Any proposed building must comply with the provisions of the current version of the *Quebec Construction Code*. An existing building whose use is changed must be made to comply with the provisions of the current version of the *Quebec Construction Code*.

SECTION 22 SAFETY

Work on a building must never have the effect of reducing the existing health and safety level of the building below the requirements of the *Quebec Construction Code* and municipal By-laws.

SECTION 23 PLUMBING CODE

Quebec’s plumbing regulations are set out in Chapter III of the Construction Code and Chapter I of the Safety Code. Chapter III of the Construction Code came into force on 1 October 2002 and comprises the National Plumbing Code of Canada 2010 and amendments made for the province of Quebec.

DIVISION 2 BUILDING ARCHITECTURE

SECTION 24 FOUNDATIONS

All main buildings, building expansions or portions of buildings with habitable rooms must be built on poured concrete foundations, appropriately strong and sufficiently reinforced for the soil conditions, as determined by a structural engineer who is a member of the *Ordre des ingénieurs du Québec*.

The designated official must be notified so that he or she can inspect the foundations after they have been painted, coated or sealed but prior to backfilling.

SECTION 25 STRUCTURES ALLOWED ON STILTS AND PILES

Notwithstanding any provisions to the contrary, the following structures may be installed on stilts or piles:

1. Accessory buildings;
2. Galleries, front porches, terraces and other structures;
3. Verandas, solariums and other such structures.

SECTION 26 STILTS AND PILES

Stilts and piles are authorized under the following conditions:

1. Stilts and piles must be concrete or steel, be designed for this purpose and comply with the *Quebec Construction Code*;
2. Piles must be factory-made, and the stilts and piles technology used must comply with the *National Building Code* or be accredited by the Bureau de normalisation du Québec or the Standards Council of Canada;
3. Piles must extend down to a frost-free ground depth and be fitted with a sheath of polyethylene or other equivalent material, unless there is an opinion to the contrary signed by an engineer. When it is impossible to reach a sufficient depth due to the depth of the rock, specific measures approved by an engineer must be taken to ensure stability and counter the frost effects.

SECTION 27 BASEMENT FLOOR LEVEL ELEVATION

A basement floor connected directly to the public sewer via a floor drain and the house drain must be sufficiently higher than the elevation of the public sewer to avoid sewer backflow.

SECTION 28 EXTERIOR MASONRY WALLS

All exterior walls of a residential building must have a minimum thickness of 76.2 millimetres of masonry, except in the following cases:

1. *Walls of bay windows, verandas, and solariums;*
2. *Walls located above the lower roof line when the base of the wall does not rest on foundation walls;*
3. *Vertical extensions on existing walls.*

(1003-3, Sec. 1, 4/1/2019)

SECTION 29 COMMON WALLS

In addition to the requirements of the *Construction Code*, the space between two attached buildings must contain a common wall built as a firewall. The firewall must meet the following requirements:

1. Have a fire resistance rating of at least two hours;
2. Be entirely built of masonry, with a nominal length of 200 millimetres;
3. Rest on the concrete foundation wall and extend up to 300 millimetres above the roof's exterior membrane.

SECTION 30 WALLS BUILT NEAR LANDSITE LINES

When a residential building is built or extended to the edge or to within 0.6 metres of the edge of the landsite, the wall at the edge must meet the following requirements:

1. Have a fire resistance rating of at least one hour;
2. Have an exterior cladding entirely built of masonry, with a nominal thickness of 76.2 millimetres;
3. Rest on the foundation wall and extend up to 300 millimetres above the roof's exterior membrane.

Notwithstanding the requirements of the first subparagraph, when a residential building is built or extended to within 1 metre of the edge of the landsite, the wall must meet the following requirements:

1. Have a fire resistance rating of at least one hour;
2. Have an exterior cladding entirely built of masonry, with a nominal thickness of 76.2 millimetres.

The requirements of Section 3.1.10 of the Code that do not conflict with the requirements of this section apply to the construction of the above-mentioned walls.

SECTION 31 INSULATION MATERIALS

The use of sawdust and straw as insulation material is prohibited for any type of building.

SECTION 32 MINIMUM FENESTRATION

Any dwelling or room for sleeping must meet the standards in the following table:

Table 1 – Minimum window area by location

Location	Unobstructed window area	
	Without electric lighting	With electric lighting
Laundry room, basement playroom, unfinished basement	5% of the surface	Not required
Bedroom and other unmentioned finished room	10% of the surface	10% of the surface
Kitchen, kitchenette	10% of the surface	Not required
Living room, dining room, common room	10% of the surface	10% of the surface
Toilet	0.37 m ²	Not required

SECTION 33 MECHANICAL VENTILATION

All dwellings must meet the mechanical ventilation standards dictated by the *Quebec Construction Code*.

SECTION 34 HABITABLE ROOMS

A habitable room must have a minimum height of 2.13 metres.

SECTION 35 SOLID-FUEL-BURNING APPLIANCES

Installing, replacing, using or permitting the use of a solid-fuel-burning appliance such as a fireplace insert, wood stove, central heating furnace or any similar heating device, including a pellet stove or any exterior solid fuel-burning appliance that emits combustion products into the air, is prohibited. However, regular indoor ^(*) fireplace and outdoor fire pits used for recreational use are authorised.

(1003-1, Sec. 2, par. a, 1/16/2018), (1003-2, art. 1, 12/3/2018)*

Notwithstanding the requirements of the first clause, the installation or use of an ^(*) appliance that is EPA or CAN/CSA-B415.1 certified and emits no more than 2.5 g/h (grams per hour) of fine particles into the atmosphere is permitted.

(1003-1, Sec. 2, par. b, 1/16/2018)*

The preceding clauses in the present section do not apply for barbecues.

(1003-1, Sec. 2, par. c, 1/16/2018)

Using or permitting the use of any fuel-burning appliance, including EPA or CAN/CSA-B415.1 certified pellet-burning appliances, is prohibited when a smog warning issued by Environment Canada is in effect for all or part of the Montréal region.

SECTION 36 CHIMNEY

A chimney or smokestack must be covered with an exterior cladding material that is authorized in the Zoning By-law.

A chimney that is no longer connected to a heating device must be condemned by sealing the top end.

DIVISION 3 SUSTAINABLE BUILDING METHODS

SECTION 37 GREEN OR PLANTED ROOFS

Green or planted roofs, both extensive and intensive, are permitted under the following conditions:

1. They must be designed by an architect and a structural engineer;
2. They must be located on a flat roof;
3. The underlying roofing must be a waterproof membrane, not a built-up roof (tar and gravel);
4. A rooftop access must be provided, inside or outside the building, with the outside access to the roof located in the rear yard;
5. Drainage must take place below the growth medium and must not allow the medium or any other substance to migrate to the roof drains.

A maintenance program that complies with best practice, prepared by a landscape architect, architect or engineer with relevant expertise, must be in place to keep the roof safe and properly maintained.

DIVISION 4 BACKWATER VALVES AND CONNECTION TO SEWER NETWORKS

SECTION 38 BACKWATER VALVES

The installation of backwater valves is required under the following conditions:

1. A backwater valve must be installed in accordance with the current version of the *Quebec Plumbing Code* and the provisions of this By-law;
2. Backwater valves must be installed on all connections receiving rainwater from any outside surfaces adjacent to the building that are lower than the neighbouring landsite, such as sloping driveways, exterior entranceways and French drains;
3. Backwater valves must be designed to provide automatic sealed closure, such that they remain closed at all times except to allow flow from the plumbing system to the public or private sewer, not the reverse;
4. The inside of a backwater valve must be smooth and free from obstructions that could affect the flow of wastewater;
5. Backwater valves and supporting surfaces must be made of corrosion-resistant metal or PVC;
6. Backwater valves must be kept accessible and in good working condition by the owner at all times;
7. Backwater valves cannot be installed on the building's main drains or sewer branches within the meaning of the *Plumbing Code*;
8. In the event that the building owner fails to install backwater valves or keep them in good working condition, the Town may not be held liable for damage caused to the building or its contents due to flooding caused by the backflow of sewer water.

SECTION 39 CONNECTION TO THE SANITARY AND STORM SEWER SYSTEMS

Only one sewer connection is allowed per landsite except in the case of multifamily buildings. Connecting a building roof drain or gutter system to the sewer system is strictly prohibited.

DIVISION 5 STRUCTURE FORTIFICATION AND PROTECTION

SECTION 40 PROHIBITED BUILDING FORTIFICATION MATERIALS AND WORKS

Buildings may not be built or modified to fortify all or part of a building against firearm projectiles, explosives or other types of assault, except for all or part of buildings built to house uses or activities related to municipal, governmental and para-governmental establishments or any other establishment open to the public.

The following are also prohibited, without limitation:

1. Installation and maintenance of steel guard plates, whether openwork or opaque, inside or outside a building;
2. Installation and maintenance of protective shutters made of bulletproof or other materials resistant to explosives or other direct hits around the openings of buildings;
3. Installation and maintenance of an armoured or specially reinforced door to resist the impact of firearm projectiles;
4. Installation and maintenance of metal screens or bars at any entranceway, doors or windows, except for basement windows in the following cases:
 - a. A room other than a bedroom;
 - b. A bedroom provided it has a second emergency exit;
5. Installation of interior or exterior building walls or parts of walls or an observation post made of reinforced or non-reinforced concrete or specially reinforced to resist the impact of firearm projectiles;
6. Electrification of a fence;
7. A camera or image capture device or other system designed for night-time surveillance may only be installed and used on the outside of a building to capture scenes from the main building or landsite. Capturing images from adjacent properties is prohibited.

DIVISION 6 CONSTRUCTION AND DEMOLITION SITE

SECTION 41 GENERAL

Construction and demolition work of a hazardous nature must meet the following conditions, without limitation:

1. The construction site or any open excavation must be enclosed by an opaque, forest green wood fence or a metal fence covered with forest green canvas; the fence must be at least 1.83 metres high;
2. With the exception of the authorized openings providing access to the site, construction site fences must be free of openings;
3. Openings for site access must have a gate that must:
 - a. Remain closed and locked when the site is left unattended;
 - b. Remain in place until the end of the construction or demolition work;
4. Work must never generate dust or any other form of waste or deposit that can affect neighbouring landsites;
5. Once the structure has been destroyed or demolished, the landsite must be cleared and thoroughly cleaned within 10 days;
6. The relevant authority may request additional measures to ensure public and site safety.

SECTION 42 OBLIGATION TO ACQUIRE A CERTIFICATE OF AUTHORIZATION TO USE THE PUBLIC RIGHT-OF-WAY

A certificate of authorization is required to use a public right-of-way. A certificate of authorization will only be issued if the certificate holder is liable for any damage to persons or property as a result of the occupancy, take up the defence of the Town and holds it harmless in the event of any claim or lawsuit.

SECTION 43 USE OF THE PUBLIC RIGHT-OF-WAY

A certificate of authorization to use the public right-of-way issued by the relevant authority only allows the public right-of-way to be used to conduct work under a building permit or certificate of authorization. Authorization to use the public right-of-way will only be given under the following conditions:

1. The Town must be notified at least 72 hours prior to the disruption of traffic with the time period affected;
2. Disruption may be allowed between 7:00 a.m. and 9:00 p.m., from Monday to Friday. At any other time, thoroughfares must be left clean and free from materials, equipment and vehicles;
3. A detour or safe passage must be created for pedestrians;
4. The use of the public right-of-way must be announced by road signs that comply with relevant regulations and remain in place as long as the thoroughfare is blocked. The space occupied must be fenced off by trestles or similar devices designed to protect the public;
5. A road safety plan must be submitted, where applicable.

Additional conditions may be imposed depending on the case and the right-of-way being used.

SECTION 44 USE OF WASTE CONTAINERS

The use of waste containers is allowed for the duration of the work, under the following conditions:

1. The waste container must be located on private property, near the main building, at least 1 metre from the sidewalk;
2. A waste container may be placed in the public right-of-way under the conditions set out in Sections 41 and 42 of this By-law.

A waste container may never be placed directly on the ground.

SECTION 45 STORAGE OF GRANULAR MATERIALS AND DEBRIS

During construction and demolition, debris and rubble must be sprayed to control dust.

In addition, debris and rubble must be covered with a tarpaulin that must be weighed down so that it does not move around in the wind and must be held in place throughout the construction period to avoid contamination or leaching of the material.

DIVISION 7 HAZARDOUS, DAMAGED, UNOCCUPIED OR UNFINISHED STRUCTURES

SECTION 46 HAZARDOUS STRUCTURES AND DEMOLITION

When a building or structure is in a hazardous state because of work, fire or lack of solidity or for any other reason, the owner must take all necessary measures to remedy the hazardous state, including demolishing all or part of the building or structure.

SECTION 47 OBLIGATION TO SECURE HAZARDOUS BUILDINGS

The Town must be notified of any building that is unfinished, unoccupied, burnt or destroyed or has become hazardous within 48 hours of its identification. The site must be suitably closed in accordance with Section 40, and openings must be barricaded.

SECTION 48 DEMOLITION AND COMPLIANCE WITH CURRENT STANDARDS

Reconstruction of a building that has been completely destroyed or lost at least half its value as a result of a fire or for some other reason must be carried out in accordance with the applicable codes and regulations.

SECTION 49 EXPOSED FOUNDATIONS

To prevent accidents, holes resulting from an exposed foundation must be backfilled and graded within three months of being identified.

Notwithstanding the first clause, any hole constituting a hazard must be fenced off in accordance with the first paragraph of the first clause of Section 41.

SECTION 50 WORK CARRIED OUT BY THE RELEVANT AUTHORITY

In situations of non-compliance with Sections 46 to 49, the relevant authority may conduct the work and take all necessary measures to ensure public safety, including demolition. The cost of the work carried out by the relevant authority may be recovered from the owner and constitutes a prior claim on the building on which it was carried out, as provided for by law. The cost is secured by a legal hypothec on the building.

DIVISION 8 CONSTRUCTION SITE MAINTENANCE AND MANAGEMENT

SECTION 51 CLEANLINESS OF THE CONSTRUCTION SITE

The construction site must remain clean and safe for the duration of the work.

SECTION 52 WASTE MANAGEMENT

Burning or burying unused or residual material from construction or demolition or any other waste on site is prohibited.

The accumulation of waste or residual material from site demolition, construction or renovation or any other source is prohibited.

SECTION 53 CHEMICAL TOILET OR TEMPORARY TOILET

These provisions apply to the use of a chemical toilet or temporary toilet used in a building under construction, on a construction site or temporarily as authorized by the Zoning By-law.

The chemical toilet or temporary toilet may be installed in a side or rear yard and must be fully concealed so as not to be visible from the street. The minimum distance to the edge of the landsite is 1.5 metres.

The toilet must be properly maintained, kept in good condition and emptied regularly as required by usage. It must not, under any circumstances, cause inconveniences such as smells or leaks.

It is authorized during the authorized period of work or activity.

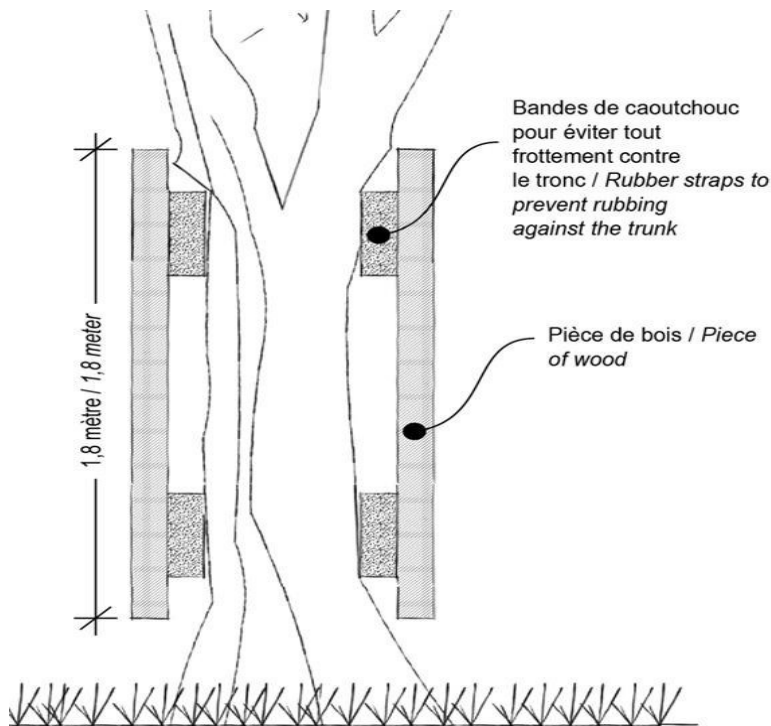
SECTION 54 PROTECTION OF TREES ON THE SITE

During all types of work, all trees, both public and private, must be protected, and branches prone to damage must be protected or pruned. Any branches damaged during the work despite these measures must be cut promptly.

Trees must be protected by one of the following methods:

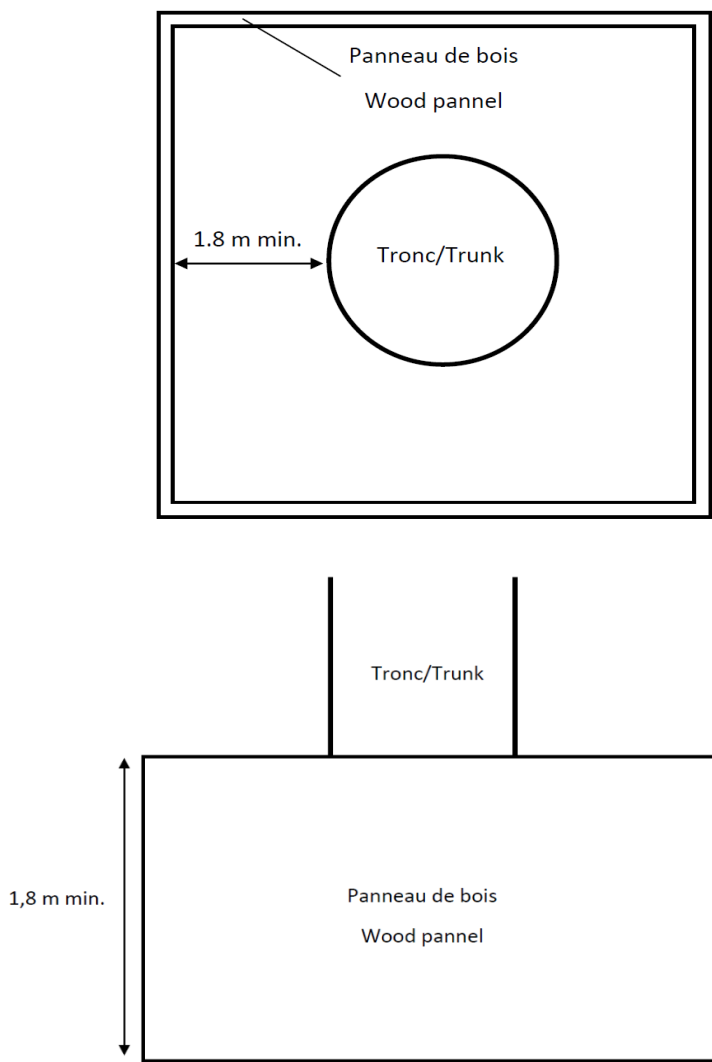
- a. With a screen consisting of wooden planks at least 15 millimetres (5/8") thick and at least 1.8 metres long, tied to the trunk with a metal wire and separated from the trunk by rubber straps at least 10 millimetres thick.***

Figure 1 – Croquis de protection d'un tronc d'arbre par madriers



b. With a box made of 4 wood panels at least 15 millimetres (5/8") thick and at least 1.8 metres high. The panels must be at least 1.8 metres away from the trunk. The box must be solidly fixed to the ground.

Figure 2 – Croquis de protection d'un tronc d'arbre par boîte (plan et élévation)



c. Any other method approved by the Town.

SECTION 55 REPLACING A TREE THAT HAS BEEN FELLED OR SERIOUSLY DAMAGED DURING CONSTRUCTION WORK

Any tree that has been felled or seriously damaged or that dies as a result of construction or demolition activities must be replaced by one or more trees with a diameter equivalent to that of the tree that is replaced.

SECTION 56 RESTORATION FOLLOWING CONSTRUCTION OR DEMOLITION WORK

At the end of construction or demolition work, machinery and residual materials must be removed within a maximum of 14 days. The landsite must also be restored to a clean state within the same period.

The use of construction materials, debris or waste for site grading is prohibited.