



TOWN OF MONTREAL WEST

BY-LAW N° 2009-009 – BY-LAW CONSOLIDATING THE SUBDIVISION BY-LAW OF THE TOWN OF MONTREAL WEST, MODIFYING VARIOUS PROVISIONS AND AMENDING OTHERS TO COMPLY WITH THE MODIFIED PLANNING PROGRAMME

September 25th, 2009

Prepared by:



PROVINCE OF QUEBEC
TOWN OF MONTREAL WEST

BY-LAW N° 2009-009

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SUBDIVISION BY-LAW OF THE TOWN
OF MONTREAL WEST, MODIFYING
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MODIFIED PLANNING PROGRAMME

NOTICE OF MOTION: AUGUST 11TH, 2009

ADOPTION: SEPTEMBER 25TH, 2009

COMING INTO FORCE: OCTOBER 31ST, 2009

By-law Modifications

By-law number	Coming into force

THE MUNICIPAL COUNCIL DECREES THE FOLLOWING:



TOWN OF MONTREAL WEST

SUBDIVISION BY-LAW N^o 2009-009

TABLE OF CONTENTS

Prepared by:



TABLE OF CONTENTS

TABLE OF CONTENTS

CHAPTER 1 : Declaratory, Administrative and Interpretative Provisions.....	1
Division 1.1 : Declaratory provisions	3
1.1.1 : Title of the By-Law	3
1.1.2 : Repeal	3
1.1.3 : Scope of the by-law and subject territory	3
1.1.4 : Incompatibility with other by-laws or laws	3
1.1.5 : Part-by-part adoption	3
Division 1.2 : Administrative provisions.....	4
1.2.1 : Administration and application of the by-law	4
1.2.2 : Powers of the designated official.....	4
1.2.3 : Subject interventions.....	4
1.2.4 : Infractions and penalties	4
Division 1.3 : Interpretative provisions	5
1.3.1 : Interpretation of provisions.....	5
1.3.2 : Numbering.....	5
1.3.3 : Terminology.....	5
CHAPTER 2 : Subdivision Standards and Specific Conditions	7
Division 2.1 : Preconditions for a cadastral operation.....	9
2.1.1 : Plan for a cadastral operation.....	9
2.1.2 : Easements.....	9
2.1.3 : Payment of municipal taxes	9
Division 2.2 : Provisions relating to the cession for parks, playgrounds or natural space	10
2.2.1 : General provisions	10
2.2.2 : Location of lots to cede.....	10
2.2.3 : Cadastral operations not subject to a subdivision permit	10
2.2.4 : Subject interventions– building permit.....	11
2.2.5 : Calculation rule	11
2.2.6 : Notarized contract	11
Division 2.3 : Provisions relating to lots	12
2.3.1 : Rule of interpretation	12
2.3.2 : Minimum dimensions of lots	12
2.3.3 : Exemptions to the application des minimum subdivision standards.....	12
2.3.4 : Orientation of lots	12
2.3.5 : Lots shapes	12
2.3.6 : Minimum depth.....	12
2.3.7 : Specific provisions for lots located on the exterior of a street bend	15
CHAPTER 3 : Provisions Relating to Derogatory Lots.....	17
Division 3.1 : General provisions	19
3.1.1 : Scope of application.....	19
3.1.2 : Cadastral operation for the purpose of extension	19
CHAPTER 4 : Final Provisions	21
Division 4.1 : Coming into force	23
4.1.1 : Coming into force	23



TOWN OF MONTREAL WEST

SUBDIVISION BY-LAW N^o 2009-009

CHAPTER 1 :

Declaratory, Administrative and Interpretative Provisions

Prepared by:



Division 1.1 : Declaratory provisions

1.1.1 : Title of the By-Law

This by-law may be quoted under the short title of « *Subdivision By-Law* » and carries the number 2009-009.

1.1.2 : Repeal

1. The present by-law repeals By-Law number 448, entitled « *Subdivision By-Law* », as modified by all its amendments, as well as any other repugnant provision in another by-law in force;
2. This abrogation does not affect legally-issued permits issued under the authority of the replaced by-law and the acquired rights from before the coming into force of the present by-law.

1.1.3 : Scope of the by-law and subject territory

The present by-law, of which the provisions are imposed on all persons, is applied to the entire territory of the Town of Montreal West.

1.1.4 : Incompatibility with other by-laws or laws

Conforming to the present by-law does not absolve the obligation to law of the provincial or federal government as well as any other applicable municipal by-law.

1.1.5 : Part-by-part adoption

The municipal Council of the Town of Montreal West hereby declares that it is adopting the present by-law, chapter by chapter, section by section and article by article, paragraph by paragraph, sub-paragraph by sub-paragraph, so that if a part of the present by-law were to be declared null and void by a tribunal, such a decision would have no effect on the other parts of the by-law, except in cases where the significance and scope of the by-law or of one of its provisions should be altered or modified as a result.

CHAPTER 1 :
Declaratory, Administrative and Interpretative Provisions

Division 1.2 : Administrative provisions

1.2.1 : Administration and application of the by-law

The administration and application of the present by-law are entrusted to any person nominated as a « designated official », by a resolution of the Municipal Council.

1.2.2 : Powers of the designated official

The powers of the designated official are stated in the *Permit By-Law*.

1.2.3 : Subject interventions

All cadastral operations must be compliant with provisions of the present by-law and subject to a subdivision permit, except a cadastral operation relating to the cancellation or correction of a lot number not resulting in an increase in the number of lots.

The terms and conditions of issuance of permits are defined in the *Permit By-Law*.

1.2.4 : Infractions and penalties

1. Whomever contravenes the provisions of the present by-law is committing an infraction ;
2. An infraction to the present by-law exposes the offender to the following fines:

	Individual		Corporation	
	Minimum	Maximum	Minimum	Maximum
First offense	300 \$	1 000 \$	600 \$	2 000 \$
Repeat offense	500 \$	2 000 \$	1 000 \$	4 000 \$

3. In all cases, court fees are added;
4. The delay for payment of imposed fines and fees of the present by-law, and the consequences of default of payment of the said fines and fees within the prescribed delays are determined in compliance to the *Code of Penal Procedure of Quebec (R.S.Q., c. C-25.1)*;
5. If an infraction lasts more than one day, the infraction on each day constitutes a distinct infraction and the enacted penalties for each infraction can be imposed for each day the infraction lasts, in compliance to the present section.

Division 1.3 : Interpretative provisions

1.3.1 : Interpretation of provisions

1. When 2 standards or provisions of the present by-law apply to a use, building, lot or any other object governed by the present by-law, the following rule applies:
 - a) A specific standard or provision prevails over a general provision;
 - b) The most restrictive provision prevails.
2. Unless the context specifies otherwise, it is understood that:
 - a) Singular includes plural and vice versa;
 - b) Masculine includes feminine and vice versa;
 - c) The use of the words « MUST » and « SHALL » implies an absolute obligation;
 - d) The use of the word « CAN » implies an option;
 - e) The word « WHOMEVER » includes individuals and corporations.
3. The table of contents and the chapter titles, the divisions and sections of the present by-law are provided to improve the text's readability. In case of contradiction between the text and the concerned title(s) of table of contents, the text prevails;
4. Plans, annexes, tables, graphics and symbols and all forms of expression aside from the text, and contained in the present by-law, are an integral part of the by-law for all legal purposes;
5. In case of contradiction between a table, a graphic and the text, the data in the table or in the graphic prevail;
6. In case of contradiction between the schedule of uses and standards, which is integral to the *Zoning by-law*, and the text of the present by-law in terms of minimum lot area and dimensions, the most restrictive provision applies ;
7. The dimensions, areas and other measures stated in the by-law are expressed in units of the International System.

1.3.2 : Numbering

The numbering method used in this by-law is the following (when the section's text does not contain numbering relating to a paragraph or sub-paragraph, it is referred to as an indented line):

1. Chapter
- 1.1 Division
- 1.1.1 Section
 1. Paragraph
 - a) Sub-paragraph

1.3.3 : Terminology

Unless there is an explicit indication of the contrary or unless the context indicates otherwise, the expressions, terms and words have the meaning and application attributed to them in the *Permit By-Law*.



TOWN OF MONTREAL WEST

SUBDIVISION BY-LAW N^o 2009-009

CHAPTER 2 :

Subdivision Standards and Specific Conditions

Prepared by:



CHAPTER 2 :
Subdivision Standards and Specific Conditions

Division 2.1 : Preconditions for a cadastral operation

2.1.1 : Plan for a cadastral operation

Any plan for a cadastral operation must meet the conditions prescribed in the present by-law and those prescribed in the *Permit By-Law* relating to a request for a subdivision permit.

2.1.2 : Easements

The owner of the lot must, as a precondition for the approval of a cadastral operation plan, commit to granting any easement required for the passage of installations for energy transport and transmission of communications, for the layout of pathways or for any other public service infrastructure (aerial or underground).

Existing or required easements must appear on the cadastral operation plan.

2.1.3 : Payment of municipal taxes

The owner of the lot must, as a precondition to the approval of a cadastral operation plan, pay outstanding municipal taxes that are due and unpaid for the immovables included in the plan.

CHAPTER 2 :
Subdivision Standards and Specific Conditions

Division 2.2 : Provisions relating to the cession for parks, playgrounds or natural space

2.2.1 : General provisions

A cadastral operation involving subdivision cannot be approved, unless the owner, according to Municipal Council's selection:

1. Cede a lot, at no charge, to the Town representing 10 % of the total area of the lots included in the plan relating to the cadastral operation and that is situated in a location that, in the opinion of Council, is appropriate for the establishment or the extension of a park, a playground, or the preservation of a natural space;
2. Pay the Town an amount of money representing 10 % of the municipal evaluation of lots included in the cadastral operation plan;
3. Cede a lot, at no charge, to the Town included in the cadastral operation plan and in a location that, in the opinion of Council, is appropriate for the establishment or the extension of a park, a playground, or the preservation of a natural space and Pay the Town an amount of money representing part of the total value of the set of lots including in the cadastral operation plan. The municipal evaluation of the lot ceded at no charge and amount paid must represent 10 % of the total value of the set of lots including in the cadastral operation plan.

2.2.2 : Location of lots to cede

A lot ceded by the owner at no charge in compliance with section 2.2.1 can be a lot that is not included in the cadastral operation plan, if there is an agreement between the owner and the set of lots including in the cadastral operation plan and the Town.

The lot in the agreement must be part of the territory of the Town of Montreal West.

2.2.3 : Cadastral operations not subject to a subdivision permit

Upon request of a subdivision permit, the following cadastral operations are not subject to provisions of the present division relating to the cession for parks, playgrounds or natural space:

1. Cadastral operation serving a cancellation, correction or replacement of a lot number, without increasing the number of lots ;
2. Cadastral identification in the official cadastre plan of a lot where is erected a main building;
3. Cadastral identification for a set of lots while remaking the cadastre;
4. Cancellation of a subdivision after remaking the cadastre ;
5. Vertical cadastre required and carried out upon the constitution or conversion of an immovable in divided co-ownership;

CHAPTER 2 :
Subdivision Standards and Specific Conditions

6. New cadastral identification of an existing location following a modification of its limits without creating a new constructible lot, namely a lot having the minimum area and dimensions prescribed in the schedule of use and standards in the *Zoning By-Law* or in the present by-law ;
7. Cadastral operation required in the context of an expropriation ;
8. A cadastral operation involving lots serving as parks, playgrounds or natural space or any other use by the Town of Montreal West ;
9. Cadastral identification of parcels used for public purposes.

2.2.4 : Subject interventions– building permit

Upon request of a building permit, the following interventions are subject to provisions of the present section relating to the cession for parks, playgrounds or natural space:

1. Construction of a new main building on an immovable registered as a distinct lot for which no subdivision permit has been issued because it was created by remaking the cadastre;
2. Immovable undergoing a redevelopment a project.

For the present section, what is meant by « redevelopment project » is an immovable serving a use other than residential undergoes a use change to residential uses. Furthermore, is also considered a redevelopment project, an immovable with an existing residential use, whether it be single-family, duplex or triplex (use class H1, H2 and H3) undergoing a use change to residential use, whether it be apartment building or group occupancy building (use class H4 and H5).

2.2.5 : Calculation rule

In terms of the present by-law, the total value of the set of lots included in the cadastral operation plan is considered at the date of reception by the Town of the building permit request or of the cadastral operation plan deemed compliant with the urban planning by-laws, according to the situation, and is established to be the value registered in the Town's evaluation role.

If the lot, including the site (set of lots included in the cadastral operation plan), for which the value is to established constitutes, at the date determined in the first indented line, a unit of evaluation registered in the role or in part of one such unit having a value distinctly registered in the role, its value for the purpose of the present by-law is the product obtained when multiplying the value registered in the role for the unit or its corresponding part for the property whose value is to be established, according to the case, by the role's factor established in compliance with section 264 of the *Act respecting municipal taxation* (R.S.Q., ch. F-2.1).

If the conditions listed in the second indented line cannot be respected, the value must be established, at the owner's expense, by an accredited appraiser mandated by the Town, according to the concepts applicable in reference to expropriation.

The rules of calculation must account, to the credit du owner, all cession or payment for a previous cadastral operation concerning the whole or a part of the set of lots included in the cadastral operation plan, in the case of a phased project or not. The Municipal council can decide to modify the mode of contribution in subsequent phases of the project or upon a new applicable cadastral operation on the concerned property.

2.2.6 : Notarized contract

Fees for the notarized contract of cession for parks, playgrounds or natural space are at the expense of the ceding owner, including, if required, the technical description.

CHAPTER 2 :
Subdivision Standards and Specific Conditions

Division 2.3 : Provisions relating to lots

2.3.1 : Rule of interpretation

The present section applies to lots. However, when a property is comprised of more than 1 lot, the provisions apply to the property (orientation, shape, width, depth, dimensions, etc.).

In order to be compliant with the urban planning by-laws, for example in terms of provisions relating to the siting of buildings or to subdivision standards, the or the lots composing the property must be grouped in one or more lots compliant with provisions of the present by-law.

2.3.2 : Minimum dimensions of lots

The area, facade length and depth of lots indicated in the schedule of standards annexed to the *Zoning By-Law*.

2.3.3 : Exemptions to the application des minimum subdivision standards

The minimum subdivision dimensions in the present division do not apply in the following cases:

1. Cadastral operations required for municipal, public or public utility services, such as parks and green spaces, aqueduct, sewer, gas, electricity, telecommunication or cable distribution networks and equipment;
2. Les cadastral operations required for circulation lanes;
3. Cadastral operations identifying part of a building or a lot requiring a declaration of co-ownership, whether it be vertical, horizontal or in a row prepared in compliance with the *Civil Code of Quebec* and in which only buildings or lots can be divided into exclusive parts;
4. Cadastral operations identifying part of a property required by alienation for part of a building requiring partition of the property located directly below it;
5. Cadastral operations for alienation and serving a plan for merging of titles with an adjacent property compliant with the present by-law following the plan for merging of titles (cadastral operation). The plan for merging of titles must be submitted to the designated official upon the permit request.

2.3.4 : Orientation of lots

Lateral lot lines du lot must be perpendicular, forming a 90-degree angle, with the street line.

However, in order to soften slopes, level the lot area, clear a perspective or create a bend in a street, the lateral lot lines can form an angle varying between 75 degrees and 135 degrees in relation with the street line.

2.3.5 : Lots shapes

Lots must have a regular shape, with right angles or angles varying between 75 and 105 degrees. In the case where exceptional topography requires it, because of specific constraints, because of the original cadastre or a subdivision project adjacent to an existing subdivision, the lot could present broken lines.

Transversal lots are prohibited. However, the creation of a transversal lot within an existing block is authorized.

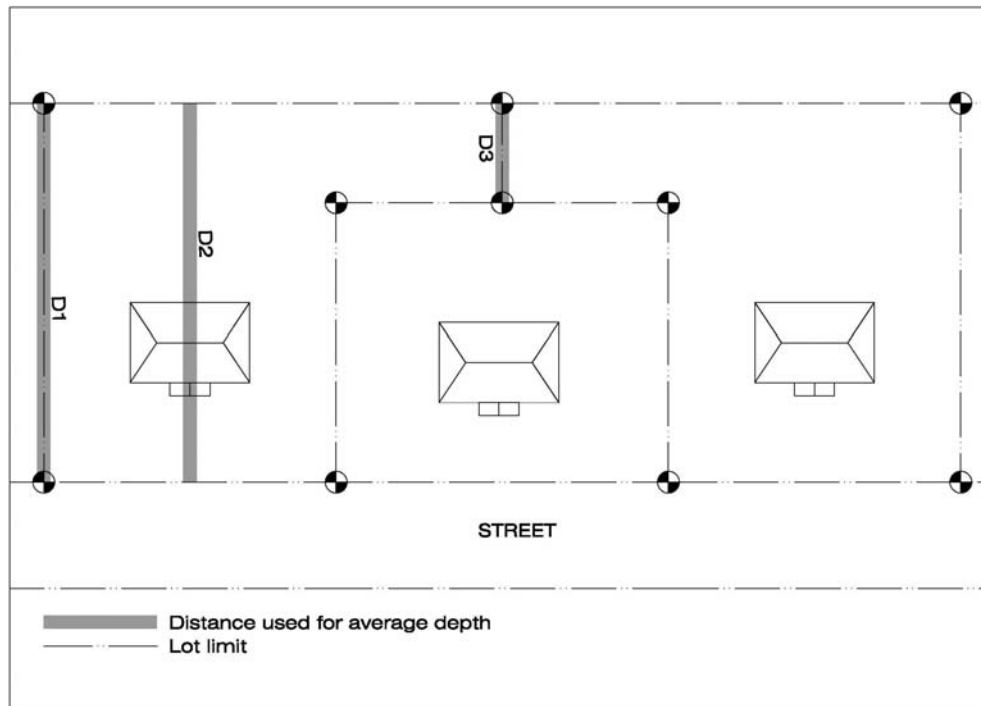
2.3.6 : Minimum depth

When applicable, minimum lot depth is calculated in the following manner:

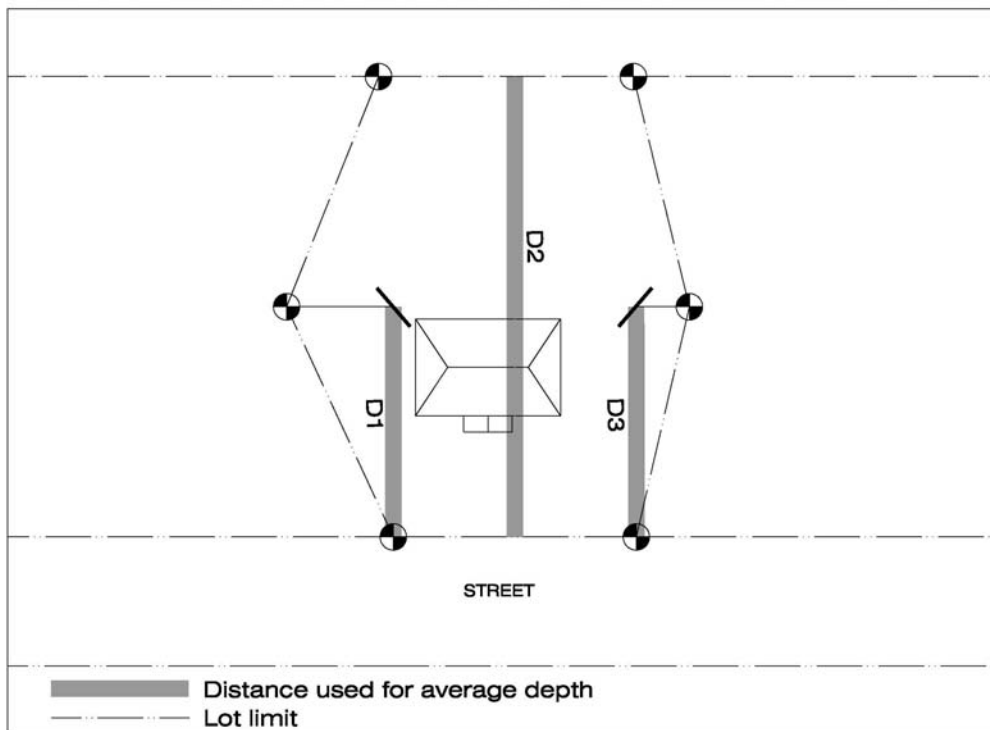
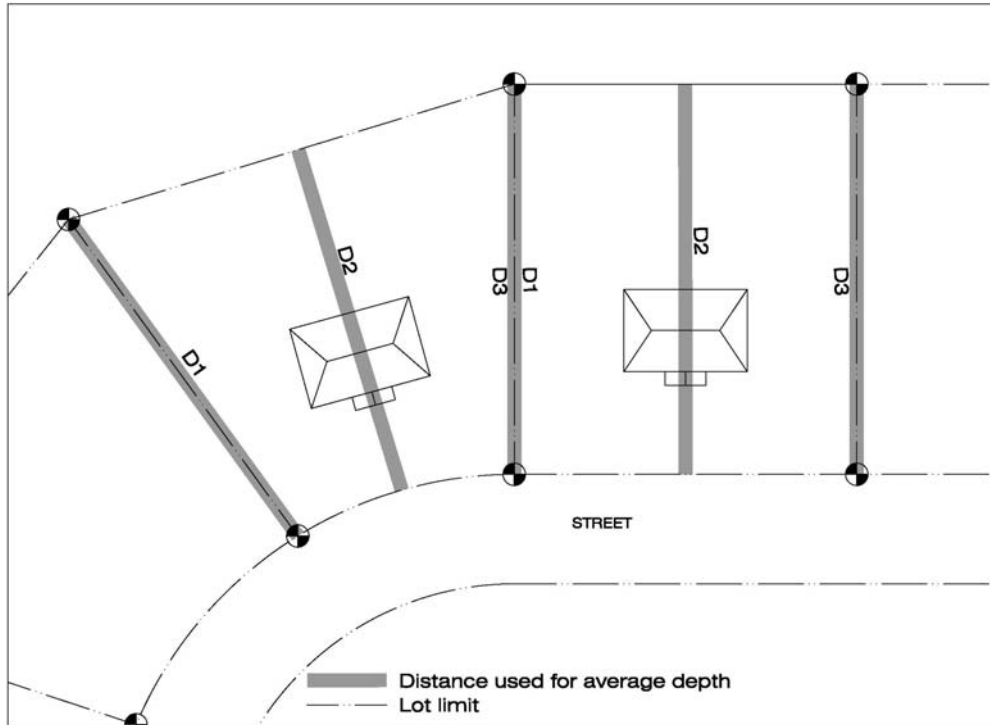
$$\text{Lot depth} = \frac{(D1 + D2 + D3)}{3}$$

CHAPTER 2 :
Subdivision Standards and Specific Conditions

In all cases, we refer to average lot depth. Distance « D2 » must be taken from the centre or the facade length of the lot, as illustrated below:



CHAPTER 2 :
Subdivision Standards and Specific Conditions



CHAPTER 2 :
Subdivision Standards and Specific Conditions

2.3.7 : Specific provisions for lots located on the exterior of a street bend

Lots located on the exterior of a street bend having an angle of less than 135 degrees, the facade length (frontage) can be reduced up to 66.6% of the minimum required facade length, without being less than 7.5 metres.

At all times, the area and depth of the lot must be compliant with present by-law.



TOWN OF MONTREAL WEST

SUBDIVISION BY-LAW N^o 2009-009

CHAPTER 3 :

Provisions Relating to Derogatory Lots

Prepared by:



CHAPTER 3 :
Provisions Relating to Derogatory Lots

Division 3.1 : General provisions

3.1.1 : Scope of application

Is considered to be a derogatory lot, any lot having an area or one of its dimensions be non-compliant with present by-law.

A derogatory lot is protected by acquired rights if the lot's area and dimensions were compliant with the by-law in force upon its creation or created before the first applicable by-law.

3.1.2 : Cadastral operation for the purpose of extension

A cadastral operation serving to modify a derogatory lot protected by acquired rights can be authorized so long as the cadastral operation does not make the concerned lot more derogatory in terms of facade length or the minimum prescribed depth in the present by-law, nor does it increase the derogation in terms of area to respect.

Furthermore, the extension of a derogatory lot protected by acquired rights is authorized at the following conditions:

1. The area of the new lot must be greater than that of the derogatory lot protected by acquired rights of which the area is being modified. The façade length and depth of the lot in question cannot be reduced to less than the standards prescribed in the present by-law;
2. A cadastral operation shall not make an adjacent lot derogatory, or if applicable, more derogatory an adjacent derogatory lot protected by acquired rights;
3. The cadastral operations in the present section shall not make existing buildings and their siting on the concerned or adjacent lots non compliant with the *Zoning By-Law*, or if they are derogatory, but protected by acquired rights, increase the derogation.

A plan for the merging of titles must be submitted upon a permit request.



TOWN OF MONTREAL WEST

SUBDIVISION BY-LAW N^o 2009-009

CHAPTER 4 :

Final Provisions

Prepared by:



CHAPTER 4 :
Final Provisions

Division 4.1 : Coming into force

4.1.1 : Coming into force

The present by-law comes into force in compliance with the law.

(S) Campbell Stuart, Mayor

(S) Claude Gilbert, Town Clerk