

**DRAFT BY-LAW NO. 2596**

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**BY-LAW CONCERNING SPECIFIC  
CONSTRUCTION, ALTERATION OR  
OCCUPANCY PROPOSAL FOR AN  
IMMOVABLE (SCAOPI)**

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At a Regular Meeting of the Council of the City of Côte Saint-Luc held on Monday, April 11, 2022, at 5801 Cavendish Boulevard, Côte Saint-Luc, at 8:00 P.M. at which were present:

Mayor Mitchell Brownstein, B. Comm., B.C.L., L.L.B. presiding  
Councillor Lior Azerad  
Councillor Sidney Benizri  
Councillor Dida Berku, B.C.L.  
Councillor Mike Cohen, B.A.  
Councillor Steven Erdelyi, B.Sc., B.Ed.  
Councillor Mitch Kujavsky  
Councillor Oren Sebag  
Councillor Andee Shuster

**ALSO PRESENT:**

M<sup>e</sup> Jonathan Shecter, City Manager  
Director of Legal Services and City Clerk  
  
Tanya Abramovitch, Associate City Manager  
Nadia Di Furia, Associate City Manager

City of Côte Saint-Luc



BY-LAW CONCERNING SPECIFIC CONSTRUCTION, ALTERATION OR  
OCCUPANCY PROPOSAL FOR AN IMMOVABLE (SCAOPI)  
NUMBER 2596

CITY OF CÔTE SAINT-LUC

DRAFT

City of Côte Saint-Luc

BY-LAW CONCERNING SPECIFIC CONSTRUCTION, ALTERATION OR OCCUPANCY PROPOSAL FOR  
AN IMMOVABLE (SCAOP) NUMBER 2596

ADOPTION PROCESS	
Steps	Dates
Notice of Motion	APRIL 11, 2022
Adoption of draft by-law	APRIL 11, 2022
Public Consultation	XXXX
Adoption of by-law	TBD 2022
Effective Date	TBD 2022

AMENDMENTS		
By-Law Number	Effective Date	Purpose Object

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## **CHAPTER 1. DECLARATORY, INTERPRETIVE AND ADMINISTRATIVE CLAUSES**

### **1.1 DECLARATORY CLAUSES**

#### **1.1.1 TITLE OF THE BY-LAW**

The present by-law is entitled « BY-LAW CONCERNING SPECIFIC CONSTRUCTION, ALTERATION OR OCCUPANCY PROPOSAL FOR AN IMMOVABLE (SCAOPI) Number 2596 ».

#### **1.1.2 PURPOSE OF THE BY-LAW**

The purpose of this by-law is to allow Council, upon application and under particular conditions, to authorize specific construction, alteration or occupancy proposals for an immovable, that may derogate from specific urban planning by-laws.

The BY-LAW CONCERNING SPECIFIC CONSTRUCTION, ALTERATION OR OCCUPANCY PROPOSAL FOR AN IMMOVABLE (SCAOPI) describes how to process an application from the time of its submission by the applicant until its approval (chapter 2) and identifies the categories of admissible specific proposals, the clauses that the proposal may not be in compliance with, the applicable territory, as well as the applicable assessment criteria (chapter 3).

#### **1.1.3 SCOPE OF THE BY-LAW AND APPLICABLE TERRITORY**

The present by-law, whose provisions bind physical persons and public and private corporations is applicable to the entire territory of the City of Côte-Saint-Luc with the exception of parts of the territory where the land use is subject to specific constraints for reasons of public security.

#### **1.1.4 LEGISLATIONS AND BY-LAWS**

None of the provisions of this by-law shall be construed as having the effect of exempting any individual from the enforcement of the applicable legislation or statutes of the provincial or federal government.

#### **1.1.5 TABLES, GRAPHS, AND SYMBOLS**

All tables, graphs, symbols, illustrations as well as all forms of expression other than the text itself, which is herein contained or to which is referred to in this by-law, are an integral part of this by-law.

#### **1.1.6 STRUCTURE OF THE BY-LAW**

This by-law is divided into chapters, identified by a whole number (example Chapter 1).

Each chapter is divided into sections represented by a number followed by a period and a second number (example 1.1).

The sections include articles consisting of the first number of the chapter followed by the number of the section, and lastly by a number which continues in numerical order (example 1.1.1). In some sections, an additional division consisting of four numbers may appear in reference to a common article (example 1.1.1.1). These are subsections.

#### **1.1.7 ADOPTION OF THE BY-LAW**

The council adopts this by-law in its entirety as well as chapter by chapter, section by section, article by article, clause by clause, paragraph by paragraph, subparagraph by subparagraph, and subsection by subsection so that if any chapter, section, article, clause, paragraph, subparagraph, or subsection should be deemed null and void by a court of competent jurisdiction, all other provisions of this by-law shall remain valid and fully applicable.

### **1.2 ADMINISTRATIVE PROVISIONS**

#### **1.2.1 ADMINISTRATION AND ENFORCEMENT OF THE BY-LAW**

The Director of Urban Development or any other person to which this function has been assigned by resolution of the municipal council shall be responsible for the application and enforcement of this by-law.

The individual or the individuals assigned to this function shall be known as the “designated civil servant or civil servants.”

#### **1.2.2 POWERS OF THE DESIGNATED CIVIL SERVANT**

The designated civil servant shall exercise all powers identified within this by-law. In particular, he or she shall:

- 1° Upon presentation of an appropriate proof of identification, examine and visit, between 7:00 AM and 7:00 PM, all proposals for the development of a moveable or an immovable, whether inside or outside of houses, buildings, or other structures to determine whether such proposals comply to the by-law. The owner, tenant, or occupant of the property under examination must grant entry to the authorized inspector.
- 2° Issue a notice to the owner, tenant, occupant, or to his or her legal representative or to any other individual in non-compliance with any provision of this by-law, ordering the correction of the situation;

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- 3° Issue a notice of offence to the owner, tenant, occupant, or to his or her legal representative or to any other individual in non-compliance with any provision of this by-law and which constitutes an offence;
- 4° Begin penal prosecution on behalf of the city of any infringements of to this by-law;
- 5° Issue any permits or certificates that comply with all applicable construction by-laws;
- 6° Order any owner, tenant, occupant, or his or her legal representative to suspend all dangerous work and practices which do not comply with this by-law;
- 7° Order the testing of all materials to be used or that have already been used during construction;
- 8° Take all measures required to stop all infringements of this by-law;
- 9° Issue notice to cease and desist or to perform corrective work, if trial results show that there has been a failure to comply with the provisions of this by-law;
- 10° Order the temporary evacuation of the occupants of any building who may be in a life-threatening situation;
- 11° Order all repair work that may be deemed appropriate to ensure the stability of construction and the safety of the inhabitants and recommend to the council any necessary emergency measures;
- 12° Order the closure of any property, portion of property or construction underway which constitutes a public danger.

**1.2.3 MEASUREMENT UNITS**

All dimensions, areas or other units of measurement set out in this by-law shall be expressed in the international metric system.

**1.2.4 REFERRALS**

Any references to another other by-law cited within this by-law remain open, which means that references shall apply to all amendments of the by-law, even if such amendments should be made after this by-law comes into force.

**1.2.5 REGISTER**

The designated civil servant shall maintain a registry of all applications for specific construction, alteration or occupancy proposals.

This register shall include:

- 1° A copy of all applications submitted for specific construction, alteration or occupancy proposals for an immovable;
- 2° Resolutions issued by the City either approving or rejecting specific construction, alteration or occupancy proposals for an immovable;
- 3° Reports of inspections performed by the designated civil servant;
- 4° Any other information deemed relevant by the designated civil servant

**1.3 INTERPRETIVE CLAUSES**

**1.3.1 INCOMPATIBILITY WITHIN PROVISIONS**

In case of any incompatibility between two dispositions of this by-law or between the dispositions of this by-law and a different by-law, a specific provision shall take precedence over a general provision.

In case of any incompatibility between the restrictive or prohibitive provisions of this by-law or in case of the incompatibility between a restrictive or prohibitive provision of this by-law and the restrictive or prohibitive disposition of a different by-law, the most restrictive or prohibitive provision shall take precedence, unless otherwise indicated.

**1.3.2 ORDER OF PRECEDENCE OF PROVISIONS**

Within this by-law, unless otherwise indicated, the following rules shall apply:

- 1° In case of contradiction between the text and the title, the text shall take precedence;
- 2° In case of contradiction between the text and any other form of expression, the text shall take precedence;
- 3° In case of contradiction between the data of a table and a graph, the data of the table shall take precedence.

**1.3.3 INTERPRETATION OF THE TEXT**

The following rules of interpretation shall apply to this by-law:

- 1° The single includes the plural and vice-versa;
- 2° The masculine gender includes the feminine gender;

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- 3° The use of the words “SHALL or MUST” imply an absolute obligation;
- 4° The use of the words “MAY” implies an elective sense;
- 5° The words “WHOSOEVER or WHOMSOEVER” include all individuals, legal entities or associations.

**1.3.4 TERMINOLOGY**

Unless otherwise indicated or unless the contexts suggest a different meaning, the expressions, terms and words used have the meaning and application that are attributed to them by the definitions contained in the current zoning by-law.

The use of the term “special proposal” or the term “SCAOP” correspond to a “specific construction, alteration or occupancy proposal for an immovable.”

## **CHAPTER 2. PROCESSING AN APPLICATION**

### **2.1 TRANSMISSION AND CONTENTS OF AN APPLICATION**

#### **2.1.1 TRANSMISSION OF AN APPLICATION**

An application for approval of a specific proposal must be submitted by the applicant or his or her representative to the designated civil servant. The application must be submitted in writing, with two (2) hard copies along with an electronic (PDF) document. The application must contain the information and documents set out in this by-law.

#### **2.1.2 CONTENT OF THE APPLICATION**

An application for a specific proposal must include the following information and documents, when required:

- 1° The names, surnames, postal codes, email addresses and telephone numbers of the applicant and his or her representative, where applicable;
- 2° Where applicable, the power of attorney granted to any authorized individual to act on behalf of the owner;
- 3° A written summary explaining the reasons for the application, a detailed description of the specific proposal, as well as a list of exemptions in the application that represent a departure from applicable standards set out in the relevant urban planning by-laws;
- 4° A text that explains and demonstrates how the projected interventions are integrated into the local environment in accordance with the criteria set out in this by-law;
- 5° A certificate of location of the land and the buildings, prepared by a surveyor;
- 6° A plan demonstrating the current condition of the land described in the application for authorization (land use, buildings, construction, and property development) and occupancy of neighboring properties. Neighboring properties refer to all properties situated beyond the property limits of the property described in the application;
- 7° Recent photographs of the building and/or the property described in the application and of neighboring properties;
- 8° An assessment of heritage value by an architect of the building described in the project, whenever such a building represents a heritage value duly recognized in the current urban planning by-laws;
- 9° For all new construction, extension, modification or change of use requiring exterior transformations: plans, specifications, drawings, sketches, elevations, cross sections, or other drawings, in colour and to scale, demonstrating construction work to be performed, signed and sealed, where required under any legislation governing professional practice, by an authorized professional within the meaning of the Professional Code (R.S.Q., ch.C-26);
- 10° Samples of materials and colours that have been chosen for construction work, buildings, or other structures;
- 11° A plan illustrating the development proposals for exterior spaces, as well as the enhancement and protection of existing landscape, vegetation, and green spaces;
- 12° Vehicular access, parking spaces and barrier-free access;
- 13° Where required or relevant, impact assessment studies shall be provided with respect to sunshine, wind, and traffic, and where applicable, noise and fumes;
- 14° A detailed schedule of work, describing all key phases;
- 15° If the application includes signage, a description of the sign shall be submitted, along with a drawing to scale and showing dimensions, description of materials to be used, colour selection, lighting system, and the location of the sign installation;
- 16° Any other relevant information needed to understand the nature of the projected work and the assessment of such work in accordance with the criteria set out in this by-law;
- 17° Any other additional information or document dealing with any aspect of the proposal required by the designated civil servant.

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### 2.1.3 STUDY OF COMPLIANCE WITH CONSTRUCTION AND SAFETY STANDARDS

Where required under chapter 3 of this by-law, the applicant for a specific proposal must submit, in addition to the information and documents set out in this article, a study of compliance with the Building Code, Safety Code, and with all applicable Safety and Construction Standards.

Such a study must be prepared and signed by a qualified member of a professional order in the relevant field and must contain at minimum:

- 1° An assessment of the work required as described in the application for a specific proposal, to ensure compliance with applicable standards, taking into account the existing conditions of the building;
- 2° A notice to confirm the feasibility of such work, regarding the assessment of work set out in Paragraph 1°. The notice must describe the construction or renovation work that will be required for the proposed occupancy of the building, as well as if demolition work will be required;
- 3° A cost estimation of the work involved, based on the notice set out in paragraph 2°. Notwithstanding paragraph 2°, the estimation of the work costs may be made by a construction contractor, or a specialist based on the type of work required.

If the feasibility of the work described in the notice of paragraph 2° above is completed by a member of a professional order, the applicant must submit to the designated civil servant a written and signed undertaking confirming that he understands the study of compliance including the works and associated costs.

The application for a specific proposal will not be eligible for the evaluation and approval process in the following cases:

- 1° In the absence of the compliance study confirming the feasibility of the work or of the written and signed undertaking of the applicant, both of which are required as set out in paragraphs 1° and 2 above;
- 2° If the compliance study requires demolition work within the meaning of the *By-law governing Building Demolition*.

### 2.1.4 TARRIFS

The fees for the review of an application for a specific proposal are set out in the by-law on Tariffs of the City Côte-Saint-Luc.

The applicant must pay the fees at the time that his or her application for a specific proposal is submitted to the designated civil servant. These fees are not refundable.

### 2.1.5 VERIFICATION OF APPLICATION BY DESIGNATED CIVIL SERVANT

The designated civil servant shall ensure that all information, documents, and related fees have been submitted.

The designated civil servant must inform the applicant if the application is incomplete. The application for a specific proposal shall be suspended until all required documents have been submitted.

## 2.2 EVALUATION AND APPROVAL PROCESS OF THE APPLICATION

### 2.2.1 REVIEW OF THE APPLICATION BY THE PLANNING ADVISORY COMMITTEE

The application for a specific proposal shall be referred to the Planning Advisory Committee (PAC). The committee shall review the application based on the criteria set out below.

The committee may:

- 1° Request any other information that may be required to assess the project in terms of the applicable assessment criteria;
- 2° Suggest any modification concerning the eligibility of the application in accordance with the applicable assessment criteria;
- 3° Recommend to Council any conditions for approval of the application.

After review of the application, the Planning Advisory Committee shall submit its recommendation to the City Council.

### 2.2.2 DECISION OF THE CITY COUNCIL

After consultation with the Planning Advisory Committee, the City Council must either grant or reject the application for a specific proposal that has been submitted in compliance with this by-law.

The resolution adopted by the City Council approving the application for a specific proposal must include any conditions, in consideration of the city's jurisdiction, which must be fulfilled upon completion of the project. Without limitation and by way of example, such conditions may include the following:

- 1° Guaranteed calendar of work (e.g. work to be completed within maximum timeframe, etc.);
- 2° Financial guarantee (e.g. financial deposit to cover all work, etc.);
- 3° Infrastructure work (e.g. aqueduct, sewers, sidewalks, and operating hours, etc.);
- 4° Operations and activities on and adjacent to the site (e.g. operational hours, etc.);



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- 5° Displays and signage (e.g. placement, lighting, materials, etc.);
- 6° Exterior work / landscaping (e.g., trees, hedges, fences, lighting, etc.);
- 7° Architecture and volumetry (e.g. Exterior cladding, fenestration, etc.);
- 8° Parking and traffic (e.g. traffic study, access, routing etc.);
- 9° Cleanliness and safety (e.g. Cleanliness of property, safety measures, etc.);
- 10° Environmental monitoring (e.g. annual activity report, etc.);
- 11° Nullification of resolution (e.g.: Failure to file for a permit application within a specified period, cessation of use after a determined amount of time, etc.).

The resolution adopted by the City Council rejecting the application must specify the grounds for rejection.

### 2.2.3 PUBLIC CONSULTATION AND APPROVAL BY REFERENDUM

The resolution adopted by the City Council authorizing a specific proposal shall be subject to public consultation and, where necessary, approval by individuals who have the right to vote at such a public assembly.

As such, the resolution is subject to articles 124 - 137, 137.2 - 137.5 and 137.15 of the **ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT** (R.L.S.Q., c. A-19.1), taking into account any necessary adaptations. The resolution may be subject to approval by referendum if the specific proposal contains a derogation from the provision covered in paragraph 1° of the third Subsection of article 123 of the Act.

### 2.2.4 ON SITE SIGNAGE

Immediately upon adoption of a draft resolution authorizing the specific proposal, the city clerk must display a sign, placed in full view on the location specified in the application, stating the nature of the project as well as the address where any interested party may obtain relevant information about the project.

This obligation ceases when City Council adopts the resolution authorizing the application or refuses to adopt such a resolution. However, if the adopted resolution must be approved by public vote, the obligation shall cease after the referendum has been held.

### 2.2.5 TRANSMISSION OF DECISION TO APPLICANT

As soon as the resolution comes into force, the clerk must issue a certified true copy to the applicant.

### 2.2.6 ISSUE OF PERMIT OR CERTIFICATE

Upon presentation of the certified copy of the resolution by which the City Council authorized the specific proposal, the designated civil servant shall issue the permit or license, as long as the following conditions are met:

- 1° The applicant has filed an application for a permit or a certificate which complies to current by-laws;
- 2° The application meets the standards set out in current urban planning by-laws, which do not come into conflict with the provisions of the by-law on specific proposals;
- 3° All conditions set out in the resolution authorizing the specific proposal must be met at the time that the permit or certificate is issued.

### 2.2.7 RESPONSIBILITY OF THE APPLICANT

The applicant must fully comply with all conditions linked to the authorization granted in the adopted resolution.

### 2.2.8 MODIFICATION OF THE SPECIFIC PROPOSAL

If the applicant wants to modify one or more elements of the specific proposal which has been approved by resolution, the applicant must submit a new application for a specific proposal in accordance with the present by-law.

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## CHAPTER 3. ELIGIBLE PROJECTS AND ASSESSMENT CRITERIA

### 3.1 USE FOR PURPOSE OF WORSHIP

#### 3.1.1 ELIGIBLE USES AND DEROGATIONS

An application for a specific proposal may be submitted in zones that are eligible under article 3.1.2 in order to authorize, within an existing building, one or more of the following uses to be designated as a main, additional, or temporary use:

- 1° Place of worship, with or without space for assembly associated with worship and religion;
- 2° Place of instruction related to worship or religion, with or without accommodation for the individuals receiving instruction over a defined period of time.

The uses listed in paragraph 1 may be authorized in addition to the uses already being exercised in the building described in the application.

Consequently, the specific proposal may derogate from one or more of the obligations set out in current urban planning by-laws, adopted under Chapter IV of the **ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT** (R.L.S.Q., c. A-19.1) for the authorisation of the uses set out in the first paragraph. In no case may the specific proposal derogate from applicable construction or safety standards that are set out in the Building Code or the Code of Safety adopted under the *Building Act* (RLRQ, c. B-1.1) or from any construction by-law adopted and in force in the City of Côte-Saint-Luc.

#### 3.1.2 ELIGIBLE ZONES

An application for a specific proposal under this section is eligible if it concerns a building located in any of the following zones:

- 1° The following predominantly “single-family dwelling” residential zones: RU-1, RU-21 and RU-32;
- 2° The following predominantly “two-family dwelling” residential zones: RB-6 and RB-7.

#### 3.1.3 REVIEW OF COMPLIANCE WITH CONSTRUCTION AND SAFETY STANDARDS

A review of compliance with construction and safety standards, as defined in chapter 2 of this by-law, is required for any application for a specific proposal under the present section.

#### 3.1.4 COMPLIANCE WITH URBAN PLANNING OBJECTIVES

In order to be authorized, a specific proposal must comply with the objectives set out in the city’s urban plan.

#### 3.1.5 ASSESSMENT CRITERIA

Assessment of the specific proposal will be based on the following criteria:

- 1° Compatibility of the occupancy set out in the specific proposal with the local residential environment. This criterion will be based mainly, but not exclusively, on the consideration of the following factors:
  - a) Demonstration by the applicant that all ongoing or time limited operations and activities are performed inside the main building;
  - b) The intensity of the use in terms of the area of floor space to be occupied;
  - c) The intensity of the use in terms of the number of employees, resources or individuals that benefit from the services provided;
  - d) Operational hours of activities open to the public, such as events, celebrations, or other similar activities, which must be compatible with the hours that are typically associated with the surrounding residential environment (e.g. which occur mainly during the day);
  - e) Maximum capacity of the building during peak hours, which includes accommodating all employees, resources or individuals that benefit from the services provided within the building with no overflow crowds outside. To this end, the applicant can propose specific measures, for example, to stagger the hours of admittance;
  - f) Access to the building for employees, resources or individuals that benefit from the services, must be configured in a location that will not disturb the peace of the neighbours;
  - g) Measures must be in place to ensure the reduction of noise that can be heard outside the building (e.g. adequate soundproofing of doorways, etc.). The applicant must demonstrate that the existing building is sufficiently sound proofed to avoid continuous or occasional noise arising from the use of the building.
  - h) All other measures necessary to ensure that the intended occupancy of the building is compatible with maintaining the privacy of the neighboring buildings.
- 2° The project will not generate any significant increase of automobile traffic in this residential sector. To this end, the applicant must demonstrate that measures of active and public transport have been promoted and made available for employees, resources or individuals that may benefit from the services provided;
- 3° The proposal will in no way compromise the residential vocation of the building. This criterion must be evaluated by taking mainly into account, but not exclusively, the following factors:

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- a) If the proposal requires any renovation work or extensions to the building, such work must maintain the architectural and residential nature of the building (main doorway, front facade, volumetry etc.);
- b) If the proposal entails the addition of new parking spaces on the property, the number of spaces must remain minimal and be proportional to a residential occupancy;
- c) All yards must be landscaped with plants and vegetation. Particular attention must be given to the landscaping of the front yard;
- d) If the proposal requires any signage, the total area of the sign must be of minimal size and must be displayed directly on the building. The sign must be discreet, and no illumination can be used;
- e) All other measures aimed at preserving the residential nature of building.

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CHAPTER 4. FINAL CLAUSES

4.1 CLAUSES CONCERNING INFRINGEMENTS AND INFRACTIONS

4.1.1 INFRINGEMENT

No one has the right to infringe or to allow an infringement upon any of the provisions of this by-law.

4.1.2 INFRACTION

Any person who infringes or allows for an infringement upon the dispositions of this by-law, who engages in construction work without a permit, or who maintains a situation requiring a certificate of authorization, and without having obtained such certificate, commits an infraction punishable by a fine, the amount of which shall be:

- 1° For a first infraction, a minimum of \$500 and a maximum of \$1,000 for an individual or a minimum of \$1000 and a maximum of \$2,000 for a legal entity;
- 2° For a repeat offence within two years of the first infraction, a minimum \$1000 and a maximum of \$2,000 for an individual or a minimum of \$2000 and a maximum of \$4,000 for a legal entity.

In each case of infraction, the costs will be added to the fine.

4.1.3 ONGOING INFRACTION

If the infraction is ongoing or continuous, the infraction will be calculated on a day-to-day basis and each day shall represent a separate infraction. A fine may be issued each day for as long as the infraction lasts.

4.1.4 ENTRY INTO FORCE

This by-law shall come into force in accordance with the law.

Côte Saint-Luc, month day, year.

\_\_\_\_\_  
MITCHELL BROWNSTEIN  
MAYOR

\_\_\_\_\_  
JONATHAN SHECTER  
CITY CLERK

CERTIFIED TRUE COPY

\_\_\_\_\_  
JONATHAN SHECTER  
CITY CLERK

**BY-LAW 2596**

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**BY-LAW CONCERNING SPECIFIC CONSTRUCTION, ALTERATION  
OR OCCUPANCY PROPOSALS FOR AN IMMOVABLE (SCAOPI)**

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ADOPTED ON: \_\_\_\_\_

IN FORCE ON: \_\_\_\_\_

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