

**PROVINCE OF QUEBEC
REGIONAL COUNTY MUNICIPALITY OF BROME-MISSISQUOI
TOWN OF BROME LAKE**

**By-law 2017-04
By-law on the occupation of the public
domain**

WHEREAS articles 29.19 to 29.22 of the Cities and Towns Act;

WHEREAS that notice of motion of this by-law was duly given at the regular council meeting of December 5, 2016;

CONSEQUENTLY, THE COUNCIL DECREES AS FOLLOWS:

ARTICLE 1 INTRODUCTION

The introduction to the present by-law forms an integral part of it.

ARTICLE 2 PROHIBITION

Occupation of the public domain is prohibited without authorization in compliance with the present by-law.

However, the present by-law does not apply to the installation of a culvert to provide access to waterfront property, or to the installation of a pipe to fill all or part of the ditch of a public thoroughfare, when a by-law concerning driveways is in force.

ARTICLE 3 OCCUPATION PERMIT

The authorization specified in article 2, if granted, is the subject of a public domain occupation permit.

ARTICLE 4 PERMANENT OCCUPATION

Occupation of the public domain for a continuous period of more than one year is a permanent occupation, and the related permit is valid as long as the conditions under which it was issued remain unchanged.

ARTICLE 5 PURPOSE

The permit for permanent occupation of the public domain covers in particular:

1. Encroachment by a building or other private infrastructure;
2. The installation of cables, poles, pipes, conduits and other similar installations;
3. Right-of-way on public property.

ARTICLE 6 AUTHORIZATION REQUEST

For permanent occupancy, the authorization request submitted to the Town must indicate:

1. Applicant's name, address and occupation;

2. The lot number of the municipal property covered by the application;
3. The reasons for the requested occupancy;
4. The type of construction or installation, if any, that will occupy the public domain, such as walls, balconies, canopies, stairs or part of a building, or cables, pipes, poles, conduits and other similar installations;
5. Names and addresses of contractors to perform the work and other mandataries, if applicable.

This request must be accompanied by:

- a. Proof that the applicant has liability insurance coverage of at least ONE MILLION DOLLARS (\$1,000,000) or a higher amount set by the Town depending on the nature of the occupation;
- b. A copy of the title published at the Land Registry establishing that he/she is the last registered owner of the immovable for the use of which the occupation is authorized;
- c. A plan or sketch in triplicate showing the dimensions and location of the proposed occupation;
- d. A written commitment on his/her part to the effect that, if authorization is granted, he/she will comply with the conditions stipulated for the purposes of this use, in particular with regard to maintaining the required liability insurance for the entire duration of his occupation;
- e. Payment of the fee of ONE HUNDRED DOLLARS (\$100), or any other amount provided for in the current Rates By-law, for the opening of the file and the preliminary study of the application.

ARTICLE 7 OTHER AUTHORIZATION CONDITIONS

When, upon presentation of a compliant application, the Town authorizes by resolution the occupancy requested under this section, it shall so inform the applicant and issue the required authorization if the applicant complies with the following requirements:

1. provide as-built plans of the authorized building or structure, if applicable;
2. agree in writing to remain responsible for any damage to property or to anyone resulting from its occupation, to take up the Town's defence and to hold it harmless in any claim for such damage;
3. to maintain liability insurance coverage for such occupation for the duration thereof and to provide written proof thereof within ten (10) days of a request by the Town to that effect;
4. adequately maintain the authorized building or structure so that it does not cause damage to municipal property or contiguous buildings;
5. comply with all other conditions that the council may impose, in light of its jurisdiction and the exercise of its property rights, in order to lessen the impact of this authorization, including the presence of a Town representative on site during the execution of the work.

ARTICLE 8 OCCUPATION AUTHORIZATION

The occupation permit covered by this section contains the following information:

1. the name, address and occupation of the holder;
2. an identification of the building for the purpose of which the occupation is authorized, by its lot numbers and, where applicable, the address of the buildings erected thereon;
3. a description of the construction or work occupying the public domain, if applicable;
4. the names and addresses of the contractors carrying out the work and any other mandataries, if applicable;
5. such other terms and conditions of authorization as may be determined by the Town.

ARTICLE 9 AUTHORIZATION REGISTER

The authorization granted by Council is recorded in a register kept for this purpose. This register also mentions any modifications or revocations made to authorizations granted for this purpose.

ARTICLE 10 AUTHORIZATION VALIDITY PERIOD

The authorization is valid as long as the holder is the owner of the immovable from which the authorization was obtained and on condition that the Town has not revoked the authorization in the circumstances provided for in the present by-law.

ARTICLE 11 TRANSFER

An authorization may be transferred to the subsequent purchaser of the owner's property, provided that the purchaser submits an authorization request and complies with all authorization requirements set out in the present by-law.

In this case, the transfer of the authorization to a new owner automatically entails the revocation of the previous authorization, and an entry to this effect is made in the register.

ARTICLE 12 DESTRUCTION

Destruction of the building or structure for which occupation of the public domain has been authorized may result in revocation of the permission to occupy the public domain.

If the Town intends to revoke the authorization, the provisions of article 15 apply.

ARTICLE 13 RESPONSIBILITY

The authorization is granted at the holder's own risk, so that the Town is not liable for any injury or damage to property that may occur during or in the course of its exercise, whether or not by anyone specially authorized to do so.

Consequently, any authorization to use the public domain issued under the present by-law is conditional upon the holder being responsible for any damage to property or to anyone resulting from the occupation, taking up the Town's defence and holding it harmless in any claim for such damage, whether arising from his personal use or that of a user for whom he must assume responsibility under the present by-law.

ARTICLE 14 PROOF OF LIABILITY INSURANCE

The licensee must provide the Town, upon request, with proof of liability insurance covering its use of the public domain.

ARTICLE 15 REVOCATION

The Town may revoke an authorization it has granted if the holder, or another user for whom the holder is responsible under this by-law, fails to comply with the requirements of this by-law.

Before proceeding with such a revocation, the Town must inform the owner in writing of its intention to revoke the authorization at least thirty (30) days prior to the Council's decision, giving reasons for the revocation.

The owner may request a meeting with council to give him/her the opportunity to provide any relevant information or documents that may alter council's decision.

If Council decides to revoke the authorization, a notice is given by the competent authority to the permit holder setting the deadline by which the structures or installations covered by the authorization must be removed from the public domain.

ARTICLE 16 PENAL PROVISIONS

Anyone who acts in violation of the present by-law or who does or omits to do anything that helps another person to act in violation of the present by-law, or who encourages, by council, permission, consent, authorization, ratification, tolerance or otherwise, another person to act in violation of the present by-law commits an offence and is liable to the following fines:

1. In the case of a physical person:
 - a) For a first offence, a fine of \$200 to \$600;
 - b) For a first repeated offence, a fine of \$600 to \$1,000;
 - c) For any subsequent offence, a fine of \$1,000 to \$2,000;

2. In the case of a legal entity:
 - a) For a first offence, a fine of \$400 to \$1,200;
 - b) For a first repeated offence, a fine of \$1,200 to \$2,000;
 - b. For any subsequent offence, a fine of \$2,000 to \$4,000.

3. If the offence is continuous, this continuity constitutes separate contraventions, day by day.

ARTICLE 17 COMING INTO FORCE

This by-law comes into force in accordance with the law.

RICHARD BURCOMBE
Mayor

ME EDWIN JOHN SULLIVAN
Town Clerk

Follow-up

Notice of motion:	December 5, 2016
Adoption of by-law:	January 9, 2017
Public notice :	January 17, 2017
Publication :	January 17, 18, 2017