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VILLE DE LAC-BROME
TOWN OF BROME LAKE

PROVINCE OF QUEBEC
MRC BROME-MISSISQUOI
TOWN OF BROME LAKE

**BY-LAW 134
BY-LAW RESPECTING MINOR DEROGATIONS TO URBAN
PLANNING BY-LAWS**

(ADMINISTRATIVE CODIFICATION 2024)

Modified by	By-law 134-1	COMING INTO FORCE 2017-01-10
Modified by	By-law 134-2	COMING INTO FORCE 2023-07-05
Modified by	By-law t 134-3	COMING INTO FORCE 2024-05-28

Codification of by-laws 134-2 and 134-3

WHEREAS Pursuant to sections 145.1 to 145.8 of the *Land Use Planning and Development Act* (LRQ. c a-19,1), the council of a municipality may adopt a by-law on minor derogations to the terms of zoning and subdivision by-laws, other than those relating to land use and density;

WHEREAS a planning advisory committee has been set up in accordance with sections 146, 147 and 148 of the *Act respecting land use planning and development* by by-law no. 133;

WHEREAS this by-law was the subject of a consultation in accordance with sections 124 to 130 of the *Act respecting land use planning and development*, on December 12, 1988;

WHEREAS NOTICE OF MOTION was given for the purposes of this by-law at the meeting of December 12, 1988;

IT IS THEREFORE PROPOSED by F. MacKeen, seconded by G. Bristol that Council orders and decrees as follows:

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ARTICLE 1 TITLE AND NUMBER

The present by-law shall be known as the “ By-law respecting minor derogations to urban planning by-laws ”.

ARTICLE 2 ZONE WHERE A MINOR DEROGATION MAY BE GRANTED

A minor derogation may be granted in all zones provided for in the zoning by-law.

ARTICLE 3 PROVISIONS ELIGIBLE FOR A MINOR DEROGATION

All provisions of the zoning and subdivision by-laws other than those relating to land use and density may be the subject of a minor derogation.

A minor derogation to the zoning and subdivision by-laws must respect the objectives of the urban plan.

In an area where land use is subject to special constraints for reasons of public health or safety, environmental protection or general well-being, a minor derogation may not be granted with respect to regulatory provisions adopted under subparagraph 16° or 16.1° of the second paragraph of section 113 or subparagraph 4° or 4.1° of the second paragraph of section 115 of the Act respecting land use planning and development (R.S.Q., c. A-19.1). (Modification 134-3)

ARTICLE 3.1 CRITERIA FOR EVALUATING A MINOR DEROGATION APPLICATION

A derogation may only be granted if application of the by-law would cause serious prejudice to the person requesting it. Nor may it be granted if it would prejudice the enjoyment of property rights by owners of neighbouring immovables, or if it would have the effect of aggravating risks to public health or safety, or adversely affect the quality of the environment or the general well-being.

Notwithstanding the first paragraph, Council may grant a derogation even if its effect is to increase the inconvenience inherent in farming.

The resolution may also have effect with respect to work in progress or already completed, where such work has been the subject of a building permit and has been carried out in good faith. (Modification 134-3)

ARTICLE 4 TRANSMISSION OF THE APPLICATION FOR A MINOR DEROGATION

The applicant must submit 3 copies of the application to the municipal officer responsible for issuing permits, using the “Application for a minor derogation to urban planning by-laws” form.

ARTICLE 5 FEES

The application must be accompanied by payment of the application fees set by the Fee Regulation in effect at the time of the application. (Mod. Reg. 134-1, art.1).

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ARTICLE 6 TRANSMISSION OF THE REQUEST TO THE URBAN PLANNING ADVISORY COMMITTEE

The official responsible for issuing permits and certificates forwards the request to the Planning Advisory Committee; where the request has already been the subject of a permit or certificate application, the documents relating to the latter must also be forwarded to the Committee.

ARTICLE 7 STUDY OF THE REQUEST BY THE URBAN PLANNING ADVISORY COMMITTEE

The Planning Advisory Committee reviews the application and may request additional information from the official responsible for issuing permits and certificates, or from the applicant, in order to complete its study. It may also visit the property that is the subject of a minor derogation application.

ARTICLE 8 OPINION OF THE URBAN PLANNING ADVISORY COMMITTEE

The planning committee formulates its opinion in writing, taking into account, in particular, the criteria prescribed in sections 145.1, 145.2, 145.4 and 145.8 of the Act respecting land use planning and development; this opinion is forwarded to council.

The aforementioned committee may also formulate its opinion by recommending that Council issue a minor derogation conditional on the fulfillment of formal undertakings given by the applicant (Mod. Reg. 385, art. 1)

ARTICLE 9 DATE OF COUNCIL MEETING AND PUBLIC NOTICE

The clerk, in consultation with council, sets the date of the council meeting at which the application for a minor derogation will be discussed and, at least 15 days before the meeting, publishes a notice in accordance with the provisions of section 345 of the Cities and Towns Act. The content of this notice must comply with the provisions of section 145.6 of the Act respecting land use planning and development.

ARTICLE 10 PUBLICATION FEES

The clerk bills the person who requested the waiver for publication costs.

ARTICLE 11 DECISION

The council makes its decision after receiving the opinion of the urban planning advisory committee.

The resolution by which the council renders its decision may include any condition, having regard to the municipality's jurisdiction, for the purpose of mitigating the impact of the derogation. The resolution may include any of the conditions provided for in section 165.4.13 of the Act respecting land use planning and development (R.S.Q., c. A-19.1) when the derogation granted concerns non-compliance, during construction or enlargement of a structure or building intended for livestock production that is not covered by the second paragraph of section 165.4.2 of the Act respecting land use planning and development (R.S.Q., c. A-19.1), with the separation distances provided for in the Act respecting land use planning and development (R.S.Q., c. A-19.1), chap. A-19.1) from limiting distances set out in a regulatory provision adopted under

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subparagraph 4 of the second paragraph of section 113 of the Act respecting land use planning and development (R.S.Q., chap, chap. A-19.1) or, in the absence of such a provision, by virtue of the Guideline on odours caused by animal manure from agricultural activities (chapter P-41.1, r. 5) applicable in such a case by virtue of section 38 or 39 of the Act to amend the Act respecting the preservation of agricultural land and agricultural activities and other legislative provisions (2001, chapter 35).

A copy of the resolution by which the council renders its decision must be sent to the person who requested the derogation.

However, where the resolution grants a minor derogation in a location referred to in the third paragraph of article 3, the municipality must forward a copy of the resolution to the regional county municipality whose territory includes its own. The council of the regional county municipality may, within 90 days of receiving a copy of the resolution, if it considers that the decision authorizing the derogation has the effect of aggravating risks to public health or safety or of adversely affecting the quality of the environment or the general well-being :

1° impose any condition referred to in the second paragraph for the purpose of mitigating such risk or impairment or modify, for such purposes, any condition provided for by the council of the municipality;

2° disavow the decision authorizing the derogation, where mitigation of the risk or harm is not possible.

A copy of any resolution passed by the regional county municipality pursuant to the third paragraph shall be forwarded, without delay, to the concerned municipality.

A minor derogation in a location referred to in the third paragraph of Section 3 takes effect as follows :

1° the date on which the regional county municipality notifies the municipality that it does not intend to avail itself of the powers provided for in the 4th paragraph ;

2° on the date of coming into force of the resolution of the regional county municipality that imposes or modifies conditions applicable to the derogation ;

3° on expiry of the period provided for in the third paragraph, if the regional county municipality has not availed itself, within that period, of the powers provided for in that paragraph.

The municipality must forward the resolution of the regional county municipality to the person who requested the derogation or, in the absence of such a resolution, inform the person that its decision granting the derogation has taken effect. (Modification 134-3)

ARTICLE 12 REGISTER OF MINOR DEROGATIONS

The application for a minor derogation and the council's resolution are entered in the register created for this purpose.

Adopted at the regular meeting of February 13, 1989.

Gilles Decelles
Mayor

Lisa Merovitz
Clerk

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