

Consultation version
In case of discrepancy, the French version shall prevail

PROVINCE OF QUEBEC
BROME-MISSISQUOI MRC
TOWN OF LAC-BROME

BY-LAW 2019-04

**BYLAW ON THE DEMOLITION OF
BUILDINGS**

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TITRE 1

DECLARATORY, INTERPRETATIVE, ADMINISTRATIVE AND PENAL PROVISIONS

CHAPITRE 1 DECLARATORY PROVISIONS

1.1.1 **Reporting territory**

The present by-law applies to the entire territory of Town of Brome Lake.

1.1.2 **Field of application**

The purpose of this by-law is to control the demolition of buildings, to protect a building with heritage value, and to regulate and order the reuse of soil cleared following the complete or partial demolition of a building.

1.1.3 **Validity**

This Regulation is adopted as a whole, title by title, chapter by chapter, section by section, article by article, paragraph by paragraph, subparagraph by subparagraph, in such a way that if any title, chapter, section, article, paragraph or subparagraph is or should ever be declared invalid, the other provisions of this Regulation shall continue to apply with the necessary adjustments.

CHAPITRE 2 INTERPRETATIVE PROVISIONS

1.2.1 **Text interpretation**

In general, the rules for interpreting the texts of these regulations apply as follows:

- 1) The headings contained in these regulations form an integral part of them. In the event of any contradiction between the text and the title, the text shall prevail;
- 2) Verbs in the present tense include the future;
- 3) Words written in the singular include the plural, and the plural includes the singular, whenever the context lends itself to this extension.

1.2.2 **Incompatibility between a general provision and a specific provision**

In the event of incompatibility between a general provision and a specific provision relating to the same subject, the specific provision takes precedence over the general provision.

1.2.3 **Interpretation of tables, graphs and other forms of expression**

Tables, diagrams, graphs, symbols, figures and all forms of expression other than the text itself, contained in these regulations and to which they refer, form an integral part thereof.

In the event of any contradiction between the text and tables, diagrams, graphs, symbols, figures and other forms of expression, the text shall prevail.

1.2.4 Terminology

The expressions and words used in these regulations have the specific meaning given to them in the regulations, in the following order of precedence:

- 1) The present regulations;
- 2) Zoning and subdivision regulations;
- 3) Building regulations;
- 4) The Permits and Certificates By-law.

In the absence of a specific definition in the bylaws and in the *Act respecting land use planning and development*, they are to be understood in their usual sense, unless the context implies otherwise.

1.2.5 Specific definitions

Unless otherwise expressly stated or resulting from the context of the provision, the following expressions, terms and words have, in the present by-law, the meaning and application attributed to them in the present article.

"Competent Authority": means the Director or an Inspector of Land Management and the Environment.

"Committee": refers to the demolition committee.

"Immovable": refers to land, permanent structures and works located thereon and any integral part thereof, such as a main or accessory building, a retaining wall or any other permanent structure or work.

"Housing": means a dwelling as defined in *the Act respecting the Régie du logement* (RLRQ, c. R-8.1).

"Heritage value": refers to the value placed on an immovable with respect to its authenticity and integrity of architectural style, originality, historical value and state of preservation. For the purposes of this by-law, only the following buildings are considered to have heritage value:

- Buildings identified in the Lac-Brome built heritage inventory (June 2015),
- Buildings listed, classified and recognized as such in accordance with the *Quebec Cultural Heritage Act* (RLRQ, c. P 9.002);
- Buildings identified in the Canadian Register of Historic Places;
- Buildings identified in the Inventaire des lieux de culte du Québec of the Conseil du patrimoine religieux du Québec and the Ministère de la Culture et des Communications du Québec.

CHAPITRE 3
ADMINISTRATIVE PROVISIONS

1.3.1 **Rules administration**

The competent authority is responsible for the administration and enforcement of these regulations.

1.3.2 **Powers of the competent authority**

The competent authority may :

- 1) To visit and examine, at all reasonable times, any movable or immovable property and the interior or exterior of any building or structure whatsoever to ascertain whether the present by-law is being complied with, to verify any information or to ascertain any fact necessary for the exercise of the powers conferred by this by-law;
- 2) During a visit referred to in paragraph 1) :
 - a. Take photographs of places visited and measurements;
 - b. Take samples of any kind for analysis, free of charge, and even, if necessary, dismantle structures to take such samples;
 - c. Require the production of books, records and documents relating to matters covered by this by-law or require any other information relating thereto that it deems necessary or useful;
 - d. Be accompanied by one or more police officers if she has reason to fear being intimidated or molested in the performance of her duties;
 - e. Be accompanied by a person whose assistance or expertise is required;
- 3) Notify a person to cease work or occupancy of an immovable when it is discovered that such work or occupancy is being carried out or exercised in contravention of the present by-law and to refrain from any action or activity likely to result in the continuation of the infraction;
- 4) Require any owner, tenant or occupant to rectify any situation constituting a violation of this by-law, including, but not limited to, restoring things to the state they were in the cause of the violation occurred;
- 5) Require any owner, lessee or occupant to carry out or have carried out tests, analyses or verifications of any material, equipment, installation or building to compliance with this by-law and to obtain the results, where applicable.

If the owner, tenant or occupier refuses, carry out or have carried out, at their expense, the tests, analyses or checks mentioned in this paragraph;

- 6) Perform any other act necessary or useful for the application, supervision and control of the present by-law.

1.3.3 **Liability of owner, tenant or occupier**

The owner of an immovable, its tenant or occupant must allow the competent authority and any person authorized by the present by-law the right to visit and examine, at any reasonable time, any movable or immovable property as well as the interior or exterior of any dwelling, building or edifice.

CHAPITRE 4
PENAL PROVISIONS

1.4.1 **Infringement report**

The competent authority is authorized to issue a statement of offence for any violation of the present by-law.

Any lawyer employed by the Town is also authorized to issue a statement of offence for any violation of the present by-law.

1.4.2 **Infringement**

Any person who contravenes any of the provisions of the present by-law is guilty of an offence.

Any person who intervenes or participates in any way whatsoever in any work or activity must comply with the present by-law.

Legal action may be taken at any time against anyone contravening the present by-law, without notice or delay.

1.4.3 **Aiding and abetting an offence**

Any person who advises, encourages or incites another person to do anything that constitutes an offence, or who does or omits to do anything that has the effect of helping another person to commit an offence, commits the offence himself and is liable to the same penalty as that provided for the offender, whether or not the latter has been prosecuted or convicted.

1.4.4 **Directors' and officers' liability**

When a legal person, an agent, mandatary or employee of a legal person, a partnership or a non-personalized association commits an offence under this by-law, the director or officer of the legal person, partnership or association is presumed to have committed the offence, he or she establishes that he or she exercised due diligence in taking all necessary precautions to prevent the commission of the offence.

For the purposes of this article, in the case of a partnership, all partners, except limited partners, are presumed to be directors of the partnership in the absence of any evidence to the contrary designating one or more of them or a third party to manage the affairs of the partnership.

1.4.5 **General penalties**

Anyone contravening any provision other than articles 1.4.1 to 1.4.4 inclusive of the present by-law is liable, for each day or part of a day that the offence lasts, to a fine of at least 250\$ and at most 1,000\$ in the case of a natural person, and a minimum of 500\$ and a maximum of 2,000\$ in the case of a legal entity, for the first offence, and a minimum of 500\$ and a maximum of 2,000\$ in the case of a natural person, and a minimum of 1,000\$ and a maximum of 4,000\$ in the case of a legal entity, for each subsequent offence.

1.4.6 **Special penalties for demolition without authorization**

Anyone who demolishes or causes to be demolished an immovable without authorization from the Committee or contrary to the conditions of authorization set out in the demolition certificate is liable for each day or part of a day that the offence lasts, to a fine of not less than 10,000\$ and not more than 250,000 \$.

In addition, the person who has demolished or caused the demolition to be carried out may be required to rebuild the building thus demolished. Should the person fail to reconstitute the immovable in accordance with the by-law, the Council may order the work to be carried out and recover the costs from the latter, in which case article 2.4.10 of the present by-law applies, adapted as required.

1.4.7 **Specific penalties for site visits**

Anyone who prevents the competent authority from entering the premises where demolition work is being carried out is liable to a fine of not less than 250\$ and not more than 500 \$ for each day, or part of a day, that the offence lasts.

In addition, any person in authority responsible for the execution of demolition who, on the premises where the work is to be carried out, refuses to produce a copy of the demolition authorization certificate upon request by a Town official is liable to a fine of not less than 250\$ and not more than 500 \$ for each day, or part of a day, that the offence continues.

1.4.8 **Other recourse**

The Town may, for the purposes of enforcing the provisions of this by-law, exercise cumulatively or alternatively, with those provided for this by-law, any other appropriate recourse of a civil or penal nature and, without limitation, the Town may exercise all the recourses provided for in articles 227 to 233 of the *Act respecting land use planning and* (RLRQ, c. A-19.1).

TITRE 2 **APPLICATION FOR A CERTIFICATE OF AUTHORIZATION FOR** **DEMOLITION**

CHAPITRE 1

PROPERTIES SUBJECT TO COMMITTEE AUTHORIZATION

2.1.1 **Obligation to obtain authorization**

The complete or partial demolition of an immovable located on the territory of Town of Brome Lake is prohibited unless the owner has first obtained a certificate of authorization issued by the competent authority.

The certificate of authorization can only be issued once demolition request has been authorized by the committee, the appeal period has expired as stipulated in article 2.6.2 of this by-law, or the municipal council has rendered its decision, as the case may be.

However, the complete or partial demolition of certain buildings may be exempted committee authorization as prescribed in articles 2.1.2 and 2.1.3 of this chapter.

2.1.2 **Exceptions relating to the condition of a building**

Notwithstanding article 2.1.1, an application for a certificate of authorization for an immovable or part of an immovable with any of the following characteristics is not subject to authorization by the committee:

- 1) Have lost more than half of its value entered on property assessment roll under the *Act respecting municipal taxation* (RLRQ, c. F-2.1) by fire, explosion or other disaster;

- 2) Present a danger to public safety, when there is an urgent need to act;
- 3) Be in an advanced state of deterioration that makes it impossible to occupy the building for the purpose for which it was intended, without work costing more than the value of the building entered on the property assessment roll under the *Act respecting municipal taxation* (RLRQ, c. F-2.1). Although not a mandatory condition, all owners should - prior to demolition and to avoid any contentious situation - obtain a professional opinion confirming that the building is in such a state of deterioration.
- 4) In order to decontaminate the property immediately, when action is urgently required.

2.1.3 Other exceptions

Notwithstanding article 2.1.1, an application for a certificate of authorization for an immovable or part of an immovable whose demolition meets any of the following conditions is not subject to authorization by the committee:

- 1) It concerns a main residential building and is carried out for the purpose of rebuilding within 180 days on the same site a new main residential building with an equivalent value and a number of dwellings equivalent to or greater than those of the main building to be demolished. The value of the new main building to be constructed is compared to the value entered on the property assessment roll under *the Act respecting municipal taxation* (RLRQ, c. F-2.1);
- 2) It concerns a main commercial, industrial or public building and is carried out for the purpose of rebuilding within 180 days, on the same site, a new main building of equivalent or greater value than the main building to be demolished. The value of the new main building is compared to the value entered on the property assessment roll under *the Act respecting municipal taxation* (RLRQ, c. F-2.1);
- 3) It applies to a building located outside the urban perimeter;
- 4) It is carried out for the purpose of developing, on the same site, a public utility project or a public thoroughfare approved by Town of Brome Lake by resolution or bylaw, or by a government;
- 5) It is carried out with the aim of restoring the building or part of it to its original state;
- 6) It concerns a main building whose use is derogatory and protected by acquired rights, and is carried out for the purpose of rebuilding within 180 days, on the same site, a new main building whose use complies with urban planning regulations and whose value is equivalent to or greater than that of the main building to be demolished. The value is based on the value entered on the property assessment roll under *the Act respecting municipal taxation* (RLRQ., c. F-2.1);
- 7) It concerns a building built illegally;
- 8) It concerns a derogatory main building protected by acquired rights and erected on the same lot as another main building that complies with planning regulations;
- 9) It applies to a building used exclusively as a service station, road vehicle repair and maintenance facility or car wash;
- 10) It applies to a main building with no foundation;
- 11) It's for an accessory building;

- 12) It is partial and applies to a main building and no more than twenty-five percent (25%) of the building's total volume.

2.1.4 **Building with heritage value**

Notwithstanding articles 2.1.2 and 2.1.3, any application for a certificate of authorization for the demolition, in whole or in part, of an immovable having heritage value is subject to authorization by the committee.

CHAPITRE 2 AUTHORIZATION PROCEDURE

2.2.1 **Application for a certificate of authorization**

An application for a certificate of authorization to demolish an immovable covered by the present by-law must be sent in writing to the appropriate authority and accompanied by payment of the amount prescribed in Town of Brome Lake's *Rates By-law*. The application must be signed by the owner of the immovable or by his or her duly authorized representative.

2.2.2 **Contents of a request**

The applicant must submit the information and documents required by the competent authority; the application must contain all the elements and expert opinions necessary for its analysis, including

- 1) A sworn attestation affirming that the applicant is the owner of the land in question, or a document establishing that the applicant holds an option to purchase and, if applicable, the power of attorney establishing the authority any person authorized to act on behalf of the owner;
- 2) A certificate of location or siting by a land surveyor for any construction erected on the property in question, including the technical designation, or a sworn attestation by the owner stating that the location or siting of the construction covered by the application is located entirely on the property in question.
- 3) Photos of the building in question and of existing buildings, equipment and structures on the site;
- 4) A written statement setting out the reasons for the application, including the proposed use of the cleared land;
- 5) A preliminary program for the reuse of cleared soil indicating the following information:
 - a. Lot dimensions and area;
 - b. Existing and future topography of the site, with contour lines to help understand the site and project;
 - c. Current and projected land uses, current and projected uses of existing and future building(s), and number of dwellings, if applicable;
 - d. The distances between each building and lot lines
 - e. The layout of the building(s) and related setbacks and yards;
 - f. Building standards such as height in storeys and metres, and percentage of floor space;
 - g. Dimensions and location of driveways, vehicular access and parking areas, including aisles, parking and vegetated islands, where required;

- h. Location of outdoor display areas, outdoor storage areas, transshipment areas, including loading and unloading docks and maneuvering apron;
 - i. Landscaping of the site prior to construction, spaces to be cleared, excavated, trees to be preserved, as well as location and description of hedge, tree and shrub plantings, vegetation strips and buffer strips;
 - j. Cadastral operation plan for subdivision permit, if required;
- 6) Any other element relevant to the study of the request.

2.2.3 **Preliminary reuse program for cleared soil compliant**

The compliance of the preliminary reuse program for cleared soil is analyzed by the competent authority before it is submitted to the committee for approval.

CHAPITRE 3 CONSULTATION

2.3.1 **Public notice**

As soon as the committee receives a request for authorization to demolish, it must post a notice on the immovable in question, easily visible to passers-by. It must also immediately publish a public notice of the request.

If an application for demolition authorization has already been granted and the Committee receives a request to extend the deadline for completion of the work or to approve a preliminary program for the reuse of cleared land, it is not required give public notice of the application.

Any notice referred to in this article must reproduce the first paragraph of article 2.3.3 of this chapter.

2.3.2 **Notice to tenants**

The applicant must send, by registered or certified mail, a notice of the application to each tenant in the building. The applicant must provide the Committee with sufficient proof of such mailing. The Committee may refuse to consider an application where it is not demonstrated to its satisfaction that a tenant has been duly notified of the application.

2.3.3 **Opposition**

Any person who wishes to object to the demolition must, within ten (10) days of publication of the public notice or, failing that, within ten (10) days of posting of the notice on the immovable concerned, make his or her reasoned objection known in writing to the Town clerk.

Before rendering its decision, the committee must consider the objections received at a public meeting.

It may also hold a public hearing if it deems this appropriate.

2.3.4 **Acquisition of an apartment building covered by the application**

Where the immovable covered by the request authorization to demolish includes one or more dwellings, a person wishing to acquire the immovable in order to maintain its residential rental character may, until such time as the committee has rendered its decision, intervene in writing with the Town clerk to request a delay in order to undertake or pursue steps acquire the immovable.

2.3.5 **Decision postponed**

If the committee deems that the circumstances justify it, it will postpone its decision and allow the intervener maximum of two (2) months from the end of the hearing complete negotiations. The Committee may postpone its decision for this reason only once (1).

CHAPITRE 4 COMMITTEE'S DECISION

2.4.1 **Approval of preliminary reuse program for cleared soil**

The preliminary soil reclamation submitted is analyzed by the committee. It can only be approved if it complies with Town of Brome Lake bylaws. To determine compliance, the committee must consider the by-laws in effect at the time the program is submitted.

The applicant may request that the preliminary reuse program for the cleared land be submitted to the committee after the committee has rendered a positive decision demolition authorization application.

In the event that the issuance of a certificate of authorization to demolish a proposed program is suspended due to a notice of motion, the Committee may not approve the program before the suspension expires or before the coming into force of the amending by-law that was the subject of the notice of motion or resolution if this coming into force is prior to the expiry of the suspension; the Committee's decision is then rendered with regard to the by-laws in force at the time of this decision.

2.4.2 **Evaluation of demolition permit application**

The committee grants authorization for demolition if it is convinced of the desirability of the demolition, taking into account the public interest and the interests of the parties.

Before deciding on a request for demolition authorization, the committee must consider the following elements:

- 1) The condition of the building;
- 2) Deterioration of the architectural appearance, aesthetic character and neighbourhood quality of the building;
- 3) The cost of restoring the building;
- 4) Authenticity and the importance of architectural style;
- 5) Planned use of cleared land;
- 6) When the building includes one or more dwellings:
 - a. Damage caused to tenants;
 - b. Housing needs in the area;
 - c. The possibility of rehousing tenants;
- 7) Any other relevant criteria required to analyze the application.

The application for demolition authorization may be granted if the preliminary program for reusing the cleared land is approved by the committee, or conditional on approval of this program.

2.4.3 **Refusal of request**

The committee must also refuse an application for demolition authorization if the required fee has not been paid.

2.4.4 **Conditions of authorization**

When granting demolition authorization, the committee may impose any conditions relating to the demolition of the building or the reuse of the cleared land.

In the case of conditions relating to the demolition of the building, the committee may in particular determine the conditions for rehousing a tenant, when the building comprises one or more dwellings.

When the Committee authorizes demolition subject to approval of the preliminary program for reuse of the cleared land, it may set a deadline by which the program must be submitted to it for approval. The authorization lapses on expiry of this deadline or, if no deadline has been set, on expiry of one (1) year.

The Committee may, for reasonable cause, extend the time limit, provided that the request is made before its expiry.

2.4.5 **Monetary guarantee**

If conditions are imposed under article 2.4.4, the committee may require the owner to provide, prior to the issuance of a certificate of authorization for demolition, a monetary guarantee made out in the name of Town of Brome Lake to ensure compliance with these conditions. This monetary guarantee may not exceed the value entered on the property assessment roll established pursuant to the *Act respecting municipal taxation* (RLRQ, c. F-2.1).

The committee may require a monetary guarantee under the same conditions to guarantee the execution of the preliminary program for the reuse of cleared soil.

In all cases, it is submitted to the competent authority in one of the following ways:

- 1) A monetary letter of guarantee or irrevocable letter of credit issued by a bank, credit union, insurance company, trust or fiduciary;
- 2) A guarantee issued by an insurer duly authorized to transact insurance in Quebec under the *Insurance Act* (RLRQ, c. A-32);
- 3) A certified cheque issued to Town of Brome Lake and drawn on an account registered in a financial institution doing business in Quebec.

In the case of a monetary guarantee in the form of a certified cheque, the Town cashes the cheque and pays no interest.

2.4.6 **Validity of the monetary guarantee**

The monetary guarantee must remain in force until the expiry of sixty (60) days following the date of completion of the work and conditions required by the committee. It must include a provision requiring the issuer to notify the competent authority of its cancellation.

When the committee modifies the deadline for demolition in accordance with article 2.4.8 of this chapter, it may require additional monetary security to cover the complete completion of the work required by the committee.

2.4.7 **Return of the money-back guarantee**

At the written request of the applicant to the competent authority unless it has already been executed, the monetary guarantee shall be remitted

no later than thirty (30) days after the competent authority has established that the work has been fully executed.

2.4.8 **Demolition time**

When the committee grants demolition authorization, it can set a deadline by which demolition work must be undertaken and completed.

He may, for a reasonable reason, modify the time limit, provided that the request is made to him before the time limit expires.

2.4.9 **Time limit expiry**

If the demolition work is not undertaken before the deadline set by the committee has expired, the demolition authorization is null and void.

If, on the expiry date of this period, a tenant continues occupy the dwelling, the lease is automatically extended and the landlord may, within one month, apply to the Régie du logement to set the rent.

2.4.10 **Work carried out by the Town**

If the work has begun, but has not been completed within the set time limit, the council may have it carried out and recover the costs from the owner. These costs constitute a prior claim on the land on which the immovable was located, in the same way and with the same rank as the claims referred to in paragraph 5 of article 2651 of the *Civil Code of Québec*; these costs are secured by a legal hypothec on this land.

2.4.11 **Modification of conditions**

Where the committee has granted demolition authorization and imposed conditions relating to the demolition of the building or the reuse of the cleared land, it may modify the conditions at any time at the request of the applicant.

Any request for a major modification to the conditions of the preliminary reuse program for cleared soil is treated as a new application subject to the requirements set out in this by-law.

CHAPITRE 5 LESSOR'S OBLIGATION

2.5.1 **Evicting a tenant**

A landlord who has been granted a demolition permit may evict a tenant in order to demolish a dwelling.

However, a tenant may not be forced to vacate his or her dwelling before the later of the expiry of the lease or expiry of three (3) months from the issuance of the certificate of authorization for demolition.

2.5.2 **Compensation**

The landlord must pay the evicted tenant three (3) months' rent and moving expenses. If the damages resulting from the prejudice suffered by the tenant amount to a higher sum, he may apply to the Régie du logement to have the amount set.

Compensation is payable on the tenant's departure, and removal costs on presentation of supporting documents.

This indemnity does not apply if the lessor must demolish the building following a loss.

CHAPITRE 6 CALL TO THE COUNCIL

2.6.1 **Reasoned decision**

The committee's decision regarding demolition must be substantiated and sent without delay to any party involved.

If the preliminary reuse program for cleared soil is approved at a later date, the committee's decision on the program and any associated conditions are sent to the applicant by registered or certified mail.

2.6.2 **Call to the Council**

Any person may, within thirty (30) days of the Committee's decision concerning demolition, appeal this decision to the Council.

All appeals must be addressed in writing to the Town Clerk.

2.6.3 **Member of the council**

Any member of the Council, including a member of the Committee, may sit on the Council to hear an appeal lodged under Article 2.6.2 of this Chapter.

2.6.4 **Decision on appeal**

The Council may confirm the Committee's decision or render any decision it should have made.

TITRE 3 **FINAL PROVISIONS**

CHAPITRE 1 ABROGATIONS

3.1.1 **Repeals**

This by-law repeals Town of Brome Lake *Bylaw 462* and its amendments.

3.1.2 **Effects of repeals**

The repeals made by virtue of the present by-law do not affect any acquired right, any existing obligation, any procedure in progress, any penalty in progress, nor any act accomplished, decided, ordered or concluded or which must be done by virtue of this by-law and its amendments, in particular, but without restricting the scope of the foregoing, they do not affect any resolutions made, orders given, contracts concluded, franchises or privileges granted or any other thing done under the influence of this by-law or its amendments; nor the assessment, collection and apportionment tax rolls, nor the rights and duties of the Town's officers, servants and employees, who shall continue to exercise their functions until otherwise decided under this by-law; nor the bills, bonds or other securities issued by the Town, but on the contrary, all such rights, obligations, procedures, penalties, acts and things shall continue to be governed by the provisions of this by-law

and its amendments until they are modified, replaced or revoked under the authority of this by-law.

CHAPITRE 2
ENTRY INTO FORCE

3.2.1 **Entry into force**

These regulations come into force in accordance with the law.

Richard Burcombe
Mayor

M^e Edwin John Sullivan, B Sc., LL. B
Clerk

Notice of motion: December 3, 2018
Project presentation : December 3, 2018
Adoption of regulations : December 17, 2018
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