

**CANADA  
PROVINCE DE QUÉBEC  
MUNICIPALITÉ DU CANTON DE HARRINGTON**

**BY-LAW #297-2023 CONCERNING DEMOLITION OF BUILDINGS**

**WHEREAS** under sections 148.0.2 and following of the *Act respecting land use planning and development* (CQLR, c. A-19.1), a municipality must adopt a by-law on the demolition of buildings;

**WHEREAS** by-law number 192-2012 on permits and certificates is in effect on the territory of the Municipality of the Township of Harrington and requires a demolition certificate before proceeding with it;

**WHEREAS** a by-law on the demolition of buildings can prove useful for urban planning regulations, in particular for the protection of built heritage and the reuse of cleared ground;

**WHEREAS** the municipal Council wishes to allow citizens to be heard regarding demolition requests affecting the built heritage of the municipality;

**WHEREAS** the municipal Council deems it appropriate to supervise building demolition projects on its territory;

**WHEREAS** a notice of motion for this by-law was given at the regular sitting held on April 11<sup>th</sup>, 2023;

**FOR THESE REASONS,**

**IT IS MOVED BY** Councillor Robert Dewar

**AND CARRIED THAT** the Municipal Council adopt By-law #297-2023 concerning the demolition of buildings.

**ADOPTED UNANIMOUSLY**

**THE COUNCIL OF THE MUNICIPALITY OF THE TOWNSHIP OF HARRINGTON ENACTS THE FOLLOWING:**

**DECLARATORY AND INTERPRETATIVE PROVISIONS**

**ARTICLE 1**

The preamble is an integral part of these rules.

**ARTICLE 2**

This by-law bears the title of “By-law #297-2023 concerning the demolition of buildings”.

**ARTICLE 3**

Definitions:

- “Committee”: The committee set up by the Council in accordance with the provisions of these regulations.
- “Council”: The municipal council of the Municipality.
- "Demolition": Intervention that results in the destruction of more than 50% of the volume of a building, without regard to the foundations, including its removal or displacement.
- “Immovable”: Building, construction or work of a permanent nature erected on land and everything that is an integral part of it.
- “Heritage building”:  
an immovable cited in accordance with the Cultural Heritage Act (chapter P-9.002), located in a heritage site cited in accordance with that act or listed in an inventory referred to in the first paragraph of section 120 of that act.
- “Dwelling”: A dwelling within the meaning of the Act respecting the Administrative Housing Tribunal (CQLR, c. T-15.01).
- “Municipality”: The Municipality of the Township of Harrington.
- “Town planning regulations”:  
The regulations adopted by the Municipality under the Act respecting land use planning and development (CQLR, c. A-19.1).
- “Applicant”: The owner of the building targeted by the demolition permit application or his duly authorized representative.

## **APPLICATION OF THE BY-LAW**

### **ARTICLE 4**

Any designated official, appointed according to the provisions of Permits and Certificates By-law number 195-2012, is responsible for the application and compliance with this by-law and is authorized to issue statements of offence.

## **SUBJECT INTERVENTION**

### **ARTICLE 5**

All demolition work on a building is prohibited unless the owner of the building has previously obtained authorization in accordance with this by-law.

The first paragraph does not apply to the following buildings, if they do not qualify as a heritage building:

- a) a building that a person demolishes or causes to be demolished to comply with an order of a competent court;

- b) a burnt or damaged building destroyed to more than 50% of its volume, not taking into account its foundations;
- c) an immovable to be demolished to enable the Municipality to carry out a municipal purpose;
- d) an immovable used for agricultural use;
- e) an accessory or complementary building as defined by the Municipality's urban planning by-laws;
- f) a temporary building within the meaning of the urban planning by-laws;

The fact that the immovable is not subject to this by-law under the second paragraph does not exempt the applicant from the obligation to obtain the necessary certificate of authorization before proceeding with the demolition under the By-law respecting permits and certificates number 195-2012.

## **DEMOLITION COMMITTEE**

### **ARTICLE 6**

Is created the demolition Committee whose function is to authorize demolition requests and to exercise any other power conferred by chapter V.0.1 of the Act respecting land use planning and development (CQLR, c. A-19.1) .

### **ARTICLE 7**

The Committee is made up of three (3) members of the municipal Council appointed by resolution of the latter for a period of one (1) year and whose mandate is renewable.

### **ARTICLE 8**

The mandate of a member ceases or is temporarily interrupted in the following cases:

- a) if he ceases to be a member of the Council;
- b) if he has a direct or indirect personal interest in a matter referred to the committee;
- c) if he is unable to act.

In the preceding cases, the Council appoints a member for the unexpired period of the mandate of his predecessor or for the duration of his impediment or for the duration of the hearing of the case in which he has an interest, depending on the case.

### **ARTICLE 9**

The Chairman is appointed by the Council from among the Committee members it appoints. He chairs the Committee meetings.

The clerk-treasurer acts as secretary to the Committee. He prepares, among other things, the agenda, receives correspondence, draws up the minutes of each meeting and follows up on the Committee's decisions.

### **ARTICLE 10**

The quorum of the committee is two members.

Decisions are taken by majority vote. Each member has one vote and cannot abstain.

### **ARTICLE 11**

The Committee meets, as needed, when one or more compliant authorization requests, including the payment of the fees required for the study and processing of said request, are submitted to the municipality.

### **ARTICLE 12**

The secretary, in consultation with the committee members, calls a meeting to study the request(s).

## **REQUEST FOR CERTIFICATE OF AUTHORIZATION**

### **ARTICLE 13**

A written request for a demolition authorization certificate must be sent to the Municipality, accompanied by any document required by this by-law and the deposit of the amount required in article 15.

### **ARTICLE 14**

All requests must be made in writing, on a form or by letter, and be accompanied by the documents relevant to the Committee's decision-making, but must at least be accompanied by the following elements:

- a) the name, address and telephone number of the applicant or their authorized representative;
- b) the identification and location of any property or building that is the subject of the application;
- c) photographs of the immovable covered by the application;
- d) the description of any other existing construction on the building;
- e) the current and projected use of the building;
- f) the reasons for the demolition;
- g) if it is a building comprising housing units, their number, the state of occupancy at the time of the request and the possibilities of rehousing the occupants;
- h) the schedule of the planned work including, in particular, the date and deadline for the demolition;
- i) an up-to-date certificate of location;
- j) a layout plan of any proposed building and development;

The request must be signed by the applicant or his duly authorized representative.

### **ARTICLE 15**

The applicant for a demolition authorization certificate must deposit, at the time of his application, the sum of three hundred dollars (\$300) to cover the costs of studying and issuing his authorization certificate.

These fees are non-refundable, regardless of the decision of the Committee.

## **ANALYSIS PROCESS**

## **ARTICLE 16**

As soon as the Committee receives a demolition authorization request, it must post a notice easily visible to passers-by on the immovable covered by the request.

In addition, he must immediately cause a public notice of the application to be published.

Any notice referred to in this article must reproduce the text of article 17 of this by-law.

When the immovable concerned is a heritage immovable, a copy of this notice must be sent without delay to the Minister of Culture and Communications.

## **ARTICLE 17**

Any person who wishes to oppose the demolition must, within 10 days of the publication of the public notice or, failing that, within 10 days of the posting of the notice on the immovable concerned, make known in writing his reasoned opposition to the clerk-treasurer of the Municipality.

## **ARTICLE 18**

Before rendering its decision, the Committee must consider the objections received.

It must hold a public hearing if the application for authorization relates to a heritage building.

It may, in any other case, hold a public hearing if it deems it appropriate.

## **COMMITTEE DECISION**

### **ARTICLE 19**

The Committee must refuse the request for authorization if the required fees have not been paid.

### **ARTICLE 20**

The Committee grants the authorization if it is convinced of the advisability of the demolition taking into account the public interest and the interest of the parties.

Before deciding on a request for authorization for demolition, the Committee must consider in particular:

- a) the condition of the immovable covered by the application;
- b) deterioration of the architectural appearance, aesthetic character or quality of life of the neighborhood;
- c) cost of restoration;
- d) damage caused to tenants;
- e) housing needs in the surrounding area;
- f) the possibility of relocation of tenants;

g) Its heritage value, including the history of the building, its contribution to local history, its degree of authenticity and integrity, its representativeness of a particular architectural trend and its contribution to a whole to be preserved.

#### **ARTICLE 21**

The Committee may, if it deems it necessary for a better understanding of the request, ask the applicant to provide, at his own expense, any additional details, any information or any report prepared by a professional.

#### **ARTICLE 22**

When the Committee grants the authorization, it may impose any condition relating to the demolition of the building. It may in particular determine the conditions for the rehousing of a tenant when the building includes one or more dwellings.

#### **ARTICLE 23**

The decision of the Committee concerning the demolition must be substantiated and transmitted without delay to any party in question, by registered mail.

#### **APPEAL**

#### **ARTICLE 24**

Any person may, within 30 days of the Committee's decision, appeal this decision to the Council.

The council may, on its own initiative, within 30 days of a committee decision authorizing the demolition of a heritage building, adopt a resolution expressing its intention to review this decision.

Any member of the council, including a member of the committee, may sit on the council to hear an appeal brought under the first paragraph.

#### **ARTICLE 25**

The appeal must be made by a written and reasoned request which must be received at the office of the clerk-treasurer of the Municipality no later than the thirtieth day following the day on which the decision was rendered.

#### **ARTICLE 26**

The Council may confirm the Committee's decision or render any decision that the latter should have taken.

#### **ISSUANCE OF CERTIFICATE**

#### **ARTICLE 27**

No demolition authorization certificate may be issued by the person designated under this by-law before the expiry of the 30-day period provided for in article 24 nor, if there has been an appeal under this article, before the Council has rendered a decision authorizing the demolition.

If the decision concerns a heritage building, a certificate of authorization can only be issued following the expiry of the 90-day period following receipt by the MRC of the notice of the municipal decision.

## **PROVISIONS CONCERNING BUILDINGS COMPRISING ONE OR MORE DWELLINGS**

### **ARTICLE 28**

The applicant must send a notice of the application to each of the tenants of the building, if applicable.

### **ARTICLE 29**

If a person wishes to acquire this immovable in order to preserve its residential rental character, he may, as long as the Committee has not rendered its decision, intervene in writing with the clerk-treasurer to request a delay in order to undertake or pursue steps to acquire the building.

### **ARTICLE 30**

If the Committee considers that the circumstances justify it, it postpones the pronouncement of its decision and grants the intervener a period of at most two months from the end of the hearing to allow the negotiations to reach a conclusion. The Committee may postpone the pronouncement of its decision for this reason only once.

### **ARTICLE 31**

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

However, a tenant may not be forced to vacate his dwelling before the later of the following eventualities, either the expiry of the lease, or the expiry of a period of three months from the date of issuance of the certificate of authorization.

### **ARTICLE 32**

The landlord must pay the tenant evicted from his dwelling an indemnity of three months' rent and his moving expenses. If the damages resulting from the harm suffered by the tenant amount to a higher sum, he may apply to the Administrative Housing Tribunal to have the amount fixed. The indemnity is payable on departure of the tenant and the moving expenses, upon presentation of supporting documents.

## **PROVISIONS CONCERNING HERITAGE BUILDINGS**

### **ARTICLE 33**

If a person wishes to acquire an immovable to preserve its heritage character, he or she may, as long as the Committee has not rendered its decision, intervene in writing with the clerk-treasurer to request a delay in order to undertake or continue to purchase the building.

#### **ARTICLE 34**

The Committee must consult the local heritage council before making a decision relating to a heritage building.

### **WORK EXECUTION**

#### **ARTICLE 35**

When the Committee grants the authorization, it can set the deadline within which the demolition work must be undertaken and completed.

He may, for a reasonable reason, modify the fixed time limit, provided that a request to do so is made to him before the expiry of that time limit.

#### **ARTICLE 36**

If the demolition work is not undertaken before the expiry of the deadline set by the Committee, the demolition authorization is without effect.

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

#### **ARTICLE 37**

If the work is not completed within the time fixed, the Council may cause it to be carried out and recover the cost of the work from the owner. These costs constitute a priority claim on the land where the building was located, in the same way and according to the same rank as the claims referred to in paragraph 5° of article 2651 of the Civil Code; these costs are secured by a legal hypothec on this land.

### **INSPECTION**

#### **ARTICLE 38**

At all times during the execution of the demolition work, a person in authority on the premises must have in his possession a copy of the certificate of authorization. A Municipal official designated by the Council may enter, at any reasonable time between 7 am and 7 pm, on the premises where this work is being carried out in order to verify whether the demolition complies with the Committee's decision. Upon request, the official of the Municipality must give his identity and show the certificate, issued by the Municipality, attesting to his capacity.

Is liable to a maximum fine of \$500:

1° anyone who prevents a municipal official from entering the premises where the demolition work is being carried out;

2° the person in authority responsible for carrying out the demolition work who, on the premises where the work is to be carried out, refuses to show, at the request of a municipal official, a copy of the certificate of authorization.

## **FINES AND PENALTIES**

### **ARTICLE 39**

The fact of complying with this regulation does not remove the obligation to comply with any other law or any other regulation applicable in this case, in particular the Act respecting the Administrative Housing Tribunal.

### **ARTICLE 40**

Without prejudice to other recourses that may be exercised by the Municipality, anyone who proceeds or has the demolition of a building proceeded without having previously obtained a demolition authorization or contrary to the applicable conditions is liable; in addition to costs, a fine of at least \$5,000 and at most \$25,000.

The Municipality may also ask the court to order this person to reconstitute the building thus demolished and, failing that, to authorize the municipality to proceed with the reconstitution and recover the costs of the owner, in application of article 148.0. .17 of the Act respecting land use planning and development.

## **COMING INTO FORCE**

### **ARTICLE 41**

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

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Gabrielle Parr  
Mayor

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France Bellefleur, CPA, CA  
Director general and  
Clerk-treasurer

Notice of motion : April 11<sup>th</sup> 2023  
Filing of the by-law project : April 11<sup>th</sup> 2023  
Public consultation : May 2<sup>nd</sup> 2023  
Adoption of the by-law : May 15<sup>th</sup> 2023  
Entry into force : May 16<sup>th</sup> 2023