



PROVINCE OF QUEBEC
VILLE DE KIRKLAND

BY-LAW NO. : 2007-54-3

**BY-LAW AMENDING BY-LAW NO. 2007-54
GOVERNING THE DEMOLITION OF IMMOVABLES
IN ORDER TO INTEGRATE THE RULES APPLICABLE
TO A HERITAGE IMMOVABLE AND OTHER
MODIFICATIONS**

ADOPTION PROCEDURE

Notice of motion :	April 4, 2022
Filing of draft by-law :	April 4, 2022
Adoption of draft by-law :	April 4, 2022
Public consultation:	April 21, 2022
Adoption of by-law :	May 2, 2022
Publication and coming into effect :	May 3, 2022

- CONSIDERING the enabling authority for the adoption of a by-law governing the demolition of immovable is found in sections 148.0.1 to 148.0.26 of an *Act respecting land use planning and development* (chapter A-19.1) and section 141 of the *Cultural Heritage Act* (chapter P-9.002);
- CONSIDERING that pursuant to section 356 of the *Cities and Towns Act* (chapter C-19), notice of motion of this by-law was given and a draft of this by-law was filed at the regular sitting of the Municipal Council held on April 4, 2022;
- CONSIDERING the draft by-law was adopted at the regular sitting held on April 4, 2022;
- CONSIDERING this by-law was made available to the public;
- CONSIDERING the Preamble forms an integral part of this by-law;

THE MUNICIPAL COUNCIL ORDERS AND DECREES AS FOLLOWS:

ARTICLE 1 DEFINITIONS

Chapter 1 is amended by adding the following definitions to Article 1 after the definition of the word Director, so that it reads as follows:

- “Dwelling : A dwelling within the meaning of the *Act respecting the Administrative Housing Tribunal* (chapter T-15.01).
- Heritage immovable : A heritage immovable means an immovable recognized in accordance with the *Cultural Heritage Act* (chapter P-9.002), situated on a heritage site recognized in accordance with that Act or registered in an inventory referred to in the first paragraph of section 120 of that Act;”

ARTICLE 2 PUBLIC SITTINGS

Chapter 2 is amended by replacing Article 6 with the following, so that it reads as follows:

“6. Decisions of the Committee

The sittings of the committee are public and decisions are taken with the majority.

It shall hold a public hearing when the application for authorization relates to a heritage immovable and in any other case where it considers it advisable to do so.”

ARTICLE 3 APPLICATION FOR AUTHORIZATION TO DEMOLISH

Chapter 3 is amended by replacing Article 7 with the following, so that it reads as follows:

“7. Application for authorization to demolish

An application for authorization to demolish shall be submitted to the director or to the secretary by the owner of the immovable to be demolished or by his duly authorized representative and must be accompanied by the following documents:

- a) A photograph of each façade of the immovable to be demolished;
- b) A certificate of location or a site plan of the immovable to be demolished;
- c) A report signed by a professional within the meaning of section 1 of the *Professional Code* (chapter C-26), on the condition of the immovable concerned by the application and the cost of its restoration;
- d) At the request of the director, a heritage study signed by a professional within the meaning of section 1 of the *Professional Code* (chapter C-26), on the history of the immovable, its contribution to local history, its degree of authenticity and integrity, its representation of a particular architectural trend and its contribution to a group of immovable to be preserved. This study may be required after the committee has rendered an affirmative decision on the application for authorization to demolish, rather than before the application is considered, in which case, the authorization to demolish is conditional on the confirmation, by the committee, of its decision after it has analyzed the document;

- e) When the immovable contains one or more dwellings, a statement by the owner that each lessees has been notified, in writing, of the owner's intention to obtain an authorization to demolish and the terms and conditions for the relocation of the lessees;
- f) A program for the utilization of the vacated land, prepared in accordance with chapter 4 of the present by-law and accompanied by the required documents. All documents (plans, sketches, visual simulations, report, etc.) must allow a global understanding of the project;
- g) Such other documents as may be required by the director, committee or council.”

ARTICLE 4 PUBLICATION

Chapter 5 is amended by replacing Article 14 with the following, so that it reads as follows:

“14. Publication of an application for authorization to demolish

On being seized of an application for authorization to demolish, the committee must have a notice of the application, easily visible to passers-by, posted on the immovable referred to in the application, for a period of ten (10) days. Furthermore, it must immediately have published, a public notice of the application containing the following:

- a) The date, time and place of the sitting at which the committee will consider the application for authorization to demolish;
- b) A description of the immovable to be demolished, using the civic number or for lack of, the cadastral number.

Every notice herein referred to must reproduce the first paragraph of section 148.0.7 of the *Act Respecting Land Use Planning and Development* (chapter A-19.1).

If the application relates to a heritage immovable, a copy of the public notice must immediately be sent to the Minister of Culture and Communications.”

ARTICLE 5 DEMOLITION WITHOUT AUTHORIZATION

Chapter 5 is amended by replacing Article 17 with the following, so that it reads as follows:

“17. Request for time to acquire an immovable

When the immovable that is the subject of the application includes one or more dwellings, a person wishing to acquire that immovable and preserve it as rental housing may, as long as the committee has not rendered its decision, intervene in writing with the clerk to ask for time to undertake or pursue negotiations to acquire the immovable.

Such an intervention may also be made by a person who wishes to acquire a heritage immovable that is the subject of an application for authorization to demolish so as to preserve its heritage character.”

ARTICLE 6 AUTHORIZATION

Chapter 5 is amended by replacing Article 19 with the following, so that it reads as follows:

“19. Authorization to demolish

The committee shall grant 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 an application for authorization to demolish, the committee must consider:

- a) The condition of the immovable that is the subject of the application;
- b) The deterioration of the architectural appearance, aesthetic character or quality of life of the neighbourhood;
- c) The cost of restoration;
- d) The intended use of the vacated land;
- e) When the immovable includes one or more dwellings, the prejudice to lessees, the possibility of relocating the lessees and the effect on housing needs in the area;
- f) Any objections received by the clerk;
- g) The heritage value of the immovable;
- h) Any other relevant criteria.”

ARTICLE 7 DECISION

Chapter 5 is amended by replacing Article 21 with the following, so that it reads as follows:

“21. Substantiated decision

The committee's decision concerning the demolition must be substantiated and sent without delay to every party involved, by registered or certified mail.

The decision must be accompanied with a notice explaining the rules that are applicable from among those set out in sections 148.0.19 to 148.0.21 of the *Act Respecting Land Use Planning and Development* (chapter A-19.1).”

ARTICLE 8 FINANCIAL GUARANTEE

Chapter 5 is amended by replacing Articles 24, 25 and 26 with the following, so that it reads as follows:

“24. Financial Guarantee

To ensure that the program for the utilization of the vacated land is carried out and the conditions imposed under article 20 are complied with, the applicant must provide the Town with a financial guarantee prior to the issuance of a certificate of authorization, as follows:

- a) In the case of the demolition of a residential immovable:
 - i. Total: a financial guarantee equivalent to fifty percent (50%) of the value of the immovable to be demolished as entered on the assessment roll shall apply;
 - ii. Partial: a financial guarantee equivalent to the percentage, determined by the director, of the value of the immovable to be demolished as entered on the assessment roll shall apply.

The financial guaranty must be valid for a period of twenty-four (24) months following the date of approval of the program and be remitted to the director, no later than the thirtieth (30th) day after the date the application is made, in one of the following forms: cash, debit or credit card, certified cheque, bank draft or bank letter of credit.

- b) In the case of the demolition of a commercial, industrial or institutional immovable, the financial guarantee shall consist in a commitment from the owner of the immovable, secured by a first mortgage or other security deemed sufficient by the Town, to pay to the Town:

- 1° at the 1st anniversary of the date of issuance of the certificate of authorization; and
- 2° each year thereafter, for a maximum period of ten (10) years;

an amount equal to the difference between the amount of property taxes payable in respect of the immovable on the day the application is made, increased, each year, by the consumer price index for the Montreal area and the amount of property taxes payable following the demolition. Such amount shall remain payable until the earlier of:

- 1° the completion of all work related to the program for the utilization of the vacated land; or
- 2° the attainment of the amount of property taxes payable in respect of the immovable on the day the application is made increased, each year, by the consumer price index for the Montreal.

The value of any new immovable shall be as determined by the assessor's certificate.

The amount payable annually shall be due and payable within thirty (30) days of the mailing of an invoice issued by the Town for that purpose and shall bear interest at the legal rate from the due date until paid.

The legal fees related to title confirmation, preparation and publication of the mortgage shall be at the owner's expense who shall, prior to the issuance of the certificate of authorization, remit to the Town the amount determined by the clerk.

The financial guarantee may, at the request of the owner, be replaced by another security deemed sufficient by the Town.

25. Forfeiture and Release of Financial Security

The work to be carried out under the program for the utilization of the vacated land shall be completed by the end of the period specified by the committee or, if applicable, by the end of any extension thereof.

The financial guarantee provided for in section 24 shall be released to the owner upon completion of the work under the program for the utilization of the vacated land. Failing to meet the deadline, the financial guarantee will be confiscated by the Town.

26. Extension

The committee may, for such reason as it deems reasonable, extend the time for completion of the work under the approved program for the utilization of the vacated land, provided that the request is made prior to the expiration of the delay. The decision to extend the time limit shall be made by the committee or the council as the case may be.”

ARTICLE 9 DEMOLITION WITHOUT AUTHORIZATION

Chapter 7 is amended by replacing Article 33 with the following, so that it reads as follows:

“33. Demolition without authorization

Without prejudice to any other recourse available to the Town, a person who demolishes an immovable or has it demolished without the committee’s authorization or in contravention of the conditions of the authorization is liable to a fine of not less than ten thousand dollars (\$10,000.00) and not more than two hundred and fifty thousand dollars (\$250,000.00).

However, the maximum fine is one million one hundred and forty thousand dollars (\$1,140,000) in the case of the demolition, by a legal person, of an immovable recognized in accordance with the *Cultural Heritage Act* (chapter P-9.002) or situated on a heritage site recognized pursuant to that Act.

In addition, the Town may require the person to restore the immovable so demolished to its former condition. If the offender fails to restore the immovable in accordance with the by-law, the council may have the work carried out and recover the costs from the offender, in which case section 148.0.17 of the *Act Respecting Land Use Planning and Development* (chapter A-19.1) applies, with the necessary modifications.”

ARTICLE 6 COMING INTO FORCE

The present by-law comes into effect in accordance with the law.

(Michel Gibson)

Mayor

(Annie Riendeau)

Town Clerk