

Consolidation of the By-Law NO. 1435 with respect to the demolition of immovables

amended by : By-Law 1435-1

CHAPTER I DECLARATIVE AND INTERPRETIVE PROVISIONS

DIVISION I DECLARATIVE PROVISIONS

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| Territory covered | 1. This by-law covers the entire territory under the jurisdiction of Town of Mount Royal. |
| Persons affected | 2. This by-law applies to any public or private artificial or natural person. |
| Invalidity of the by-law | 3. Should any chapter, division, subdivision or section of this by-law be deemed invalid by a recognized court of law, all other chapters, divisions, subdivisions, and sections hereof shall continue to apply. |

DIVISION II INTERPRETIVE PROVISIONS

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| Interpretation of the text | 4. In general, the text shall be interpreted in accordance with the following rules: <ol style="list-style-type: none"> (1) the titles contained herein form an integral part hereof. In the event of a contradiction between the text and the title, the text shall have precedence. In the event of a contradiction between the text and any other form of expression, the text shall have precedence; (2) irrespective of the verb tense used herein, all provisions are considered as being in force and effect at all times and under all circumstances; (3) the verb “shall” is used to indicate an absolute obligation and the verb “may” is used to indicate option except in the expression “may not”, which means “shall not”; (4) words written in the singular include the plural and the plural includes the singular whenever the context lends itself to this extension; (5) any specific provision hereof shall have precedence over a contradictory general provision; (6) when a restriction or an prohibition prescribed hereby is found to be incompatible with or contradictory to any other by-law or another provision hereof, the more restrictive or prohibitive of the two shall apply; (7) the word “person” refer to any artificial or natural person; (8) the masculine gender includes the feminine gender unless the context indicates otherwise; (9) the authority to do something carries with it all the power necessary to do so. |
| Terminology | 5. The expressions, terms and words used herein shall have the meaning and significance given to them in the terminology chapter of the Town of Mount Royal zoning by-law in effect. |

6. The undefined expressions, terms and words used in the terminology chapter of the zoning by-law have their usual meaning.
7. In the present by-law, unless the context indicates a different meaning, the following are understood:
- “building” (bâtiment): any structure used or intended to be used to house people, animals or goods. Should the structure be demarcated or separated by partition walls or fire separations extending from the basement to the roof, each part is then considered as a separate building, on condition that it is or is able to be associated with a parcel of land, cadastered and independent, forming a separate property.
- “accessory building” (bâtiment complémentaire): a secondary, detached outbuilding of a main building situated on the same lot, and designed and/or used or intended to be used to enhance the enjoyment of said main building.
- “demolition permit” (certificat d’autorisation de démolition): a demolition permit obtained in conformity with the provisions of the present by-law.
- “Committee” (Comité): the Town of Mount Royal’s Demolition Review Committee for considering applications for demolition permits.
- “Planning Advisory Committee” (Comité consultatif d’urbanisme - CCU): the Town of Mount Royal’s Planning Advisory Committee.
- “Council” (Conseil): the Town of Mount Royal’s Municipal Council.
- “Demolished” or “Demolition” (démoli ou démolition): demolition means and includes:
- (1) razing, knocking down, altering, or otherwise destroying more than fifty per cent (50%) of the gross exterior volume, above ground, of any building on whatever foundation.
 - (2) razing, knocking down, altering, or otherwise destroying more than forty per cent (40%) of the area of the exterior walls of any building.
 - (3) razing, knocking down, altering, or otherwise destroying more than fifty per cent (50%) of the surface area, in plan view, of the roof of any building
- “letter of guarantee” (lettre de garantie): a certified cheque, a letter of financial guarantee, a bank draft or an irrevocable letter of credit issued by a bank, a Caisse populaire, an insurance company, a trust or a trust company, that is automatically renewable.
- “dwelling unit” (logement): a dwelling unit in terms of the meaning of the Act respecting the Régie du Logement (C.L.R.Q.).

SECTION III SCOPE OF APPLICATION

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| Prohibition | 8. The total demolition of a building or part thereof is prohibited unless a demolition permit as described in this by-law has been obtained. |
| Work not subject to this by-law | 9. The present by-law does not apply: <ol style="list-style-type: none"> (1) to an accessory building, unless it is an accessory building essential to the exercise of the main use; (2) to a building with no foundation, as prescribed in the Construction Code (B-1.1, r.0.01.01); (3) to a burned building that has lost 50% of its value and for which a building permit accompanies the application for a demolition permit; (4) <i>(repealed)</i>; (5) to a building where the work involves only the reconstruction of a roof, preserving its architectural character by keeping the style, volume and slopes of the original roof; (6) to the replacement of identical windows, doors or exterior wall cladding; (7) to a building whose condition presents an emergency or needs to be converted for the following reasons: <ol style="list-style-type: none"> a) public safety; |

- b) to prevent an obstacle to traffic;
 - c) other causes or circumstances of the same type.
- (8) to a building that poses a danger or is about to collapse;
 - (9) to a building erected in contravention of one of the municipal by-laws, or that must be demolished to comply with a by-law of the Town of Mount Royal;
 - (10) if the demolition is ordered by a decision by a competent court.

(2016) By-Law 1435-1, s.1

CHAPTER II
THE DEMOLITION REVIEW COMMITTEE

SECTION I
ADMINISTRATIVE PROVISIONS

Demolition Review Committee	10. A Demolition Review Committee is constituted under the name "Town of Mount Royal Demolition Review Committee".
Composition of the Committee	11. The Committee is composed of three members of Council.
Nomination	12. Committee members are nominated by resolution of Council.
Term	13. The length of the term for members of the Committee is twelve months following the adoption of their appointment by resolution of Council.
	14. When the committee members' terms expire, Council shall fill the vacant positions. Outgoing members may be appointed for a further term.
	15. A Council member who ceases to be a Committee member (death, resignation or other reason) before the end of his term, who is temporarily incapable of performing his duties or who has a direct or indirect personal interest in a case that the Committee is examining, shall be replaced by another Council member designated by Council for the remainder of his term, or for the period of incapacity, or for the duration of the hearing of the case in which the Committee member has an interest, depending on the case.
	16. Should a Committee member lose his authority as a Council member, he shall cease to sit on the Committee.
Resource person	17. The Committee must enlist at least one of the following people to act as the resource person: <ul style="list-style-type: none"> (1) Head of the Urban Planning and Inspection Division for the Town of Mount Royal and any other person designated by him; (2) Town Manager; Resource people are not Committee members and do not have the right to vote.
Quorum and right to vote	18. A quorum is reached when the Committee is composed of at least two (2) members of Council.
	19. Each Committee member has one vote.
	20. The decisions of the Committee are made by a majority vote.

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| Internal governance | 21. The Committee may establish its own internal guidelines for proper performance. |
| Secretary for the Committee | 22. The Town Clerk shall act as the Committee's secretary. |
| | 23. The secretary shall convene the Committee sittings. It is also his responsibility (alone or in collaboration with other Town staff members) to prepare the agendas, write up the minutes of Committee sittings, see to any correspondence and provide follow-up on any files. |
| | 24. The secretary does not have the right to vote. |
| | 25. Should the secretary be absent, a resource person shall perform his duties during the sitting. |
| Demolition Review Committee sittings | 26. All Committee sittings shall be public. |
| Proceedings | 27. Proceedings may not be instituted against a Committee member for any official act performed in good faith pursuant to this by-law. |

**SECTION II
DUTIES**

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| Duties | 28. The Committee is responsible for: <ul style="list-style-type: none"> (1) accepting or refusing requests for demolition permits for buildings subject to the present by-law; (2) exercising any other power conferred on it by the present by-law. |
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**CHAPTER III
APPLICATION FOR A DEMOLITION PERMIT**

**SECTION I
DEMOLITION PERMIT**

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| Documents to be provided | 29. An application for a demolition permit must be submitted by the owner of the property to be demolished, or by his duly authorized agent, to the Urban Planning and Inspection Division. This application must be accompanied by a preliminary program for the re-use of the vacated land, and by any other documents or information required under this by-law. |
| | 30. The application for a demolition permit must be submitted to the Head of the Division, on the forms provided by the Town; it must be dated and signed, and must include the family name, first name and address of the owner or his duly authorized agent, in writing, as well as the following information and documents, in duplicate: <ul style="list-style-type: none"> (1) address where the building to be demolished is situated; (2) any report that the owner deems pertinent to support his application. Any such report must be signed by an accredited consultant who is member of a professional order, recognized in Québec, in the field in which the report is issued; (3) the anticipated timeframe for the demolition work and the anticipated date of occupation for the new building, where appropriate; |

- (4) recent photographs of all the building's façades and of the surrounding neighbourhood;
- (5) a preliminary program for the re-use of the vacated land in conformity with the Town's by-laws and presenting details of the following:
 - a) the locations of the building to be demolished and of the new building;
 - b) the locations and dimensions of any existing structures and features on the site;
 - c) the landsite coverage ratings before demolition and after reconstruction;
 - d) the height in metres or in storeys, the total gross floor area of floors above ground, and the total gross area of floors below ground, of the building to be demolished and of the new building;
 - e) a lumetric rendering showing the current and envisaged integration of the new building into the immediate street environment;
 - f) trees to be felled and preserved;
 - g) sidewalks, curb cuts and patios to be built and added;
 - h) the number of dwelling units in the building to be demolished.
- (6) if the foundation is to remain, any information required regarding the safety measures the applicant intends to implement to make it inaccessible;
- (7) an estimate of the cost of the demolition and reconstruction work;
- (8) a description of the conditions under which the demolition work will take place;
- (9) the schedule for the demolition work and the date on which disconnection of any municipal service is required;
- (10) proof of liability insurance specifically issued in favour of the applicant for this purpose;
- (11) a copy of the Notice to tenants required by law and proof of its delivery;
- (12) planned measures to relocate residential tenants, if there are any, or, if the building is vacant, the date on which it became so;
- (13) any other relevant document.

31. The Head of the Urban Planning and Inspection Division, if he deems it necessary, may order an inspection report for the building to be demolished, prepared by an architect or a professional engineer hired by the Town and presenting, in particular, the reasons cited by the applicant in support of his application and the restoration costs for said building, so that the Committee can appreciate the existing state of the building and the reasons for the demolition.

The Committee may also order such a report or report supplement.

32. The Head of the Urban Planning and Inspection Division must advise the Town Clerk of the receipt of an application for a demolition permit. The Town Clerk, in consultation with the Committee chairperson, shall call a Committee sitting within forty-five (45) days of receipt of this notification, in order to consider the application.

33. The Head of the Urban Planning and Inspection Division must submit his reports and comments regarding the application to the Committee for examination.

Costs and fees

34. When the applicant for the demolition permit submits his application, it must be accompanied by the following sums:

- (1) ten thousand dollars (\$10,000) to cover the cost of examining the application, the inspection report and the cost of publishing the public notice as stipulated in this by-law;
- (2) the contribution for the purposes of parks, playgrounds and natural spaces required under the Subdivision By-law.

SECTION II PUBLIC NOTICE AND HEARING

(Updated to : October 26, 2016)

- Public notice 35. When an application for a demolition permits is referred to the Committee, and at least fifteen (15) days before the sitting during which the Committee is to examine the application, the Town Clerk must post a public notice in conformity with the requirements of the Act respecting Land-Use Planning and Development (LAU) (C.Q.L.R., chapter A-19.1). A notice of the application must be posted at the same time on the building involved in the application, in a location easily visible by passers-by.
36. Apart from the requirements listed in the Act, the public notice shall:
- (1) give the date, time and place of the Committee sitting;
 - (2) provide the civic address of the building involved, with at least the civic number or, in the absence of this, the cadastral number;
 - (3) state that any person who wishes to oppose the issuing of a demolition permit must, within ten (10) days of the posting of the public notice mentioned in the present by-law, give the reasons for objecting to the application, in writing, to the Town Clerk.
- Notice to tenants 37. The owner must send, by registered or certified mail, a notice of the application for a demolition permit to each of the building's tenants.
38. Before rendering a decision, the Committee must consider any objections received.
- Public hearing 39. In addition, the Committee may hold a public hearing if it deems it opportune.
- Opposition 40. Any person who wishes to state his objection to the issuing of a demolition permit must, within ten (10) days of the posting of the public notice mentioned in Section 35, give his reasons for objecting to the application, in writing, to the Town Clerk.

SECTION III
EVALUATING THE APPLICATION AND DECISION BY THE COMMITTEE

- Recommendations 41. The Urban Planning and Inspection Division ensures that all procedures and other applicable regulatory provisions are respected, examines the file and presents its recommendations to the Demolition Review Committee in regard to the application for a demolition permit and the preliminary program for re-use of the vacated land.
- Evaluation criteria 42. Subject to the following, the Committee's goal when considering an application for a demolition permit for all or part of a building is to preserve the character and the scale of buildings or complexes, the look and the specific character of the three existing built environments that correspond to the three phases in the development of the Town's urban fabric, as stipulated in the Site Planning and Architectural Integration By-law in force.

- Analysis 43. Before reaching a decision on a demolition permit, the Committee must consider:
- (1) any reports and documents submitted by the owner that provide evidence of the state of the building under consideration, the reasons for the demolition and the cost of restoring the building;
 - (2) the report prepared by the professional hired by the Town;
 - (3) the preliminary program for re-using the land;
 - (4) the condition of the building, the deterioration of the architectural appearance, aesthetic character or quality of life of the surrounding environment, and the cost of restoration;
 - (5) any objections received;
 - (6) when the building has one or more dwelling units, the harm caused to tenants, the housing needs in the area and the possibility of relocating tenants;
 - (7) any other relevant criterion.
- Decision 44. The Committee must make a reasoned decision. The Committee's decision in regard to granting a permit is forwarded immediately to all parties involved.
- Refusal 45. Furthermore, the Committee must reject an application for a demolition permit if the application process for the demolition permit was not substantially followed or if the required fees have not been paid.
- Authoriza-
tion 46. The Committee grants authorization for demolition if it is convinced that the demolition is appropriate in the interest of the public and in the interest of all parties involved.
- Conditions 47. When the Committee grants authorization, it may:
- (1) impose any condition associated with the demolition of the building or with the preliminary re-use of the vacated land;
 - (2) determine the conditions for relocating a tenant when a building has one or more dwelling units;
 - (3) set a timeframe for the start and completion of the demolition work.

SECTION IV APPEAL PROCESS

- Appeal 48. Any interested party may, within thirty (30) days of the Committee's decision, file an appeal against this decision, in writing, with Council. Any Council member, including a Committee member, may sit on Council to hear an appeal filed in virtue of this clause.
49. Council may confirm the Committee's decision or render any decision the latter should have given.

SECTION V ISSUING OF A DEMOLITION PERMIT

- Issuing of a
Demolition
Permit 50. When the Committee grants a demolition permit, the Head of the Urban Planning and Inspection Division shall issue the permit on behalf of the Committee. The permit must set out the conditions, if any, with which the applicant must comply.
51. A demolition permit will not be issued:
- (1) before the expiry of the thirty-day (30) appeal period as provided for in this by-law, or if an appeal has been filed under this clause, until Council has rendered a decision authorizing the issuing of such a permit;

	<ul style="list-style-type: none"> (2) before final approval from the Planning Advisory Committee (CCU) and from Council, of the drawings for the work, and of all materials for the exterior cladding, all confirmed by a building or renovation permit; (3) before the Town has received a monetary guarantee.
Monetary guarantee	<p>52. A demolition permit will not be granted until a monetary guarantee has been provided, not exceeding 100% of the value of the building to be demolished on the assessment roll at the time of demolition, to guarantee the execution of the preliminary program for re-use of the vacated land.</p> <p>53. The reconstruction and renovation work for the building must be completed by the expiry date of the timeframe set by the Committee; failing this, the Town may confiscate the monetary guarantee. This work will be considered completed when the following two conditions are met:</p> <ul style="list-style-type: none"> (1) the exterior cladding work on the building is totally complete, including openings and the roof; (2) landscaping of the yards is complete.
Timeframe for completion of the demolition work	<p>54. Should the demolition work not be undertaken before the expiration of the timeframe set by the Committee, the demolition permit becomes null and void.</p> <p>55. Should the demolition work not be completed within the timeframe set, Council may have the work completed and will recover the costs from the owner. The costs thereby incurred by Council constitute a prior claim on the lot on which the building is located, in the same way and with the same rank as the municipal claims listed in paragraph 5 of clause 2651 of the Québec Civil Code. These costs are also guaranteed by a legal mortgage on the property.</p>
Voidance of the application for demolition	<p>56. The application for demolition become null and void when the applicant does not collect the demolition permit within the twelve (12) months following the expiration of the timeframe for the hearing or, in the case of an appeal, following the decision of the municipal council.</p>
Nullification of the demolition permit	<p>57. A demolition permit becomes null and void if:</p> <ul style="list-style-type: none"> (1) the demolition work has not been completed within six (6) months of the date on which the permit was issued; (2) applicable by-laws or declarations made in the application for the demolition permit were not respected. <p>58. In the cases listed in clause 57, should the applicant wish to undertake or terminate demolition work, he must provide himself with another permit.</p>
Revocation	<p>59. The Head of the Urban Planning and Inspection Division may revoke a demolition permit, after having notified the owner in writing:</p> <ul style="list-style-type: none"> (1) when the conditions for issuing the demolition permit have not been respected; (2) when the permit was granted in error or based on incorrect information.

SECTION VI
DISPLAY OF THE DEMOLITION PERMIT

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| Displaying the permit | 60. A person in authority on the site must have a copy of the demolition permit in his possession at all times during the demolition work. |
| Site visit | 61. The Head of the Urban Planning and Inspection Division, any staff member appointed to work on inspections within this department, the director of the Public Security, any patroller in the Public Security Department and the Town Manager, may enter, at any reasonable hour, the site or premises where this demolition work is taking place, in order to check whether the demolition is in conformity with the permit.

62. A refusal to allow said Town representatives to enter the site or premises, or to show them the copy of the demolition permit, upon request, renders the offender liable to a fine not exceeding five hundred dollars (\$500). |
| Stop work order | 63. The Head of the Urban Planning and Inspection Division, any staff member appointed to work on inspections within this department, the director of the Public Security, any patroller in the Public Security Department and the Town Manager, may order whoever is carrying out any demolition work without authorization, or departing from what was authorized, to stop work immediately. |

SECTION VII
COMPLETION OF WORK AND RETURN OF GUARANTEE

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| Completion of work | 64. Demolition work is considered completed once the Head of the Urban Planning and Inspection Division, or any staff member appointed to work on inspections within this department, has determined that the work has been fully completed in conformity with the demolition permit issued for this purpose. |
| Return of the monetary guarantee | 65. Upon written request from the applicant, except in the case where it has already been carried out, the monetary guarantee shall be returned to him within sixty (60) days of the determination by the Head of the Urban Planning and Inspection Division, or any staff member appointed to work on inspections within this department, that all work associated with the building's exterior envelope including openings and the roof, as well as the landscaping of the yards, has been completed. |

CHAPTER IV
OFFENCES AND FINES

SECTION I
TEMPORARY CONDITIONS

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| Fine | 66. Anyone who demolishes a building, or has it demolished, without a demolition permit, or counter to the conditions for the demolition permit, is liable to a fine of twenty-five thousand dollars (\$25,000).

67. In the case of demolition without a demolition permit, in addition to the fine, the offender must pay the cost of the application and the contribution for the purposes of parks, playgrounds and green spaces, as provided for in clause 34 of the present by-law. He will also have to provide the monetary guarantee stipulated in clause 52.

68. Furthermore, anyone who demolishes a building without authorization, or counter to the conditions for the demolition permit, is required to rebuild the demolished building in conformity with the permit issued by the Town. Should the offender not rebuild the building in conformity with this by-law, Council may have the work performed and then recover the costs involved, in which case clause 55 of the present by-law shall apply, with adaptations. |
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CHAPTER V
TEMPORARY AND FINAL PROVISIONS

SECTION I
TEMPORARY PROVISIONS

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| Respect for
the by-laws | 69. The issuing of a demolition permit, the approval of drawings and specifications, as well as the inspections carried out by the Head of the Urban Planning and Inspection Division or his representatives, in no way releases the owner or the applicant from the obligation to perform the work, or have it performed, in conformity with the requirements of the present by-law and any other applicable by-law. |
| Replaced
by-law | 70. This by-law replaces By-law No. 1410 governing the demolition of immovable and all its amendments. |
| | 71. This by-law shall come into effect according to law. |