



**BY-LAW N^o 652-2015
CONCERNING DEMOLITION**

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PROPOSED BY-LAW N^o 652-2015

CONCERNING DEMOLITION

WHEREAS a new Demolition By-law is necessary since By-Law N^o 355 and its amendments are no longer adequate;

WHEREAS a new Demolition By-law has been drafted;

WHEREAS Town Council considers that, with this new by-law, there will be a better control over the demolition of buildings;

WHEREAS notice of motion was duly given at the regular Council meeting held on December 1st, 2014;

WHEREAS the requirements of Article 356 of the *Cities and Towns Act* have been met and that Council members declare having read By-Law N^o 652-2015 and relinquish its reading;

THEREFORE, it is **moved** by Councillor Deborah Woodhead, **seconded** by Councillor Barbara Robinson that By-Law N^o 652-2015 be and is hereby adopted and decreed as follows:

Chapter 1 : Declaratory, administrative and interpretive provisions

Article 1 Declaratory provisions

1.1 Title of the by-law

The present by-law is entitled « By-Law N^o 652-2014 concerning the demolition of immovables »

1.2 Repeal

The present by-law repeals By-law N^o 355 concerning demolition as modified by all its amendments, as well as any other incompatible provision in another by-law in force.

1.3 Scope of the by-law and subject territory

The present by-law shall apply to all properties located within the territory of the Town of Hudson and is intended to control the demolition of main immovables throughout the Town's territory.

1.4 Incompatibility with other by-laws or laws

Conforming to the present by-law does not absolve the obligation to law of the provincial or federal government as well as any other applicable municipal by-law.

Article 2 Administrative provisions

2.1 Administration and application of the by-law

The administration and application of the present by-law are entrusted to any person nominated as an « Authority having jurisdiction », by resolution of the Town Council.

2.2 Powers of the authority having jurisdiction

The authority having jurisdiction exercises the following powers:

- a) He may, at any reasonable hour, enter a place where demolition works are carried out, to ensure that work complies with the conditions set out in the certificate of authorization.
- b) Upon request, the authority having jurisdiction will identify himself attesting his authority as a municipal employee.

2.3 Compliance of the application

Any application for a building demolition permit shall comply with the provisions set out in the present by-law.

Article 3 Interpretative provisions

3.1 Definitions

3.1.1 Heritage building

Main building which may be of heritage interest because of its history, architecture or by the people who lived there.



3.1.2 Accessory building

A building detached from the main building, located on the same lot as the main building and whose use remains complementary to that of the main building

3.1.3 Main building

The building (s) assigned for the main use of the land on which it is located.

3.1.4 Certificate of authorization

Certificate issued pursuant to the authorization of an application to demolish an immovable, in accordance with the provisions of the present by-law.

3.1.5 Committee

Demolition Committee constituted under this by-law.

3.1.6 Municipal Council

The municipal Council of the Town of Hudson

3.1.7 Demolition

Intervention resulting in the destruction of more than **50%** of the volume of an immovable, without taking into account the foundations.

3.1.8 Authority having jurisdiction

The person or persons appointed by the municipal Council for the supervision and enforcement of this by-law

3.1.9 Immovable

The building in which is or was carried out the main use of the lot on which it is erected.

3.1.10 Dwelling

Dwelling within the meaning of the Act respecting the *Régie du Logement (L.R.Q., c R-8.1)*.

3.1.11 Secretary

The Town of Hudson Clerk.

3.1.12 Land

Lot or group of lots serving or which could serve as a single main use.

3.2 Text interpretation

The titles contained in this by-law are an integral part of the text. In the event of conflict between the text and the titles, the text shall prevail.

Chapter 2 Provisions relating to the eligibility and progress of a request

Article 4 Subject to intervention and contents of an application for a certificate of authorization

4.1 Subject to intervention

The demolition or relocation of any immovable located within the Town of Hudson's territory is prohibited unless the owner has first obtained a development authorization for this purpose in accordance with this by-law.

However, requests for a certificate of authorization for demolition purposes are not subject to the application of this by-law in the following cases:

- a) Accessory buildings;
- b) Main buildings to be demolished for public safety reasons;
- c) Main buildings whose condition is such as to endanger people or has lost half of its value by decay, fire or explosion;
- d) Main buildings where there was a court order for demolition;
- e) Institutional and municipal buildings.

4.2 Application for a certificate of authorization for demolition purposes

Any owner who intends to demolish an immovable shall apply for a certificate of authorization in writing on the form provided for these purposes by the authority having jurisdiction and shall provide plans as well as the following documents:



- a) The complete contact details of the owner (name, address and phone number);
- b) When the application is being carried out by a representative, a proxy signed by the owner will be necessary, thus authorizing the representative to act on his behalf ;
- c) A copy of the property title establishing that the building is in fact owned by the applicant or owner;
- d) A description of the land by using the cadastral plan or the certificate of location;
- e) Recent photographs of the immovable taken in the days preceding the application;
- f) An explanation of the need to demolish;
- g) An expert report on the general condition of the immovable prepared by a professional; architect, engineer or building inspector;
- h) The lead times for demolition and reconstruction and the name of the contractor;
- i) The preliminary program for the reutilization of the vacated land, in accordance with the regulations in force and including all plans and documents showing the proposed new building in replacement of the immovable to be demolished. Such plans and documents shall be sufficiently clear and explicit to allow the Committee to determine whether such program conforms to the applicable municipal by-laws;
- j) When the immovable contains one or more dwellings, provide measures for relocating any tenants.

Article 5 Constitution of the demolition committee and conduct of the meeting

5.1 Composition of the demolition committee

The Demolition Committee shall be composed of three Council (3) members.

A Council member who ceases to be a Committee member before the end of his mandate, is temporarily incapacitated, or has a direct or indirect personal interest in a matter presented before the Committee, is replaced by another Council member designated by Council for the unexpired portion of the term, for the duration of the inability or for the duration of the hearing of the matter in which the member has an interest, as the case may be.

5.2 Term of office for the Demolition Committee members

The term of office for the members of the Demolition Committee shall be one (1) year and is renewable by resolution from the Municipal Council.

5.3 The mandate of the Demolition Committee

The mandate of the Demolition Committee is whether to accept or refuse the applications for authorization to demolish a building subject to this by-law and any other powers as are conferred to it by the present by-law.

5.4 Secretary

The Town of Hudson's Clerk shall act as secretary of the Committee and has no voting rights.

5.5 Committee decisions

The Committee meetings are public and its decisions are taken by majority vote.

Article 6 Application procedure

6.1 Completed application

The demolition request is considered complete when, according to the Permits and Certificates By-Law, the study fees have been paid and that all required documents and plans have been filed with the authority having jurisdiction.

6.2 Verification of the application

The authority having jurisdiction will verify the compliance of the demolition application with this by-law as well as with the planning by-laws. At the request of the authority having jurisdiction, the applicant shall provide any additional information for the proper understanding of the application.

6.3 The forwarding of the application to the demolition committee

As soon as the application for demolition is deemed complete and the authority having jurisdiction has made all the necessary verifications with regards to the demolition request, the demolition application is immediately transmitted to the demolition committee for an evaluation within sixty (60) days.



6.4 Public notice

As soon as the Committee has received an application for authorization to demolish, the Committee must have a notice of the application, visible from the street, posted on the immovable referred to in the application. Furthermore, it must immediately have a public notice of the application published.

Fees related to the publication of the public notice, in the form of a deposit, are shown in the Permits and Certificates By-law. The deposit for the publication fees will be given when the application is being filed with the authority having jurisdiction.

6.5 Notice to tenants

The owner shall send by registered or certified mail, a notice of the application for demolition to each of the lessees in the immovable.

6.6 Opposition

A person wishing to oppose the demolition must do so by writing to the Town Clerk, giving the reasons for objecting, within 10 days of publication of the public notice or, failing such notice, within 10 days following the posting of the notice on the immovable concerned.

The Committee will evaluate all objections received before rendering its decision.

The Committee may also hold a public hearing if it deems it appropriate.

6.7 Apartment building

When the immovable referred to in the application includes one or more dwellings, a person wishing to acquire this property and preserve it as rental housing may, at the application hearing and before a decision has been rendered, intervene in writing with the Town Clerk to ask for time to undertake or pursue negotiations to acquire the property.

If the Committee deems that it is justified in the circumstances, it will defer its decision and allow a maximum two (2) month time frame from the end of the hearing to conclude the negotiations. The Committee may only defer its decision on these grounds once.

6.8 Assessment and decision of the Demolition Committee

The Committee shall issue the permit if it is convinced that the demolition is warranted given the public interest and the interest of the parties.

Before making its decision, the Committee shall consider, among other things, items such as:

- a) the condition of the immovable referred to in the application;
- b) the deterioration of the architectural appearance;
- c) the aesthetic character or the quality of the neighbourhood (the distinctive architectural style which merit preservation in view of the Town's visual qualities) ;
- d) the cost of restoration;
- e) the intended use of the vacated land;
- f) the age of the building if it is seventy-five years (75) or more;
- g) the original owner is an important heritage personage, local or other;
- h) the person or persons who built the original building is historically important;
- i) the building's history is of particular interest to the community; and any other relevant criteria, especially when the immovable includes one or more dwellings, the prejudice caused to lessees, the housing needs in the area and the possibility of relocating tenants.

The Committee's decision regarding the demolition must be substantiated and forwarded by registered or certified mail to all parties concerned.

6.9 Rejection

In addition, the Committee must reject the permit application if the preliminary program for the utilization of the vacated land has not been approved, the permit application procedure has not, to a large extent, been met or if the required fees have not been paid.

6.10 Approval of the preliminary program for the utilization of the vacated land

Before any application for authorization to demolish may be considered, the owner or his duly authorized representative shall submit to the Committee for approval, a program for the utilization of the vacated land.

The program for the utilization of the vacated land may only be approved if it is in conformity with the municipal by-laws, including an evaluation under the *Site Planning*



and Architectural Integration Program By-law. To determine conformity, the Demolition Committee must consider the by-laws in force at the time the program is submitted to it, except when the issuance of a building permit for the proposed program is suspended by reason of a notice of motion.

When the issuance of permits is suspended, the Demolition Committee may not approve the preliminary program before the suspension expires or the amending by-law that was the subject of the notice of motion comes into force, if such coming into force occurs before the suspension expires; the decision of the Committee is then rendered having regard to the by-laws in force at the time of the decision.

6.11 Condition of the authorization to demolish

When the Demolition Committee grants the authorization, it may impose conditions for the demolition of the immovable or the utilization of the vacated land.

In particular, it may:

- a) Set the time within which the demolition work must be undertaken and completed. The Demolition Committee may, for reasonable cause, change the time set, provided that the application for the change is made before the time has expired;
- b) If the Demolition Committee so decides, the owner or his duly authorized agent shall provide the Town, prior to the issuance of the certificate of authorisation for the demolition, a monetary guarantee for the implementation of this program, of an amount not exceeding the value entered on the assessment roll for the building to be demolished.:
- c) Determine the conditions for the relocation of a tenant or tenants when the building includes one or more units.

6.12 Appeal of the demolition committee decision

Any interested person may, within thirty (30) days of the Committee's decision, appeal the decision in writing to the Council.

Every member of Council, including a Committee member, may sit on the Council to hear an appeal made under the first paragraph.

The municipal Council may confirm a decision of the Committee or make the decision that the Committee should have made.

6.13 Monetary guarantee

If the Committee places a condition towards the demolition of the building or for the utilization of the vacated land, the applicant must provide the Town with a monetary guarantee prior to the issuance of an authorization certificate, for an amount equal to 10% of the value of the building to be demolished according to the municipal assessment roll in force at the time of request.

This monetary guarantee must be provided either by certified cheque, a cash deposit or an irrevocable letter of credit, for as long as the owner has not complied with all conditions imposed by the Committee. It shall only be reimbursed once all work scheduled under the program for the utilization of the vacated land has been completed, and this, without interest.

6.14 Issuance of the Certificate of authorization

No certificate of authorization for a demolition may be issued by the authority having jurisdiction under this by-law and the Permits and Certificates by-law before the expiry of the 30 days as provided in section 6.12 or, if there has been appeal under that section, before the municipal Council has rendered a decision authorizing the demolition.

6.15 Execution of the demolition works

If the work is not completed within the time set, the municipal Council may have it carried out and recover the costs of the work from the owner. The costs constitute a prior claim on the land where the immovable was situated, of the same nature and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code; the costs are secured by a legal hypothec on the land.

6.16 Duties of the lessor

The lessor to whom authorization to demolish has been granted may evict a lessee to demolish a dwelling.

However, no lessee may be compelled to leave a dwelling before the term of the lease or before the expiry of three months from the issuance of the authorization certificate, whichever is later.

The lessor must pay an indemnity equal to three months' rent and moving expenses to a lessee evicted from a dwelling. If the damages resulting from the prejudice caused to the



lessee exceed that sum, the lessee may apply to the *Régie du logement* to set the amount of the damages.

The indemnity is payable when the lessee leaves the dwelling, and the moving expenses, on presentation of the vouchers.

6.17 Authorization without effect

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

If a lessee continues to occupy a dwelling on the expiry date, the lease is extended of right and the lessor may, within one month, apply to the *Régie du logement* to set the rent.

Chapter 3 Final Provisions

Article 7 Final Provisions, Penalties and coming into force

7.1 Fines and penalties

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 \$5,000 and not more than \$25,000.

The offender shall, in addition, 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. The costs constitute a prior claim on the land where the immovable was situated, of the same nature and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code; the costs are secured by a legal hypothec on the land.

7.2 Fines and penalties relative to the verification of work

Throughout the demolition work, a copy of the authorization certificate must be in the possession of a person in authority on the premises. The authority having jurisdiction may enter the premises where the work is being carried out at any reasonable time to ascertain whether the demolition is in conformity with the Committee's decision. On request, the authority having jurisdiction must provide identification and produce a certificate issued by the Town attesting the authority vested in the authority having jurisdiction.

Is liable to a fine not exceeding \$500 a person who:

- 1) Refuses to allow a municipal authority having jurisdiction on the premises where the demolition work is being carried out; or;
- 2) is the person in authority responsible for the demolition work and who, on the premises where the demolition work is to take place, refuses to show an authority having jurisdiction a copy of the authorization certificate

7.3 Coming into force

This by-law shall come into force according to the law.

ADOPTED in Hudson, this 12th day of January, 2015.

*Ed Prévost,
Mayor*

*Vincent Maranda,
Town Clerk*