

**PROVINCE OF QUEBEC
CITY OF CÔTE SAINT-LUC**

BY-LAW NO. 2345

**BY-LAW GOVERNING THE
DEMOLITION OF BUILDINGS**

At the Special Council Meeting of the Côte Saint-Luc City Council, held at the City Hall, 5801 Cavendish Boulevard, on June 21, 2010 at 8:00 p.m., at which were present:

Mayor Anthony Housefather, B.C.L., L.L.B, M.B.A.

Councillor Dida Berku, B.C.L.

Councillor M. Brownstein, B. Comm., B.C.L., L.L.B.

Councillor Michael Cohen

Councillor Steven Erdelyi, B.Sc., B.Ed.

Councillor Sam Goldbloom

Councillor Ruth Kovac

Councillor A.J. Levine, B.Sc., M.A.

Councillor Glenn J. Nashen

ALSO PRESENT:

Mr. Ken Lerner, City Manager

Mr. Jonathan Shecter, Director of Legal Services and City Clerk

IT IS ORDAINED AND ENACTED

by by-law No. 2345 entitled

1. By-law number 2235 is repealed and replaced by the present by-law.

SECTION I : SCOPE OF THE BY-LAW

2. Assignment to the Municipal council

The Municipal Council of the City of Côte Saint-Luc assigns itself the functions conferred on the Demolition committee by the Law and shall therefore be responsible for authorizing applications for demolition and to exercise any other powers conferred on it by the Law and this by-law.

3. Definitions

In the present By-law, unless otherwise indicated in the context, the following terms means the following :

- 3.1 **Building** means any structure used or intended to be used for supporting or sheltering persons, animals or objects, except an accessory building as well as a building that has lost one-half of its value through decay, fire or explosion or as a result of an event or effect that could neither be anticipated or controlled.
- 3.2 **Group of use** means all groups of usages for Buildings as described in Zoning By-law No. 2217 and its amendments of the City of Côte Saint-Luc.
- 3.3 **Demolition** means an intervention that includes the total or substantial destruction of a Building subject to the provisions of the present by-law, namely the approval of a preliminary program, as set forth at section 3.5 of this by-law.

For purposes of the present by-law, the "substantial" part of a Building of the residential usage group signifies and includes the demolition of 50% or more of the volume of a Building, excluding the basement, cella and open balconies.

For purposes of the present by-law the "substantial" part of a Building of the usage groups; commerce and services, industry and institutional signifies and includes the demolition of 20% or more of the volume of such a Building or a Gross Floor Area of 5,000 square feet or more.

This by-law shall not apply with respect to:

- (a) The demolition of an immovable that would have been built in violation of a City by-law or resolution or by an Order of the Government;
- (b) The demolition which may be required to restore an immovable to its former condition when such immovable would have been expanded or modified in violation of any by-law or resolution of the City.
- (c) The demolition of a burnt immovable or of an immovable having suffered from other type of disaster where it has lost more than 50% of the value ascribed to it under the assessment roll in force at the time of the fire or disaster.

- (d) When the immovable constitutes a dangerous structure in respect of which the Superior Court ordered its demolition.
- 3.4 **Gross Floor Area** means the cumulative floor area of each storey of a building, including a penthouse, but excluding the basement, cella and open balconies, measured from the exterior face of the walls of the said building.
- 3.5 **Preliminary Program** means and includes a preliminary program to reutilize the demolished area, following the proposed Demolition of a Building, for which a Certificate of Authorization for Demolition request was submitted according to the present By-law; this preliminary program must include, without restriction, designs, plans and/or other documents necessary to establish the conformity of the said program with all applicable By-laws of the City of Côte Saint-Luc. All the works to be carried out for the execution of the program for the reutilization of the demolished area that are subject to the issuance of a certificate or a permit from the City under its by-laws shall form a whole herein referred to as the “work regarding the program for the reutilization of the demolished area”.
- 3.6 **Apartment** means an apartment as described by the *Act Respecting the Rental Board* (R.S.Q., chapter R-8.1).
- 3.7 **Director** means the Director of the Urban Planning Department of the City of Côte Saint-Luc.
- 3.8 **Meeting** means any Public Meeting in which Council shall decide as to whether a certificate of authorization for demolition will be granted.
- 3.9 A **phase** is constituted of a portion of the buildings, equipments, infrastructures and other improvements of a program for the reutilization of the demolished area (i) that is determined as such by the applicant, (ii) that is approved as such by the City, and (iii) for which a subdivision and/or a construction permit will or has been issued by the City. A phase may not consist of only one building.

4. Prohibition

No Building may be demolished before a Certificate of Authorization is issued. All Demolition works shall comply and be carried out in accordance with this Certificate of Authorization.

SECTION II : PROCEDURE

5. Certificate of Authorization for Demolition

All Certificates of Authorization requests must be submitted by the owner of the Building to be demolished, or by his/her duly authorized representative, to the Urban Planning Department of the City of Côte Saint-Luc. Such requests must be accompanied by the following documents and information:

- 5.1 The names and addresses of the owner and his/her representative if applicable;
- 5.2 The address of the Building mentioned in the request;
- 5.3 Photographs of the walls of the Building and its surrounding area;

- 5.4 Plans and appropriate calculations must be submitted in order to determine the percentage of the volume of the building to be demolished;
- 5.5 The measures to be taken for the relocation of tenants, or the date the Building was vacated, if necessary;
- 5.6 The reasons justifying the request for a Certificate of Authorization for Demolition;
- 5.7 The preliminary program for reutilization of the demolished area, including the required plans, which shall conform to the City by-laws;
- 5.8 The work schedule of the Demolition and reconstruction work, if necessary;
- 5.9 All other pertinent documents deemed necessary by the director;
- 5.10 Proof of the anticipated fee payment according to by-law rates.

6. Fees

The fees for the study of the request as well as the anticipated fees for the issuance of the Certificate of Authorization, must be paid according to the permit and certificate rates of the City of Côte Saint-Luc.

7. Study of the request

The Director must submit the Certificate of Authorization for Demolition request without delay to the Planning Advisory Committee, which will study the request and consequently will make a recommendation to Council considering the public interest, namely:

- 7.1 the state of the Building mentioned in the request;
- 7.2 the deterioration of the architectural appearance, aesthetic character or quality of life of the neighbouring area;
- 7.3 the cost of restoration;
- 7.4 the projected use of the area to be demolished, including, but not limited to the construction of a new commercial Building, a new multi-family dwelling or a new institutional Building;
- 7.5 when the Building includes one or more dwellings, the prejudice caused to the lessees, the housing needs in the area and the possibility of relocation of lessees.

8. Public Notice

Upon having received a Certificate of Authorization for Demolition request and the Planning Advisory Committee's recommendations, a sign must be affixed to the Building in question, at the expense of the applicant, easily visible for passers-by. Also, a public notice of the request shall be published, at the expense of the applicant, when required by law.

9. Notice to tenants

Where the Building includes one or more dwellings, the applicant must submit, by registered or certified mail, a notice to each tenant in the Building and submit proof thereof to Council at least ten (10) days before the meeting during which the applicant's request will be studied.

10. Opposition to the demolition

A person wishing to oppose the Demolition must do so by writing to the Clerk of the municipality, giving the reasons for objecting, within ten (10) days of publication of the public notice or, should such notice not be required by law, within ten (10) days following the posting of the notice on the immovable concerned.

11. Date and time of the Meeting

The Public Notice shall indicate a date and time of the Meeting to be held by Council within a reasonable delay of receiving the request for a Demolition.

SECTION III : DECISION

12. Council Meetings

At the Meeting to discuss the Demolition request, before rendering its decision as to whether a Certificate of Authorization for Demolition will be granted, Council must consider all oppositions received. The applicant shall be informed by the City of the date of the Meeting.

13. Decision of Council

During the Meeting, Council shall also hear all interested parties and shall render its decision at a public meeting. The decision shall be rendered verbally and then followed up within ten (10) days by a written decision setting out the justification for Council's decision which shall be sent to all interested parties. When the issuance of permits is suspended, the 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.

14. Right to defer its decision

Council shall have the right, in conformity with the law, at any time prior to rendering its decision as to whether a Certificate of Authorization for Demolition shall be granted, to defer its decision.

15. Criterion and conditions of the decisions

Council shall render its decision in conformity with the criteria delineated in article 7 of this by-law as well as any other pertinent criterion and also provide, as the case may be, for the conditions to be satisfied, in addition to the conditions provided in the present by-law. Council shall also take into consideration the information furnished under the requirements of article 5 of this by-law.

16. Issuance of the Certificate of Authorization for Demolition

The Director grants a Certificate of Authorization on Council's behalf once Council has approved its issuance. This Certificate of Authorization must stipulate the conditions, if any, which are imposed by Council under this Section of this By-Law.

17. Delay

Council may prescribe a delay in which the Demolition work and the work regarding the program for the reutilization of the demolished area must start and finish. It can, for a justifiable reason, modify the delay, provided that a request is made before the expiry date of the delay.

18. Monetary Guarantee

Before the issuance of the Certificate of Authorization and to assure the respect of the program for the reutilization of the demolished area, a monetary guarantee

must be submitted by the applicant in the applicable amount as hereinafter set forth:

- 18.1 In the case of the Demolition of a building, other than a commercial mall with 10 or more business premises or suits, vacant or occupied: 20% of the total value of the demolished building on the Property Assessment Roll, excluding any averaging of the variation in the taxable values;
- 18.2 In the case of the Demolition of a building that is a commercial mall with 10 or more business premises or suits, vacant or occupied : a monetary guarantee equal to 5% the total estimated value of the replacement building(s), which shall be established at the applicant's expense, by a chartered appraiser commissioned by the City and accepted by the applicant. In no circumstances however should the value of the monetary guarantee exceed 3.5 million dollars or be less than 10% of the total value of the demolished building on the Property Assessment Roll, excluding any averaging of the variation in the taxable values.

Such monetary guarantee shall be valid for at least twenty-four (24) months following the date of approval of such preliminary program and shall be presented to the City before the issuance of the Certificate of Authorization.

If the program for the reutilization of the demolished area is performed in phases and that all phases have not been completed, such monetary guarantee or the portion left of the guarantee applicable thereto following any partial return under Section V of this by-law, shall be renewed for another period of twenty-four (24) months at least sixty (60) days before its expiration.

19. Form of the Monetary Guarantee

The monetary guarantee may consist of the following: a certified cheque, a bank draft, a letter of credit or a performance bond issued by an insurance company duly authorized to conduct insurance operations in Québec by virtue of An Act respecting Insurance (R.S.Q. c. A-32). The monetary guarantee must be kept in force until sixty (60) days following the date at which the Director has declared that the work is completed in its entirety.

Notwithstanding the foregoing, in the event of the Demolition of a commercial mall with 10 or more business premises or suits (vacant or occupied), the monetary guarantee may only consist of the following: a certified cheque, a bank draft or a letter of credit.

20. Modification to the Monetary Guarantee

Once Council modifies the delay to execute the Demolition, it can require that the monetary guarantee be modified accordingly.

21. Default to undertake the work

The Certificate of Authorization is without effect if the authorized work is not undertaken before the expiration of the delay fixed by Council.

22. Default to complete the work

If the work is not completed within the prescribed delay, Council can have it done and recover the fees from the owner.

SECTION IV : EXECUTION OF THE WORK

23. Exhibition of Certificate of Authorization

Any time during the Demolition work, an authorized representative must have in their possession a copy of the Certificate of Authorization. The Director, all members of his or her department's personnel who perform the inspection, any member of the Public Security staff of the City of Côte Saint-Luc or peace officer, can enter, at any reasonable hour, the site where the work is being carried out in order to verify if the Demolition conforms to the Certificate of Authorization. They can also ask to see a copy of the said certificate.

24. Inspection of the work

The Director, all members of his or her department's personnel assigned to the inspection, or any employee of the City of Côte Saint-Luc's Public Security department or any peace officer, can order or question anyone carrying out the Demolition work without a Certificate of Authorization, to stop all work immediately.

SECTION V : RETURN OF THE GUARANTEE

25. Completion of the Work and Return of the Guarantee

The Demolition work is completed once the Director has declared that the work is completed in its entirety. Said completion shall be according to the Certificate of Authorization issued to this effect. If the redevelopment of the vacated land has not started within ninety (90) days from the date that the Demolition work is completed, such vacated land shall be immediately filled up, levelled, grassed and properly maintained by the owner and all foundations and asphalted areas that are not required under the zoning by-law of the City shall be removed and transformed according to the foregoing. This obligation shall also apply to all portions of the vacated land for which the redevelopment work has not started within ninety (90) days from the date that the Demolition work is completed when the redevelopment of the vacated land is subject to a development by phases.

25.1 Return of the Guarantee upon completion of some construction work

By the applicant's written request, except in the case where it has already been executed, the monetary guarantee is returned at the latest sixty (60) days after the Director's confirmation that the work, as a whole or as a phase, as the case may be, has been completed according to the program for reutilization of the demolished area.

When dealing with a development in phases, only the portion of the monetary guarantee applicable to this phase, calculated on a *pro rata* basis considering the total value of this phase out of the total value of the program, shall be returned to the applicant.

By the applicant's written request, the monetary guarantee may also be **partially** reduced and returned to the applicant as follows for the phase of a program or, if no phase, for a program, that involve a monetary guarantee equal or superior to \$500 000:

- (a) if 33% of the construction work has been completed in accordance with the Certificate of Authorization and occupancy permits issued by the City, an amount equivalent to 33% of the applicable monetary guarantee shall be returned to the applicant;
- (b) if 66% of the construction work has been completed in accordance with the Certificate of Authorization and occupancy permits issued by the City, an amount equivalent to 66% of the applicable monetary guarantee

shall be returned to the applicant, deduction made of the previous 33%;

- (c) if 100% of the construction work has been completed in accordance with the Certificate of Authorization and occupancy permits, 100% of the applicable monetary guarantee shall be returned to the applicant, deduction made of the previous 66%;

The percentage is calculated based on the number of occupancy permits issued by the City for the work carried out versus the total number of occupancy permits to be issued in relation to the works to be carried out in completing the program or the phase, as the case may be. Any lot contemplated at paragraph 25.2 shall be excluded from the aforesaid calculation of the percentage.

If the value of the replacement buildings for the program exceeds 70 million dollars, 100% of the monetary guarantee shall be returned to the applicant upon completion of 90% of the construction work to be carried out in completing the program.

25.2 Return of the Guarantee upon sale of some distinct lots

Notwithstanding paragraph 25.1, when dealing with a phase involving a monetary guarantee equal or superior to \$500 000 and the construction of detached single family residential dwellings in the perimeter corresponding to the perimeter of zone **CC-3** at the date of the coming into force of the present by-law, a portion of the monetary guarantee applicable to this phase may be partially reduced, as follows, upon the applicant's written request, being understood that the applicant may only require such a return for a maximum of 38 lots of the program :

- (i) if the City is provided, for each of the 38 lots, with a copy of a duly registered deed of sale entered into with a party dealing at arm's length with the applicant ;

The return shall only occur when the condition provided at (i) is satisfied for each of the 38 lots.

In no event however, by this return, should the amount of the monetary guarantee available to the City for this phase be less than 4% the total value of the replacement buildings for the phase.

If, at the expiry of the delay determined by Council in accordance with Article 17, the work regarding the program for reutilization of the demolished area or the phases included therein is not completed, Council shall keep the monetary guarantee.

If at the expiry of the delay provided at Article 17, the monetary guarantee is not renewed, Council may keep the monetary guarantee.

SECTION VI : FINES

26. Contraventions and Fines

Whoever proceeds with the Demolition of a Building without a Certificate of Authorization or whoever opposes the conditions of the Certificate of Authorization, commits an infraction and is liable to a fine of a minimum of \$5,000 to a maximum of \$25,000.

In addition to the fine contemplated in the first paragraph, an offender who demolishes an immovable or has it demolished without Council's authorization or

in contravention of the conditions of the authorization, shall restore the immovable so demolished to its former condition. If the said 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 or its amendments; the costs are secured by a legal hypothec on the land.

SECTION VII : APPLICATION AND COMING INTO FORCE

27. Application

The Director or one of his or her duly authorized employees, any Peace Officer and any member of the Public Security department are in charge of the application of the present by-law.

28. Coming into force

The present by-law comes into force according to law.

(s) Anthony Housefather

ANTHONY HOUSEFATHER
MAYOR

(s) Jonathan Shecter

JONATHAN SHECTER
DIRECTOR OF LEGAL SERVICES
AND CITY CLERK

CERTIFIED TRUE COPY

JONATHAN SHECTER
DIRECTOR OF LEGAL
SERVICES AND CITY CLERK

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ADOPTED ON: June 21, 2010

IN FORCE ON: July 21, 2010

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