

Municipality of Alleyn and Cawood

- Demolition and protection of Heritage Buildings -

By-Law No. 2023-004



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- WHEREAS** a notice of motion was given during the regular Council Meeting of the Municipality of Alleyn and Cawood, on March 6, 2023, to the effect that this by-law would be submitted for adoption;
- WHEREAS** Bill no. 69 obliges a Municipality to adopt a demolition by-law in accordance with the new provisions of the Act respecting land use planning and development concerning buildings of heritage value, before the 1st of April 2023;
- WHEREAS** under the provisions of sections 148.0.1 to 148.0.26 of the Act respecting land use planning and development (chapter A 19.1) and those of section 141 of the Cultural Heritage Act (R.L.R.Q., c P-9.002), a Municipality is required, to enforce this by-law, to ensure discretionary control of the demolition of heritage buildings on its territory;
- WHEREAS** the by-law governing the demolition of buildings and the protection of heritage buildings aims to ensure control of the demolition of any building concerned by prohibiting demolition, unless the owner has first obtained a certificate of authorization from this effect;
- WHEREAS** the municipal council deems it appropriate to adopt a by-law in order to control the demolition of buildings on its territory and to ensure in particular the protection of the built heritage and the adequate reuse of the cleared ground;

FOR THESE REASONS;

033-03-2023

PROPOSED BY: Councillor Guy Bergeron

And, resolved unanimously that Council orders and decrees the following:

CHAPTER I: DECLARATORY, INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS

1. TITLE

This Regulation is called the Demolition and Protection of Heritage Buildings.

2. TERRITORY

The provisions of this by-law apply to all areas of the territory of the Municipality of Alleyn and Cawood.

3. SCOPE

The applicant for any demolition of a heritage immovable must comply with the applicable provisions of this Regulation.

The purpose of this Regulation is to control the complete or partial demolition of a heritage immovable and to protect a building of heritage value.

4. INTERPRETATIVE PROVISIONS

The interpretive provisions prescribed in the Permits and Certificates Regulation form an integral part of these Regulations to be valid as if they were reproduced here.

5. TERMINOLOGY

The definitions prescribed in the Permits and Certificates Regulation form an integral part of this Regulation to be valid as if they were reproduced here, unless they are inconsistent, or unless the context indicates otherwise.

As of its coming into force, any changes to the terminology of the Permits and Certificates Regulation will apply as if they were reproduced here.

"Committee": refers to the Advisory Planning Committee.

"Council": means the Town Council of Alleyn and Cawood.

"Demolition": dismantling, displacement or complete or partial destruction of a building.

"Heritage immovable" means an **immovable** cited in accordance with the Cultural Heritage Act ([chapter P-9.002](#)), situated on a heritage site cited in accordance with that Act or entered in an inventory referred to in the first paragraph of section 120 of that Act.

"Dwelling" means a dwelling within the meaning of the Act *respecting the administrative housing tribunal* or referred to in that Act ([chapter T-15.01](#)).

6. POWERS AND DUTIES OF THE DESIGNATED OFFICER

The powers and duties of the designated officer prescribed in the Permits and Certificates Regulation form an integral part of this Regulation as if they were reproduced here.

7. CERTIFICATE OF AUTHORIZATION

A demolition authorization issued under this by-law does not exempt the applicant from obtaining a permit or certificate of authorization required by another municipal by-law.

8. LIMITATION OF THIS REGULATION

This Regulation does not apply to the demolition of a classified heritage immovable, or an immovable situated on a classified heritage site in accordance with section 48 of the Cultural Heritage Act ([CQLR, chapter P-9.002](#)).

CHAPTER II: OBJECTS AND STANDARDS

1. BUILDINGS AFFECTED

The demolition of any heritage immovable is prohibited unless the owner has been authorized in accordance with this by-law.

2. BUILDING STANDARDS

The provisions prescribed in the building regulations are an integral part of this by-law to be valid as if they were here long reproduced.

CHAPTER III: DEMOLITION COMMITTEE

3. TERMS OF REFERENCE OF COMMITTEE MEMBERS

The mandate of the committee is:

1. examine applications for the demolition of a heritage immovable that must be submitted to the committee for examination under this Regulation;
2. accept or refuse applications for demolition authorization certificates;
3. to set the conditions necessary for the issuance of a certificate of authorization for demolition;
4. any other power conferred on it by law.

The committee is a decision-maker and the meetings it holds are public.

CHAPTER IV: APPLICATION FOR AUTHORIZATION TO DEMOLISH AN IMMOVABLE

1. OBLIGATION TO OBTAIN AUTHORIZATION

The complete or partial demolition of a heritage immovable located in the territory of the Municipality of Alleyn and Cawood is prohibited unless the owner has obtained a certificate of authorization issued by the competent authority.

The issuance of the certificate of authorization is only possible once the demolition application has been submitted to and authorized by the demolition committee.

2. SUBMITTING AN APPLICATION

An application for authorization to demolish a heritage immovable must be sent to the designated officer, on the form prescribed for that purpose, and be signed by the owner or his mandatory, hereinafter identified as "the applicant".

3. CONTENT OF AN APPLICATION

The information requested on the form must be provided by the applicant.

The applicant must, at his own expense, have the following documents prepared and attached to this form:

- a document identifying the name and contact information of the owner, his mandatory, contractor, engineer, architect and any other person responsible for the work;

- a copy of any title establishing that the applicant is the owner of the immovable concerned or a document establishing that the applicant holds an option to purchase the immovable;
- the power of attorney given by the owner establishing the mandate of any person authorized to act on his behalf, if any;
- a letter setting out and justifying the reasons for the demolition request in which the applicant clearly indicates why they want to demolish the building rather than keep or restore it, and why the required maintenance work has not been carried out;
- statements or invoices showing that the building to be demolished is properly heated and maintained;
- photographs of the interior and exterior of the building;
- photographs of the land where the building is located;
- a detailed description of the condition of the building to be demolished (e.g., physical condition, description of architectural components, identification of defective elements);
- a plan illustrating the location and location of the building;
- an assessment report, prepared by a certified appraiser, of the physical deterioration due to obsolescence of the building to be demolished;
- a heritage study carried out by an expert in the field.
- a complete expert report prepared by a professional within the meaning of section 1 of the Professional Code (chapter C-26) whose order governs the practice of the professional activity referred to in this section, including the identification and description of the condition of the immovable and all its components and systems, failures and corrective work to be carried out;
- demolition schedules;
- a description of the methods of demolition and disposal of equipment and materials;
- in the case of an immovable comprising one or more dwellings, the owner's declaration that each of the lessees has been notified, in writing, by registered or certified mail, of his intention to obtain a demolition authorization from the committee;
- in the case of a building comprising one or more dwellings, the conditions of relocation of the tenants;

CHAPTER V: EXAMINATION OF THE APPLICATION FOR AUTHORIZATION

1. TRANSMISSION OF THE APPLICATION TO THE COMMITTEE

The designated officer reviews the application and verifies that all required information and documents have been provided.

When the application is complete, it is sent to the committee for study and decision.

If the information and documents are incomplete or inaccurate, the application is suspended until the required information and documents have been provided by the applicant.

2. LAPSE OF THE APPLICATION

The application for authorization lapses if the applicant has not filed all the required documents and information within three (3) months of the filing of the application.

3. PUBLIC NOTICE AND POSTING

When the application for authorization is complete, and a notice must be:

1. published without delay;
2. displayed visibly for passers-by on the building concerned.

The notices must indicate the day, time and object of the meeting of the committee at which it will rule on the demolition of the immovable and reproduce the wording of the first paragraph of section 26.

Where the application relates to a heritage immovable, a copy of the public notice must be sent without delay to the Minister of Culture and Communications.

3. OPPOSITION

Every person who wishes to object to the demolition must, within 10 days of publication of the public notice or failing that, within 10 days after the posting of the notice on the immovable concerned, make known in writing his objection with reasons to the Director General of the Municipality, as the case may be.

The designated officer shall send to the applicant, as soon as possible and before the commencement of the committee's study work, a copy of any written objection received under section 148.0.7 de la Loi sur l'aménagement et l'urbanisme.

1. CONSULTATION WITH EXTERNAL OPINIONS

The committee must consult with external specialists and even, when the situation so requires, call on a group of specialists as part of its work.

2. CONDUCT OF PUBLIC CONSULTATION

The public consultation shall take place according to the following procedure:

- (1) the applicant first explains his application;
- (2) any other person then has the right to be heard and may be represented for that purpose. The order of intervention is as follows:
 1. any person who has submitted, within the time limits, a written objection, in the chronological order of receipt of such an objection;
 2. any other person.
- (3) at the end of the interventions, the applicant has the right of reply.

CHAPTER VI: DECISION OF THE COMMITTEE ON THE APPLICATION

1. EVALUATION CRITERIA

Before making its decision, the committee must:

1. consider the heritage value of the immovable and, where applicable, its recognition status under the Cultural Heritage Act (CQLR, chapter P-9.002);
2. consider 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 set to be preserved;
3. consider, among others, the following:
 4. the condition of the immovable covered by the application;
 5. deterioration of the quality of life in the neighborhood;
 6. the impact of the loss of a heritage building on its environment;
 7. the cost of restoration;
 8. where the building includes one or more units, the harm to tenants and the effects on housing needs in the vicinity;
9. consider, if applicable, objections received.

10. CONDITIONS FOR AUTHORISING THE APPLICATION

When the committee grants authorization, it may impose any condition relating to the demolition.

In particular, it may, but is not limited to:

1. set the time frame within which demolition work must be undertaken and completed;

- a. must be rebuilt within two years
 - b. must be built with same dimensions or larger
 - c. if possible and by the recommendation of the committee, that some architectural aspects or components of heritage value be reused
2. it may be required that the owner provides the appropriate authority, prior to the issuance of a certificate of authorization, with monetary security for compliance with any conditions imposed by the committee;
3. it may be asked to determine the conditions of relocation of a lessee, where the immovable includes one or more dwellings.

CHAPTER VII: APPEAL OF THE COMMITTEE'S DECISION

1. COUNCIL DECISION

The board may confirm the committee's decision or make any decision that the committee should have made.

The decision of the council must state the reasons for which it is based.

2. TRANSMISSION OF THE COUNCIL DECISION

The municipal inspector shall transmit a certified copy of the council's decision to the applicant and to any person who filed the application for review.

CHAPTER VIII: DISALLOWANCE PROCEDURE

1. TRANSMISSION OF NOTICE TO THE REGIONAL COUNTY MUNICIPALITY

Where the committee authorizes the demolition of a heritage immovable and its decision is not reviewed pursuant to section 28 of this Regulation, notice of its decision must be notified without delay to the MRC Pontiac. Notice of the decision made by the council in review of a decision of the committee, where the council authorizes such demolition, must also be notified to the Regional MRC Pontiac without delay.

The notice shall be accompanied by copies of all documents produced by the applicant.

1. MODIFICATION OF THE CONDITIONS RELATING TO THE AUTHORIZATION OF THE APPLICATION

The conditions relating to the demolition of an immovable may be modified by the committee at the request of the owner.

The time within which the demolition work must be undertaken and completed may also be modified by the committee, on reasonable grounds, provided that the request is made to it before the expiry of that period.

Any request for a major change to the conditions relating to the authorization of the application shall be treated as a new application.

CHAPTER IX: PENALTIES, SANCTIONS AND REMEDIES

1. DEMOLITION WITHOUT AUTHORIZATION OR NON-COMPLIANCE WITH PERMIT CONDITIONS

Every person who demolishes or causes to be demolished an immovable without the authorization of the committee or contrary to the conditions of authorization is liable to a fine of not less than \$10,000 nor more than \$250,000.

The maximum fine is, however, \$1,140,000 in the case of the demolition by a legal person of an immovable cited in accordance with the Cultural Heritage Act (CQLR, chapter P-9.002) or situated on a heritage site designated in accordance with that Act.

2. HINDRANCE

An officer or employee of the Municipality, designated by the council, may enter the premises where the work is carried out at any reasonable time, to verify whether the demolition is in accordance with the authorization. On request, the official of the Municipality must identify himself and produce the certificate issued by the Municipality, attesting to his capacity.

At all times during the carrying out of the demolition work, a person in authority on the premises must possess a copy of the certificate of authorization.

Every person who prevents an employee of the Municipality from entering the premises where the demolition work is carried out in order to verify whether the demolition is in accordance with the decision of the committee, or if 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 exhibit, at the request of an employee of the Municipality, a copy of the certificate of authorization is liable to a fine of not less than \$500 nor more than \$1,000 in the case of a natural person, and not less than \$1,000 nor more than \$2,000 in the case of a legal person.

For a subsequent offence, the offender is liable to a fine of not less than \$1,000 nor more than \$2,000 for a natural person and not less than \$2,000 and not more than \$4,000 for a legal person.

3. RECONSTRUCTION OF THE BUILDING

In addition to the fines that the offender may be ordered to pay under the preceding sections, the offender must reconstitute the immovable so demolished. If the offender fails to reconstitute the immovable in accordance with this by-law, the council may cause the work to be carried out and recover the costs of the offender.

1. REVOCATION OF CERTIFICATE OF AUTHORIZATION

A certificate of authorization is revoked if one of the following conditions is met:

1. the work has not commenced or is not completed within the time limits set by the

Committee;

2. municipal by-laws and declarations made in the application are not respected;
3. incorrect documents have been produced in respect of any of the provisions of this Regulation;
4. The conditions imposed on the issuance of the certificate of authorization are not respected by the applicant.

5. CIVIL REMEDIES

Penal proceedings against an offender are without prejudice or limitation to any other remedy that the Municipality may bring against him, including civil remedies before any court.

CHAPTER XI: SUMMARY OF PROCEDURE

Application of authorization
Examination of the application by the committee
Public notice and posting
Opposition
Public consultation
Appeal
Transmission of decision to the Ministry

CHAPTER XII: FINAL PROVISIONS

1. ADOPTION

The Council shall order the adoption of this by-law as a whole and also chapter by chapter and article by article, so that if a chapter or section thereof is or should ever be declared invalid, the other provisions of this by-law shall continue to apply.

2. ENTRY INTO FORCE

These Regulations will come into force in accordance with the Act.

Adopted



Carl Mayer
Maire



Isabelle Cardinal
Directrice générale

NOTICE OF MOTION: March -06, 2023 (Councillor Guy Bergeron)

ADOPTION: April 11, 2023

RESOLUTION #: 054-04-2023 (Councillor Darryl Mayer)

PUBLICATION NOTICE: April 11, 2023

EFFECTIVE April 11, 2023