



VILLE DE / TOWN OF

BARKMERE

**BY-LAW NO. 289
CONCERNING THE DEMOLITION OF BUILDINGS**

CHAPTER I :

DECLARATORY, ADMINISTRATIVE AND INTERPRETATIVE PROVISIONS

SECTION A - DECLARATORY PROVISIONS

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SECTION A - DECLARATORY PROVISIONS

1. Title of by-law

The title of this by-law is “Building Demolition By-law No. 289”.

2. Territory and persons subject to the by-law

The present by-law, whose provisions apply to all persons, applies to the entire territory of the Town of Barkmere.

3. Purpose of the by-law

The present by-law governs the demolition of a building on the territory of the Town of Barkmere. It empowers the demolition committee to authorize or refuse a request submitted to it.

4. Powers of the Council

In accordance with the third paragraph of section 148.0.3 of the Act respecting land use planning and development, CQLR c. A-19.1, the municipal council assumes the responsibility of authorizing demolition requests and exercising any other powers granted to it under Chapter V.0.1 of Title I of the Act respecting land use planning and development, CQLR c. A-19.1.

5. Compliance with by-laws

Compliance with the present by-law does not exempt a person from the obligation to comply with any other law or regulation of the provincial or federal government, or with any other municipal by-law applicable to the case.

6. Adoption by part

The present by-law is adopted chapter by chapter, section by section, article by article, paragraph by paragraph and paragraph by paragraph in such a way that, should any part of the present by-law be declared null and void by a court of law, such decision shall have no effect on the remaining parts of the by-law except in the event that the meaning and scope of the by-law or any of its provisions are altered or modified thereby.

7. Coming into force

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

SECTION B - ADMINISTRATIVE PROVISIONS

8. Administration of the by-law

The administration and application of this by-law are the responsibility of the competent authority. The powers of competent authority are set out in the Permits and Certificates By-law.

9. Contraventions and penalties

Any person who demolishes or causes demolished an heritage immovable without authorization from the committee or contrary to the conditions of authorization is liable to a fine of not less than \$10,000 and not more than \$250,000. However, the maximum fine is \$1,140,000 in the case of the demolition, by a legal person, of an immovable cited in accordance with the Cultural Heritage Act (RLRQ, c. P-9.002) or located in a heritage site cited in accordance with this Act.

10. Reconstitution and penalties

In addition to the fines that any offender may be ordered to pay under this section, anyone who has demolished or caused to be demolished an immovable without a certificate of authorization for demolition must reconstitute the building so demolished.

If this person fails to rebuild the building in accordance with the regulation, the council may carry out the works and recover the costs from the owner. These costs constitute a priority claim on the property where the building was located, in the same manner and rank as the claims referred to in paragraph 5° of Article 2651 of the Civil Code of Quebec; these costs are secured by a legal hypothec on the property.

Failing to comply with the first paragraph of this section, such person commits an offence and is liable:

1. In the case of a natural person, to a fine of \$500 to \$1,000 for a first offence and to a fine of \$1,000 to \$2,000 for a subsequent offence;
2. In the case of a legal entity, a fine of \$1,000 to \$2,000 for a first offence, and a fine of \$2,000 to \$4,000 for a subsequent offence.

11. Sanction relating to the visit of the competent authority

At all times while demolition work is being carried out, a person in authority on the premises must have in his or her possession a copy of the demolition authorization certificate. The competent authority may enter the site at any reasonable time to verify that the demolition is in compliance with the committee's decision. Upon request, the competent authority must identify himself or herself and produce a certificate issued by the Town attesting to his or her status.

Is liable to a minimum fine of \$100 and a maximum fine of \$500:

1. Anyone who prevents the competent authority from entering the premises where the demolition work is being carried out;
2. The person in charge of carrying out the demolition work who, on the premises where the work is to be carried out, refuses to produce a copy of the demolition certificate when requested to do so by the competent authority.

12. Offence day after day

Where an offence under this by-law continues for more than one day, it shall constitute a separate offence for each day during which it continues.

13. Expenses incurred

Any expenses incurred by the Town as a result of non-compliance with any of the articles of the present by-law will be borne entirely by the offenders.

SECTION C - INTERPRETATIVE PROVISIONS

14. Rules of interpretation

The following rules of interpretation shall apply to these regulations in the event of contradiction between two or more provisions:

1. The specific provision prevails over the general provision;
2. The most restrictive provision prevails;
3. In case of contradiction between a table, sketch or title and the text, the text prevails.

15. Numbering system

The text reproduced below represents the numbering system of these regulations:

Chapter I: Chapter

Section A - Section

1. Article

Paragraph

1. Paragraph

a) Sub-paragraph

16. Definition

Unless the context indicates otherwise, any word or expression has the meaning assigned to it in the Permits and Certificates By-law. If a word or expression is not defined, it has its common meaning as defined in the dictionary.

Notwithstanding the first paragraph, for the purposes of this by-law :

1. Competent authority: Any employee of the Service de l'urbanisme et de l'environnement or designated official and any other person designated by Council;
2. Committee: the demolition committee constituted under section 148.03 of the Act respecting land use planning and development;
3. Council: Town Council of the Town of Barkmere.
4. Demolition: Complete or partial dismantling, removal or destruction of an immovable;
5. Heritage immovable: an immovable cited in accordance with the Cultural Heritage Act (RLRQ, c. P-9.002), located in a heritage site cited in accordance with this Act or listed in an inventory adopted by the MRC des Laurentides under section 120 of this Act;
6. Dwelling: a dwelling within the meaning of the Act respecting the Administrative Rental Tribunal (RLRQ, c. R-8.1);

SECTION D - TRANSITIONAL PROVISIONS

17. Notification to the Minister of Culture and Communications

The competent authority must, at least 90 days before issuing a certificate of authorization to demolish an immovable built before 1940, notify the Minister of Culture and Communications of its intention to do so, accompanied by any information or document required by the Minister, until the following conditions are met:

1. A by-law conforming to the provisions of Chapter V.0.1 of Title I of the Act respecting land use planning and development (RLRQ, c. A-19.1) is in force on the territory of the Municipality;
2. The inventory provided for in the first paragraph of section 120 of the Cultural Heritage Act (RLRQ, c. P-9.002) has been adopted for the territory of the MRC des Laurentides.

CHAPTER II: CONSTITUTION OF THE COMMITTEE

18. Constitution and functions of the committee

The present by-law establishes the Demolition Committee. The functions of this committee are to render a decision on demolition applications and to exercise the powers conferred upon it by the present by-law.

19. Composition of the committee

The demolition committee is composed of members of Council.

CHAPTER III: AUTHORIZATION REQUIRED AND CONTENT OF APPLICATION

SECTION A - AUTHORIZATION REQUIRED

20. Prohibition on demolition

It is forbidden for anyone to demolish, in whole or in part, a heritage immovable unless the owner has first obtained authorization to do so from the demolition committee.

21. Exemptions

Except for an immovable cited in accordance with the Cultural Heritage Act (RLRQ, c. P-9.002) or located in a heritage site cited in accordance with that Act, article 19 does not apply to the following demolition work:

1. The demolition of a building in respect of which a demolition order has been issued by a court;
2. The demolition of a building that has been destroyed or rendered unsafe by fire or other cause to the extent that it has lost at least 50% of its value;
3. The demolition of a building, requested by the competent authority, whose situation presents a dangerous condition and an urgent need to act in order to ensure the safety of the premises and the neighborhood.

SECTION B - APPLICATION CONTENTS

22. Submission of application

An application for demolition authorization must be submitted to the competent authority by the owner of the building to be demolished or his authorized agent, on the form provided for this purpose. This form must be duly completed and signed by the owner or authorized agent.

23. Contents of application

The application for demolition authorization must be accompanied by the following documents in one (1) hard copy and in digital format (PDF), in addition to the plans and

documents required for an application for a certificate of authorization for demolition prescribed in the Permits and Certificates By-law:

1. An application document including at least:

- a) The current occupancy of the building or, if vacant, the date since which the building has been vacant;
- b) Photographs of the building's interior and exterior;
- c) Photographs of buildings and structures on the lot where the building is located;
- d) A description of the building's architectural features, its period of construction and the main changes to its exterior appearance since its construction;
- e) Photographs of neighboring buildings to help understand the context in which they are set;
- f) Reasons for demolition rather than conservation or restoration;
- g) The reasons justifying the demolition in terms of the evaluation criteria set out in this by-law.

2. Details of reuse of cleared land including:

- a) Projected use ;
- b) A brief description of the work to be carried out, in terms of construction (height, volume, surface area, layout, etc.), architecture (architectural style, main components, etc.) and landscaping. One or more preliminary sketches must be submitted to illustrate this description;
- c) Completion schedule;
- d) Preliminary cost estimate.

3. Conditions for rehousing tenants when the building includes one or more occupied dwellings;

4. Any other document required to assess the authorization request in light of the criteria set out in this by-law, including but not limited to :

a) A report on the condition of the building, signed by a professional or a person competent in this field, including, but not limited to, the structural quality of the building, the condition of its main components and any deterioration observed. The report must also show that the building is in such a condition that it cannot reasonably be restored;

b) A report on the estimated cost of restoration (reinstatement) for the purpose of conserving the building, signed by a professional or a person competent in this field, based on the conclusions of the report on the condition of the building referred to in subparagraph 4a) ;

c) A heritage study signed by a professional with expertise in the field, including, but not limited to, the building's heritage value (archaeological, architectural, artistic, emblematic, ethnological, historical, landscape, scientific, social, urban planning or technological), its state of conservation and the methodology used. The signatory of the study is a person other than the one mandated to carry out the preliminary reuse program for the cleared soil.

24. Study and publication fees

The cost of studying an application for authorization to demolish a heritage immovable and the cost of publishing public notices is \$500. In the case of a request for demolition of a

building other than a heritage building, the fees are set out in the Permits and Certificates by-law. In all cases, these fees are non-refundable and do not cover the fees charged for obtaining a permit or certificate.

25. Complete application

An application for demolition authorization is considered complete when all required documents and plans have been filed with the appropriate authority and the study fees have been paid.

26. Checking the application

The competent authority verifies the contents of the application. At its request, the applicant must provide any additional information required to understand the application.

Where the plans and documents supplied by the applicant are inaccurate, erroneous, insufficient or non-compliant, the competent authority notifies the applicant that the application verification procedure is interrupted so that the applicant can supply accurate, corrected and sufficient information, plans and documents for the verification of the application.

Once verification of the application for demolition of a heritage immovable is complete, the application is forwarded to the demolition committee.

27. Lapse of application

An application for authorization lapses if the applicant has not submitted all the required documents and information within three months of filing the application.

Once an application for authorization has lapsed, the applicant must pay the cost of the application again.

If he fails to do so within 30 days of expiry of the time limit, he is deemed to have withdrawn his application.

CHAPTER IV: REVIEW AND DECISION BY THE DEMOLITION COMMITTEE

SECTION A - REVIEW OF THE APPLICATION FOR DEMOLITION AUTHORIZATION

28. Beginning of consideration of application

Consideration of the application by the committee may begin once the application for demolition authorization has been deemed complete by the competent authority.

29. Notice to tenants

When the application for demolition authorization concerns a building comprising one or more dwellings, the applicant must send, by registered or certified mail, notice of the application to each of the building's tenants as soon as the application is filed. The applicant must submit proof of dispatch of the notice to the tenants to the competent authority before the application for authorization is considered.

30. Posting and public notice

When the application for authorization is complete and the required fees have been paid, public notice must be posted no later than the tenth day before the public meeting:

1. Be posted, on the immovable concerned by the application, a notice easily visible to passers-by;
2. Be published in accordance with the Town's publication procedures.

The poster and notice must include the day, time, location and purpose of the demolition committee meeting and the text mentioned in article 30 of this by-law, and a copy of the public notice must be sent without delay to the Quebec Minister of Culture and Communications.

31. Opposition to application

Any person wishing to object to the demolition must, within 10 days of publication of the public notice or, failing that, within 10 days of posting of the notice on the building concerned, send a written statement of his or her opposition, with reasons, to the Town secretary-treasurer.

32. Application evaluation criteria

The demolition committee studies the application for demolition authorization submitted to it in the light of the following evaluation criteria:

1. Building condition ;
2. The building's heritage value;
3. The history of the building, its contribution to local history, its degree of authenticity and integrity, its representation of a particular architectural trend and its contribution to a group to be preserved;
4. Deterioration of the neighborhood's quality of life;
5. The cost of restoration;
6. The proposed use of the cleared land;
7. Where the building comprises one or more dwellings, the harm caused to tenants and the effects on housing needs in the surrounding area;
8. Any other criteria it deems appropriate in the circumstances.

33. Public meeting

The demolition committee holds a public session, which includes a public hearing. At this meeting:

1. The committee explains the purpose of the meeting and how it will be conducted;
2. The competent authority presents the application for authorization, which is submitted for review;
3. The applicant for authorization explains the reasons for the request, the main conclusions of the supporting reports and the preliminary program for reusing the cleared soil. In the absence of the applicant, the competent authority presents this information;
4. Toute personne a ensuite le droit d'être entendue, que cette personne ait déposé ou non une opposition conformément à l'article 29;
5. Le comité peut adresser des questions au requérant et à toute personne ayant pris la parole ;
6. En huis clos, le comité poursuit l'étude de la demande.

34. Acquisition of the immovable

Where the immovable covered by the application includes one or more dwellings, a person wishing to acquire the immovable in order to preserve its residential rental character may, until such time as the demolition committee has rendered its decision, intervene in writing with the clerk-treasurer to request a delay in taking or continuing steps to acquire the immovable.

Such an intervention may also be made by a person wishing to acquire a heritage immovable covered by a request for demolition authorization in order to preserve its heritage character.

If the demolition committee deems that circumstances justify it, it will postpone its decision and grant the intervener a period of up to two months from the end of the public meeting to allow negotiations to be completed. The demolition committee may postpone its decision for this reason only once.

SECTION B - DECISION OF THE DEMOLITION COMMITTEE

35. Decision of the demolition committee

The demolition committee renders its decision at a public meeting. The committee may decide to postpone its decision to a subsequent public meeting if it deems this appropriate. In this case, it must publish public notice in accordance with article 29 of the present by-law.

36. Reasons and transmission of decision

The Committee's decision must state the reasons on which it is based and must be sent without delay by registered mail to any party involved. The decision shall be accompanied by a notice explaining which of the rules set out in articles 37, 40 and 41 of the present by-law apply.

37. Demolition conditions

When the demolition committee grants authorization, it may :

1. Impose any conditions relating to the demolition of the building or the reuse of the cleared land;
2. Determine the conditions for rehousing a tenant, when the building includes one or more dwellings;
3. Set the deadline by which demolition work must be undertaken and completed.

The demolition committee may require the owner to provide the Town with a financial guarantee prior to the issuance of a certificate of authorization for demolition, to ensure compliance with any condition referred to in the first paragraph. This financial guarantee must:

1. Be for the amount determined by decision of the committee;
2. Take the form of a certified cheque made payable to the Town of Barkmere and drawn on an account registered with a financial institution, or a letter of irrevocable and unconditional bank guarantee from a financial institution;
3. Be valid for a period of one year from the date of issue of the certificate of authorization for demolition and the permit or certificate required to carry out the preliminary reuse program for the cleared soil. It must be renewed at least 30 days before it expires if the work covered by the permits or certificates has not been completed;

4. Be reimbursed when all work covered by the permits or certificates has been carried out in compliance with the committee's decision and the permits or certificates issued.

38. Revision of the decision

Anyone may, within 30 days of the demolition committee's decision, request the council to review this decision.

The council may, on its own initiative, within 30 days of a decision by the demolition committee authorizing the demolition of a heritage building, adopt a resolution expressing its intention to review that decision.

Any council member may sit on the council to review a committee decision. The council may confirm the committee's decision or make any decision that the committee should have made.

39. Modifications to conditions

The conditions related to the demolition of a building or the reuse of the cleared land may be modified by the committee upon the owner's request.

The timeline within which demolition and reuse of the cleared land must be started and completed may also be modified by the committee, for reasonable grounds, provided that a request is made before the expiration of this timeline.

Any request for a major modification to the conditions related to the authorization of the request is treated as a new request.

40. Transfer to a third party

When the building is subject, in whole or in part, to a transfer to a third party before the works are fully completed, the new purchaser cannot continue these works before obtaining, in accordance with the provisions of this regulation and the regulations on permits and certificates in effect, a new demolition authorization certificate.

When the building is subject, in whole or in part, to a transfer to a third party during or after the completion of the works, the person who provided the monetary guarantee required by the Town remains obligated to maintain it in effect until the conditions imposed by the committee are met, unless the new purchaser provides the new monetary guarantee required by the committee.

When the building is subject, in whole or in part, to a transfer to a third party, the Town may cash in the monetary guarantee, which was provided by the seller, if the new purchaser fails to carry out the works or does not meet the conditions imposed by the committee.

41. Notification of the decision to the MRC des Laurentides and power of disavowal

When the committee authorizes the demolition of a heritage building and its decision is not subject to revision under Article 37, a notice of the decision must be sent immediately to the MRC des Laurentides. A notice of the decision made by the council in the revision of the committee's decision must also be sent immediately to the MRC when the committee authorizes such demolition.

A notice under the first paragraph must be accompanied by copies of all documents produced by the owner.

The council of the MRC may, within 90 days of receiving the notice, disavow the decision of the committee or the council. If the MRC has a local heritage council under Section 117 of the Cultural Heritage Act (RLRQ, c. P-9.002), it may consult it before exercising its power of disavowal.

A resolution taken by the MRC under the third paragraph must be reasoned, and a copy must be sent immediately to the Town and to any party involved, by registered mail.

SECTION C – ISSUANCE OF THE CERTIFICATE AND OTHER PROCEDURES

42. Issuance of the demolition authorization certificate

No demolition authorization certificate can be issued by the competent authority before the expiration of the 30-day period provided for in Article 37, nor, if there is a revision under this article, before the council has made a decision authorizing the demolition.

When Article 40 applies, no demolition authorization certificate can be issued before the earliest of the following dates:

1. The date the MRC des Laurentides informs the Municipality that it does not intend to exercise the disavowal power under the third paragraph of this article;
2. The expiration of the 90-day period provided in this paragraph.

43. Modification of the deadline

The demolition committee may, for a reasonable cause, modify the deadline set in the authorization decision, provided that a request is made before the expiration of this deadline.

44. Expiry of the authorization

The authorization certificate is revoked if any of the following conditions are met:

1. The demolition works have not started or have not been completed within the deadlines set by the committee;
2. The municipal regulations and the statements made in the application are not respected;
3. Erroneous documents concerning any of the provisions of this regulation have been submitted;
4. The conditions imposed for the issuance of the authorization certificate are not complied with by the applicant;
5. If the demolition works are not started before the expiration of the deadline set by the demolition committee, the demolition authorization is no longer valid. If, on the expiration date of this deadline, a tenant continues to occupy their dwelling, the lease is automatically extended, and the landlord may, within one month, apply to the Administrative Housing Tribunal to set the rent.

45. Failure to meet the deadline

If the works are not completed within the set deadline, the council may carry them out and recover the costs from the owner. These costs constitute a priority claim on the land where the building was located, in the same manner and rank as the claims referred to in paragraph

5° of Article 2651 of the Civil Code of Quebec; these costs are secured by a legal hypothec on that land.

46. Compensation for the tenant

The landlord to whom a demolition authorization has been granted may evict a tenant in order to demolish a dwelling.

However, a tenant cannot be forced to leave their dwelling before the later of the following two events: either the expiration of the lease or the expiration of a period of three months from the issuance of the demolition authorization certificate.

The landlord must pay the evicted tenant compensation of three months' rent and moving expenses. If the damages resulting from the prejudice suffered by the tenant exceed this amount, the tenant may apply to the Administrative Housing Tribunal to have the amount set. The compensation is payable upon the tenant's departure, and moving expenses are reimbursed upon presentation of supporting documents.

ARTICLE 4 ENTRY INTO FORCE

The present regulation comes into effect in accordance with the law.

(Original signed)

(Original signed)

Luc Trépanier
Mayor

Martin Paul Gélinas
Director general and secretary-treasurer

Notice of motion and deposit of the draft regulation:

Adoption of the draft regulation:

Notice of adoption of the regulation:

Adoption of the regulation:

Receipt of the MRC's certificate of compliance:

Effective date:

Notice of the effective date:

CERTIFIED TRUE COPY,

Delivered in Barkmere, XXXXX

Martin Paul Gélinas, Director general and secretary-treasurer