

**PROVINCE OF QUÉBEC
TOWN OF HAMPSTEAD**

BY-LAW NUMBER 759

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

WHEREAS Notice of Motion of the present By-law was given at the Council Meeting held on May 7, 2007;

ON JUNE 5, 2007, THE COUNCIL DECREES AS FOLLOWS:

1. INTERPRETATIVE PROVISIONS

In this By-law, unless the context indicates a different meaning, the following definitions shall apply:

- 1.1 “building”: Structure built of one or more kinds of material and having any number of forms and shape and designed for shelter or enclosure of persons, domestic animals or property. A building has a roof and walls.
- 1.2 “accessory building”: Secondary building detached from the main building and built on the same lot as the latter, of which the use is generally related to the use of the main building and which contributes to the improvement of utility or commodity of enjoyment of the uses being carried out in the main building. A detached garage is not an accessory building within the meaning of this By-law.
- 1.3 “main building”: The building that serves the use(s) authorized by the Zoning By-law in force on the lot or lots where it is erected.
- 1.4 “committee”: the committee created to study applications for demolition of a building as provided for in the Law;
- 1.5 “Council”: The municipal council of the Town of Hampstead.
- 1.6 “Director”: the Director of Public Works or his delegate;
- 1.7 “demolition” means and includes/understands the fact of removing or destroying:
 1. more than sixty percent (60%) of the gross volume, except the basement, of any building;
 2. more than sixty percent (60%) of the exterior walls of any building;
 3. more than sixty percent (60%) in horizontal projection, of the roof of any building;
 4. or a combination of the preceding elements, present in any building and whose combined total is higher than a hundred and fifty percent (150%).
- 1.8 “letter of guarantee”: a letter of financial guarantee or an irrevocable letter of credit issued by a bank, a *caisse populaire*, an insurance company, a trust or a trust company.
- 1.9 “applicant”: Means and includes the proprietor of any building or buildings who applies for a permit to demolish a building or buildings in accordance with this By-law.

2. APPLICATION

- 2.1 This By-law applies to the entire territory of the Town of Hampstead.
- 2.2 The demolition of any main residential, detached garage or public building, other than mentioned in article 2.3, shall be carried out in accordance with the provisions of the present By-law.
- 2.3 However, the present By-law shall not apply to:
1. any building that has lost fifty percent (50%) or more of its assessment roll value to fire;
 2. any building that constitutes a safety hazard and/or is in a dangerous condition;
 3. any building that is owned by the municipality;
 4. any building erected in contravention of a municipal By-law, or is required to be demolished in the enforcement of a municipal By-law; or ordered to be demolished by a judgment of a Court having the requisite jurisdiction;
 5. the restoration only of a damaged roof, by preserving its architectural character, by the conservation of the style, the volume and the slopes of the original roof.

3. PROHIBITION

- 3.1 No-one may demolish a main residential detached garage or public building unless the owner of said building has previously obtained a permit for demolition to this effect.

4. GENERAL PROVISIONS RELATED TO THE STUDY OF AN APPLICATION FOR A PERMIT FOR DEMOLITION

- 4.1 Any application for a permit for demolition must be submitted by the applicant to the Director on the form provided for that purpose. Such an application must be accompanied by the following information and documents:
1. the address of the building to be demolished;
 2. the name, address and telephone number of the owner or of his duly authorized representative, as the case may be;
 3. grounds which justify the application for a certificate of authorization for demolition;
 4. two (2) copies of a site plan showing:
 - the location of the building to be demolished,
 - the location and dimensions of any existing structure, works and landscaping on the lot,
 - the height in metres or in storeys, the total gross aboveground floor area and the total gross basement floor area of the building to be demolished;
 5. an estimate of the cost of the work;
 6. two (2) different, recent photographs of the building to be demolished;
 7. a description of the conditions under which the demolition will be carried out;
 8. the work schedule for demolition and the date for disconnection of all municipal services;
 9. proof of liability insurance specifically issued for this purpose in favour of the applicant;

10. a written statement from the applicant releasing the Town from any and all responsibility in this regard;
 11. a copy of the notice to lessees of the immovable, as well as proof of its delivery;
 12. planned measures for relocating the tenants should there be any, or the date on which the building became vacant, as the case may be;
 13. a preliminary program for the re-utilization of the land released by the demolition, including the plans necessary to verify its conformity with the By-laws;
 14. payment of the fee applicable to a permit for demolition;
 15. when required by the Director, a report on condition of the building prepared by an architect or a structural engineer at the applicant's cost.
- 4.2 Should the information or the documents that accompany the application be incomplete or imprecise, the study of the application shall be postponed until such time as the applicant furnishes the necessary information and documents. The application shall then be recorded as having been received on the date when the additional information and documents were received. Once the application is complete, the Director shall send a copy to the Committee within thirty (30) days.

5. NOTICES AND OBJECTIONS

- 5.1 As soon as the Committee has received the application, the Director shall cause a notice of the said application, easily visible to the public walking in front of the immovable, to be posted on the immovable contemplated in the said application. Furthermore, the Town Clerk shall immediately cause a public notice of the said application to be published, so as to advise all persons wishing to oppose the demolition must do so by writing to the Town Clerk or secretary-treasurer of the municipality, giving the reasons for objecting, within 10 days of publication of the notice or, failing such notice, within 10 days following the posting of the notice on the immovable concerned.
- 5.2 The original of every such objection or submission so received shall be remitted to the Secretary of the Committee, who shall enter it in the file.

6. CONDITIONS FOR STUDYING THE APPLICATION

- 6.1 Following the expiry of the said ten day delay for the filing of objections or submissions, the Secretary of the Committee shall submit the file to the Building Inspector and thereafter, to the Planning Advisory Committee.
- 6.2 The Building Inspector and the Planning Advisory Committee shall examine the file and shall make such written recommendations to the Council for approval, with respect to the said application and the said preliminary program as they may deem advisable.
- 6.3 Council may only approve the preliminary program if it is in accordance with the by-laws of the Town.
- 6.4 The Secretary of the Committee, following consultation with the Chairman of the Committee, shall then advise all members of the Committee, the applicant, every objector and every person who has made a submission, of the date, time and place of the public sitting of the Committee at which the application shall be considered. In addition, the Secretary of the Committee shall place a notice, easily visible to the public walking in front of the immovable, to be posted on the immovable contemplated in the said application, advising the public of the date, time and place of the public sitting of the Committee at which the application shall be considered.

- 6.5 Should the issuance of a building permit be thus suspended, the Committee may not approve the program until the suspension is lifted or approval has been obtained for the minor exemption or the site planning and architectural integration program, or until the By-law modification for which the notice of motion was given comes into force, should this date precede the end of the suspension; the Committee's decision shall then be rendered in light of the By-laws in force at the time of the decision.
- 6.6 Should the Committee approve the preliminary program for the reutilization of the land released by the demolition, the Committee shall, prior to the issuance of the permit, require a financial guarantee for carrying out said program; such guarantee may not exceed the assessed value of the building to be demolished. This financial guarantee shall be deposited with the Director, and shall consist, at the discretion of the applicant, of one or the other of the following securities:
1. a letter of guarantee
 2. bearer bonds payable issued by the government of Quebec, Canada or by a Quebec municipality
 3. a guarantee issued by an insurer duly authorized to carry out insurance operations in Quebec by virtue of the Insurance Act (R.S.Q., c. A-32).
- 6.7 The financial guarantee shall remain in force and may not be lifted until the expiry of a sixty (60) day delay following the planned completion date of the program for re-utilization of the land released. It shall include a provision obliging the issuer to notify the Director of its cancellation.

7. CONDITIONS FOR APPROVAL OF THE PERMIT FOR DEMOLITION

- 7.1 Prior to rendering its decision, the Committee must consider all objections received.
- 7.2 The Committee may postpone a decision in order to allow an interested party who has requested a delay in order to undertake or proceed with the acquisition of the building and to preserve it as a residential rental property. This delay may not exceed two (2) months following the hearing. The Committee may postpone its decision on these grounds only once.
- 7.3 The Committee shall grant the permit for demolition if it is of the opinion that the demolition is appropriate taking into account the interests of the public and those of the parties.
- 7.4 Before deciding on an application for permission to demolish, the committee must consider the following:
- i) the condition of the building or buildings contemplated by the application;
 - ii) the deterioration of the architectural appearance or aesthetic character of the neighbourhood;
 - iii) the cost of restoration;
 - iv) the intended use of the vacated land and any other pertinent criterion;
 - v) the prejudice caused to lessees;
 - vi) the housing needs in the area;
 - vii) the possibility of relocating the lessees;
 - viii) the environmental impact.

- 7.5 The Committee shall state the grounds for its decision. The Committee's decision on the issuance of the permit shall immediately be sent by certified or registered mail to the parties concerned.
- 7.6 A list of the Committee's decisions shall be tabled at the regular Council meeting following said decisions.
- 7.7 When the Committee grants the application for a certificate of authorization for demolition, it may set the time period within which the demolition work must be undertaken and completed. It may, with reasonable grounds, modify the set time period, provided a request for a change is made prior to the expiration of said time period.
- 7.8 The Committee must reject the application for a permit to demolish if the preliminary program for utilization of the vacated land has not been approved or if the required fees have not been paid.

8. APPEAL TO COUNCIL

- 8.1 Any interested party may, within thirty (30) days of the Committee's decision, launch an appeal of this decision in writing before the Council. Any member of the Council, including a member of the Committee, may sit on the Council to hear an appeal launched by virtue of this section.
- 8.2 The Council may confirm the Committee's decision or render any decision that the Committee should have rendered.

9. ISSUANCE OF A PERMIT

- 9.1 When the Committee grants a permit for demolition, the Director shall issue the certificate on behalf of the Committee. The permit must, if applicable, stipulate the conditions, which are binding on the applicant.
- 9.2 No permit for demolition can be issued prior to the expiration of the period of thirty (30) days set out in section 8.1 or, should there be an appeal in virtue of this section, prior to the Council rendering a decision authorizing the issuance of such a certificate.
- 9.3 A permit issued prior to the expiration of the appeal period or prior to the Council's decision when there has been an appeal, shall be invalid.
- 9.4 The Committee may revoke a certificate after having advised the holder in writing:
1. should one of the conditions for issuance of the permit for demolition not be respected, or
 2. should the permit have been granted in error based on erroneous information.

The holder of a certificate that has been revoked must return it to the Director within ten (10) days of the notice to this effect.

- 9.5 The permit for demolition shall be deemed invalid should the work that it authorizes not be undertaken prior to the expiration of the time period set by the Committee.
- 9.6 Should the work not be completed within the set time period, the Council may complete said work and recover its costs from the owner, or at the Council's discretion, execute the financial guarantee. Should it recover these costs from the owner, they shall constitute a prior claim on the property, for the same reasons and with the same status as the claims contemplated in paragraph 5 of article 2651 of the Quebec Civil Code, and these costs shall be guaranteed by a lien on the property.

10. DISPLAYING THE CERTIFICATE

- 10.1 At all times during the execution of the demolition work, a person in authority on the site must have in his possession a copy of the permit for demolition. The Director, any of his staff members assigned to inspection may, at any reasonable hour, enter the site where the work is being carried out, in order to verify whether the demolition is in accordance with the certificate. They may also ask to be shown the copy of the permit for demolition.
- 10.2 The Director may order anyone carrying out demolition work without authorization, or in contravention of the authorization, to cease work immediately.

11. COMPLETION OF THE WORK AND RETURNING THE GUARANTEE

- 11.1 The demolition work shall be deemed complete when the Director has confirmed that it has been executed entirely in accordance with the permit for demolition issued for that purpose.
- 11.2 At the written request of the applicant, except in the case where it has already been executed, the financial guarantee shall be returned within sixty (60) days following confirmation by the Director that the work has been completed.

12. VIOLATIONS AND FINES

- 12.1 Anyone who carries out the demolition of a building concerned by this By-law or has such a building demolished without proper authorization, or in contravention of the conditions of the permit for demolition, is committing an infraction and shall be liable:
1. in the case of a natural person:
 - a) for a first infraction, to a fine of between \$5,000 and \$50,000
 - b) for a repeat offence, to a fine of between \$10,000 and \$50,000
 2. in the case of a legal person:
 - a) for a first infraction, to a fine of between \$10,000 and \$50,000
 - b) for a repeat offence, to a fine of between \$20,000 and \$50,000
- 12.2 Should anyone proceed with the demolition of a building concerned by the present By-law or have such a building demolished, without proper authorization or in contravention of the conditions of the certificate of authorization for demolition, the Committee may require this person to reconstruct the building so demolished. Should the offender not carry out the reconstruction of the building in accordance with the present By-law, the Council may carry out the work and recover the costs for said work, in accordance with the Act.
- 12.3 Anyone who contravenes articles 9.4, 10.1 or 10.2 commits an infraction and shall be liable to a fine of between \$100 and \$500.

13. APPLICATION

- 13.1 The Director shall be responsible for application of the present By-law.

14. OTHER PROVISIONS

- 14.1 The present By-law replaces Chapter 11 of Zoning By-law N° 727.
- 14.2 This By-law will come into force in accordance with the law.

(s) William Steinberg
Dr. William Steinberg, Mayor

(s) Chantal Bergeron
M^c Chantal Bergeron, Town Clerk