

By-law No. 216-23



Regulation respecting the demolition of immovables

Municipality of Brome Village
MRC Brome-Missisquoi

Created by :

Gestim

539, Rue Principale, Saint-Sébastien, Québec, J0J 2C0



Province of Quebec
Village of Brome

By-law no. 216-23
By-law respecting the
demolition of buildings

Administrative coding

By-Law number	Date of notice of Motion	Date of adoption	Effective Date
216-23	June 5, 2023	August 7, 2023	August 15, 2023

WHEREAS the enabling power for the adoption of a by-law governing the demolition of immovables is found in sections 148.0.1 to 148.0.26 of the Act respecting land use planning and development (R.L.R.Q., c. a-19.1);

WHEREAS the Act to amend the Cultural Heritage Act and other legislative provisions adopted on March 25, 2021 makes several changes to the municipal sector, particularly with respect to demolition control, the protection of immovable heritage and building maintenance plans;

WHEREAS the objectives of the Cultural Heritage Act are to promote the knowledge, protection, enhancement and transmission of cultural heritage, reflecting the identity of a society, in the public interest and with a view to sustainable development;

WHEREAS the municipal council wishes to regulate the demolition of immovables on the territory of the Village of Brome;

WHEREAS By-law #216-23 respecting the demolition of immovables is intended to ensure the control of the demolition of any immovable concerned by prohibiting demolition, unless the owner has first obtained a certificate of authorization to that effect;

WHEREAS this regulation represents an instrument of choice to ensure the protection of the built heritage and the adequate reuse of the land cleared;

WHEREAS this Regulation does not contain a provision specific to a regulation subject to approval by referendum;

WHEREAS at the regular meeting of June 5, 2023, a notice of motion of By-law #216-23 was duly given and the draft By-law deposited;

WHEREAS at the regular meeting of August 7, 2023, By-law #216-23 was adopted;

THE MUNICIPAL COUNCIL DECREES AS FOLLOWS :

CHAPTER 1	6
SECTION 1	6
1.1	6
1.2	6
1.3	6
1.4	6
1.5	6
1.6	6
1.7	7
SECTION 2	8
1.8	8
1.9	8
1.10	8
1.11	8
1.12	9
1.13	10
1.14	11
SECTION 3	11
1.16	11
1.17	11
1.18	11
1.19	12
SECTION 4	12
1.20	12
1.21	13
1.22	13
1.23	13
SECTION 5	14
1.24	14
1.25	14
1.26	14
1.27	14
1.28	15
SECTION 6	15
1.29	15
1.30	15
CHAPTER 2	16
SECTION 1	16
2.1	16
2.2	16

2.3	16
2.4	16
2.5	17
2.6	17
2.7	17
CHAPTER 3	17
3.1	17

CHAPTER 1 DECLARATORY, ADMINISTRATIVE AND INTERPRETATIVE PROVISIONS

SECTION 1 DECLARATORY PROVISIONS

1.1 Title of the Regulation

This by-law is referred to under the heading "Regulation respecting the demolition of immovables" and bears the number no. 216-23.

1.2 Taxable territory

This by-law applies to the territory of the Village of Brome.

1.3 Validity

The Council shall order the adoption of this by-law as a whole and also chapter by chapter, section by section, subsection by subsection, article by article, paragraph by paragraph, paragraph by paragraph, subparagraph by subparagraph in such a way that if a chapter, section, subsection, section, paragraph, paragraph or subparagraph thereof was or should ever be declared invalid, the other provisions of this Regulation shall continue to apply.

1.4 Scope

The competent authority shall be responsible for the administration and enforcement of this Regulation. It may exercise the powers provided for therein and issue statements of offence on behalf of the municipality relating to any offence under a provision of this by-law.

The competent authority is composed of employees of the Direction de l'urbanisme, or any other person designated by the council.

1.5 Purpose of the Regulation

The purpose of this Regulation is to ensure control of the complete or partial demolition of immovables in a context of housing scarcity, to protect a building that may constitute cultural property or represent heritage value, but also to regulate and order the reuse of land cleared following a complete or partial demolition of an immovable.

1.6 Terminology

The words and expressions used in this Regulation have the usual meanings. Notwithstanding the foregoing, in this Regulation, the following words or expressions have the meanings ascribed to them:

"Committee" means the committee on applications for demolition of immovables, established under section 1.9 of this Regulation.

"Council": Municipal Council of the Village of Brome.

"Deconstruction": the action of demolishing a building in order to remove reusable or recyclable materials in order to reuse them and minimize the volume of waste.

"Demolition": Dismantling, displacement or complete or partial destruction of an immovable.

"Dwelling" means a dwelling within the meaning of the Act respecting the Administrative Housing Tribunal (chapter T-15.01).

"Heritage immovable" means an immovable cited in accordance with the Cultural Heritage Act (CQLR, chapter P-9.002), an immovable situated on a heritage site designated in accordance with that Act, an immovable referred to in the Historic Sites and Monuments Act of Canada (RSC 1985, chapter H-4) or an immovable entered in an inventory of immovables with heritage value in accordance with section 120 of the Cultural Heritage Act (CQLR, chapter P9.002).

"RCM" means the Brome-Missisquoi Regional County Municipality.

"Heritage Value": The value placed on a building in terms of its architectural style, historic value, state of conservation and integrity. The following buildings are considered to have heritage value:

- Immovables cited and classified in accordance with the Cultural Heritage Act (CQLR, chapter P-9.002);
- Buildings identified on the Canadian Register of Historic Places in Canada ;
- The buildings identified in the Inventory of places of worship in Québec of the Conseil du patrimoine religieux du Québec and the Ministère de la Culture et des Communications du Québec ;
- The buildings identified in the following documents ;
- The inventory of the built heritage of the MRC Brome-Missisquoi.

"Preliminary program for the reuse of clear land": All documents and information allowing the presentation of the new development or proposed new construction to replace the building covered by the application for authorization to demolition as well as the procedure that will be followed to replace the demolished building.

1.7 General interpretation of the text

The use of the verb in the present tense includes the future.

The singular includes the plural unless the meaning makes it clear that it cannot logically be discussed.

The masculine gender includes the feminine gender, unless the context indicates otherwise.

With the use of the word "shall" or "shall", the obligation is absolute; The word "may" retains an optional meaning except in the phrase "may not" which means "shall not".

SECTION 2 APPLICATION FOR DEMOLITION AUTHORIZATION

1.8 Taxable buildings

This Regulation applies to the following immovables :

1. A heritage building ;
2. A building identified in the inventory of built heritage of the MRC Brome-Missisquoi ;
3. An immovable located on a heritage site cited by the Village of Brome or the MRC Brome-Missisquoi ;
4. An immovable cited by the Village of Brome or by the MRC Brome-Missisquoi;
5. The historic elements of regional or local interest identified and the territories of historic interest identified in the revised land use planning and development plan of the MRC Brome-Missisquoi.

1.9 Establishment of the demolition committee

The municipality must establish a committee to decide on applications for demolition authorization.

This committee is made up of all members of the municipal council.

1.10 Requirement to obtain a certificate of authorization

No person may demolish or cause to be demolished an immovable without first obtaining the authorization of the committee.

An authorization to demolish an immovable granted by the committee does not relieve the owner of the building or the applicant of the obligation to obtain, before the demolition work begins, a certificate of authorization in accordance with the Regulation respecting permits and certificates.

However, the complete or partial demolition of certain immovables may be exempted from the authorization of the committee as prescribed in sections 1.8 and 1.11 of this chapter.

1.11 Exemptions

Despite section 1.8, and unless the demolition concerns a heritage immovable, the following are not subject to authorization:

- A main building whose demolition is required by the Municipality as part of the application of a municipal by-law adopted under Division XII of the UAA on the occupancy and maintenance of buildings ;
- A main building that has lost more than 50% of its value as a result of a disaster, if it is demonstrated by the filing of a report by a competent professional that the building has lost more than half of its value indicated on the assessment roll in force at the time of the disaster ;
- When demolition of the main building is necessary as part of a soil decontamination program ;
- A building that is being relocated to reduce vulnerability to river hazards;
- The demolition of a building threatened by an impending disaster within the meaning of the Civil Protection Act (CQLR, c. S-2.3);
- The demolition is carried out for the purpose of developing, on the same site, a public utility project or a public road approved by the Village of Brome by resolution or by-law, or by a government ;
- The demolition of an immovable covered by a demolition order issued by a court under sections 227, 229 and 231 of the Act respecting land use planning and development (CQLR, chapter A-19.1);
- A demolition required by the municipality of an immovable constructed contrary to planning by-laws.

1.12 Application for Demolition Authorization

An application for authorization to demolish an immovable must be sent to the competent authority, by the owner of the immovable to be demolished or his representative, on the form provided for that purpose.

The owner or agent, if applicable, must provide the following information and documents:

- The name and contact information of the owner, his agent, 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 he 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 detailed description of the condition of the building to be demolished (e.g. physical condition, description of architectural components, identification of defective elements) ;
- Photographs of the interior and exterior of the building ;
- a) Photographs of the land on which the building is located as well as the surrounding land ;

- b) A location and location plan for the building to be demolished;
- c) A statement of the reasons justifying the demolition ;
- d) A detailed estimate of the costs of restoring the building ;
- e) A preliminary cleared land reuse program that includes the following information and documents :
- f) A projected illustration of the open ground and, if applicable, of the building to be erected on this land (views in plan and elevation) ;
- g) If applicable, the expected value of the proposed building and the intended use.
 - The timing and probable cost of the demolition work ;
 - A description of the methods of demolition and disposal of materials ;
 - In the case of an immovable comprising one or more dwellings, the declaration by the owner indicating that each of the lessees has been notified, in writing, 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 ;
 - In the case of a heritage building, a heritage study carried out by an expert in the field ;
 - A plan showing the position of any existing tree on the ground of a D.H.P. greater than 0.10 m ;
 - Any other document or information necessary for the proper understanding of the application. Nevertheless, the committee may require a detailed estimate of the costs of the restoration of the building carried out by a professional competent in the field to judge the real obsolescence of the building.

1.13 Preliminary Cleared Land Reuse Program

1. The preliminary land reuse program must include the following information and documents :
2. The intended use on the ground ;
3. A plan of the proposed subdivision of any proposed cadastral operation, prepared by a land surveyor ;
4. A plan of the project for the implementation of any proposed new construction;
5. Summary construction plans. These plans must indicate the number of floors, the total height of the construction, the dimensions of the building, the identification of exterior cladding materials and their colours, the roof slopes and the location of openings;
6. A color perspective of the building projected in its insertion environment;

7. The schedule and estimated cost of carrying out the land reuse program.

1.14 Cost of the request

The cost of the demolition permit application is \$50.

It is non-refundable.

No certificate of authorization may be issued if its cost is not paid by the applicant.

1.15 Review of the Application for Authorization

The competent authority shall examine the application and verify whether all the required particulars and documents have been provided. It shall then forward the application to the committee.

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

In this case, the applicant has 90 days to submit any missing information or documents. Failure to do so will result in the application being rejected as incomplete and a new application must be submitted.

When an application for authorization has lapsed, the applicant must again pay the cost of an application. If he fails to do so within 30 days following the expiry of the time limit, he is deemed to have withdrawn his application.

SECTION 3 INFORMATION AND CONSULTATION PROCEDURE

1.16 Transmission of the application to the Demolition Committee

The designated officer shall forward any complete application to the Committee within 30 days of receiving it, along with all required documents and information. An application is deemed complete when all the required documents and information have been provided by the applicant.

1.17 Notice to tenants

The applicant must send, by registered or certified mail, as soon as the application for authorization to demolition is filed, a notice of the application to each of the tenants of the immovable.

1.18 Public Notice and Posting

As soon as the committee receives an application for a demolition authorization, it must cause a notice to be posted on the immovable contemplated in the application, which is easily visible to passers-by. In addition, the Minister must

without delay cause a public notice of the application to be published. The poster and public notice must include the following:

- 1) The date, time and place of the meeting at which the request will be heard by the Committee ;
- 2) The designation of the affected building using the thoroughfare and the address of the building, or failing that, the cadastral number ;
- 3) The fact that any person wishing to oppose the demolition of the immovable must, within 10 days of the 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 clerk of the municipality.

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.

1.19 Intervention to obtain a delay

Where the immovable covered by the application comprises one or more dwellings, a person who wishes to acquire the immovable in order to preserve its residential rental character may, until the committee has rendered its decision, intervene in writing with the clerk of the municipality to request a delay in undertaking or continuing steps to acquire the immovable.

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

If the committee considers that the circumstances warrant it, it postpones the rendering of its decision and allows the intervener a period of not more than two months from the end of the sitting to allow negotiations to be concluded. The committee may postpone its decision on this ground only once.

SECTION 4 DECISION OF THE COMMITTEE

1.20 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, in the case of a heritage building, 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 complex to be preserved ;

- 3) Consider, among others, the following :
 - The condition of the building covered by the application ;
 - The deterioration of the quality of life in the neighbourhood ;
 - The impact of the loss of a heritage building on its environment ;
 - The cost of restoration ;
 - The projected use of the cleared land ;
 - When the building includes one or more dwellings, the harm caused to tenants and the effects on housing needs in the vicinity;
 - Any other relevant criteria.
- 4) Consider, if applicable, objections received to the issuance of a certificate of authorization for demolition.

1.21 Committee Decision

The committee shall grant or refuse the application for authorization.

The decision of the Committee shall state the reasons on which it is based.

1.22 Conditions for Authorization of the Application

When the committee grants the authorization, it may impose any condition relating to the demolition of the immovable or the reuse of the cleared land.

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

- 1) Set the deadline within which demolition and reuse of the cleared land must be undertaken and completed ;
- 2) In the event that the cleared land reuse programme has not been approved, require the submission of such a programme for approval by the Committee ;
- 3) Require the owner to provide the competent authority, prior to the issuance of a certificate of authorization, with a financial guarantee to ensure the implementation of the cleared land reuse program and compliance with any conditions imposed by the committee ;
- 4) Determine the conditions of relocation of a tenant, when the building includes one or more dwellings ;
- 5) Require that demolition residues be recovered and recovered and that they pass through a material sorting center.

1.23 Transmission of the decision

The decision of the committee regarding the issuance of the certificate of authorization must be transmitted without delay to any party involved, by hand (with signature) or by registered or certified mail.

The decision is accompanied by a notice explaining the rules applicable to the review process and the time limit for issuing the certificate of authorization to demolish.

SECTION 5 DISALLOWANCE PROCEDURE

1.24 Transmission of a notice to the regional county municipality

Where the committee authorizes the demolition of a heritage immovable, notice of its decision must be notified without delay to Municipalité régionale de comté Brome-Missisquoi.

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

1.25 Power of disallowance

The council of the Regional Municipality of Brome-Missisquoi may, within 90 days of receiving the notice, disallow the committee's decision. Where the regional county municipality has a local heritage council within the meaning of section 117 of the Cultural Heritage Act (chapter P-9.002), the Minister may consult the Minister before exercising his power of disallowance.

A resolution made by the regional county municipality under the first paragraph shall state the reasons on which it is based and a copy shall be sent without delay to the municipality and to any party concerned by registered or certified mail.

1.26 Time Limit for Certificate Issuance

Where section 5 concerning the disallowance procedure applies, no certificate of authorization to demolition may be issued until the earliest of:

- 1) The date on which Brome-Missisquoi Regional County Municipality notifies the municipality that it does not intend to avail itself of the power of disallowance ;
- 2) The expiry of the 90-day period provided for in section 1.28 of these Regulations.

Upon presentation of a certified copy of the resolution by which the municipal council grants the application for authorization to demolish a building, the building inspector issues the certificate of authorization.

1.27 Financial Guarantee

Where the Committee requires the owner to provide the municipality with a financial guarantee to ensure compliance with the conditions relating to the demolition of the immovable or the reuse of the cleared land, the guarantee must

be provided prior to the issuance of the certificate of authorization for demolition and must comply with the terms and conditions determined by the Committee.

1.28 Implementation of the Financial Guarantee

Where the conditions of the authorization are not complied with, the work undertaken is not completed within the prescribed time or the applicant does not comply with the preliminary programme for the reuse of the land cleared, the Council may, on the conditions determined by the Committee, require payment of the financial guarantee.

SECTION 6 AMENDMENT OF AUTHORIZATION AND CONDITIONS

1.29 Changes to Application Authorization Conditions

The conditions relating to the demolition of a building or the reuse of the cleared land may be modified by the committee at the request of the owner.

The time within which demolition and reuse of the cleared land must be undertaken and completed may also be modified by the committee, on reasonable grounds, provided that a 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.

1.30 Assignment to a third party

Where the immovable is transferred, in whole or in part, to a third person before the work is fully completed, the new purchaser may not continue the work before obtaining, in accordance with the provisions of this Regulation and the Regulation respecting the permit and certificate in force, a new certificate of authorization to demolition.

Where the immovable is transferred, in whole or in part, to a third person, during the work or after the completion of the work, the person who provided the required monetary guarantee to the municipality continues to be subject to the obligation to maintain it in force until the conditions imposed by the committee are met, unless the new purchaser provides the new financial guarantee required by the Committee, which must comply with article 1.31 of these Regulations.

Where the immovable is transferred, in whole or in part, to a third person, the municipality may collect the monetary security provided by the seller if the new purchaser does not carry out the work undertaken or does not meet the conditions imposed by the committee.

CHAPTER 2 MISCELLANEOUS PROVISIONS

SECTION 1 PENALTIES, SANCTIONS AND REMEDIES

2.1 Demolition without authorization or non-compliance with conditions of authorization

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.

2.2 Obstruction

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 \$100 nor more than \$500.

2.3 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.

Such costs constitute a prior claim on the land on which the immovable was situated, in the same manner and with the same rank as the claims referred to in paragraph 5 of article 2651 of the Civil Code of Québec; These costs are secured by a legal hypothec on this land.

2.4 Revocation of Certificate of Authorization

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

- 1) The work has not started 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 complied with by the applicant.

2.5 Separate offence

Where an offence covered by this Regulation continues for more than one day, it constitutes a separate offence for each day on which it continues.

2.6 Expenses incurred

Any expenses incurred by the municipality as a result of non-compliance with any of the sections of this by-law shall be borne entirely by the offenders.

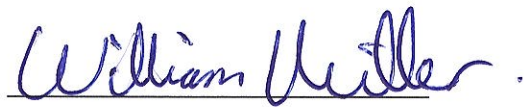
2.7 Civil remedies

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

CHAPTER 3 FINAL PROVISIONS

3.1 Coming into force

These Regulations shall enter into force in accordance with the law.



William Miller

Mayor



Gail Côté

Director General and Clerk-
Treasurer

