

Province of Quebec
Municipality of Hope Town
Bonaventure MRC

DRAFT REGULATION NUMBER 2023-03
"BY-LAW GOVERNING THE DEMOLITION OF IMMOVABLES"
FROM THE MUNICIPALITY OF HOPE TOWN

WHEREAS pursuant to sections 148.0.2 and following of the Act respecting land use planning and development (CQLR, c. A-19.1), a municipality must adopt a draft by-law respecting the demolition of immovables;

WHEREAS a draft Regulation respecting general and administrative provisions is in force in the territory of the municipality of Hope Town and requires a certificate of authorization to demolish before proceeding with the demolition;

WHEREAS a draft by-law on the demolition of immovables may prove useful for planning by-laws, in particular for the protection of built heritage and the reuse of cleared land;

WHEREAS the Council of the Municipality of Hope Town wishes to allow citizens to be heard regarding demolition applications affecting the built heritage of the territory of the Municipality of Hope Town;

WHEREAS the Council of the Municipality of Hope Town deems it expedient to regulate the demolition of buildings on its territory;

WHEREAS a notice of motion was duly given on April 5, 2023 at the regular meeting of the Municipal Council and a draft by-law was tabled at the same meeting;

FOR THESE REASONS, it is moved by Councillor Tracy Major, seconded by Councillor Joanne Ross and unanimously resolved by the Councillors present:

THAT the draft by-law entitled "By-law governing the demolition of immovables of the Municipality of Hope Town" and bearing number 2023-03 be adopted and that, upon its coming into force, the following be decided and decreed:

CHAPTER I:
LEGAL PROVISIONS

SECTION A – DECLARATORY PROVISIONS

1.PREAMBLE

The preamble is an integral part of these proposed Regulations.

2.TITLE OF THE DRAFT REGULATION

This draft regulation is entitled "Regulation governing the demolition of immovables" and is numbered 2023-03.

3.TAXABLE TERRITORY

This draft by-law applies to the entire territory of the Municipality of Hope Town.

4.COMPLIANCE

Compliance with this draft regulation does not exempt itself from the obligation to comply with any other provincial or federal government law or regulation or any other municipal by-law applicable in the matter.

5.VALIDITY OF THE REGULATION

This draft regulation shall be adopted chapter by chapter, section by section, clause by clause, paragraph by paragraph and paragraph by paragraph in such a way that, if any part of this draft regulation were to be declared null and void by a court, such decision would have no effect on the other parts of the proposed regulation except where the meaning and scope of the proposed regulation or one of its provisions would be altered or amended.

SECTION B – ADMINISTRATIVE PROVISIONS

6.APPLICATION OF THE DRAFT REGULATION

Any designated officer, referred to here as a "building inspector" in accordance with the provisions of Regulation respecting general and administrative provisions number 212-2013, is responsible for the application and compliance with this draft regulation and is authorized to issue statements of offence.

SECTION C – INTERPRETATIVE PROVISIONS

7.RULES OF INTERPRETATION

The following rules of interpretation apply to these proposed Regulations unless otherwise specified:

- (A) the special provision prevails over the general provision;
- (B) the more restrictive provision prevails;
- C) in the event of a contradiction between a table, sketch or title and the text, the text shall prevail.

8.DEFINITIONS

"Applicant": The owner of the immovable covered by the application for a certificate of authorization to demolition or his duly authorized representative.

"Clear ground": The site vacated by the demolition of a building. This is strictly the ground where the latter was erected

"Committee" means the committee established by the Council in accordance with the provisions of this draft Regulation.

"Council" means the municipal council of the municipality of Hope Town.

"Demolition": An intervention that results in the destruction of more than 50% of the volume of a building, regardless of the foundation, including its relocation or relocation.

"Designated Officer" means Building Inspector

"Immovable": Building, structure or work of a permanent nature erected on land and everything that forms an integral part thereof.

"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.

"Housing" means a dwelling within the meaning of the Act respecting the Tribunal administratif du logement (CQLR, c. T-15.01).

"Municipality" means the Municipality of Hope Town.

"Planning by-laws": By-laws adopted by the Municipality under the Act respecting land use planning and development (CQLR, c. A-19.1).

SECTION D – TRANSITIONAL PROVISIONS

9. NOTIFICATION TO THE MINISTER OF CULTURE AND COMMUNICATIONS

A building inspector must, at least 90 days before the issue of a certificate of authorization to demolish an immovable constructed before 1940, notify the Minister of Culture and Communications of a notice of his intention, accompanied by any information or document required by the Minister, until the following two conditions are met:

1. a by-law in conformity with Chapter V.0.1 of Title I of the Act respecting land use planning and development (CQLR, c. A-19.1) is in force in the territory of the Municipality;
2. the inventory provided for in the first paragraph of section 120 of the Cultural Heritage Act (CQLR, c. P-9.002) has been adopted in respect of the territory of the Municipality of Hope Town.

CHAPTER II:

DEMOLITION COMMITTEE

10.CONSTITUTION AND FUNCTIONS OF THE COMMITTEE

The demolition committee is established to authorize demolition applications and to exercise any other power conferred by chapter V.0.1 of the Act respecting land use planning and development (CQLR, c. A-19.1).

The Committee is composed of three (3) members of the Municipal Council who are appointed by resolution of the Council for a term of one (1) year and whose term is renewable.

A member's term of office ceases or is temporarily interrupted if:

- (a) ceases to be a member of the Council;
- (b) has a direct or indirect personal interest in a matter before the Committee;
- (c) if he is prevented from acting.

In the preceding cases, the Council shall appoint a member for the unexpired term of office of his predecessor or for the duration of the latter's inability to act or for the duration of the hearing of the case in which he has an interest, as the case may be.

The Chairman shall be appointed by the Council from among the members of the Committee designated by it. The latter shall preside over the meetings of the Committee.

The Clerk-Treasurer acts as Secretary of the Committee. Among other things, it prepares the agenda, receives correspondence, prepares minutes of each meeting and responds to the Committee's decisions.

The quorum of the committee shall be two members.

Decisions are taken by majority vote. Each member shall hold one vote and may not abstain.

The Committee shall meet, if necessary, when one or more applications for compliant authorization, including the payment of the fees required for the examination and processing of the application, are filed with the municipality.

The Secretary, in consultation with the members of the Committee, shall convene a meeting to consider the request(s).

CHAPTER III

AUTHORIZATION REQUIRED AND CONTENT OF THE APPLICATION

SECTION A – AUTHORIZATION REQUIRED

11.PROHIBITION OF DEMOLITION

No person shall demolish, in whole or in part, a heritage immovable unless the owner has previously obtained authorization from the Demolition Committee.

12. EXEMPTIONS

The fact that an immovable is not subject to this by-law under the first paragraph does not exempt the applicant from the obligation to obtain the necessary certificate of authorization before proceeding with the demolition under the By-law respecting general and administrative provisions.

SECTION B – CONTENT OF THE APPLICATION

13. FILING OF THE APPLICATION

A written request for a demolition authorization certificate must be sent to the Municipality, accompanied by any document required by this draft by-law and the deposit of the amount required in article 17.

14. CONTENT OF THE REQUEST

The demolition authorization application 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 demolition authorization certificate prescribed in the By-law respecting general and administrative provisions:

An application presentation document including at least:

- a) surname, first name, address and telephone number of the owner and, where applicable, of his representative;
- (b) the current occupancy of the building or, if vacant, the date the building has been vacant;
- (c) photographs of the interior and exterior of the building and the land on which it is located;
- (d) a description of the architectural characteristics of the building, its period of construction and the main changes in appearance since its construction;
- e) photographs of neighboring buildings to help understand the integration context;
- f) if it is a building comprising housing units, their number, the state of occupancy at the time of the request and the possibilities of rehousing the occupants;
- g) the reasons justifying the demolition rather than a conservation or restoration approach;
- h) the reasons justifying the demolition with regard to the evaluation criteria set out in this by-law;
- i) the schedule for the demolition work;
- j) description of demolition methods and disposal of materials;
- k) a power of attorney signed by the owner authorizing the agent to act on his behalf;
- (l) a copy of any title showing that the applicant is the owner of the immovable in question;
- m) a copy of the notices informing the lessees of a request for demolition and signed by all the lessees;
- n) a report on the condition of the building signed by a professional or a competent person in this field including, without limitation, the structural quality of the building, the condition of the main components and the deterioration observed. The report must also demonstrate that the building is, where applicable, in such a condition that it cannot reasonably be restored;

o) a report on the estimated cost of restoration (rehabilitation) for the purpose of preserving the building signed by a professional or a person competent in this matter;

p) a heritage study signed by a competent professional in this field including, without limitation, the heritage value of the building (archaeological, architectural, artistic, emblematic, ethnological, historical, landscape, scientific, social, urban planning or technological), its state of conservation as well as the methodology used. The signatory of the study is a person other than the one mandated to carry out the preliminary program for the reuse of the vacated soil;

q) the preliminary program for the reuse of the vacated soil (see ARTICLE 15);

r) any other document necessary for the assessment of the application for authorization with regard to the criteria set out in this Regulation.

15. PRELIMINARY CLEARED SOIL REUSE PROGRAM

Prior to the study of his application, the owner must submit to the Committee, for approval, a preliminary program for the reuse of the vacated soil.

The preliminary program for the reuse of the vacated soil must:

a) specify the developments proposed if the vacated soil remains vacant;

b) specify the facilities and the use if the cleared ground does not include the construction of one or more main buildings;

c) the ground dimensions of each proposed building;

(d) the construction plans for each proposed building;

e) Preliminary estimate of program costs.

This program can only be approved if it complies with the Municipality's regulations. To determine this compliance, the Committee must consider the regulations in force at the time the program is submitted to it, except in the case where the issuance of a building permit for the proposed program is suspended due to a notice of motion. When the issuance of permits is thus suspended, the Committee may not approve the program before the expiry of the suspension or before the coming into force of the amending by-law which was the subject of the notice of motion if this coming into force is prior to the expiration of the suspension; the committee's decision is then rendered in accordance with the regulations in force at the time of this decision.

The study of the request for a demolition authorization certificate cannot begin without the approval of this program by the Committee.

16. STUDY AND PUBLICATION COSTS FOR A COMPLETE APPLICATION

A demolition authorization application is considered complete when all the required documents and plans have been submitted to the building inspector and the study fees have been paid. The applicant must deposit, at the time of his application, the sum of three hundred (\$300) to cover the costs of studies and publication.

In all cases, these fees are non-refundable and do not cover the fee rates required to obtain a demolition authorization certificate.

The cost of issuing the demolition authorization certificate is prescribed in the By-law respecting general and administrative provisions.

17. VERIFICATION OF APPLICATION

The building inspector verifies the content of the request. At his request, the applicant must provide any additional information for the understanding of the request.

When the plans and documents provided by the applicant are inaccurate, erroneous, insufficient or non-compliant, the building inspector notifies the applicant that the application verification procedure is interrupted so that the applicant provides the exact information, plans and documents, corrected and sufficient for verification of the claim.

When the verification of the request is completed, the request is forwarded to the Demolition Committee.

CHAPTER IV: STUDY AND DECISION OF THE DEMOLITION COMMITTEE SECTION A – STUDY OF THE DEMOLITION AUTHORIZATION APPLICATION

18. BEGINNING OF THE STUDY OF THE REQUEST

The study of the request by the Committee can begin when the demolition authorization request is deemed complete by the building inspector.

19. NOTICE TO TENANTS

When the application for authorization to demolish concerns a building comprising one or more dwellings, the applicant must send a notice of this application to each of the tenants of the building.

The applicant must submit to the building inspector proof of sending the notice to the tenants before the study of the application for authorization.

20. POSTING AND PUBLIC NOTICE

When the Demolition Committee receives a demolition authorization request, it must, no later than the tenth day preceding the holding of the public meeting:

- (a) post a notice easily visible to passers-by on the immovable covered by the application;
- b) have a public notice of the application published according to the Municipality's publication procedures.

The poster and the notice must include the day, time, place and subject of the Demolition Committee meeting and the text mentioned in article 22 of this by-law.

When 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.

21. OPPOSITION TO THE APPLICATION

Any person who wishes to oppose the demolition must, within 10 days of the publication of the public notice or, failing that, within 10 days of the posting of the notice on the immovable concerned, make known in writing his reasoned opposition to the clerk-treasurer of the Municipality.

22. OPINION OF THE URBAN PLANNING ADVISORY COMMITTEE

When the Demolition Committee receives a request, it may consult the Planning Advisory Committee if it deems it appropriate.

23. APPLICATION EVALUATION CRITERIA

The Demolition Committee studies the demolition authorization request submitted to it with regard to the following evaluation criteria:

- a) the condition of the building;
- b) the heritage value of the building;
- c) the history of the immovable, its contribution to local history, its degree of authenticity and integrity, its representativeness of a particular architectural trend and its contribution to a group to be preserved;
- d) the deterioration of the quality of life of the neighbourhood;
- e) the cost of its restoration;
- f) the proposed use of the vacated land;
- g) where the building includes one or more dwellings, the harm caused to tenants and the effects on housing needs in the surrounding area;
- h) any other criterion that he deems appropriate in the context;
- i) consider the objections received.

24. PUBLIC SESSION

The Demolition Committee holds a public meeting, which includes a public hearing. During this session:

- a) the Committee explains the purpose of the meeting and its proceedings;
- b) the building inspector submits the application for authorization which is submitted for study;
- c) the applicant for the authorization application explains the reasons for his request, the main conclusions of the reports submitted in support and the preliminary program for the reuse of the vacated soil. In the absence of the applicant, the building inspector presents this information;
- d) every person then has the right to be heard, whether or not that person has filed an objection in accordance with section 22;
- e) the Committee may address questions to the applicant and to any person who has spoken;
- f) in camera, the Committee continues to study the request.

25. ACQUISITION OF THE BUILDING

When the immovable covered by the application includes one or more dwellings, a person who wishes to acquire this immovable to retain its residential rental character may, until the Demolition Committee has rendered its decision, intervene in writing with the clerk -treasurer to request a delay in order to undertake or pursue steps with a view to acquiring the immovable.

If a person wishes to acquire an immovable in order to preserve its heritage character, he or she may, as long as the Committee has not rendered its decision, intervene in writing with the clerk-treasurer to request a delay in order to take or pursue steps to purchase the building.

If the Demolition Committee considers that the circumstances justify it, it postpones the pronouncement of its decision and grants the intervener a period of no more than two months from the end of the public session to allow the negotiations to reach a conclusion. The Demolition Committee can postpone the pronouncement of its decision for this reason only once.

SECTION B – COMMITTEE DECISION

26. DEMOLITION COMMITTEE DECISION

The Committee must refuse the request for authorization if the preliminary program for the reuse of the vacated soil has not been approved.

The Committee grants the authorization if it is convinced of the advisability of the demolition taking into account the public interest and the interest of the parties.

The Committee may, if it deems it necessary for a better understanding of the request, ask the applicant to provide, at his own expense, any additional details, any information or any report prepared by a professional.

27. REASONS AND TRANSMISSION OF THE DECISION

Before deciding on a request for authorization for demolition, the Committee must consider in particular:

- a) the condition of the immovable covered by the application;
- b) the deterioration of the architectural appearance, the aesthetic character or the quality of life of the neighbourhood;
- c) the cost of the restoration, the projected use of the vacated land;
- d) harm caused to tenants;
- e) housing needs in the surrounding area;
- f) the possibility of relocation of tenants;
- g) its heritage value, including the building's history, its contribution to local history, its degree of authenticity and integrity, its representativeness of a particular architectural trend and its contribution to a group to be preserved.

The decision of the Committee concerning the demolition must be substantiated and transmitted without delay to any party in question, by registered post.

28. DEMOLITION CONDITIONS

When the Committee grants the authorization, it may impose any condition relating to the demolition of the building or the reuse of the vacated land. It may in particular determine the conditions for the rehousing of a tenant, when the building includes one or more dwellings.

29. APPEAL OF THE DECISION

Any person may, within 30 days of the decision of the Demolition Committee, ask the Council to review this decision.

The Council may, on its own initiative, within 30 days of a decision of the Demolition Committee authorizing the demolition of a heritage building, adopt a resolution expressing its intention to review this decision.

Any member of Council, including a member of the Demolition Committee, may sit on Council to review a decision of the Committee.

The appeal must be made by a written and reasoned request which must be received at the Municipality's office no later than the thirtieth day following the day on which the decision was rendered.

The Board may confirm the Committee's decision or render any decision that the latter should have taken.

30. NOTIFICATION OF THE DECISION TO THE MRC DE BONAVENTURE AND POWER OF DISAVONDATION

When the Committee authorizes the demolition of a heritage building and its decision is not subject to review pursuant to section 29, a notice of its decision must be notified without delay to the MRC of Bonaventure. Must also be notified to the MRC, without delay, a notice of the decision taken by the Council in review of a decision of the Committee, when the Committee authorizes such demolition.

A notice provided for in the first paragraph is accompanied by copies of all the documents produced by the owner.

The MRC Council may, within 90 days of receipt of the notice, disavow the decision of the Committee or the Council. He may, when the MRC has a Local Heritage Council within the meaning of section 117 of the Cultural Heritage Act (CQLR, c. P-9.002), consult it before exercising his power of disallowance.

A resolution taken by the MRC under the third paragraph is substantiated and a copy is sent without delay to the Municipality and to any party in question, by registered mail.

SECTION C – ISSUE OF CERTIFICATE AND OTHER TERMS

31. DELIVERY OF DEMOLITION AUTHORIZATION CERTIFICATE

No demolition authorization certificate may be issued by the building inspector before the expiry of the 30-day period provided for in section 29 nor, if there is a review under this section, before the Council has rendered a decision authorizing the demolition.

No demolition authorization certificate may be issued before the earliest of the following dates:

- the date on which the MRC of Bonaventure does not intend to avail itself of the power of disallowance;
- the expiry of the 90-day period provided for in Article 30.

32. CHANGE OF TIME LIMIT

When the Committee grants the authorisation, it may set the deadline within which the demolition work must be undertaken and completed.

The Demolition Committee may, for a reasonable reason, modify the deadline determined in the authorization decision, provided that a request is made to it before the expiry of this deadline.

33. TERMINATION OF AUTHORIZATION

If the demolition work is not undertaken before the expiry of the period determined by the Demolition Committee, the demolition authorization is without effect.

If, on the date of expiry of this period, a tenant continues to occupy his dwelling, the lease is automatically extended and the landlord may, within one month, apply to the Administrative Housing Tribunal to set the rent.

34. FAILURE TO OBSERVE TIME LIMIT

If the work is not completed within the specified time, the Council may cause it to be carried 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 way and according to the same rank as the claims referred to in paragraph 5° of article 2651 of the Civil Code; these costs are secured by a legal hypothec on this land.

35. INDEMNITY TO THE LESSEE

A landlord who has been granted a demolition permit may evict a tenant to demolish a dwelling.

However, a tenant may not be forced to vacate his dwelling before the later of the following eventualities, namely the expiry of the lease or the expiry of a period of three months from the date of issue of the certificate of authorization to demolition.

The landlord must pay the tenant evicted from his dwelling an indemnity of three months' rent and his moving expenses. If the damages resulting from the harm suffered by the tenant amounts to a higher sum, he can apply to the Administrative Housing Tribunal to have the amount fixed.

The compensation is payable on departure of the tenant and the moving costs, on presentation of supporting documents.

CHAPTER V: FINAL PROVISIONS

36. PENALTIES

Anyone who demolishes an immovable or causes it to be demolished without authorization from the Committee or contrary to the conditions of authorization is liable to a fine of at least \$10,000 and at most \$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 (chapter P-9.002) or located in a heritage site cited in accordance to this law.

The Municipality may also ask the court to order this person to reconstruct the building thus demolished and, failing that, to authorize the Municipality to proceed with the reconstruction and recover the costs of the owner, in application of article 148.0. 17 of the Law on land use planning and development.

37. SANCTION RELATING TO THE VISIT OF THE DESIGNATED OFFICIAL FOR INSPECTION

At all times during the execution of the demolition work, a person in authority on the premises must have in his possession a copy of the demolition authorization certificate. The building inspector may enter, between 7:00 a.m. and 7:00 p.m., the premises where this work is being carried out in order to verify that the demolition complies with the decision of the Committee. Upon request, the building inspector must give his identity and show the certificate, issued by the Municipality, attesting to his quality.

Is liable to a maximum fine of \$500:

- a) anyone who prevents the building inspector from entering the premises where the demolition work is being carried out;
- b) 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 show, at the request of the building inspector, a copy of the certificate relating to the demolition.

38. CIVIL LAW REMEDIES

Notwithstanding recourse by penal action, the Municipality may exercise before the courts of jurisdiction all civil law recourses necessary to enforce the provisions of this draft by-law, when the Council deems it appropriate or may exercise all these recourses cumulatively.

39. PENAL ACTIONS

Penal sanctions are instituted for and in the name of the Municipality by the building inspector in a Council resolution.

40. COMING INTO FORCE

This draft by-law comes into force in accordance with the Act.

This document is available at the office of the Municipality of Hope Town for consultation.

Linda MacWhirter
Mayor

Sylvie Francoeur
Director General

NOTICE OF MOTION:	April 5, 2023
TABLING OF PROPOSED REGULATIONS:	April 5, 2023
ADOPTION OF THE REGULATION:	2023
ISSUANCE OF CERTIFICATE OF COMPLIANCE:	2023
EFFECTIVE DATE:	2023
PUBLIC NOTICE:	2023