

**CANADA
PROVINCE OF QUEBEC
BROME-MISSISQUOI RCM
MUNICIPALITY OF WEST BOLTON**

**BY-LAW NUMBER 360-2019
CONCERNING AGREEMENTS RELATING TO MUNICIPAL WORKS**

- WHEREAS the municipal council may adopt a by-law concerning agreements regarding municipal works under the *Act respecting land use planning and development*;
- WHEREAS this by-law does not contain any provision that could be approved by referendum;
- WHEREAS a notice of motion was given on May 4, 2019 and that the draft by-law was filed;
- WHEREAS the public consultation meeting is scheduled for May 25, 2019;

COUNCIL DECREES AS FOLLOWS:

Municipality of West Bolton

By-law concerning agreements relating to municipal works number 360-2019

By-law number	Notice of motion	Adoption of the draft	Adoption of the by-law	Entry into force
360 -2019	2019-05-04	2019-05-04	2019-06-10	

TABLE OF CONTENTS

CHAPTER 1: GENERAL PROVISIONS	4
SECTION 1: DECLARATORY PROVISIONS	4
Article 1: Title and number of the by-law	4
Article 2: Geographic scope	4
Article 3: Object of the by-law	4
Article 4: Validity of the by-law.....	4
Article 5: Enabling Act.....	4
Article 6: Entry into force.....	4
SECTION 2: INTERPRETATIVE PROVISIONS	5
Article 7: Scope	5
Article 8: Interpretation of the text	5
Article 9: Rules of precedence of the provisions.....	5
Article 10: References.....	5
Article 11: Terminology.....	6
SECTION 3: ADMINISTRATIVE PROVISIONS	8
Article 12: Administration of the by-law.....	8
Article 13: Violation	8
Article 14: Sanction and recourse	8
CHAPTER 2: PROVISIONS RELATING TO THE WORK, CONTENT OF THE AGREEMENT AND FINANCIAL TERMS AND CONDITIONS	9
Article 15: Construction category concerned	9
Article 16: Category of infrastructure or equipment covered	9
Article 17: Discretion.....	9
Article 18: Funding of work by the Municipality.....	9
Article 19: Conclusion of an agreement.....	10
Article 20: Work compliance.....	10
Article 21: Content of the agreement.....	10
Article 22: Payment for type 1 and/or type 2municipal services.....	10
Article 23: Construction costs	11
Article 24: Services exceeding requirements and other refunds.....	11
Article 25: Work financed by the municipality.....	11
Article 26: Access to properties	12
Article 27: Drainage works financed by the holder.....	12
Article 28: Park development	12
Article 29: Offsite infrastructure work.....	12
Article 30: Supervision, inspection and notary fees	13

CHAPTER 1: GENERAL PROVISIONS

SECTION 1: DECLARATORY PROVISIONS

Article 1: Title and number of the by-law

This by-law shall be cited as the "By-law concerning Agreements relating to Municipal Works " of the Municipality of West Bolton and is numbered 360-2019.

Article 2: Geographic scope

This by-law applies to the entire territory of the Municipality of West Bolton.

Article 3: Object of the by-law

The object of this by-law is to subject the issue of a permit or certificate to the approval by the Municipal Council of an agreement with the applicant relating to the construction, in whole or in part, of type 1 and/or type 2 municipal services intended to construct streets.

Article 4: Validity of the by-law

Council shall adopt this By-law as a whole and also article by article, paragraph by paragraph, subparagraph by subparagraph, such that if an article, a paragraph or a subparagraph is ever declared void, the other provisions of this by-law will continue to apply.

Article 5: Enabling Act

This by-law is made in accordance with the *Act respecting land use planning and development* (RSQ A-19.1) and more particularly by virtue of sections 145.21 to 145.30.

Article 6: Entry into force

This by-law enters into force in accordance with the law.

SECTION 2: INTERPRETATIVE PROVISIONS

Article 7: Scope

This by-law applies to any legal person governed by public or private law and any natural person.

Article 8: Interpretation of the text

The following rules of interpretation apply to this by-law:

1. Regardless the verb tense used in this by-law, the by-law shall be in force at all times and in all circumstances where it can be applied;
2. The singular form extends to several persons or several things of the same kind whenever the context lends itself to this extension;
3. The masculine gender includes the feminine gender, unless the context indicates otherwise;
4. Whenever it is prescribed that something will be done or should be done, the obligation to do it is absolute, but when it is said that something “may” or “can” be done, it is optional to do it;
5. The authorization to do something includes all the powers necessary for this purpose.

Article 9: Rules of precedence of the provisions

In this by-law, in the event of contradiction and unless otherwise indicated, the following rules apply:

1. Between the text and a title, the text prevails;
2. Between the text and other forms of expression, the text prevails;
3. Between two provisions of this by-law or between a provision of this by-law and a provision contained in another by-law, the normative provision prevails over the discretionary provision.

In the event of an inconsistency between two provisions of this by-law or between a provision of this by-law and a provision contained in another by-law, the specific provision shall prevail over the general provision.

In the event of any inconsistency between the restrictive or prohibitive provisions contained in this by-law or in the event of any inconsistency between a restrictive or prohibitive provision contained in this by-law and a provision contained in any other by-law, the most restrictive or prohibitive provision applies, unless indicated otherwise.

Article 10: References

All references to another by-law contained in the by-law are open. Thus, any amendments to the by-law that may arise after the entry into force of this by-law are to be included in the references.

Article 11: Terminology

For the purpose of this by-law and any ensuing agreement, the following words and expressions shall have the meaning assigned to them as follows (if a word or expression is not specifically defined, it has the meaning it is given in Schedule A of the Zoning By-law in force):

1. Right of way:

Part of land occupied or intended to be occupied by a thoroughfare or various public utility networks, and shoulders and ditches as appropriate.

2. Applicant:

Any natural or legal person, partnership, limited partnership, group of persons, legal person or association that applies to the Municipality for a permit or a certificate for a project that requires the development of street infrastructure and/or the provision of public services for the purpose of servicing one or more lots, in order to erect one or more constructions, and who, for the same purpose, has to build and turn them over to the Municipality or not, based on their status. This term also refers to a person who applies to the Municipality for a building permit, a subdivision permit or a certificate of authorization.

3. Private street (private road):

Refers to a street or road that does not belong to the Municipality; also designates streets or roads in integrated projects.

4. Public street (public road):

Refers to a street or road belonging to the Municipality.

5. Multifunctional trail:

Means any green space, linear park, green corridor or other parcel of public land intended to accommodate multi-use paths (bike path, footpath, skiing, etc.) or for the protection and enhancement of natural corridors.

6. Type 1 municipal services:

Water supply systems, including boosters, domestic and storm sewer systems, including pumping stations, stabilization works necessary for erosion control, mitigation measures for the protection of the environment prior to erosion control works, sidewalks, curbs and, if required, rainwater retention works, street foundations, street drainage, as well as the required off-street drainage, gravel and street paving and conventional lighting by underground or aerial power supply as well as decorative lighting, road signage, painting of road lines, pedestrian crossings and fences. Type 1 municipal services also include water and sewer pipes and storm sewers up to the limit of the street right-of-way and the aqueduct service pole.

7. Type 2 municipal services:

Stabilization works necessary for erosion control, mitigation measures for the protection of the environment prior to work execution and, if required, rainwater retention work, the street foundations, street drainage, culverts and drainage required, off-street paving and gravelling if required by the Municipal Council and

street layout, conventional lighting by underground or aerial power and decorative lighting.

8. Public services:

Types 1 or 2 municipal services.

9. Services exceeding requirements:

Public services construction works resulting from the construction of services exceeding the strict requirements of an applicant's project in order to serve an entire basin or area concerned (infrastructure and roads), in accordance with the standards adopted by the Municipality.

10. Holder:

An applicant who holds a building permit, a subdivision permit or a certificate of authorization from the municipality and who has reached an agreement for municipal works with the municipality.

11. Thoroughfare:

Any place or structure intended for vehicular or pedestrian traffic, in particular, a road, street, lane, sidewalk, walkway, bicycle path, snowmobile trail, hiking path, square or public parking area.

12. Municipality:

Refers to the Municipality of West Bolton.

SECTION 3: ADMINISTRATIVE PROVISIONS

Article 12: Administration of the by-law

The officer designated by Municipal Council resolution is responsible for the application of this by-law.

For this purpose, he is authorized to visit and examine, between 7 am and 7 pm, any movable or immovable property, as well as the interior or exterior of any house, building or construction of any kind to ascertain whether this by-law or any other by-law entrusted to him by the council is being respected.

The owner, lessee or occupier of such property is required to receive the designated officer and to answer any questions asked regarding the implementation of this by-law.

Article 13: Violation

Anyone who violates any provision of this by-law is deemed to have committed an offense and is liable to the penalties identified in the by-law. Moreover, if an offense lasts more than one day, it constitutes a separate and distinct offense day after day.

Article 14: Sanction and recourse

Violation of any of the provisions of this by-law will entail the following penalties:

1. For a first offense, a fine of \$500 to \$1,000 in the case of a natural person or \$1,000 to \$2,000 in the case of a legal person;
2. In case of a repeat offense, a fine of \$1,000 to \$2,000 in the case of a natural person or \$2,000 to \$4,000 in the case of a legal person.

In all cases, the costs of the lawsuit are extra.

Notwithstanding the foregoing, the Municipality may also undertake, at the same time, any other remedy provided by the *Act respecting land use planning and development* (chapter A-19.1), as well as any other civil or criminal remedy.

CHAPTER 2: PROVISIONS RELATING TO THE WORK, CONTENT OF THE AGREEMENT AND FINANCIAL TERMS AND CONDITIONS

Article 15: Construction category concerned

This by-law applies to any construction or use in respect of which the issue of a building permit, subdivision permit or certificate of authorization is required if type 1 and/or type 2 public services must be set up in a private or public street to serve the buildings covered by the permit or certificate.

Article 16: Category of infrastructure or equipment covered

An agreement must be concluded between the applicant for a building permit, subdivision permit or certificate of authorization and the Municipality, where type 1 and/or type 2 public services must be set up to serve buildings covered by the permit or certificate or other buildings on the territory of the Municipality.

In addition, all work to hook up to type 1 and/or 2 municipal services must be subject to prior written authorization from the Municipality. The Municipality reserves the right, within the scope of the aforementioned authorization, to indicate the date, time and duration of the interruption of municipal services for connection.

Article 17: Discretion

An agreement is required only if the Municipal Council decides to assign to the applicant the realization of all or part of the type 1 and/or type 2 municipal services construction work.

In addition, all connection work to type 1 and/or type 2 municipal services must first be approved in writing by the municipal council. The Municipal Council reserves the right, within the scope of the aforementioned authorization, to indicate the date, time and duration of the interruption of municipal services for the connection to be done.

Article 18: Funding of work by the Municipality

It is up to the Municipality to choose the method of funding that is best suited to pay the costs incumbent upon it, whether through a local improvement tax, a loan or by-laws applicable to the entire municipality or to the owners concerned, as the case may be, or by any other means it deems appropriate, all subject to the provisions of the Act.

When the option of a loan by-law is chosen by the Municipality, its responsibility is limited to adopting such a by-law and submitting it for the required approvals.

Article 19: Conclusion of an agreement

Council may entrust to an applicant the responsibility of carrying out all or part of the construction work for type 1 and/or type 2 municipal services, in accordance with the procedures outlined in this by-law.

An agreement must be concluded with the applicant prior to the completion of the construction work for the type 1 and/or type 2 municipal services.

No building permit, subdivision permit or certificate of authorization may be issued to the applicant as long as the agreement provided for in this by-law has not been concluded.

Following the signing of the agreement, the permit or certificate may be issued according to the terms of the agreement and the applicable municipal by-laws.

Article 20: Work compliance

Construction of public services paid by the applicant are carried out in accordance with the specific indications of plans and specifications prepared by the applicant's engineer and approved by the engineer of the Municipality.

Article 21: Content of the agreement

Once the Municipal Council has approved a development project by resolution, an agreement respecting the subdivision, the construction of the proposed buildings and the installation of the municipal services must be signed between the applicant and the Municipality. The agreement must, in particular, provide for the following:

1. The designation of the parties;
2. The description of the work, the designation of the party responsible for carrying out all or part of the work, the phases of the project and the duration of the agreement;
3. The determination of costs relating to work at the expense of the permit or certificate holder;
4. The penalty recoverable from the permit or certificate holder in the event of delay in carrying out the work as expected;
5. Financial guarantees required from the permit or certificate holder if required by the Municipality to guarantee the execution and quality of the work;
6. The terms of transferring the streets and easements to the Municipality by the applicant, if applicable;
7. The terms for supervising the site, for producing the plans as built and inspecting materials;
8. A commitment by the holder to respect the posting by-law.

Article 22: Payment for type 1 and/or type 2 municipal services

Unless otherwise specified in this by-law, construction work for type 1 and/or type 2 municipal services, the responsibility of which is incumbent on the holder under the terms of the memorandum of understanding are carried out by the holder at its expense.

Although construction work for type 1 and/or type 2 municipal services in front of the multifunctional trails may be carried out by the holder, they are at the expense of the Municipality and are reimbursed to the holder according to the terms established by the Municipality.

The holder must send all the supporting documents to the Municipality upon acceptance of this work.

The costs assumed by the holder cannot at any time be considered as a payment for parks, playgrounds and natural areas, in accordance with the provisions of the subdivision by-law of the Municipality.

Article 23: Construction costs

Construction costs for type 1 and/or type 2 municipal services at the expense of the holder, as stipulated above, cover all costs incurred in establishing such services that are necessary and essential for the project. The holder also assumes all survey costs and fees.

Article 24: Services exceeding requirements and other refunds

Excess costs related to services exceeding requirements are calculated by the Municipality and assumed entirely by the latter, in accordance with article 18 of this by-law.

The holder must submit to the Municipality all supporting documents, as soon as the work is accepted.

These costs will be reimbursed to the owner in accordance with the terms established by the Municipality.

Article 25: Work financed by the municipality

In accordance with the provisions of this by-law, the Municipality may, if it so desires, provide financing through a local improvement tax, for the following works when required:

1. Street paving and development of multifunctional paths;
2. Construction costs for medians, traffic lights and pedestrian crossings, including the installation of required fencing.

The Municipality will assume the costs of building sidewalks and/or curbs in public street projects where the cables are buried (Bell, Hydro-Québec, Videotron) and where such burying is carried out by the owner at its expense.

On the other hand, if the work performed by the contractor directly or indirectly benefits buildings for which it did not seek a subdivision permit, building permit or certificate of authorization, the agreement establishes the list and the Municipality establishes their share of the cost for the work that will be determined based on their street frontage that is opened or improved by the holder.

This share is, at the option of the Municipality, paid in full by the Municipality to the owner, and the Municipality is responsible for imposing a tax or compensation to the beneficiaries for reimbursement.

Article 26: Access to properties

Providing access to properties, including filling or clearing, landscaping, building the foundation and paving of driveways right to the street line, when required by the by-laws in force, as well as culverts, when required under private entrances, are at the expense of the residents concerned.

Article 27: Drainage works financed by the holder

The profiling of ditches or streams, when done in the open, as well as the excavation of all ditches required to implement the holder's project, are the holder's responsibility. The holder must first obtain all required authorizations under applicable laws and by-laws.

In addition, in case of temporary ditches, the holder is responsible for their upkeep until they are channelled.

Stabilization work necessary for the control of erosion caused by the project are the responsibility of the holder. The work must be done in accordance with applicable laws and by-laws.

Article 28: Park development

Preliminary earthworks for parks including excavation and filling, shaping, drainage, cleaning, placement of topsoil and seeding are the responsibility of the holder and shall be carried out by the latter. Such excavation and filling work requires the authorization of the Municipality before their execution.

Prior to the signing of the agreement, the Municipality shall provide a plan for the earthwork mentioned above.

Article 29: Offsite infrastructure work

All work to construct water and sewer networks necessary and indispensable for the entire project are the responsibility of the holder.

Article 30: Supervision, inspection and notary fees

The costs of surveying, monitoring and inspecting materials are borne by the holder. The choice of professionals is the responsibility of the Municipality and they will be mandated by the Municipality.

At the end of the project and before the final acceptance and transfer of ownership of the work, the plans as built shall be submitted to the Municipality both in paper and electronic formats according to the specifications of the Municipality.

The choice of notary is up to the Municipality, which will assume all expenses and fees pertaining to the preparation, the signature and the publicity of any document necessary for the execution of the agreement.

Adopted in West Bolton on June10, 2019.

Jacques Drolet, Mayor

Jean-François Grandmont, Director general and Secretary-treasurer