

CANADA
PROVINCE OF QUEBEC
BROME-MISSISQUOI RCM
MUNICIPALITY OF BOLTON-OUEST

BY-LAW NUMBER 349-2018 ON CONDITIONAL USES, PARTICULARLY FOR
TOURIST RESIDENCES

THE MUNICIPAL COUNCIL DECREES AS FOLLOWS:

CHAPTER 1: DECLARATORY AND INTERPRETATIVE PROVISIONS

SECTION 1: DECLARATORY PROVISIONS

Article 1 By-law title and number

This By-law is cited under the heading “By-law no. 349-2018 on conditional uses, especially concerning tourist residences”

Article 2 Geographic scope

For the purpose of applying this by-law, conditional use may be authorized throughout the territory of the Municipality.

Article 3 Purpose of the by-law

Current By-law no. 264-2008 notwithstanding, the purpose of this By-law is to authorize certain uses in certain areas of the Municipality of Bolton-Ouest. The procedure to follow is also identified in order to allow conditional use. Under section 2, the Municipality of Bolton-Ouest wishes to make available:

- The opportunity to operate a detached single-family residence as a "Tourist residence" as defined by the *Act respecting tourist accommodation establishments*.

Article 4 Validity of the by-law

Council shall adopt this By-law in its entirety and also article by article, paragraph by paragraph, subparagraph by subparagraph, clause by clause so that, if an article, paragraph, subparagraph or clause thereof is or has to be one day declared void, the other provisions of this By-law would continue to apply.

Article 5 Integrity of the by-law

The opening pages and the pages thereafter are integral parts of this By-law.

Article 6 Enabling Act and entry into force

This By-law is made in accordance with the *Act respecting land use planning and development* (RSQ A-19.1) and in particular under sections 145.31 and

following and comes into force on the date of issue of the certificate of conformity by the MRC.

SECTION 2: INTERPRETATIVE PROVISIONS

Article 7 Area of application

This By-law applies to any legal person governed by public or private law and any individual. Nothing in this By-law shall be considered as an exemption by any owner, lessee or occupier of an immovable to respect the obligations incumbent upon it, particularly with regard to its neighbours, under the provisions of the Civil Code of Quebec or any provision of another law.

Article 8 Interpretation of the text

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

- 1) regardless of the tense of the verb used in this by-law, the provision is held to be in force at all times and under all circumstances in which it may apply;
- 2) the singular form extends to several persons or to 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 a thing shall be done or must be done, the obligation to perform it is absolute; but if it is said that a thing "might" or "may" be done, it is optional to perform it;
- 5) authorization to do something grants all the powers necessary for that purpose.

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 any other form 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.

Article 9 Terminology

For the purpose of this by-law, unless the context indicates otherwise, any word or expression has the meaning assigned to it in Schedule A - "Terminology" of Zoning By-law # 264-2008. If a word or expression is not specifically defined in this schedule, it shall be interpreted based on its common dictionary definition.

CHAPTER 2 ADMINISTRATIVE PROVISIONS

SECTION 1 GENERAL PROVISIONS

Article 10 Administration of the by-law

Any officer designated by the Municipal Council duly authorized by resolution.

For this purpose, the officer 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 structure of any kind to ascertain whether the present by-law and any by-law whose application has been entrusted to the officer by Council, are 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 respect of these by-laws.

Article 11 Approval by Council

The issuance of a permit or a certificate for a conditional use referred to in this By-law is subject to prior approval by the Municipal Council of the intended conditional use.

Article 12 Fees required

Applications must be accompanied by a non-refundable fee of 500 dollars to cover review and posting.

SECTION 2 PROCEDURES RELATING TO OFFENSES, SANCTIONS AND REMEDIES

Article 13 Offenses

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

Article 14 Sanctions and remedies

Where an offense under any provision of this By-law is established by the designated officer, a stop work and/or activity order shall be served on the owner, in writing, and posted at the place of the offense. This order must justify the reasons for stopping the work and/or the activity.

As soon as possible after having ordered the work and/or activity to be stopped, a violation notice must be sent to the owner. This notice must be served by registered mail and a copy sent to City Council. The notice of offense must contain at least information on the nature of the offense and any necessary work or steps to be carried out in order to comply with this By-law. A reasonable time must be allowed.

If, after the expiry of the prescribed period, the offense still persists, the Municipality may take legal action in accordance with the Act.

Notwithstanding the foregoing, where the offender is still in breach after the prescribed period has expired, but is showing real and marked progress in complying, only one additional extension may be allowed.

Any violation of any of the provisions of this by-law, is punishable as follows:

- for a first offense, a fine of \$500 to \$1,000 for a natural person or a fine of \$1,000 to \$2,000 for a legal person;
- in the case of a second or subsequent offense, a fine of \$1,000 to \$2,000 for a natural person or \$2,000 to \$4,000 for 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.

SECTION 3 PROCESSING APPLICATIONS FOR CONDITIONAL USE

Article 15 Filing the application

An application for approval of a conditional use must be forwarded by the applicant or his authorized representative to the designated official. It must be signed by the applicant or his authorized representative and accompanied by the information and documents required by this By-law.

Article 16 Documents and information required for an application for conditional use

Any application for approval of a conditional use must include the following information and documents:

- 1° the applicant's last name, first name, telephone number and address. In the event that the latter does not own the building concerned, he must submit a power of attorney from the owner specifically mandating him to apply for an authorization for conditional use on his behalf;
- 2° the cadastral designation of the lot or lots that are the subject of the application;
- 3° a description of the expected conditional use;
- 4° a description of the neighbourhood accompanied by photographs;
- 5° a written justification of the relevance of the project in relation to the objectives and criteria described in this By-law;
- 6° a description of the environment around the lot using visual aids;
- 7° a description of the work required, if any, with plans, elevations and other illustrations required to clearly present the project;
- 8° the total amount of fees payable;
- 9° Any other additional document required and established based on the conditional use requested.

Article 17 Verification of the application

The designated officer is responsible for verifying that the application is complete and in compliance with applicable planning by-laws and that it complies with this By-law.

Where the application is complete and in accordance with the analysis made under the first paragraph of this article, the designated officer considers the application to be admissible and informs the applicant or his authorized representative in writing. The date of receipt of the complete application is considered to be the date the application was filed.

Where the application is incomplete or not in accordance with current planning by-laws or this by-law, the designated official must consider the application to be inadmissible. The latter must inform the applicant or his authorized

representative by registered mail as soon as possible, with a justification of the non-conforming elements. Upon receipt of this notice, a 90-day period is granted to provide any amendment, information or document necessary to demonstrate the conformity of the project. Upon receipt of new information, the verification process must be carried out once more by the designated officer:

- If the application is complete and compliant, it will be deemed to be admissible and the date of receipt will be the date the most recent documents were filed;
- At the end of the 90-day period, if the application remains unchanged and no new information has been received, the application will be considered as "abandoned". Any new application will have to resume the initial process, including fees.

Article 18 Transmission of the application to the Planning Advisory Committee

When an application is considered as “admissible”, it must be sent to the Planning Advisory Committee (hereinafter: PAC), which will examine the objectives and criteria sought by this By-law. The designated officer may attach any comments, documents or references deemed relevant.

In order to allow the members of the PAC to take cognizance of an application filed under this By-law, the applicant or his authorized representative must file a complete and compliant application no later than 7 business days before a regular meeting of the PAC. Otherwise, the application will be submitted at the next regular meeting.

Article 19 Analysis and recommendation of the PAC

The PAC must analyze any admissible application for conditional use based on applicable objectives and criteria established in this By-law.

If it deems it appropriate, the PAC may request a meeting with the applicant or his authorized representative. It may also ask the applicant or the designated official for any additional information it deems necessary in order to carry out a rigorous analysis. When necessary, the PAC decision regarding its recommendation on the application may be postponed to a subsequent meeting.

After completing the analysis of the application, the PAC drafts its recommendations and forwards them to the Municipal Council.

Article 20 Public notice

The director general and secretary-treasurer of the Municipality must, at least fifteen days (15) before the meeting where the Municipal Council must decide on the application for authorization of conditional use, post a copy of the notice at two different locations set by City Council resolution and affixed to a poster placed in a conspicuous place at the location of the application.

The notice must contain the following information:

- 1° the date, time and place of the Council meeting at which the application will be examined;
- 2° the nature and effects of the application;
- 3° the designation of each lot affected by the application using the name of the street and the civic number of the immovable or, failing that, the cadastral number;
- 4° an indication to the effect that any interested party may be heard by the Municipal Council with respect to this application.

Article 21 Council Decision

Within 45 days following the transmission of the PAC's recommendation to Council, Council must grant or refuse the application for conditional use by resolution.

If Council grants the application, the resolution must provide all the conditions, taking into account the powers of the Municipality, to which the Council subjects the establishment or the exercise of this use.

If Council rejects the application, the resolution must specify the reasons.

Article 22 Copy of the resolution

As soon as possible after adoption, the director general and secretary-treasurer shall transmit to the applicant, or to his authorized representative, a certified copy of the resolution by which the Municipal Council renders its decision.

Article 23 Issuance of the permit or certificate

In cases where Council renders a favourable decision on an application for conditional use, a certified copy of the conditional use resolution must be submitted to the designated officer. Upon presentation of this resolution, the designated officer shall issue to the applicant, or to his authorized representative, the permit or certificate of authorization provided for in the *Règlement sur les permis et les certificats*, if the application is accompanied by all the plans, documents and fees payable in respect of the accepted application and if it

otherwise complies with the conditions set out in the resolution and the other provisions of the applicable planning by-laws.

Article 24 Cessation of use

Cessation of conditional use for a period of 12 months shall result in the withdrawal of the authorization issued by Council.

CHAPTER 3 PROVISIONS APPLICABLE TO “TOURIST RESIDENCE” USE

Article 25 Geographic scope

For the purpose of this chapter, conditional "Tourist residence" use may be authorized throughout the territory of the Municipality.

Article 26 Specific provisions concerning the issue of a permit or certificate for conditional "Tourist residence" use

When conditional “Tourist residence” use is duly approved by the Municipal Council, the permit or certificate of authorization is issued upon payment of the applicable fees, and is valid for a period of 12 months, renewable in accordance with the conditions set out in the *Règlement sur les permis et les certificats* number 267-2008 and in accordance with this By-law.

Article 27 Additional documents and information required to analyze the application

For any application covered by this chapter, the following additional documents must accompany the application:

- 1° A sample of the lease that will be used to rent the residence;
- 2° A copy of the rules to be complied with, as well as evidence that these rules are in plain view inside the building at all times;
- 3° A written declaration to the effect that the owner of the residence or the authorized agent where the renting takes place will take necessary measures to avoid any possible nuisance to neighbouring properties;
- 4° A document establishing the security features that will be made available to users during their stay;

- 5° A copy of a report from the Brome Lake Fire Department stating that the residence where the use will be installed complies with the standards in force concerning the safety of the premises, the accessibility by emergency services, and fire protection to ensure the safety of users;
- 6° Proof of liability insurance (for example, a letter of intent);
- 7° In the case of an application for renewal, all documents showing necessary corrective action, if any, based on substantiated complaints received during the previous 12 months;

Article 28 General objectives

The general objectives envisaged by this chapter are as follows:

- 1° Optimize the territory's recreational and tourism potential by respecting the current living environment and ensuring a diversified offer throughout the year;
- 2° Avoid "Tourist residence" use from being setup in areas where it would be incompatible with the existing environment;
- 3° Circumscribe this type of use to limit the impacts and nuisances that may be related to its presence.

SECTION 1 EVALUATION CRITERIA FOR AN APPLICATION FOR CONDITIONAL USE FOR "TOURIST RESIDENCE" USE

Article 29 Criteria for evaluating an initial application

The possibility of allowing the "Tourist residence" use is evaluated based on the following criteria:

- 1° The tourist residence is located only in an isolated single-family residence;
- 2° For residences that do not respect the setbacks currently in effect, a buffer zone made of dense natural elements, at least 2 meters deep, must be developed to mitigate the visual impacts of this use;
- 3° The location of the intended use will not cause negative impacts on the tranquility of the neighbourhood, particularly with regard to:
 - a) Outdoor spaces;

- b) Outdoor lighting;
- c) Noise;
- d) Management of residual waste;
- e) Parking.

The applicant or its authorized representative must demonstrate that the project will not cause negative impacts on the elements mentioned above, in accordance with applicable by-laws.

- 4° The number of bedrooms in the residence must not exceed the capacity of the septic installation, in accordance with the *Règlement sur l'évacuation et le traitement des eaux usées des résidences isolées* (By-law respecting wastewater evacuation and treatment for detached dwellings);
- 5° For the purpose of user safety and depending on the septic installation, an average of two persons per bedroom may occupy the "Tourist residence";
- 6° Sufficient parking space in accordance with Zoning By-law # 264-2008 shall be available on the property where the tourist residence will be located in order to avoid street parking;
- 7° The project must be located in such a way as to ensure the safety of occupants, particularly with regard to fire safety related to access to the residence;
- 8° The identification of the "Tourist residence", except the official classification sign of tourist establishments, cannot be visible from the road and must comply with zoning By-law # 264-2008;
- 9° Sufficient measures must be put in place so as not to create a source of noise likely to disturb the tranquility, quiet or peace of the area where it is located, or immediate neighbours;
- 10° At all times when the house is rented, a person who is in charge and resident in the territory of the Municipality or a neighbouring municipality (the owner or a person officially designated by the owner) must ensure compliance with municipal by-laws (nuisance, waste management, open fire, animals, etc.) by the tenants and must be able to be reached by the Municipality if necessary within a maximum of 24 hours. In this sense, the person in charge must ensure that he is aware of the by-laws in force, either by including the applicable provisions in the rental agreement or by installing a sign summarizing these by-laws in the tourist residence in plain view of users.

SECTION 2 REQUALIFYING CONDITIONAL USE FOR "TOURIST RESIDENCE" USE

Article 30 Provisions concerning requalifying a conditional use for "Tourist residence" use

Conditional use that is duly authorized by Council resolution may be revoked in case of any of the following:

- 1) When the conditions set out in the Municipal Council resolution authorizing conditional use are not met or have not been met;
- 2) When 3 substantiated complaints are transmitted to the Municipality.

When either of the above cases occurs, the beneficiary of the conditional use will have to undergo the process of requalification of a conditional use for "Tourist residence" use in accordance with this By-law.

Article 31 Evaluation criteria for re-qualifying conditional use for "Tourist residence" use

In addition to the criteria set out in Section 1 of Chapter 3 of this By-law, the analysis carried out as part of a requalification of a conditional "Tourist residence" use must include the following additional criteria:

- 1° The number of substantiated complaints received in the last 12 months;
- 2° The means or measures put in place to correct a problem, based on the complaints received;
- 3° The process of authorization and requalification of conditional "Tourist residence" use as well as whether the preventive or corrective measures to be put in place, where required, were carried out in good faith;

CHAPTER 4 FINAL PROVISIONS

Article 32 Entry into force

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

ADOPTED IN BOLTON-OUEST, ON MARCH 9, 2020

Jacques Drolet
Mayor

Jean-François Grandmont, OMA
Director General and Secretary-Treasurer