

MUNICIPALITY OF WEST BOLTON

# BY-LAW NO. 393-2023

RESPECTING THE DEMOLITION OF IMMOVABLES

Department of Town Planning and Inspection  
November 6<sup>th</sup>, 2023

**BY-LAW RESPECTING THE DEMOLITION OF IMMOVABLES**

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# Chapter 1 – Declaratory, Administrative and Interpretative Provisions

## Section 1.1: Declaratory Provisions

### 1.1.1 Title of By-law

This by-law is entitled "By-law Respecting the Demolition of Immovables" and bears the number 393-2023.

### 1.1.2 Scope and Territory

This by-law, the provisions of which are binding on all persons, applies to the entire territory of the Municipality of West Bolton.

### 1.1.3 Competition with Other Laws or By-laws

Compliance with this by-law does not exempt anyone from the obligation to comply with any other provincial or federal government statute or regulation or any other municipal by-law applicable thereto.

### 1.1.4 Part-by-part Adoption

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The Council of the Municipality of West Bolton hereby declares that it adopts this by-law chapter by chapter, section by section and article by article, paragraph by paragraph and line by line such that, if any part of this by-law were to be declared null and void by a court, such a decision shall have no effect on the other parts of the by-law, except where the meaning and scope of the by-law or any of its provisions would be altered or modified.

### 1.1.5 Attached documents

The following document is appended to this by-law and forms an integral part thereof:

1. Appendix "1", entitled "Inventory of Heritage Buildings".

## Section 1.2: Administrative Provisions

### 1.2.1 Administration and Enforcement

The administration and enforcement of this by-law shall be entrusted to any person hereinafter referred to as "designated officer" by resolution of the Municipal Council.

### 1.2.2 Powers of the Designated Officer

The powers of the designated officer are set out in the Permits and Certificates By-laws.

### 1.2.3 Compliance of Applications

Any application for the demolition of immovables must comply with the provisions of this by-law.

### 1.2.4 Composition of the Demolition Committee

The Demolition Committee is composed of 3 members of the Municipal Council, appointed by the latter.

A member of Council who ceases to be a member of the committee before the end of their term, who is unable to act or who has a direct or indirect personal interest in a matter before the Demolition Committee, shall be replaced by another member of Council designated by Council for the remainder of that member's term, or for the duration of that member's inability to attend or for the duration of the hearing of the matter in which the member has an interest, as the case may be.

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### 1.2.5 Term of Office of Demolition Committee Members

The term of office of the members of the Demolition Committee shall be one (1) year, renewable.

### 1.2.6 Mandate of Demolition Committee Members

The mandate of the Demolition Committee is to examine, accept or reject applications for authorization to demolish an immovable subject to this by-law and any other power conferred on it by law.

The Demolition Committee is a decision-making entity, and its meetings are public.

## Section 1.3: Interpretative Provisions

### 1.3.1 Interpretation of Provisions

Where two standards or provisions of this by-law apply to a use, building, land or other object governed by this by-law, the following rules shall apply:

1. The specific standard or provision takes precedence over the general provision;
2. The more restrictive provision prevails.

Unless the context indicates otherwise, it is agreed that:

1. The use of a verb in the present tense includes the future;
2. The use of the verb "DUTY" indicates an absolute obligation;
3. The use of the verb "MAY" indicates an optional meaning, except in the expression "MAY NOT" which means "SHALL NOT";
4. The word "ANYONE" includes any natural or legal person.

The table of contents and the titles of chapters, sections and articles of this by-law are meant to improve comprehension of the text. In the event of a contradiction between the text and the relevant title(s) or the table of contents, the text shall prevail.

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Plans, appendices, tables, graphs and symbols and any form of expression other than text proper that is contained in this by-law shall form an integral part thereof for all purposes and of law.

Dimensions, areas and other measures set out in this by-law are expressed in units of the international system.

### 1.3.2 Numbering

The numbering method used in this by-law is as follows (where the text of a section does not contain numbering in relation to a paragraph or subsection, it is a subparagraph):

- 1. Chapter
  - 1.1 Section
    - 1.1.1 Subsection
      - Article
        - 1. Paragraph
          - (a) Subparagraph

### 1.3.3 Terminology

Unless expressly stated otherwise or unless the context indicates a different meaning, expressions, terms and words have the meaning and application assigned to them by the Zoning By-law, with the exception of the following:

#### DEMOLITION COMMITTEE

Demolition Committee established as per this by-law.

#### DEMOLITION

Intervention that results in the destruction of more than 40% of the volume of a building excluding any overhang, not taking foundations into consideration. For application purposes, the destruction of more than 40% of the volume of a building, excluding any overhang, regardless of the foundations, carried out by a succession of works that have taken place over a maximum period of 5 years is considered to be a demolition as per this by-law.

The relocation of a building to another site is similarly considered as a demolition.

#### HERITAGE BUILDINGS

The following are considered to be heritage buildings:

1. An immovable cited in accordance with the Cultural Heritage Act (CQLR, c. P-9.002);
2. An immovable situated on a heritage site designated in accordance with that Act;
3. An immovable entered in an inventory of the heritage of the RCM in accordance with subsection 1, section 120 of the Cultural Heritage Act (CQLR, c. P-9.002) and identified in Schedule 1 to this by-law.

#### HOUSING

A dwelling as defined in the Act Respecting the Administrative Housing Tribunal (chapter T-15.01).

#### RCM

The Regional County Municipality of Brome-Missisquoi.

#### PRELIMINARY LAND REUSE PROGRAM

The preliminary land reuse program is the new development of the land and the proposed new construction to replace the immovable to be demolished.

#### APPLICANT

The owner of an immovable or his mandatary who submits an application for a demolition authorization under this by-law.



## Chapter 2: Provisions Regarding Eligibility and the Application Process

### Section 2.1: Required Interventions and Content of the Application

#### 2.1.1 Required Interventions

The demolition of a main building or heritage immovable is prohibited unless the owner has first obtained a demolition authorization from the committee in accordance with this by-law.

The above paragraph does not apply in the following cases:

1. Demolition of a listed immovable or an immovable that has been subject to an order under the Cultural Heritage Act (CQLR, c. P-9.002);
2. Demolition of a federally owned building;
3. Demolition ordered under sections 227, 229 and 231 of the Act Respecting Land Use Planning and Development (CQLR, c. A-19.1);
4. Demolition of an immovable threatened by an impending disaster as per the Civil Protection Act (CQLR, chapter S-2.3);
5. Demolition of a main building, which is not a heritage building, located on land on which the construction of a new main building has been approved by the Municipal Council under the Site Layout and Architectural Integration Plan By-law.

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#### 2.1.2 Eligible Applications

An application to demolish a building must be accompanied by a preliminary reuse program for the cleared land.

However, the Municipal Council may make the demolition of the building conditional to the extent that a preliminary reuse program for the cleared land is subsequently submitted and subject to the Site Layout and Architectural Integration Plan By-law. In this case, the applicant for the demolition application may not proceed with the authorized demolition until the plans have been approved by the Municipal Council as per the Site Layout and Architectural Integration Plan By-law.

#### 2.1.3 Filing the Application

The applicant for a demolition application must file a written request in 1 copy, in addition to the plans and documents required by section 2.1.4 of this by-law.

#### 2.1.4 Content of the Application

The applicant for a demolition authorization must submit a written request to the designated officer and provide the following plans and documents:

1. Full contact information for the owner (name, address and telephone number).
2. If the application is made by an agent, a power of attorney from the owner authorizing the agent to act on their behalf.
3. The title establishing that the applicant is the owner of the immovable covered by the application;
4. Colour photographs of each of the exterior faces of the immovable concerned and, where applicable, those of the faces of neighbouring immovables.
5. Colour photographs of the land on which the immovable concerned is located and, where applicable, of neighbouring land.
6. Colour photographs of the interior of each room in the building concerned.
7. The timing and likely cost of demolition, reconstruction and development of land or land reclamation.
8. Measures taken to relocate tenants, if applicable, or, if the building is vacant, how long it has been unoccupied.
9. Where the immovable concerned is occupied by lessees, a copy of the written notice sent to each lessee of the immovable.
10. Description of the land by means of a cadastre plan or a certificate of location.
11. The reasons justifying the application for a demolition authorization.
12. An expert report of the general condition of the building produced by a professional.
13. A heritage study of the immovable produced by a professional, if the immovable is a heritage immovable.
14. A preliminary program for reuse of the cleared land that must include the following documents and information:
  - a) A survey carried out by a land surveyor showing:
    - i. The location of the building to be demolished as well as adjacent buildings;
    - ii. The location of vehicular and pedestrian entrances for the building to be demolished and adjacent buildings;
    - iii. The location of trees on the land;
    - iv. Mineralized and vegetated areas;
    - v. Land use constraints (areas exposed to landslides, wetlands, water environments, floodplains, etc.);
    - vi. Where the application is for a heritage building, a street elevation of the building to be demolished with adjacent buildings indicating the height (geodetic level)

of the roof ridge, the entrance balcony and the street crown on the front, for the building to be demolished and for adjacent buildings.

- b) When a new construction is planned, the preliminary architectural plans of the proposed construction, produced by a professional, including:
  - i. Foundations, basement, typical floor and roof plans;
  - ii. The elevations of each face of the building including, but not limited to, the identification of exterior cladding materials;
  - iii. Cross and longitudinal sections of the building;
- c) Where applicable, the use of the proposed structures;
- d) Any other document or information necessary for a proper understanding of the proposed project or the use that will be made of the land following the demolition.

15. The schedule for demolition and reconstruction work.

The plans and documents required by this section are in addition to those required by the By-law Respecting Permits and Certificates if an application for permits and certificates is filed.

#### 2.1.5 Review Fees

When filing an application for authorization to demolish an immovable, the applicant must pay the amount indicated in the Permits and Certificates By-law in force as costs for opening and analyzing the application and publishing the public notice.

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In all cases, the fee is non-refundable.

This fee does not cover the fees charged for the issuance of a permit or certificate or the fees charged under the Site Layout and Architectural Integration Plan By-law.

## Section 2.2: The Application Process

### 2.2.1 Complete Application

The demolition application is considered complete when the review fees have been paid and all required documents and plans have been filed with the designated officer.

### 2.2.2 Verification of the Application

The designated officer verifies that the application complies with this by-law and the planning by-law. At the request of the designated officer, the applicant must provide any additional information that is required to fully understanding the application.

### 2.2.3 Non-compliant or Incomplete Application

When an application for authorization to demolish an immovable filed with the Town Planning department is non-compliant or is incomplete as per applicable municipal by-laws, the designated officer shall inform the applicant in writing. The notice must state the reasons why the application is non-compliant.

### 2.2.4 Withdrawal of the Application

The applicant is deemed to have withdrawn an application for authorization to demolish an immovable under this by-law if the applicant does not amend or complete it, as the case may be, within six (6) months after the presumed date of receipt of the notice sent.

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### 2.2.5 Transmission of the Application to the Demolition Committee

When the application is complete and the designated officer has verified the compliance of the application, the demolition application is forwarded to the Demolition Committee for assessment within 60 days.

### 2.2.6 Opinion of the Advisory Planning Committee

The Demolition Committee may request that the application be assessed by the Advisory Planning Committee, if it deems it necessary. However, the Advisory Planning Committee has no decision-making authority. It can only submit its recommendations to the Demolition Committee.

### 2.2.7 Public Notice

The clerk of the Municipality shall, at least 15 days before the sitting at which the Demolition Committee must examine and rule on the application for demolition of an immovable, cause a notice to be published in accordance with the requirements of the law.

A notice of the application must be posted at the same time on the immovable covered by the application in a place easily visible to passers-by.

The costs related to the publication of the public notice are included in the rates set out in section 2.1.5.

### 2.2.8 Notice to Tenants

The owner must send, by registered mail, a notice of the application for authorization to demolish to each tenant of the building.

### 2.2.9 Opposition to Demolition

Anyone who wishes to oppose the demolition 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 their objection, specifying reasons, to the clerk of the Municipality.

The Demolition Committee must consider the objections received before rendering its decision.

The Demolition Committee may also hold a public hearing if it deems it appropriate.

### 2.2.10 Public Hearing

When an application for authorization to demolish an immovable concerns a heritage immovable, the Demolition Committee holds a public hearing.

The public hearing shall take place according to the following procedure:

1. The person designated by Council submits the application for authorization to demolish an immovable to the Demolition Committee.
2. The applicant submits the application to the Demolition Committee and, if applicable, the preliminary program for reuse of the cleared land.
3. The Demolition Committee hears the persons who have submitted a written notice of objection in accordance with this by-law, if any.
4. The Demolition Committee may, if it considers it necessary, hear any other person present at the meeting at its request;
5. The applicant may give a brief response at the end of the interventions.

### 2.2.11 Acquisition of an Immovable Earmarked for Demolition

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 vocation may, as long as the Demolition Committee has not rendered its decision, submit a written notice with the clerk requesting a delay in order to initiate or continue the process of acquiring the immovable.

If the Demolition Committee considers that the circumstances warrant it, it shall postpone its decision and grant the intervener a period of up to 2 months from the end of the hearing to allow negotiations to be concluded. The Demolition Committee may postpone its decision on these grounds only once.

### 2.2.12 Decision of the Demolition Committee

The Demolition Committee shall grant authorization if it is satisfied that the demolition is appropriate, taking into account the public interest and the interest of the parties, as well as the following considerations:

1. The condition of the building concerned;
2. Deterioration of the architectural appearance, aesthetic character or quality of life of the neighbourhood;
3. The cost of restoration;
4. The intended use of the cleared land;
5. Harm to tenants;
6. The housing needs in the vicinity and the possibility of relocating tenants;
7. The patrimonial value of the building;
8. The environmental impact of the demolition;
9. Any other relevant criteria.

The decision of the committee concerning the demolition must be reasoned and transmitted without delay to any party concerned, by registered mail. The decision is accompanied by a notice explaining the applicable rules regarding the filing of an application for review, in accordance with the Act respecting land use planning and development (CQLR, c. A-19.1).

### 2.2.13 Approval of the Intended Use of the Cleared Land

The Demolition Committee must also refuse the application for authorization if the preliminary program for the reuse of the cleared land has not been approved or if the required fees have not been paid.

The intended use of the cleared land can only be approved if it complies with planning by-laws, including an assessment under the Site Layout and Architectural Integration Plan By-law. To determine such compliance, the Demolition Committee must consider the by-laws in force at the time the program is submitted, except where the issuance of a building permit for the proposed use is suspended due to a notice of motion.

Where the issue of permits is so suspended, the Demolition Committee may not approve the use before the expiry of the suspension or before the coming into force of the amending by-law that was the subject of the notice of motion if the entry into force precedes the expiry of the suspension. The committee's decision shall then be rendered based on the by-laws in force at the time of the decision.

### 2.2.14 Conditions of the Demolition Authorization

When the Demolition Committee grants the authorization, it may impose any conditions relating to the demolition of the immovable or the reuse of the cleared land.

In particular, it may:

1. set a time frame within which demolition work must be undertaken and completed. The Demolition Committee may, on reasonable grounds, modify the time limit, provided the request is made before the expiry of that period;
2. require a monetary guarantee for the execution of the proposed project on the cleared land, prior to the issuance of the certificate of authorization for demolition. Such guarantee may not exceed the value of the immovable to be demolished based on the assessment roll;
3. determine the conditions of relocation of tenants when the immovable includes one or more dwellings.

#### 2.2.15 Appeal of a Demolition Committee Decision

Any person may appeal the decision to Council within 30 days of the Demolition Committee's decision.

Any member of Council, including a member of the Demolition Committee, may sit on Council to hear an appeal under the first paragraph.

Council may confirm the decision of the Demolition Committee or make any decision that the Demolition Committee should have made.

#### 2.2.16 Transmission of the Notice to the RCM

When the Committee authorizes the demolition of a heritage building and its decision is not brought under review, a notice of its decision must be transmitted without delay to the RCM.

Notice of the decision made by Council must also be transmitted without delay to the RCM, when Council authorizes the demolition of a heritage building after overturning a decision of the Committee.

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

#### 2.2.17 Repudiation Authority of the RCM

The Council of the RCM may, within 90 days of receipt of the notice, repudiate the decision of the Committee or Council. Where the RCM has a local heritage council as per the Cultural Heritage Act (CQLR, chapter P-9.002), it may consult the council before exercising its power of repudiation.

#### 2.2.18 Transmission of the decision of the RCM

A resolution made by the RCM under the preceding article must be reasoned and a copy must be sent without delay to the Municipality and to any party concerned, by registered mail.

#### 2.2.19 Issuance of Permit or Certificate

No certificate of authorization for demolition may be issued by the designated officer under this by-law and the Permits and Certificates By-law before the expiry of the 30-day period for appealing the decision of the Demolition Committee or, if there has been an appeal of that decision, before

Council has rendered a decision authorizing the demolition. Where the demolition authorization concerns a heritage immovable, no certificate of authorization for demolition may be issued before the earliest of the following dates:

1. The date on which the Regional County Municipality (RCM) notifies the municipality that it does not intend to avail itself of the power of repudiation.
2. The expiry of the 90-day period allowed for the RCM to repudiate the decision of the Demolition Committee or the Council.

#### 2.2.20 Execution of Demolition Work

If the demolition work is not completed within the prescribed time, Council may cause it to be carried out and recover the cost from the owner. These costs constitute a prior claim on the land where the immovable was located, in the same manner and with the same rank as the claims referred to in subsection 5, section 2651 of the Civil Code of Quebec; these costs are secured by a legal hypothec on the land.

#### 2.2.21 Expiry of the Demolition Authorization

If the demolition work is not undertaken before the expiry of the period stipulated by the Demolition Committee, the demolition authorization shall become null and void.

#### 2.2.22 Time Extension

The Demolition Committee may, on reasonable grounds, extend the time limit within which the demolition work or the reuse of the cleared land must be undertaken and completed, provided that a written request providing reasons, is sent by the applicant to the Planning department before the expiration of that period.



## Chapter 3: Final Provisions

### Section 3.1: Penal Provisions and Entry into Force

#### 3.1.1 Violations and Penalties

Anyone who demolishes or causes to be demolished an immovable governed by this by-law without a certificate of authorization or contrary to the conditions of the certificate of authorization is guilty of an offence and is liable to a fine of not less than \$10,000 nor more than \$250,000.

However, the maximum fine is \$1,140,000 in the case of demolition, by a legal person, of an immovable designated in accordance with the Cultural Heritage Act (CQLR, c. P-9.002) or located on a heritage site designated in accordance with that Act.

#### 3.1.2 Reconstruction of an Illegally Demolished Building

Any person who has demolished an immovable or who has permitted such demolition without first obtaining an authorization and a certificate of authorization in accordance with this by-law may be compelled to reconstruct the immovable, should a Council resolution be adopted to that effect.

If the reconstruction is not carried out within the time stipulated by the resolution adopted to that effect in accordance with subsection 1 of this section, the Municipality may cause the work to be carried out and recover the costs thereof from that person and/or the owner, at its discretion. Where applicable, the costs constitute a prior claim on the immovable concerned, in the same manner and with the same rank as the claims referred to in subsection 5, section 2651 of the Civil Code of Québec. These costs are also secured by a legal hypothec on the immovable.

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#### 3.1.3 Violations and Penalties Related to the Verification of Demolition Work

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 certificate of authorization. The designated officer may, at any reasonable time, enter the premises where the work is being carried out to verify that the demolition is in accordance with the decision of the Demolition Committee. Upon request, the designated officer must reveal his identity and produce the certificate issued by the Municipality, attesting to his function.

The following are liable to a fine of up to \$500:

1. Anyone who prevents the designated officer from entering the demolition site
2. A person in authority responsible for carrying out the demolition work who, on the premises where the work is to be carried out, refuses to produce, at the request of the designated officer, a copy of the certificate of authorization.

### 3.1.4 Entry into force

These by-laws shall enter into force in accordance with the law.

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Denis Vaillancourt, Mayor

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Maïke Storks, Director General

