

**BY-LAW NUMBER 2023-046
RESPECTING THE DEMOLITION OF IMMOVABLES**

WHEREAS the amendments made by Bill 69 (s. 137 Bill 69) to An Act to amend the Cultural Heritage Act and other legislative provisions;

WHEREAS section 137 was added to the Act to amend the Cultural Heritage Act and other legislative provisions, which came into force on September 22, 2022, requiring public bodies to adopt a by-law relating to the demolition of immovables, in accordance with the amendments made by Bill 69, it is a pre-demolition authorization regime;

WHEREAS a notice of motion was previously given, in accordance with the Act, at the regular sitting held on February 7, 2023 and a draft by-law was tabled by the member of council who gave the notice of motion, a request for exemption from reading was requested and each member of council present acknowledges having received a copy of the draft by-law and declares to have read it and waives its reading;

WHEREAS the council takes into account By-law number 2023-046 demolition of immovables;

THEREFORE, IT IS MOVED by Damien Lafrenière, **SECONDED** by Matthew Orlando and resolved that Council decrees as follows:

**CHAPTER I:
DECLARATORY, ADMINISTRATIVE AND INTERPRETATIVE PROVISIONS**

SECTION I - DECLARATORY PROVISIONS

1. Title of By-law

This by-law is entitled « By-law respecting the demolition of immovables »

2. Territory and person concerned

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

3. Object of the By-law

This by-law governs the demolition of an immovable in the territory of the Municipality of Kazabazua. It gives the Demolition Committee the power to authorize or refuse an application submitted to it.

SECTION II - ADMINISTRATIVE PROVISIONS

4. Application of the By-law

The administration and enforcement of this by-law shall be the responsibility of the officer designated by resolution of the Municipal Council. The powers and duties of the designated officer are set out in the Licences and Certificates By-law.

SECTION III - INTERPRETATIVE PROVISIONS

5. Rules of interpretation

In the event of a conflict between two or more provisions, the following rules of interpretation shall apply to this By-law:

1. The special provision takes precedence over the general provision;
2. The most restrictive provision prevails;
3. In case of contradiction between a table, sketch or title and the text, the text prevails.

6. Terminology

Committee: Demolition Committee.

Council: Kazabazua Municipality Municipal Council.

Demolition: Complete or partial destruction of a building.

Heritage immovable: an immovable cited in accordance with the Cultural Heritage Act (CQLR, CHAPTER P-9.002), located on a heritage site designated in accordance with that Act or entered in an inventory of immovables of heritage value, in accordance with the first paragraph of section 120 of that Act.

CHAPTER II:

DEMOLITION COMMITTEE

7. Function of the committee

The functions of the Committee are to render a decision on applications for the demolition of immovables and to exercise the powers conferred on it by this By-law.

8. Composition and operation of the committee

The Demolition Committee is composed of three members of the Council appointed for a period of one year by the Council. Their term of office may be renewed.

A member of the Council who ceases to be a member of the Committee before the end of his or her term of office, who is unable to act, or who has a direct or indirect personal interest in a matter before the Committee, shall be replaced by another member of the Council designated by the Council for the unexpired portion of his or her term of office, or for the duration of his inability to attend or for the duration of the hearing of the case in which he has an interest, as the case may be.

CHAPTER III:

APPLICATION FOR A DEMOLITION AUTHORIZATION CERTIFICATE

SECTION I - REQUIREMENT TO OBTAIN AUTHORIZATION FROM THE COMMITTEE

9. Prohibition to proceed with the demolition of an immovable

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

10. Exemptions

Except for a heritage immovable, the following work is not subject to this Regulation.

1. The demolition of a building in respect of which a demolition order has been issued by a court;
2. The demolition of a building destroyed or become dangerous as a result of fire or any other reason causing a loss of its value of at least 50%;
3. The demolition of a building, requested by the designated officer, after obtaining the advice of the public safety officer, whose situation presents a dangerous condition and an urgency to act to ensure the safety of the premises and the neighbourhood.

SECTION II - CONTENT OF THE REQUEST

11. Application form

An application for a demolition authorization must be submitted to the official designated by the owner of the building to be demolished or his authorized agent (upon receipt of a power of attorney signed by the owner), on the form provided for this purpose. This form must be completed and signed by the owner or his authorized agent.

12. Documents and plans required

The applicant must also provide the following documents:

1. A copy of any title establishing that the applicant is the owner of the immovable concerned or a document establishing that he holds an option to purchase the immovable;
2. Recent photographs of the interior and exterior of the building and the land on which it is located;
3. A location plan for the building to be demolished;
4. Proof of receipt of notice to tenants by registered mail;

5. A report presenting the condition of the building and its main components, its structural quality and the deterioration observed, carried out by a competent professional in the field;
6. A report describing the work required to restore the building and a detailed estimate of their costs, carried out by a competent professional in the field;
7. Details of the preliminary cleared land reuse program including:
 - i. The intended use;
 - ii. A brief description of the interventions to be carried out, in terms of construction (height, volume, area, location, etc.), architecture (architectural part, main components, etc.) and land development. A preliminary sketch(s) must be submitted to illustrate this description.;
 - iii. The implementation schedule;
 - iv. Preliminary estimate of program costs.
8. For a heritage building, a main building constructed before 1940 or a building with potential heritage value, a heritage study carried out by a competent professional detailing the history of the building, its contribution to local history, its degree of authenticity and integrity, its representativeness of a particular architectural trend, its contribution to a complex to be preserved and its heritage value.

13. Fees payable

Determined by the By-law respecting permits and certificates in force, the fees payable for the examination of an application for a demolition authorization must be paid when it is filed.

The fee is non-refundable and does not cover the fee rates charged for obtaining a permit or certificate.

14. Complete application

An application for a demolition authorization is considered complete when all required documents and plans have been filed with the designated officer and the study fee has been paid.

15. Verification of the request

The designated officer verifies the content of the application. The latter may ask the applicant to provide any additional information for the understanding of the request. Where the plans and documents provided by the applicant are inaccurate, insufficient or non-compliant, the procedure for verifying the application shall be interrupted. The designated officer shall notify the applicant to provide corrected and sufficient information, plans and documents.

When the verification of the application is completed, the application is forwarded to the Committee.

SECTION III – STUDY OF THE REQUEST

16. Posting and public notice

As soon as the Committee receives an application for a demolition authorization, the clerk of the Municipality must cause the public notice of the application, provided for in section 148.0.5 of the Act respecting land use planning and development (R.S.Q., c. A-19.1), to be published. At the same time, a notice that is easily visible to passers-by must be posted on the immovable covered by the application.

The poster and public notice must include the following:

1. The date, time and place of the meeting at which the application will be heard by the Committee;
2. The designation of the affected immovable using the thoroughfare and the address of the immovable, or failing that, the cadastral number;
3. The fact that any person wishing to oppose the demolition of the immovable must, within 10 days of publication of the public notice or, failing that, within 10 days after the posting of the notice on the immovable concerned, make known in writing his objection with reasons to the clerk of the Municipality.

17. Notice to tenants

Where the application for a demolition permit concerns a building comprising one or more dwellings, the applicant must send a notice of the application to each of the tenants of the building by registered mail.

18. Transmission of public notice to the Minister

Where the application relates to a heritage immovable, a copy of the public notice must be sent without delay to the Minister of Culture and Communications.

19. Opposition to the application

Every person 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 his objection with reasons to the clerk of the Municipality.

SECTION IV – DECISION OF THE COMMITTEE

20. Decision and deferral of the Committee's decision

The Demolition Committee renders its decision at a public meeting. The Committee's decision shall state the reasons on which it is based.

The Committee may decide to defer its decision to a later public meeting if it deems it appropriate. In that case, he must cause a public notice to be published in accordance with section 16 of this By-law.

21. Conditions relating to the demolition or reuse of cleared land

When the Demolition Committee grants the authorization, it may:

1. Impose any conditions relating to the demolition of the building or the reuse of the cleared land;
2. Determine the conditions of relocation of a tenant, when the immovable includes one or more dwellings;
3. Set the time frame within which demolition work must be undertaken and completed.

The demolition committee may require the owner to provide the Municipality with a financial security to ensure compliance with any condition referred to in the first paragraph before a certificate of demolition authorization is issued. This financial guarantee must:

1. Be at the amount determined at the decision of the Committee;
2. Be valid for a period of one year from the date of issuance of the demolition authorization certificate and the permit or certificate required to carry out the preliminary land reuse program. It must be renewed at least 30 days before its expiry if the work covered by the permits or certificates has not been completed;
3. Be reimbursed when all the work covered by the permits or certificates was carried out in accordance with the decision of the Committee and the permits or certificates issued.

22. Review of the Committee's decision

Any person may, within 30 days of the decision of the Demolition Committee, apply to the Council for a review of the 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 the decision. Any member of the Board, including a member of the Committee, may sit on the Board to review a decision of the Committee. The Council may confirm the Committee's decision or make any decision that the Committee should have made.

SECTION V - DECISION RELATING TO A HERITAGE BUILDING

23. Notification of the decision to the MRC and power of disallowance

Where the Committee authorizes the demolition of a heritage immovable and its decision is not reviewed pursuant to section 23, notice of its decision must be notified without delay to the MRC de la Vallée-de-la-Gatineau. An opinion of the decision taken by the Council in review of a decision of the Committee, when the Committee authorizes such demolition, must also be notified to the MRC without delay.

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

The Council of the MRC may, within 90 days of receipt of the notice, disallow the decision of the Committee or Council. He may, where 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 its power of disallowance.

A resolution made by the MRC under the third paragraph is reasoned and a copy is sent without delay to the Municipality and to any party concerned, by registered mail.

SECTION VI - ISSUANCE OF THE CERTIFICATE AND OTHER PROCEDURES

24. Time limit for issuance of certificate of authorization

No certificate of authorization to demolition may be issued by the designated officer before the expiry of the 30-day review period provided for in section 22 of this By-law or if there is a review under that section, before the Council has rendered a decision authorizing the demolition.

Where section 24 applies, no certificate of authorization to demolish may be issued before the earliest of

1. The date on which the MRC notifies the Municipality that it does not intend to avail itself of its power of disallowance;
2. The expiry of the 90-day period provided for in Article 23 of this By-law.

25. Modification of the deadline and conditions

The Committee may, on reasonable grounds, vary the time within which demolition work must be undertaken and carried out, provided that a request is made to the Committee before the expiry of that period.

At the request of the owner, the Committee may also modify the conditions relating to the demolition of the building or the program for the reuse of the cleared land.

26. Expiration of an authorization

Where demolition work is not undertaken before the expiry of the period determined by the Committee, the demolition authorization shall have no effect. If, on the expiry date of that period, a tenant continues to occupy his dwelling, the lease is extended by operation of law and the landlord may, within one month, apply to the Tribunal administratif du logement to fix the rent.

27. Failure to meet work deadlines

Where the demolition work is not completed within the prescribed time, the Council may cause it to be carried out and recover the owner's costs.

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

28. Eviction of a tenant and compensation

A landlord who has been granted a demolition permit can evict a tenant to demolish a unit.

However, a tenant may not be forced to vacate his dwelling before the later of the following contingencies, 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 demolish..

The landlord must pay the tenant who is evicted from his dwelling an indemnity of three months' rent and moving expenses. If the damages resulting from the damage suffered by the tenant amount to a greater amount, he may apply to the Administrative Housing Tribunal to have the amount fixed.

The indemnity is payable at the departure of the tenant and the moving expenses, on presentation of supporting documents.

CHAPTER IV :

FINAL PROVISIONS

29. General Violations and Penalties

The provisions relating to contraventions, general penalties, legal remedies and the procedure to be followed in the event of an offence are those set out in the Licence and Certificate By-laws in force. Notwithstanding the first paragraph, the special penalties relating to a demolition without the authorization of the

Committee, to a demolition contrary to the conditions of the authorization or to an obstruction of a designated officer are those provided for in sections 30 and 31 of these By-laws.

30. Demolition of a building without authorization, non-compliance with conditions and sanctions

Every person who demolishes or causes to be demolished an immovable other than an immovable named or situated on a heritage site designated in accordance with the Cultural Heritage Act (CQLR, CHAPTER P-9.002) without the authorization of the Committee or contrary to the conditions of authorization is guilty of an offence and is liable to a fine

1. For a first offence, a fine of \$25,000 to \$50,000 if the offender is a natural person, and \$50,000 to \$100,000 if the offender is a legal person;
2. For any subsequent offence, a fine of \$50,000 to \$250,000 if the offender is a natural person and \$100,000 to \$250,000 if the offender is a legal person.

Every person who demolishes or causes to be demolished an immovable named or situated on a designated heritage site in accordance with the Cultural Heritage Act (CQLR, CHAPTER P-9.002) without authorization from the Committee or contrary to the conditions of authorization is guilty of an offence and is liable to a fine:

1. For a first offence, a fine of \$50,000 to \$190,000 if the offender is a natural person, and \$100,000 to \$1,140,000 if the offender is a legal person;
2. For any subsequent offence, a fine of \$250,000 if the offender is a natural person, and \$1,140,000 if the offender is a legal person.


31. Sanctions relating to the visit of the official

It is an offence to prevent a designated officer from entering the premises where the demolition work is being carried out in order to verify whether the demolition is in accordance with the decision of the Committee and is liable to a fine of \$500. In addition, 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 exhibit a copy of the demolition authorization certificate at the request of a designated officer is guilty of an offence and is liable to a fine of \$500.

32. Coming into force

This By-law shall enter into force in accordance with the law.

Robert Bergeron
Mayor



Pierre Vaillancourt, DMA
Director General / Clerk-Treasurer

Notice of motion given February 7, 2023
Adoption of Project By-Law adopted March 7, 2023
Adoption resolution 2023-03-054
Transmission to the MRCVG March 8, 2023
Public consultation March 21st, 2023
Adoption of the By-law March 21st, 2023
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