



By-law 497 regulating the demolition of immovables

Certificate of Approvals

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CHAPTER I: DECLARATORY, ADMINISTRATIVE AND INTERPRETIVE PROVISIONS

SECTION A – DECLARATORY PROVISIONS

1. Title of the by-law

This by-law bears the title “*By-law regulating the demolition of immovables* No, 497”.

2. Subject territory and person

This by-law applies to all the territory of the Village of Senneville and to all persons.

3. Objective of the by-law

This by-law governs the demolition of an immovable on the territory of the Village of Senneville. It confers on the demolition committee the power to authorize or refuse an application submitted to it.

4. Compliance with by-laws

Complying with this by-law does not remove the obligation to comply with all other provincial or federal government laws or regulations, as well as all other municipal by-laws that apply in this case.

5. Adoption by part

This by-law is adopted chapter by chapter, section by section, article by article, clause by clause, and paragraph by paragraph, so that if a part of this by-law were to be declared null and void by a tribunal, such a decision would have no effect on the other parts of the by-law, except in cases where the significance or scope of the by-law or of one of its provisions should be altered or modified.

6. Repeal

This by-law repeals *By-law regulating the demolition of immovables No. 442*, as modified by all its amendments.

SECTION B – ADMINISTRATIVE PROVISIONS

7. Administration and application of the by-law

The administration and application of this by-law are entrusted to the designated official.

The official's powers are stated in the *Permits and Certificates By-law* and this by-law.

SECTION C – INTERPRETIVE PROVISIONS

8. Interpretation rules

The following interpretation rules apply to this by-law in the case of a contradiction between two or more provisions:

1. A specific provision prevails over a general provision;
2. The most restrictive provision prevails;
3. In the case of a contradiction between a table, drawing, title or table of contents and the text, the text prevails.

9. Numbering

The text reproduced hereinafter represents the numbering system of this by-law:

Chapter I: Chapter

Section A – Section

1. Article

Clause

1. Paragraph

a) Subparagraph

10. Definition

Unless the context indicates otherwise, all words or expressions have the meaning attributed to them in the *Permits and Certificates By-law*. If a word or expression is not defined, it is its common dictionary definition that applies.

Notwithstanding the first clause, the following definitions apply:

1. Committee: the demolition committee;
2. Heritage Immovable: an immovable recognized in accordance with the Cultural Heritage Act ([chapter P-9.002](#)) situated on a heritage site recognized in accordance with that Act or registered in an inventory referred to in the first paragraph of section 120 of that Act;
3. Dwelling: a dwelling within the meaning of the Act respecting the Administrative Housing Tribunal ([chapter T-15.01](#)).
4. Preliminary program for the utilization of the vacated land: the intent expressed by the applicant to build on or develop the land by replacing the building that is the subject of a demolition authorization application and will later be the subject of a permit or certificate. As the case may be, a complete permit or certificate application under the *Permits and Certificates By-law* constitutes the preliminary program for the utilization of the vacated land;
5. Floor surface: sum of the surface area of each floor, excluding the basement. The surface area is calculated based on the inside of the exterior walls of the building.

CHAPTER II: CONSTITUTION OF THE COMMITTEE

11. Constitution of the committee

The demolition committee is created by this by-law.

12. Function of the committee

The functions of this committee are to render a decision regarding demolition applications submitted to it and to exercise the powers conferred on it by this by-law.

13. Composition of the committee

The demolition committee is constituted of three council members appointed for one year by the council. Their mandate is renewable.

A council member who ceases to be a member of the committee before the end of his or her mandate, who is prevented from acting in this capacity, or who has a direct or indirect personal interest in a matter before the committee is replaced by another council member appointed by the council for the unexpired duration his mandate, or for the duration of time that he or she is prevented from assuming their duties or again for the duration of the hearing on the matter in which he has an interest, as the case may be.

14. Substitute member

The municipal council may appoint a substitute member to the members that form the demolition committee for a one-year term. This mandate is renewable.

15. Absence of a member

In the event that a member is absent from a public session, the demolition committee may decide to reschedule the public session or ask the substitute member to sit in as a replacement for this member.

16. Minutes of the public session

The committee must prepare minutes of each public session. These minutes must contain the decisions that the committee makes under this by-law.

CHAPTER III: AUTHORIZATION REQUIRED AND CONTENT OF THE APPLICATION

SECTION A – AUTHORIZATION REQUIRED

17. Interdictions to demolish

It is prohibited for anyone to demolish, in whole or in part, one of the following buildings unless the owner has obtained prior authorization from the demolition committee:

1. A heritage immovable;
2. A main building;
3. An accessory building identified in appendix 1 « List of buildings of interest » attached to the By-Law on Site Planning and Architectural Integration Programs

18. Exemptions

Except in the case of an immovable recognized under the *Cultural Heritage Act* (CQLR, c. P-9.002) or located on a cultural heritage site recognized in compliance with this act, article 17 does not apply to the following demolition work:

1. The destruction or dismantling of less than 50% of the surface area of all the exterior walls, including the openings regardless of the structure. The calculation of the surface area excludes the foundations, roof and common walls;
2. The destruction or dismantling of less than 50% of the built area of the building;
3. The destruction or dismantling of less than 50% of the floor surface of the building;
4. The transportation or movement of the main building on the same land;
5. The demolition of a building for which a demolition order was rendered by a tribunal;
6. The demolition of a building destroyed or that has become dangerous following a fire or other cause to the point that it has lost at least 50% of its value;
7. The demolition of a building, requested by the designated official, upon the recommendation of the person in charge of public safety, whose situation presents a danger and urgency to act to ensure the safety of the public and of the premises.

Notwithstanding paragraphs 1 to 3 of the first clause, the destruction or cumulative dismantling of parts of a building remains subject to this by-law if, within the 36 months preceding the application, this work exceeds the percentage targets set out in these paragraphs.

SECTION B – CONTENT OF THE APPLICATION

19. Submission of the application

A demolition authorization application must be submitted to the designated official by the owner of the building to be demolished on the form provided for this purpose. This form must be duly filled out and signed by the owner or his or her authorized representative.

If the applicant is not the owner of the immovable, that person must submit a proxy signed by the immovable's owner, authorizing him or her to make the demolition authorization application under this by-law.

20. Content of the application

The demolition authorization application must be accompanied by the following plans and documents in one (1) printed copy or in digital format (PDF), in addition to the plans and

documents required for a demolition authorization application prescribed in the *Permits and Certificates By-law*:

1. A presentation document of the application including, at a minimum:
 - a) The current occupation of the building or, if it is vacant, the date at which the building became vacant;
 - b) Photographs taken during the three months preceding the filing of the application:
 - i. Of the interior and exterior of the building that is the subject of the application;
 - ii. Construction and work on the land on which the building that is the subject of the application is located;
 - iii. Neighbouring immovables to understand the integration context.
 - c) A description of the architectural features of the building, its period of construction, and the main changes made to the exterior appearance of the building since its construction;
 - d) The reasons justifying demolition rather than a preservation or restoration approach;
 - e) The reasons justifying demolition based on the evaluation criteria stated in this by-law.
2. A report on the condition of the building signed by a competent professional in this matter including, but not limited to, the structural quality of the building, the condition of its main components and the deterioration observed. The report must also demonstrate that the building is, as the case may be, in such condition that it cannot be reasonably rehabilitated;
3. A report on the estimated cost of restoration (rehabilitation) for the purposes of preserving the building, signed by a competent professional in this matter based on the conclusions of the report on the condition of the building that is subject to paragraph 2. To obtain a fair cost assessment, the cost of restoration must include the normal costs of such reconstruction regardless of the choice of restoration materials desired by the applicant (e.g., a wood floor is a normal restoration compared to a marble floor, unless the marble floor is an architectural feature of the building that is the subject of the application);
4. A heritage study signed by a competent professional in this matter or a person with expertise in heritage including, but not limited to, the heritage value of the building (archeological, architectural, artistic, emblematic, ethnological, historical, landscape, scientific, social, urban or technological), its state of preservation, its degree of authenticity and integrity, as well as the methodology used. The signatory to the study is a person other than the one mandated to carry out the preliminary for the utilization of the vacated land.
5. A description of the methods used to carry out the demolition work, as well as the measures taken to store and dispose of materials, control dust and secure the site, adjacent immovables and the public domain, as the case may be;
6. Details of the preliminary program for the utilization of the vacated land, including:
 - a) The projected use;
 - b) A brief description of the work to be done in terms of construction (height, volume, surface area, implementation, among others), architecture (architectural scheme, main components, among others) and land development. One or more preliminary sketches must be submitted to illustrate this description;
 - c) The timeframe for completion;

- d) The preliminary cost estimate of the program.
- 7. The conditions for rehousing tenants when the building has one or more occupied dwellings;
- 8. Any other document required to evaluate the authorization application based on the criteria stated in this by-law.

21. Evaluation and publication costs

The costs of evaluating a demolition authorization application and the fees related to the publication of public notices amount to \$800.

In all cases, these costs are not reimbursable and do not cover the fees charged for obtaining a permit or certificate.

22. Verification of the application

The designated official verifies the content of the application. At his or her request, the applicant must provide any additional information for a full understanding of the application.

When the plans and documents provided by the applicant are inaccurate, contain errors, are insufficient or are non-compliant, the designated official notifies the applicant that the verification procedure for the application has been interrupted to allow the applicant to provide information, plans and documents that are accurate, corrected and sufficient for verification of the application.

When the verification is completed, the application is forwarded to the demolition committee.

23. Complete application

A demolition authorization application is considered complete when all the required plans and documents have been submitted to the designated official and the fee for review has been paid.

CHAPTER IV: EVALUATION AND DECISION OF THE DEMOLITION COMMITTEE

SECTION A – EVALUATION OF THE DEMOLITION AUTHORIZATION APPLICATION

24. Start of the evaluation of the application

The evaluation process by the committee can start when the demolition authorization application is complete.

25. Notice to tenants

When the subject of the demolition authorization application is a building consisting of one or more dwellings, the applicant must send a notice of this application by registered mail to each of the building's tenants.

The applicant must submit to the designated official proof that the notice has been sent to the tenants before the examination of the authorization application by the demolition committee.

26. Posting and public notice

When the demolition committee is asked to consider a demolition authorization application, it must, no later than the 10th day preceding the holding of a public session:

1. Post, on the immovable that is the subject of the application, a notice that is clearly visible to passersby;
2. Publish a public notice of the application based on the publication terms and conditions of the Village of Senneville.

The posting and notice must include the day, time, place and purpose of the session of the demolition committee and the text mentioned in article 27 of this by-law.

When the application is related to a heritage immovable, a copy of the public notice must be forwarded without delay to the Minister of Culture and Communications.

27. Opposition to demolition

Anyone who wishes to oppose the demolition must, within 10 days of the publication of the public notice or, failing that, in the 10 days following the posting of the notice on the immovable concerned, make his or her opposition known in writing to the clerk of the Village of Senneville.

28. Notice to the local heritage council and urban planning advisory committee

When the demolition committee is asked to consider an application that relates to a heritage immovable and that a local heritage council is constituted under the meaning of article 117 of the *Cultural Heritage Act* (CRLQ, c. P-9.002), the committee must consult this council before rendering its decision.

The demolition committee may consult the urban planning advisory committee, if deemed appropriate.

29. Evaluation criteria of the application

The demolition committee evaluates the demolition authorization application submitted to it based on the following criteria:

1. The condition of the building;
2. The heritage value of the building;

3. The history of the immovable, its contribution to local history, its degree of authenticity and integrity, its representativeness of a specific architectural trend and its contribution to a combination to be preserved;
4. The deterioration of quality of life of the neighbourhood;
5. The cost of its restoration;
6. The proposed use of the vacated land in relation to its contribution to the environment, as well as the architectural and landscape qualities of the Village of Senneville;
7. The added value of the proposed use of the vacated land compared with the loss of a building;
8. When the immovable includes one or more dwellings, the harm caused to the tenants and the effect on housing needs in the surrounding area;
9. All other criteria deemed appropriate in this context.

30. Public session

The demolition committee holds a public session, which includes a public hearing. During this session:

1. The committee explains the purpose of the session and how it will proceed;
2. The designated official presents the authorization application submitted for evaluation;
3. The person making the authorization application explains the reasons for the application, the main conclusions of the reports submitted as supporting documents, as well as the preliminary program for the utilization of the vacated land. In the absence of the applicant, the designated official presents this information;
4. Anyone then has the right to be heard, whether or not this person filed an opposition in accordance with article 27;
5. The committee may ask questions of the applicant or of any other speaker;
6. In closed session, the committee continues to evaluate the application.

31. Acquisition of the immovable

When the concerned immovable contains one or more dwellings and as long as the demolition committee has not rendered its decision, a person wishing to acquire this immovable with the intent of conserving rental housing units, can write to the Town Clerk to request a delay in order to undertake the necessary steps to acquire the immovable.

Such intervention can also be made by a person who wishes to acquire a heritage immovable that is the subject of a demolition authorization application to preserve the heritage character.

If the demolition committee deems that proper justification exists, it can delay its decision and grant the potential acquirer two months from the end of the public session to allow negotiations to occur. The demolition committee cannot delay its decision for this purpose more than once.

SECTION B – DECISION OF THE DEMOLITION COMMITTEE**32. Decision of the demolition committee**

The demolition committee renders its decision during a public session.

The committee may decide to postpone its decision to a later public meeting, if deemed appropriate. In that case, it must publish a public notice in accordance with article 26 of this by-law.

33. Reason for and transmission of the decision

The decision of the committee must be substantiated and transmitted without delay to all parties involved, by registered mail.

The decision is accompanied by a notice that explains the applicable by-laws, among those provided in articles 35, 36 and 37 of this by-law.

34. Conditions related to the demolition

When the demolition committee grants the authorization, it can:

1. Impose any condition related to the demolition of the building or the reutilization of the vacated land;
2. Determine the conditions for rehousing a tenant when the immovable has one or more dwellings;
3. Set the timeframe in which the demolition work must begin and end.

The demolition committee can require that the owner provide, prior to the issuance of a demolition authorization certificate, a financial guarantee to the Village of Senneville to ensure compliance with all conditions outlined in the first clause. This financial guarantee must:

1. Be for a set amount decided by the committee;
2. Take the form of a cheque issued to the Village of Senneville and be drawn on an account registered in a financial institution, or an irrevocable and unconditional bank letter of guarantee from a financial institution;
3. Be valid for a period of one year from the date of issuance of the demolition authorization certificate and permit or certificate required to carry out the preliminary program for the utilization of the vacated land. It must be renewed at least 30 days prior to its expiry if the work that is the subject of the permits or certificates has not been completed;
4. Be reimbursed when all the work that is the subject of the permits or certificates has been done in compliance with the committee's decision and the issued permits or certificates.

35. Review of this decision

Anyone can, within 30 days of the demolition committee's decision, ask the council to review this decision.

The council may, of its own initiative, within 30 days of a decision of the demolition committee that authorizes the demolition of a heritage immovable, adopt a resolution stating its intent to review that decision.

Any council member, including a member of the demolition committee, may sit on the council to review a decision of the committee. The council may confirm the committee's decision or render any decision that the committee should have taken.

36. Notification of the decision to the Montréal agglomeration and power of disallowance

When the committee authorizes the demolition of a heritage immovable and its decision is not submitted for review under article 35, a notice of its decision must be made without delay to the Montréal agglomeration. When the committee authorizes such demolition, a notice of the decision taken by the council after reviewing the committee's decision must also be sent to the agglomeration without delay.

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

The urban agglomeration council can, within 90 days of receipt of the notice, disallow the decision of the committee or council. When the agglomeration has a local heritage council as in article 117 of the *Cultural Heritage Act* (CQLR, c. P-9.002), it can consult it before exercising its power of disallowance.

A resolution taken by the agglomeration under the third clause is substantiated and a copy is sent without delay to the Village of Senneville and any other party involved, by registered mail.

SECTION C – ISSUANCE OF THE CERTIFICATE AND OTHER TERMS AND CONDITIONS**37. Issuance of the demolition authorization certificate**

No demolition authorization certificate can be issued by the designated official before the expiry of the timeframe of 30 days set out in article 35 nor, if there is a review under this article, before the council has rendered a decision authorizing the demolition.

When article 36 is applied, no demolition authorization certificate can be issued before the earliest of the following dates:

1. The date at which the Montréal agglomeration notifies the Village de Senneville that it does not intend to use the power of disallowance provided for in the third clause of this article;
2. The expiry of the timeframe of 90 days provided for in this clause.

38. Change to the timeframe

The demolition committee can, for reasonable cause, change the timeframe determined in the authorization decision, provided that the request is made prior to the expiry of this timeframe.

The decision to extend the timeframe is taken by a resolution of the demolition committee in a public session.

39. Expiry of the authorization

If the demolition work is not started before the expiry of the timeframe established by the demolition committee, the demolition authorization becomes null and void.

If at the expiry date of this timeframe, a tenant continues to occupy his or her dwelling, the lease is automatically extended and the tenant can, within the month, file a request to the Administrative Housing Tribunal to set the rent.

40. Compensation to the tenant

The landlord who has been granted a demolition authorization can evict a tenant to demolish a dwelling.

However, a tenant cannot be forced to leave his or her dwelling before the latest of the following events, i.e., expiry of the lease or expiry of the three-month timeframe starting on the date of issuance of the demolition authorization certificate.

The landlord must pay the tenant evicted from his or her dwelling compensation equal to three months rent and moving costs. If the damages-interest resulting from the harm caused to the tenant exceeds that sum, the tenant may apply to the Administrative Housing Tribunal to set the amount.

The compensation is payable upon the departure of the tenant and the moving costs upon presentation of supporting evidence.

CHAPTER V: TRANSITORY AND FINAL PROVISIONS

SECTION A – TRANSITORY PROVISIONS

41. Notification to the Minister of Culture and Communications

The designated official must, at least 90 days before the issuance of a demolition authorization certificate for an immovable constructed prior to 1940, forward to the Minister of Culture and Communications a notice of his or her intent, accompanied by all information or documents required by the Minister as long as the following conditions are not met:

1. A by-law complying with provisions of chapter V.01 of title I of the *Act respecting land use planning and development* (CQLR, c. A-19.1) is in force on the territory of the Village of Senneville;
2. The inventory provided for in the first clause of article 120 of the *Cultural Heritage Act* (CQLR, c. P-9.002) was adopted with regard to the territory of the Montréal agglomeration.

SECTION B – FINAL PROVISIONS

42. Infractions and penalties

Whosoever undertakes or arranges for the demolition of a immovable without the authorization of the committee or contrary to authorization conditions is liable for a fine of no less than \$10,000 and no more than \$250,000. The maximum fine, however, is \$1,140,000 in the case of the demolition, by a corporation, of a recognized immovable in accordance with the *Cultural Heritage Act* (CQLR, c. P-9.002) or located on a recognized heritage site in accordance with this Act.

43. Sanction related to the visit by the designated official

At all times during the performance of the demolition work, a person in authority on the premises must have in his or her possession a copy of the demolition authorization certificate. The designated official may enter the premises, at any reasonable time, while demolition work is under way to verify that the demolition complies with the committee's decision. When requested to do so, the designated official must show his or her ID and display the certificate issued by the Village of Senneville, confirming his or her authority to act.

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

1. Whosoever prevents the designated official from entering the premises where demolition work is taking place;
2. The person in authority entrusted with carrying out the demolition work who, being on the premises where the work is taking place, refuses to show a copy of the demolition certificate upon request by the designated official.

44. Contraventions and penalties for other offences

Every person who contravenes, permits or tolerates the contravention of any provision of this by-law, maintains construction without a permit or maintains a condition that requires a certificate without having first obtained one, is guilty of an offence and is liable to a fine of a minimum of \$500 and a maximum of \$1,000 for an individual. For a corporation, the minimum amount is \$1,000 and the maximum amount is \$2,000.

In the event of a repeat offence, the person is liable to a fine of a minimum of \$1,000 and a maximum of \$2,000 for an individual and not less than \$2,000 and not more than \$4,000 for a corporation, plus costs.

If the offence is of a continuing nature, it constitutes a separate offence on a day-by-day basis and the offender is liable to the above fine for each day on which the offence continues.

45. Reconstruction of the demolished immovable

Whosoever undertakes or arranges for the demolition of an immovable without a demolition authorization certificate must reconstruct the demolished building.

In the event that the person fails to reconstruct the immovable in accordance with the by-law, the council may have the work done and recover the costs from the owner. These costs constitute a priority claim on the immovable where the building was located, in the same manner and the same rank as the claims referred to in paragraph 5 of article 2651 of the *Civil Code of Québec*; these fees are guaranteed by a legal mortgage on this immovable.

46. Failure to comply with the timeframe

If the work is not completed within the established timeframe, the council may have the work done and recover the costs from the owner. These costs constitute a priority claim on the immovable where the building is located, in the same manner and the same rank as the claims referred to in paragraph 5 of article 2651 of the *Civil Code of Québec*; these fees are guaranteed by a legal mortgage on this land.

SECTION C – FINAL PROVISIONS

47. Coming into force

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