

**PROVINCE OF QUEBEC
MRC LA VALLÉE-DE-LA-GATINEAU
MUNICIPALITY TOWNSHIP OF LOW**

BY-LAW # 04-2019

**BY-LAW ON "MINOR DEROGATIONS REGULATIONS OF THE MUNICIPALITY
TOWNSHIP OF LOW" - 2**

WHEREAS under the Act respecting land use planning and development, the Municipality may adopt a by-law concerning minor exemptions for the municipality;

CONSEQUENTLY, on a motion by Councilor Luc Thivierge, seconded by Councilor Matthew Orlando, it is unanimously resolved that Council adopt by-law number 04-2019 and that it be made and decreed and it be is by this Regulation the following, namely:

CHAPTER 1

DECLARATORY, INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS

SECTION 1: DECLARATORY PROVISIONS

1. TITLE OF BY-LAW

These By-laws are entitled "By-law concerning minor exemptions of the Municipality Township of Low".

2. REPEAL

This by-law repeals By-law 04-2019, entitled "By-law on Minor Exemptions of the Municipality of Township of Low", as amended by all its amendments and any inconsistent provision of another by-law.

3. VALIDITY

The Council shall adopt this By-law in its entirety and also chapter by chapter, section by section, article by article, paragraph by paragraph, subparagraph by subparagraph. If any chapter, section, article, paragraph, subparagraph of these Rules is declared invalid by any authorized authority, the remainder of the Rules will continue to apply as far as possible. .

4. FIELD OF APPLICATION

The present By-law governs the mode of presentation and the procedure for the analysis of an application for a minor derogation, the purposes of the Zoning and Subdivision By-Laws which may be subject to a minor derogation request as well as the reasons for eligibility and decision in respect of such an application. Any minor exemption request must be filed and considered in accordance with these By-laws.

5. REPEAL

These By-laws repeal, for all rights purposes, all By-laws of the same subject and all their amendments.

SECTION 2: INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS

6. TERMINOLOGY

For the purposes of this by-law, unless the context indicates otherwise, every word or expression has the meaning ascribed to it in Zoning By-law 02-93 and subsequent number. If a word or expression is not specifically defined in this appendix, it means in its common sense defined in the dictionary.

7. APPLICATION OF THE BY-LAW

The administration of this by-law is entrusted to the officer designated by resolution of the municipal council.

8. COMPETENT AUTHORITY

The application, supervision and control of this By-law shall be the responsibility of the designated officer. Representatives with the same powers and duties are appointed by resolution of the municipal council. The designated official and his authorized representatives therefore constitute the competent authority. In this By-law, the use of the expression "designated officer" is equivalent to the use of the expression "competent authority", "municipal inspector" and "director of the planning department".

9. POWERS AND DUTIES OF THE DESIGNATED OFFICIAL

The powers and duties of the design officer are set out in licensees and certificates 05-93 and subsequent.

CHAPTER 2

PROVISIONS RELATING TO THE FILING OF AN APPLICATION AND THE ANALYSIS PROCEDURES

SECTION 1: CRITERIA FOR ELIGIBILITY OF AN APPLICATION

10. ELIGIBLE APPLICATION

All provisions of zoning and subdivision By-laws in effect in the territory of the Municipality Township of Low

may be subject to a minor derogation, with the exception of the provisions relating to:

- 1) uses;
- 2) the density of occupancy on the ground, which includes:
 - (a) the number of dwellings per building;
 - (b) the minimum area of a lot for a use in the "Residential" group;
 - (c) the minimum frontage of a lot for a use of the "Habitation" group;
 - (d) the height of a main building of a use in the "Residential" group.

11. IMPORTANCE OF THE "MINOR" CHARACTER OF A MINOR EXEMPTION

The notion of "minor" is important for the Municipality of Low. A minor derogation should make it possible to adjust the dimensions of a building (margins, services required, minimum area of implantation, width of a building, coefficient of footprint, natural area, etc.) or a subdivision (eg, minimum depth in the case of an irregular lot or on an existing street or a lot adjacent to a watercourse) for properties on which a construction project is already possible. Otherwise, the derogation from the zoning and subdivision by-law becomes major and may have the effect of affecting the enjoyment by the owners of neighboring properties of their right of ownership. A derogation is also not a way to avoid the modification of a regulation considered as inadequate. For example, it cannot be generalized for an entire new major subdivision project, which would directly result in an increase in the dwelling density of a sector. In this case, the applicant must file an application for a regulatory amendment, whether by a change to the zoning or subdivision by-law or by the specific project procedure of construction, modification or occupancy of an immovable, if applicable.

A derogation may also make it possible to adjust the standards for setting up a building, landscaping or posting without causing damage to the neighborhood, but the application of which causes prejudice to the owner. Thus, the minor derogation makes it possible to adjust the regulations to the minimum in order to allow the realization of a project or to correct non-conformities resulting from work done in good faith following the issuance of a construction or subdivision permit.

Any request for exemption from environmental protection measures must be accompanied by a comprehensive explanatory document to ensure that the environmental impact of the application is negligible. To obtain such a waiver, an applicant should even provide a proposal to improve the quality of the environment as compensation for the waiver request.

A derogation may also be granted to allow the improvement and maintenance of a building with grandfathering rights. This obviously excludes any form of acquired right relating to a use, since the Act does not allow for a minor derogation regarding uses.

In all cases, a minor derogation is an exceptional measure that should not normally be granted if an applicant can comply with the regulations in force. However, an applicant should have the right to apply for a minor exemption to meet the requirements of the municipal council under the other discretionary planning by-laws. For example, an applicant may, following a refusal, propose to the Municipality a minor derogation to better meet the objectives and criteria of the Site Planning and Architectural Integration By-law.

12. ADMISSIBLE AREAS

An application for a minor variance may be granted in all zones identified in the zoning plan that forms an integral part of Zoning By-law number 02-93 and subsequent number with the exception of an area where the land use is subject to restrictions. particular constraints for reasons of public safety.

13. MANDATORY CONDITIONS

An application for a minor variance may be made in respect of work planned, in progress or already carried out.

Any minor derogation must, in order to be granted, meet the following conditions:

- i. The derogation must meet the concept of "minor" identified in Article 10 of this By-law;
- ii. The application of the provision of the By-law referred to in the application must have the effect of causing serious prejudice to the applicant;
- iii. The derogation must not affect the enjoyment by the owners of neighboring properties of their right of ownership.
- iv. The exemption must respect the objectives of the Master Plan. This includes the general development axes of the master plan, as well as the planning objectives identified in the urban plan.

14. REQUEST FOR WORK IN PROGRESS OR ALREADY EXECUTED

To be eligible, an application for a minor exemption pertaining to work or a cadastral operation in progress or already carried out must meet the following conditions:

- i. The work or the cadastral operation must have been subject, as the case may be, to a building permit, a certificate of authorization or a subdivision permit;
- ii. The work or the cadastral operation must have been performed in good faith;
Where work is in progress or has already been carried out, the request for exemption may not be intended to shield the claimant from the consequences of work performed without having obtained the required or negligently executed authorizations.

15. EVALUATION CRITERIA

The analysis of a request for a minor derogation must be made on the basis of the following criteria:

- i. The application complies with the requirements of sections 9 to 13 inclusive;
- ii. The Applicant has demonstrated, based on the nature of his application, that he is unable to comply with the relevant provision of the By-laws, that it would be particularly difficult for him to do so or that the regulatory provision has an unusual effect on its building or construction.

SECTION 2: PROCEDURES

16. CONTENT OF THE APPLICATION

An application for a minor exemption must be accompanied by the following documents and information:

- i. The contact details (last name, first name, address, telephone number, email address) of the owner and, where applicable, his representative. If applicable, a letter authorizing the agent to act on behalf of the owner of the immovable in question;
- ii. An up-to-date certificate of location prepared by a land surveyor if it is an existing construction;
- iii. A site plan prepared by a land surveyor if it is a planned construction;
- iv. When required for analysis of the application, photos, plans, sketches or details explaining the request;
- v. A document signed by the owner or, where applicable, his agent, stating:
 - a. The details of any derogation that is the subject of the request;
 - b. The identification of the regulatory provision covered by the application;

- c. The reasons why it is impossible or particularly difficult to comply with the regulatory provision referred to or, where appropriate, the nature of the unusual effect which the applicant considers to be the result of the application of the regulatory provision;
- d. The reasons why work in progress or already performed does not comply with the regulatory provision in question;
- e. A demonstration of the existence and nature of the damage caused to the owner of the immovable by the application of the relevant provision;
- f. A demonstration of the fact that the minor derogation does not affect the enjoyment, by the owners of neighboring properties, of their right of ownership;
- g. The payment of all expenses of the request incurred by the Municipality.

17. TRANSMITTING THE APPLICATION TO THE DESIGNATED OFFICIAL

The request for a minor exemption, together with all the information and documents required, must be sent in writing to the designated official.

18. ADDITIONAL INFORMATION

The applicant must provide the designated officer with any additional information required to ensure a proper understanding of the minor exemption request.

19. TRANSMITTING THE FILE TO THE PLANNING ADVISORY COMMITTEE

As of the date on which he has in hand all the information and documents required by this by-law as well as the sum covering all the analysis costs and the publication, the designated officer transmits the file to the advisory planning committee according to the calendar of sessions of the current year.

20. STUDY OF THE REQUEST BY THE COMMITTEE

The planning advisory committee studies the request. After analyzing the request, the Planning Advisory Committee must make its recommendation in writing, taking into account the conditions and criteria set out in this by-law.

If the committee finds or concludes that the application for a minor exemption does not comply with the provisions of sections 9 to 13 inclusive, the committee must reject the application.

The resolution formulating the committee's recommendation is then forwarded to the Board, which must make its decision.

21. PUBLIC NOTICE

The director general of the municipality must, at least 15 days before the meeting at which the council must decide on the minor exemption request, publish, in accordance with the law that governs the municipality, the notice provided for by the municipality; section 145.6 of the Land Use Planning and Development Act (RL.RQ, chapter A-19.1). This notice must indicate:

- i. The date, time and place of the meeting at which the application will be heard by the Council;
- ii. The nature and effects of the requested derogation;
- iii. The designation of the building affects using the traffic lane and address of the building or, failing that, the cadastral number;
- iv. The fact that any interested party can be heard by the board with respect to this application.

22. COUNCIL DECISION

Before making a decision, the Council, or the person it designates, must make the claim for exemption. After hearing from anyone who wishes to speak on the request and having read the recommendation of the Planning Advisory Committee, the Council renders its decision. The Council is not bound by the recommendation of the Planning Advisory Committee. The resolution by which the council renders its decision may prescribe any condition, having regard to the powers of the municipality, to mitigate the impact of the exemption.

A certified copy of the resolution by which the Council has rendered its decision must be sent to the applicant within 15 days of its adoption.

23. ISSUE OF PERMIT OR CERTIFICATE

When the Council Resolution grants the minor variance requested, the public servant may then issue the required building permit, subdivision permit or certificate of authorization, provided that the application complies with the applicant's application, Council conditions provided for in the resolution granting the derogation, as well as all the other provisions of the urban planning by-laws except for the one that was the subject of the minor derogation.

CHAPTER 3

TRANSITIONAL AND FINAL PROVISIONS

24. PENDING APPLICATION

Notwithstanding sections 3 and 4, any application for a minor exemption filed before the coming into force of this By-law remains subject to the requirements of by-law 001-2001 and must be studied in accordance with this by-law.

25. ENTRY INTO FORCE

This By-law shall enter into force after completion of the formalities provided for by law.

Given to the Township of Low this 2nd day of July 2019.

Carole Robert
Mayor

Pierre Gagnon
Director General

Notice of motion: June 18, 2019
Tabling of the draft by-law: June 18, 2019
Adoption of the by-law: July 2, 2019
Entry into force: July 2, 2019

		Yes	No	Abstain	Absent
Carole Robert	Mayor				X
Joanne Mayer	Seat # 1	X			
Maureen Rice	Seat # 2	X			
Anne Bélisle	Seat # 3	X			
Luc Thivierge	Seat # 4	X			
Matthew Orlando	Seat # 5	X			
Ghyslain Robert	Seat # 6			x	

Adopted
