

**Municipality of the Village of North Hatley**

**BY-LAW ON MINOR DEROGATIONS  
MUNICIPALITY OF  
THE VILLAGE OF NORTH HATLEY**

**By-law 2018-607**

**APRIL 2018**

PROVINCE OF QUÉBEC  
MUNICIPALITY OF THE VILLAGE  
OF NORTH HATLEY

BY-LAW 2018-607

NOTICE OF MOTION:

ADOPTION:

COMING INTO EFFECT:

**Amendments included in the said document**

<b>By-law #</b>	<b>Coming into effect</b>
2018-607	XXX-XX-XXXX

**CHAPTER 1 DECLARATORY, ADMINISTRATIVE AND INTERPRATIVE PROVISIONS**

**SECTION 1: DECLARATORY PROVISIONS**

**1. TITLE OF THE BY-LAW**

This by-law is entitled “By-law on minor derogations for the Municipality of the Village of North Hatley”.

**2. VALIDITY**

Council is adopting the present by-law in whole as well as chapter by chapter, section by section, article by article, paragraph by paragraph, sub-paragraph by sub-paragraph. If a chapter, section, article, paragraph or sub-paragraph of this by-law were to be declared null and void by an authorized body, the remainder of the by-law will remain in effect insofar as this is possible.

**3. SCOPE OF APPLICATION**

This by-law governs the method of presentation and procedure for analysis of a request for minor derogation, the provisions of the Zoning and Subdivision By-laws that may be the object of a request for minor derogation and covers the requirements and decision aspects of such a request. All requests for minor derogation must be submitted for analysis in accordance with the present by-law.

## **SECTION 2: INTERPRATIVE AND ADMINISTRATIVE PROVISIONS**

### **4. TERMINOLOGY**

For the purpose of interpreting this by-law, unless the context indicates otherwise, any word or expression has the meaning and the significance attributed to it under Zoning By-law 2001-432. If a word or expression is not specifically defined in the annex, it is used in its commonly attributed dictionary meaning.

CCUP: designates the Town Planning and Heritage Committee mandated by municipal Council to give their opinion by virtue of the law on urbanism, town planning and heritage protection.

Designated official: mandated by Council resolution, the designated official is responsible for the issuance of permits, for inspections, for subdivisions, construction projects, waterways, shorelines, etc.

Council: designates the municipal Council for the Municipality of the Village of North Hatley

### **5. ADMINISTRATION AND APPLICATION OF THE BY-LAW**

The administration and application of the present by-law are entrusted to a person nominated as the designated official by municipal Council resolution.

### **6. COMPETENT AUTHORITY**

Application, oversight and monitoring of the present by-law fall to the designated official. Representatives with the same powers and duties are designated by resolution of municipal Council. The designated official and her or his authorized representatives as such constitute the competent authority. In the present by-law, the use of the expression “designated official” is equal in use to the expression “competent authority”.

### **7. POWERS AND DUTIES OF THE DESIGNATED OFFICIAL**

The powers and duties of the designated official are defined in the permits and certificates by-law 2001-435.

## **CHAPTER 2 PROVISIONS RELATIVE TO SUBMITTING A REQUEST AND PROCEDURES FOR ANALYSIS**

### **SECTION 1: PRECONDITIONS TO A REQUEST**

#### **8. ADMISSIBLE REQUESTS**

All provisions of the zoning and subdivision by-laws in force on the territory of the Municipality of the Village of North Hatley can lead to a minor exemption, except for provisions relative to:

- 1° land use;
- 2° land occupation density, that is to say the number of buildings and inhabitants located within a given sector;
- 3° reasons of public security.

#### **9. ADMISSIBLE ZONES**

A request for minor derogation can be granted for all zones identified within the zoning plan that forms an integral part of Zoning By-law 2001-432.

#### **10. CONDITIONS UNDER WHICH A MINOR DEROGATION MAY BE GRANTED**

In order to be granted, a minor derogation must meet the following conditions:

- ° the application of the by-law provision related to the request must as such result in a serious prejudice to the applicant.
- 2° the derogation must not hinder the owners of neighbouring properties in the enjoyment of their right of ownership.
- 3° the derogation must respect the goals of the urban plan of the Municipality of the Village of North Hatley,
- 4° a derogation can be granted for work projects either in progress or already completed, if the work projects were carried out with a construction permit and in good faith.

## SECTION 2: PROCEDURE

### 11. REQUEST AND DOCUMENTS

A request for minor derogation must include the following documents and information:

- 1° The name, surname, address, phone number, electronic address of the owner or, as the case may be, of the mandated applicant. As the case may be, a letter is required authorizing the mandated applicant to act on behalf of the owner for the building in question.
- 2° A valid certificate of location prepared by a land surveyor in the case of an existing structure;
- 3° A site plan prepared by a land surveyor in the case of a proposed construction project;
- 4° If required for analysis of a request, photographs, plans, sketches or further details explaining the request;
- 5° A document signed by either the owner or, as the case may be, the mandated applicant, outlining:
  - a) all details regarding the derogation that is the object of the request;
  - b) identification of the regulatory provision at issue in the request;
  - c) reasons why it is impossible to comply with the regulatory provision at issue;
  - d) reasons explaining why the ongoing or completed work is not in compliance with the regulatory provision at issue;
  - e) illustration of the existence and nature of the prejudice caused to the owner of the structure through the application of the provision in question;
  - f) illustration of the fact that the minor derogation does not hinder the owners of neighbouring properties in the enjoyment of their right of ownership.
- 6° Payment of fees for analysis as required by virtue of the By-law on tariffs of the Municipality of the Village of North Hatley. The fees are non-refundable, whatever the outcome of the request.

## **12. TRANSMITTAL OF THE REQUEST TO THE DESIGNATED OFFICIAL**

The request for minor derogation, including all information and documents required, must be submitted in writing to the designated official.

## **13. ADDITIONAL INFORMATION**

The applicant must provide the designated official with all additional information required to assure a complete understanding of the request for minor derogation.

## **14. TRANSMITTAL OF THE FILE TO THE PLANNING AND HERITAGE ADVISORY COMMITTEE**

From the date when the designated official has in hand all information and documents required under the present by-law as well as the fees covering the analysis of the request, the designated official transmits the file to the Planning and Heritage Advisory Committee (CCUP) based on the meeting schedule for the current year.

## **15. ANALYSIS OF THE REQUEST BY THE COMMITTEE**

The CCUP undertakes the analysis. Following an analysis of the request, the CCUP must submit its recommendation in writing and in consideration of the conditions and stipulations of the present by-law.

The recommendation formulated by the CCUP is transmitted to Council who must then render a decision.

## **16. PUBLIC NOTICE**

The Secretary-Treasurer of the Municipality must, within at least 15 days before the next scheduled meeting when Council must render a decision on the minor derogation, publish, in accordance with the municipal code, the notice under article 145.6 of the *Loi sur l'aménagement et l'urbanisme (R.L.R.Q., c. A-19.1)*. The notice must indicate:

- 1° the date, time and location of the meeting at which the request will be heard by Council;
- 2° the nature and consequences of the requested derogation;
- 3° the designation of the building in question, by indicating the street name, the civic number of the building, or the cadastral number;
- 4° the fact that any interested person will be heard by Council regarding the request.

**17. COUNCIL DECISION**

Council renders its decision following the recommendation of the CCUP advisory committee. Council is not bound by the CCUP recommendation. The resolution by which Council renders its decision can set out all related conditions, with regard to municipal jurisdiction, for the purpose of reducing the impact of the derogation.

A certified copy of the resolution by which Council rendered its decision must be transmitted to the applicant.

**18. ISSUANCE OF THE PERMIT OR CERTIFICATE**

Following the resolution by Council granting the requested minor derogation, the authorized official can then issue the building permit, the subdivision permit or the authorization permit required, provided that the request is in compliance with the request submitted by the applicant, with the conditions set out by Council in the resolution granting the derogation, as well as be in compliance with all other provisions under the urban by-laws other than that which is the object of the minor derogation.

**19. REGISTER OF MINOR DEROGATIONS**

The nature of the request for minor derogation and the related Council decision are entered by the secretary of the committee into the register provided for this purpose.



**CHAPTER 3 COMING INTO FORCE**

**20. COMING INTO FORCE**

This By-law shall come into force according to law.

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Michael Page  
Mayor

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Daniel Décary  
Director General and Secretary-Treasurer

NOTICE OF MOTION :  
NOTICE OF PRESENTATION:  
ADOPTION :  
PUBLICATION :