



Bienvenue à
Baie-D'Urfe!

**BY-LAW ON MINOR
EXEMPTIONS**

NO. 1115

PROVINCE OF QUEBEC
TOWN OF BAIE-D'URFÉ

BY-LAW NO. 1115

BY-LAW ON MINOR EXCEPTIONS

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THE MUNICIPAL COUNCIL DECREES AS FOLLOWS:

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CHAPTER 1. : DECLARATORY, INTERPRETIVE AND ADMINISTRATIVE PROVISIONS

Division 1.1 : Declaratory provisions

1.1.1 : Title of the by-law

This By-Law bears the title of "*By-Law on Minor Exemptions*" and the number 1115.

1.1.2 : Replacement

This By-Law replaces by-law number 961, entitled "*By-Law on Minor Exemptions of the Town of Baie-d'Urfé*," as modified by all its amendments as well as any other incompatible provision of another by-law in effect.

The replacement of by-laws has no effect on acquired rights, committed offences, penalties incurred and instituted proceedings; acquired rights may be exercised, offences may be prosecuted, penalties may be imposed and proceedings may be continued, irrespective of the replacement.

1.1.3 : Territory and persons subject to it

This By-Law, whose provisions are enforceable upon natural persons and legal persons of public or private law, applies to the entire territory of the Town of Baie-D'Urfé.

1.1.4 : Object of the by-law

This purpose of this By-Law is to allow any person to submit an application for an exemption from the provisions of the zoning or subdivision by-laws. It allows the Municipal Council, once the Council has received the opinion of the Town Planning Advisory Committee, to evaluate the appropriateness of granting or not granting an exemption on the basis of the evaluation criteria set out in this By-Law and to subject said exemption to the conditions that it sets in the interest of reducing the impact thereof.

1.1.5 : Compliance with other regulations, by-laws or laws

Compliance with this By-Law shall not exempt a person from compliance with any other law or regulation of the provincial or federal government as well as any other applicable municipal by-law to this case.

1.1.6 : References

All references to another by-law contained in this By-Law are open, such that they include any amendment that may be made to any other by-law referred to herein after the by-law has come into force.

1.1.7 : Adoption in parts

The Municipal Council of the Town of Baie-D'Urfé hereby declares that it adopts this By-Law chapter by chapter, division by division and section by section, paragraph by paragraph, and sub-paragraph by sub-paragraph, such that any judgment rendered by a court to the effect that any part hereof is null and void shall have no effect on any other parts of the By-Law, unless the meaning and the scope of the By-Law or one of its provisions is altered or modified thereby.

Division 1.2 : Interpretive provisions

1.2.1 : By-law structure

The numbering method used in this By-Law is the following (when the text of a section does not include numbering for a sub-paragraph or a clause, it is a paragraph):

1. Chapter

1.1 Division

1.1.1 Section

Paragraph

1. Sub-paragraph

a) Clause

1.2.2 : Interpretation

When two (2) standards or provisions in this By-law apply to a use, building, landsite or other object governed by this By-law, the following rules apply:

1. The particular standard or provision shall prevail over the general provision;
2. The more restrictive provision shall prevail.

Unless otherwise indicated by the context, it is agreed that:

1. use of the verb "MUST" or "SHALL" indicates an absolute obligation;
2. use of the verb "MAY" implies an option, except in the expression "MAY NOT," which means "MUST NOT" or "SHALL NOT";
3. the word "WHOEVER" includes any natural or legal person;
4. words importing the male gender shall include the female gender;
5. words importing the singular shall include the plural and vice-versa;
6. the use of verbs in the present tense includes the future.

CHAPTER 1:
DECLARATORY, INTERPRETIVE AND ADMINISTRATIVE PROVISIONS

The table of contents and the titles of the chapters, divisions and sections of this By-Law are given to improve comprehension of the text. In case of contradiction between the text and the title(s) concerned or the table of contents, the text prevails.

The maps, appendices, tables, charts and symbols and any form of expression other than the actual text and content in this By-Law form an integral part hereof for all legal purposes. In case of contradiction between a table, a chart and the text, the data in the table or the chart prevail.

In the event of a discrepancy between the English version and the French version of this By-Law, the French version shall prevail.

The dimensions, areas and other measurements stated in this By-Law are expressed in the international system of units.

1.2.3 : Terminology

Unless specifically indicated otherwise or unless otherwise indicated by the context, expressions, terms and words have the meaning and the application assigned by the *By-Law on the Administration of Town Planning Regulations and on the Issuance of Permits and Certificates*.

Division 1.3 : Administrative provisions

1.3.1 : Administration and application of the by-law

This By-Law is administered and applied by any person referred to hereinafter as “competent authority,” by resolution of the Municipal Council.

1.3.2 : Powers of the competent authority

The powers of the competent authority are stated in the *By-Law on the Administration of Town Planning Regulations and on the Issuance of Permits and Certificates*.

1.3.3 : Compliance of the application

Any application for an exemption shall comply with the provisions of this By-Law.

1.3.4 : Offences and penalties

Whoever violates, tolerates or allows the violation of the provisions of this By-Law commits an offence. The provisions respecting violations and penalties in the event of an offence against this By-Law are set out in the *By-Law on the Administration of Town Planning Regulations and on the Issuance of Permits and Certificates*.

1.3.5 : Civil remedies

In addition to penal remedies, the Town may exercise all civil remedies at its disposal before the courts to ensure that the provisions of this By-Law are observed.

CHAPTER 2. : PROVISIONS RESPECTING THE PROCEDURE

Division 2.1 : Eligibility of an application

2.1.1 : Evaluation of the eligibility of an application for an exemption

The competent authority evaluates whether the application is eligible for the minor exemption procedure based on the provisions of this Division.

If the competent authority concludes that the application is not eligible, it informs the applicant in writing of the grounds for its decision within 60 days of the submission of the application.

2.1.2 : Zoning provisions that may be the subject of a minor exemption application

The regulatory provisions contained in the *Zoning By-Law* may be the subject of an application for a minor exemption, except for regulatory provisions respecting:

1. uses, whether they are principal, accessory or temporary;
2. building density, expressed in terms of dwellings per hectare;
3. the regulatory provisions adopted under sub-paragraphs 16 or 16.1 of the second paragraph of section 113 of Act respecting Land Use and Urban Planning (CQLR, c. A-19.1), i.e. at a place where the land occupation is subject to special restrictions for reasons of public safety or health, environmental protection or general welfare;

2.1.3 : Subdivision provisions that may be the subject of a minor exemption application

The regulatory provisions contained in the *Subdivision By-Law* may be the subject of an application for a minor exemption, except for regulatory provisions respecting:

1. The terms and conditions of the contribution for parks, playgrounds or natural areas
2. the regulatory provisions adopted under sub-paragraphs 4 or 4.1 of the second paragraph of section 115 of the Act respecting Land Use and Urban Planning (CQLR, c. A-19.1), i.e. at a place where the land occupation is subject to special restrictions for reasons of public safety or health, environmental protection or general welfare;

2.1.4 : Specific provisions for an application concerning work in progress or already executed

If an application for a minor exemption is submitted in respect of work in progress or already executed, said work shall have been subject to a permit or a certificate at the time of its execution if the by-law in force at that time required such a permit or certificate to be issued.

2.1.5 : Evaluation criteria for an exemption application

The pre-requisite conditions for the approval of a minor exemption are the following:

1. The application satisfies the conditions listed in sections 2.1.1 to 2.1.4 of this By-Law;
2. Enforcement of the regulatory provisions concerned by the application, or one of said provisions, causes substantial prejudice to the applicant, in the event where the minor exemption is not granted;
3. The application satisfies the land use and urban planning objectives and guidelines of the Town;
4. The minor exemption does not harm the enjoyment of the right of ownership of adjacent immovable owners;
5. The exemption is minor, especially in terms of its quantitative, environmental and architectural impacts;
6. The minor exemption does not result in greater risks to public safety or health or harm to the quality of the environment or general welfare;
7. At a place where the land occupation is subject to special restrictions for reasons of public safety or health, environmental protection or general welfare, the exemption may not be granted in respect of regulatory provisions adopted under sub-paragraphs 16 or 16.1 of the second paragraph of section 113 or sub-paragraphs 4 or 4.1 of the second paragraph of section 115 of the Act respecting Land Use and Urban Planning;
8. In the event where the application is submitted during or after the work, said work shall have been carried out in good faith.

Division 2.2 : Processing an application for a minor exemption

2.2.1 : Submission of the application

The person who applies for a minor exemption shall submit an application in writing on the form provided for that purpose to the competent authority and provide the maps, plans and documents required under this Division.

2.2.2 : Content of the application

The person who applies for a minor exemption shall submit an application in writing on the form provided for that purpose to the competent authority and provide the following maps, plans and documents:

1. The owner's complete contact information (name, address and telephone number);
2. In the event where the application is submitted by a mandatary, a power of attorney from the owner authorizing the mandatary to act on their behalf;
3. The title establishing that the applicant is the owner of the immovable concerned by the application;
4. The description of the lot using a cadastral plan or a certificate of location;
5. A site plan prepared by a land surveyor for a proposed structure;
6. In the case of an application concerning height, the precise measurements of an existing or proposed structure, building or undertaking on the map, plan or scale drawing;
7. Recent photographs, taken in the 30 days preceding the application, of the buildings, structures, undertakings or land concerned by the work as well as the structures located on adjacent lands;
8. The details of any proposed and existing exemption including the reasons why the project may not be carried out in accordance with the prescribed regulation ;
9. The demonstration of the prejudice caused to the applicant;
10. The demonstration that the minor exemption does not harm the enjoyment of the right of ownership of owners of neighbouring immovables.

All other maps, plans or documents required by the competent authority with the goal of understanding the context of the application in order to evaluate compliance with the evaluation criteria stated in this By-Law.

2.2.3 : Power of attorney

If the person applying for the minor exemption is not the owner of the building, structure or lot concerned by the application, said person shall, upon submission of the application, provide a power of attorney signed by the owner, authorizing said person to file an application.

2.2.4 : Application fee

The fee for reviewing and processing a minor exemption application is set at \$4 000. In all cases, this fee is non-refundable. Said fee does not cover the fee charged to issue a permit or certificate, but covers the fee for publishing the public notice.

2.2.5 : Complete application

The application for a minor exemption is considered complete when the application fee has been paid and all required documents, plans and maps have been submitted to the competent authority.

2.2.6 : Payment of municipal taxes

The owner of the landsite shall, as a pre-requisite condition for processing an application for a minor exemption, pay the municipal taxes that are due and unpaid in respect of immovables included in the plan. Furthermore, no application shall be processed when an application contesting the value appraisal is being processed.

2.2.7 : Verification of the application

The competent authority verifies that the application complies with this By-Law. At the request of the competent authority, the applicant must provide all additional information required to properly understand the application.

If the application is deemed non-compliant by the competent authority, he immediately informs the applicant in writing why the procedure is non-compliant and invites the applicant to comply with the requirements. The application is suspended until the applicant has made his application compliant.

2.2.8 : Forwarding the application to the town planning advisory committee

When the application is complete and the competent authority has confirmed that the application is compliant, said application for a minor exemption is forwarded to the Town Planning Advisory Committee for evaluation within a period of 45 days.

The Town Planning Advisory Committee may request additional information or visit the immovable concerned by the application in order to complete the review of the file. In the event where new elements are added by the applicant during the evaluation period, or when professional assessments are required, said period of time may be extended by 90 days.

2.2.9 : Review and recommendation of the town planning advisory committee

The Town Planning Advisory Committee renders its opinion in writing in the form of a recommendation in consideration of the provisions of this By-Law and the circumstances surrounding the application; each application is evaluated on a case-by-case basis without regard to any exemption that may have been granted by the Town previously and said opinion is forwarded to the Municipal Council. If it deems it appropriate, the committee may suggest to the municipal council conditions related to the request for exemption in order to mitigate its impact.

2.2.10 : Public notice

The Town Clerk or the secretary-treasurer shall, at least 15 days before the sitting where the Municipal Council shall render a decision on the application for a minor exemption, publish a notice in accordance with the law that governs the Town.

The notice specifies the date, time and location of the Municipal Council sitting and the nature and effects of the requested exemption. Said notice contains the designation of the immovable concerned using the thoroughfare and building number or, if this information is missing, the cadastral number and mentions that any interested party may be heard by the Municipal Town in relation to the application.

2.2.11 : Decision of the municipal council

The Municipal Council renders its decision at the sitting on the date mentioned in the public notice specified in section 2.2.10, after receiving the recommendation of the Town Planning Advisory Committee, to which the Council is not bound, after evaluating each case independently without regard to any exemption that may have been granted by the Town previously and after hearing any interested person who wishes to be heard in relation to said application.

The resolution by which the Municipal Council renders its decision may set any condition, in consideration of the powers of the Town, with the goal of reducing the impact of the exemption.

CHAPTER 2:
PROVISIONS RESPECTING THE PROCEDURE

A copy of the resolution by which the Municipal Council renders its decision shall be forwarded to the person applying for the minor exemption within 10 business days of the holding of the meeting.

When a minor exemption is granted for a place where the land occupancy is subject to specific restrictions for reasons of public safety and health, environmental protection or general welfare, the Town shall forward a copy of the resolution to the Montreal Urban Agglomeration.

If it deems that the decision authorizing the exemption causes greater risks to public safety or health or harm to the quality of the environment or general welfare, the Montreal Urban Agglomeration council may, within 90 days of the receipt of the copy of the resolution, impose any condition to that effect with the goal of reducing said risk or harm, modify any condition set by the Town Council, or even disallow the decision authorizing the exemption when it is impossible to reduce the risk or harm.

The resolution of the Montreal Urban Agglomeration shall be forwarded to the applicant or, where no such resolution exists, inform the applicant that its decision to grant the exemption has taken effect.

2.2.12 : Coming into effect of the minor exemption

A minor exemption subject to and contemplated by the fourth paragraph of the previous section takes effect:

1. on the date on which the Montreal Urban Agglomeration notifies the Town that it does not intend to avail itself of powers provided in the preceding section;
2. on the effective date of the resolution of the Montreal Urban Agglomeration that imposes or modifies the conditions applicable to the exemption;
3. upon the expiration of the 90-day period provided in the preceding section if the Montreal Urban Agglomeration did not avail itself of the powers granted to it under section 145.7 of the Act respecting Land Use and Development.

2.2.13 : Register of minor exemptions

The application for a minor exemption and the resolution of the Council are entered in the register constituted for that purpose.

2.2.14 : Issuance of the permit or certificate

The permit or certificate may be issued by the competent authority only after a certified copy of the Municipal Council resolution granting the minor exemption has been obtained.

The competent authority issues the permit or certificate if the application complies with the urban planning by-laws in effect, except for the provisions that are subject to the minor exemption and if, as the case may be, the conditions set out in the resolution approving the application are met.

2.2.15 : Nullity of the minor exemption

The minor exemption concerning work that has not started within 12 months of the decision of the Municipal Council is null and void.

Furthermore, when the work is the subject of modifications aimed at making it compliant with the applicable provisions of the urban planning by-laws or that the undertaking, structure or development concerned by the minor exemption has been destroyed, is dangerous or has lost at least 50% of its value resulting from a disaster or another cause, the exemption is null and void.

A false declaration or the submission of erroneous documents with respect to one or more of the provisions of this By-Law renders any resolution, permit or certificate issued under this By-Law and concerning the application for a minor exemption null and void.

2.2.16 : Exclusivity of a minor exemption

When an applicant obtains, in accordance with this By-Law, a minor exemption concerning an immovable, said exemption may not be used for another immovable. Said minor exemption does not authorize exemptions from other provisions of the *Zoning By-Law* or *Subdivision By-Law* that were not specifically the subject of an authorization.

CHAPTER 3. : FINAL PROVISIONS

Division 3.1 : Coming into force

3.1.1 : Effective date

This By-Law comes into force in accordance with the law.

Heidi Ektvedt, Mayor

Marie-Hélène Brunet, Clerk