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**CANADA
PROVINCE OF QUEBEC
MUNICIPALITY OF CAMPBELL'S BAY**

Demolition By-law project number _____

WHEREAS the Quebec provincial government's Bill 69 requires the implementation of a by-law governing the demolition of heritage buildings that applies to the entire municipal territory

CONSIDERING the provisions of Bill 69, An Act to amend the Cultural Heritage Act and other legislative provisions;

CONSIDERING the provisions of the Act respecting land use planning and development (R.S.Q., c. A-19.1), particularly sections 148.0.1 to 148.0.26

WHEREAS the notice of motion of this by-law was duly given at the regular meeting of January 17, 2023 and that the draft by-law was tabled at the regular meeting of February 7, 2023.

ACCORDINGLY,

It is proposed by

AND UNANIMOUSLY RESOLVED

THAT the proposed demolition by-law number 100-2023 ordains and rules as follows

CHAPTER I: DECLARATORY, INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS

1. TITLE OF THE BY-LAW

This by-law shall be known as the Demolition By-law.

2. TERRITORY COVERED

The provisions of this by-law shall apply to all areas within the Municipality of Campbell's Bay.

3. FIELD OF APPLICATION

An applicant for any demolition of a heritage building shall comply with the applicable provisions of this by-law.

The purpose of this by-law is to control the demolition of all or part of a heritage building and to protect a building with heritage value.

4. INTERPRETATIVE PROVISIONS

The interpretive provisions prescribed in the Permits and Certificates By-law form part of this by-law and are deemed to be incorporated herein as if they were set out in full.

5. TERMINOLOGY

The definitions prescribed in the Permits and Certificates By-law form part of this by-law and are deemed to be reproduced herein as if set out in full, unless they are inconsistent, or unless the context indicates otherwise.

Upon coming into force, any change in the terminology of the Permits and Certificates By-law shall apply and be effective as if set out herein in full.

"Committee" means the demolition committee.

"Council" means the City Council of

"Demolition" means the complete or partial dismantling, relocation or destruction of a building.

"heritage immovable" means an immovable cited in accordance with the Cultural Heritage Act (chapter P-9.002), located in a heritage site cited in accordance with that Act or listed in an inventory referred to in the first paragraph of section 120 of that Act.

"dwelling unit" means a dwelling unit as defined in or under the *Housing Administrative Tribunal Act* (chapter T-15.01).

6. POWERS AND DUTIES OF THE DESIGNATED OFFICER

The powers and duties of the designated officer prescribed in the Permits and Certificates By-law are made a part of this by-law and shall have effect as if set out herein.

7. CERTIFICATE OF AUTHORIZATION

A demolition permit issued under this by-law does not exempt the applicant from obtaining a permit or certificate of authorization required by any other by-law.

8. LIMITATION OF THIS BY-LAW

This by-law does not apply to the demolition of a classified heritage immovable and an immovable situated in a classified heritage site in accordance with section 48 of the Cultural Heritage Act (RLRQ, chapter P-9.002).

CHAPTER II: PURPOSES AND STANDARDS

9. TARGETED BUILDINGS

The demolition of any heritage building is prohibited unless the owner has been authorized in accordance with this by-law.

10. BUILDING STANDARDS

The provisions prescribed in the Building By-law are made a part of this by-law and shall be deemed to be reproduced herein in full.

CHAPTER III: DEMOLITION COMMITTEE

11. DEMOLITION COMMITTEE

The Committee shall consist of three (3) members of City Council appointed by Council. An alternate member shall also be appointed to replace one of the three members when the member is unable to attend a meeting of the Committee.

The Board shall appoint a member to act as chairperson of the meetings.

A quorum shall be three (3) members.

The designated officer shall act as secretary to the committee.

12. MANDATE OF THE COMMITTEE MEMBERS

Members shall serve for a term of one (1) year from the date of appointment by resolution. Members shall be eligible for reappointment and shall be automatically renewed unless notice to the contrary is received from the member or a resolution is passed by City Council to that effect.

The mandate of the committee is :

- consider applications for the demolition of a heritage building that are required to be submitted to the committee for review under this by-law;
- to accept or refuse applications for demolition certificates of authorization;
- to set the conditions necessary for the issuance of a certificate of authorization for demolition;
- any other powers conferred by law.

The committee is decision-making and its meetings are open to the public.

CHAPTER IV: APPLICATION FOR AUTHORIZATION TO DEMOLISH A BUILDING

13. REQUIREMENT TO OBTAIN A PERMIT

The complete or partial demolition of a heritage building located within the Municipality of Campbell's Bay is prohibited unless the owner has first obtained a certificate of authorization issued by the appropriate authority.

The issuance of the certificate of authorization is only possible once the demolition request has been submitted to and authorized by the demolition committee.

14. TRANSMISSION OF A REQUEST

An application for authorization to demolish a heritage building must be submitted to the designated officer on the prescribed form and signed by the owner or his or her agent, hereinafter referred to as "the applicant".

15. CONTENT OF AN APPLICATION

The information requested on the form must be provided by the applicant.

The applicant must, at his/her expense, have the following documents prepared and attached to this form:

- a document identifying the name and contact information of the owner, the owner's agent, the contractor, the engineer, the architect and any other person responsible for the work;
- a copy of any title establishing that the applicant owns the property or a document establishing that the applicant holds an option to purchase the property;
- the power of attorney given by the owner establishing the authority of any person authorized to act on the owner's behalf, if applicable;
- A letter outlining and justifying the reasons for the demolition request, clearly stating why the applicant wants to demolish the building rather than retain or restore it, and why the required maintenance work has not been done;
- statements or invoices showing that the building to be demolished is adequately heated and maintained
- photographs of the interior and exterior of the building;
- photographs of the land where the building is located;
- a detailed description of the condition of the building to be demolished (e.g. physical

condition, description of architectural components, identification of deficient elements);

- a plan showing the location and layout of the building;
- an assessment report, prepared by a certified appraiser, of the physical deterioration by age of the building to be demolished;
- a heritage study conducted by an expert in the field.
- a complete expert report prepared by a professional within the meaning of section 1 of the Professional Code (chapter C-26) whose order governs the practice of the professional activity referred to in this section, including the identification and description of the condition of the immovable and all its components and systems, the failures and the corrective work to be done;
- demolition schedules;
- description of demolition methods and equipment and materials disposal;
- in the case of a building containing one or more dwelling units, a statement by the owner that each tenant has been notified, in writing, by registered or certified mail, of the owner's intention to obtain demolition approval from the committee;
- in the case of a building with one or more dwellings, the conditions for rehousing the tenants;

16. APPLICATION REVIEW FEE

The applicant shall pay, at the time of application, as an application fee, the amount prescribed in By-law Number 51-03 respecting fees for permits and certificates of the Planning Department of the Municipality of Campbell's Bay and amendments thereto.

This amount is payable to the Municipality and is non-refundable.

No certificate of authorization shall be issued unless the cost thereof is paid by the applicant.

Following an unfavorable notice, the applicant may also withdraw the application. The written request for withdrawal must be signed and filed with the designated official within 45 days of the adverse notice.

CHAPTER V: REVIEW OF THE APPLICATION FOR AUTHORIZATION

17. TRANSMISSION OF THE REQUEST TO THE COMMITTEE

The designated officer will review the application and verify that all required information and documentation has been provided.

When the application is complete and the fees have been paid, it is forwarded to the committee for review and decision.

If the information and documents are incomplete or unclear, the application is suspended until the required information and documents are provided by the applicant.

18. LAPSE OF THE APPLICATION

The application for authorization shall lapse if the applicant has not filed all the required documents and information within three (3) months from the filing of the application.

Where an application for authorization has lapsed, the applicant shall again pay the cost of an application. If the applicant fails to do so within thirty (30) days after the expiration of the time limit, the applicant is deemed to have withdrawn the application.

19. PUBLIC NOTICE AND POSTING

When the application for authorization is complete and the required fees are paid, a notice shall be :

- published without delay;
- visibly displayed to passers-by on the building concerned.

Such notices shall state the day, time and purpose of the meeting of the committee at which the demolition of the building is to be decided and shall reproduce the wording of the first paragraph of section 26.

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

20. OPPOSITION

Any person who wishes to object to the demolition must, within 10 days of the publication of the public notice or, failing that, within 10 days of the posting of the notice on the building concerned, make known in writing his or her reasoned objection to the clerk or the clerk-treasurer of the Municipality, as the case may be

The designated officer shall forward to the applicant, as soon as practicable and prior to the commencement of the committee's study, a copy of any written objection received pursuant to section 148.0.7 of the Community Planning Act.

21. CONSULTATION WITH THE LOCAL HERITAGE COUNCIL, THE URBAN PLANNING ADVISORY COMMITTEE AND EXTERNAL ADVICE

The committee must consult the local heritage council established under section 154 of the Cultural Heritage Act before making its decision. If there is no local heritage council, the committee must consult the planning advisory committee established under section 146 of the Act respecting land use planning and development before making its decision.

The demolition committee may also use external specialists and even, when the situation requires it, call upon a group of specialists in the course of its work.

22. HOW A PUBLIC HEARING IS CONDUCTED

The public hearing is conducted according to the following procedure:

1° the applicant first explains his request;

(2) any other person is then entitled to be heard and may be represented for that purpose. The order of intervention is as follows:

- any person who has filed a timely written objection in the chronological order of receipt of such objection;
- any other person.

(3) at the end of the interventions, the applicant has the right of reply.

23. INTERVENTION TO OBTAIN A DELAY

Where the immovable in respect of which the application is made includes one or more dwelling units, a person who wishes to acquire the immovable in order to maintain its residential rental character may, until such time as the committee has rendered its decision, intervene in writing with the clerk-treasurer of the Municipality to request a delay in order to undertake or pursue steps to acquire the immovable.

Such an intervention may also be made by a person who wishes to acquire a heritage building that is the subject of an application for demolition authorization in order to preserve its heritage character.

If the committee considers that the circumstances justify it, it shall postpone the pronouncement of its decision and grant the intervener a period of no more than two (2) months from the end of the session to allow for negotiations to be completed. The Committee may postpone its decision for this reason only once.

CHAPTER VI: COMMITTEE DECISION ON APPLICATION

24. EVALUATION CRITERIA

Before making its decision, the committee shall:

- consider the heritage value of the building and, if applicable, its recognition status under the Cultural Heritage Act (RLRQ, chapter P-9.002);
- Consider the history of the building, its contribution to local history, its degree of authenticity and integrity, its representation of a particular architectural style, and its contribution to a grouping to be preserved;
- consider, among other things, the following:
 - the condition of the property to which the application relates;
 - the deterioration of the quality of life of the neighborhood;
 - the impact of the loss of a heritage building in its environment;
 - the cost of catering;
 - where the building contains one or more dwelling units, the harm to tenants and the effect on housing needs in the surrounding area;
- consider, if necessary, the objections received.

25. DECISION OF THE COMMITTEE AND TRANSMISSION

The committee grants or denies the request for authorization.

The committee's decision must be substantiated.

The designated officer shall forward a copy of the committee's decision without delay to any party involved, by registered mail. The decision shall be accompanied by a notice that explains the applicable rules under section 34 regarding the appeal process.

26. CONDITIONS FOR AUTHORIZATION OF THE APPLICATION

When the committee grants permission, it may impose any conditions relating to the demolition.

It may include, but is not limited to:

- set the time period within which the demolition work must be undertaken and completed;

-
- require the owner to provide the appropriate authority, prior to the issuance of a certificate of authorization, with monetary security for compliance with any conditions imposed by the committee;
 - determine the conditions for the relocation of a tenant, when the building includes one or more dwellings.

27. MONETARY GUARANTEE

If the committee imposes one or more conditions relating to the demolition of the immovable, when granting a demolition authorization, it may require the applicant to provide the Municipality, prior to the issuance of the certificate of authorization, with a monetary guarantee to ensure compliance with these conditions. The amount of the monetary guarantee may not exceed the value entered on the real estate assessment roll of the building to be demolished.

Such monetary guarantee shall be provided by means of a certified check, cash deposit, or an unconditional irrevocable bank letter of guarantee for a minimum of one year. Such guarantee shall be renewed prior to its expiration, if any, so long as the applicant has not complied with all conditions imposed by the committee. It shall be repaid, if applicable, without interest.

An amount equal to 90% of the monetary guarantee required by the committee may, however, be returned to the applicant when the conditions imposed by the committee have been met.

When the work undertaken is not completed within the set timeframe or when the conditions imposed by the committee have not been met, the Municipality may cash in the monetary guarantee.

CHAPTER VII: APPEAL OF THE COMMITTEE'S DECISION

28. REVISION PROCEDURE

A review of a decision of the Committee before Council shall be made by filing with the Clerk-Treasurer, within thirty (30) days of the decision, a written and signed notice setting out the reasons for the decision.

As soon as possible, the board shall set a date for the hearing of such request for review. It must be after the next 20^e day.

The clerk-treasurer shall give notice of the hearing to the applicant and to any person who has filed an appeal. The Clerk-Treasurer shall also forward the application for review to the applicant, if not the appellant.

If the appellant is the applicant, the hearing shall be conducted in accordance with section 22 with the necessary adaptations. If the appellant is not the applicant, the board shall decide the order of the interventions, but the applicant shall have the right to intervene last.

Council may, on its own motion, within thirty (30) days of a decision of the Committee authorizing the demolition of a heritage building, pass a resolution expressing its intention to review that decision.

29. COUNCIL DECISION

Council may confirm the decision of the Committee or make any decision that the Committee should have made.

Any member of Council, including a member of the Committee, may sit on the Board to review a decision of the Committee.

Council's decision must be reasoned.

30. TRANSMISSION OF THE BOARD'S DECISION

The clerk-treasurer shall forward a certified copy of Council's decision to the applicant and to any person who filed the application for review.

CHAPTER VIII: DISALLOWANCE PROCEDURE

31. NOTICE TO THE REGIONAL COUNTY MUNICIPALITY

Where the Committee authorizes the demolition of a heritage building and its decision is not reviewed pursuant to section 28 of this by-law, notice of its decision shall be given to the Regional County Municipality of Pontiac without delay. Notice of the decision of Council to review a decision of the Committee, where Council authorizes such demolition, shall also be given to the Regional County Municipality of Pontiac without delay.

The notice shall be accompanied by copies of all documents produced by the applicant.

32. POWER OF DISALLOWANCE

The council of the Regional County Municipality of Pontiac may, within 90 days of receiving the notice, disallow the decision of the committee or council. If the regional county municipality has a local heritage council within the meaning of section 117 of the Cultural Heritage Act (chapter P- 9.002), the council may consult the council before exercising its power of disallowance.

A resolution passed by the regional county municipality under the first paragraph shall state the reasons for the resolution and a copy shall be sent without delay to the municipality and to any party involved, by registered or certified mail.

33. TIME LIMIT FOR ISSUING THE CERTIFICATE

No certificate of authorization for demolition shall be issued by the competent authority before the expiry of the 30 day period provided for in section 28 of this by-law.

Where there is a review pursuant to section 28 of this by-law, no certificate of authorization for demolition shall be issued by the appropriate authority until Council has rendered a decision authorizing the issuance of such certificate of authorization.

Where Chapter VIII regarding disallowance procedure applies, no certificate of authorization for demolition may be issued before the earliest of the following dates:

- the date on which the Regional County Municipality of Pontiac notifies the Municipality that it does not intend to avail itself of the power of disallowance provided for in section 32 of this by-law;
- At the expiration of the 90-day period provided for in Section 32 of these regulations.

34. MODIFICATION OF CONDITIONS FOR AUTHORIZATION OF THE APPLICATION

Conditions for the demolition of a building may be amended by the committee at the request of the owner.

The time within which the demolition work is to be commenced and completed may also be varied by the committee on reasonable grounds, provided that application is made to the committee prior to the expiration of such time.

Any request for a major change in the conditions of the application authorization is treated as a new application.

35. TRANSFER TO A THIRD PARTY

Where the immovable is transferred, in whole or in part, to a third party before the work is fully completed, the new purchaser may not proceed with the work until he or she has obtained, in accordance with the provisions of this by-law and the permit and certificate by-law in force, a new certificate of authorization for demolition.

Where the immovable is transferred, in whole or in part, to a third party, either during the work or after completion of the work, the person who provided the Municipality with the required monetary guarantee shall continue to be subject to the obligation to maintain it in force until the conditions imposed by the Committee are met, unless the new purchaser provides the new monetary guarantee required by the Committee, which must comply with section 27 of this by-law.

When the building is transferred, in whole or in part, to a third party, the Municipality may collect the monetary guarantee, which had been provided by the seller, if the new purchaser does not carry out the work undertaken or does not meet the conditions imposed by the committee.

CHAPTER IX: PENALTIES, SANCTIONS AND REMEDIES

36. DEMOLITION WITHOUT AUTHORIZATION OR NON-COMPLIANCE WITH AUTHORIZATION CONDITIONS

Any person who demolishes or causes to be demolished any building without the authorization of the committee or contrary to the conditions of authorization is liable to a fine of not less than \$10,000 and not more than \$250,000.

However, the maximum fine is \$1,140,000 in the case of the demolition, by a legal person, of an immovable cited in accordance with the Cultural Heritage Act (R.S.Q., chapter P-9.002) or located in a heritage site cited in accordance with that Act.

37. ENTRAVE

An official or employee of the Municipality, designated by Council, may enter the premises where the work is being carried out, at any reasonable time, in order to verify that the demolition complies with the authorization. Upon request, the officer of the Municipality shall identify himself or herself and exhibit the certificate issued by the Municipality attesting to his or her status.

At all times during the performance of the demolition work, a person in authority on the premises shall have a copy of the certificate of authorization.

Any person who prevents an employee of the Municipality from entering the premises where the demolition work is being carried out in order to verify that the demolition is in conformity with the decision of the committee, or if the person in authority responsible for carrying out the demolition work who refuses to produce a copy of the certificate of authorization when requested to do so by an employee of the Municipality, is liable to a fine of not less than \$500 and not more than \$1,000 in the case of a natural person, and not less than \$1,000 and not more than \$2,000 in the case of a corporation.

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

38. RECONSTRUCTION OF THE BUILDING

In addition to any fines that the offender may be ordered to pay under the preceding sections, the offender shall restore the building so demolished. If the offender fails to restore the building in accordance with this by-law, the council may cause the work to be done and recover the costs from the offender.

These costs constitute a prior claim on the land on which the immovable was located, in the same way and with the same rank as the claims referred to in

paragraph 5 of article 2651 of the Civil Code of Quebec; these costs are secured by a legal hypothec on this land.

39. REVOCATION OF CERTIFICATE OF AUTHORIZATION

A certificate of authorization is revoked if any of the following conditions are met:

- the work has not started or is not completed within the time frame established by the committee;
- the by-laws and statements made in the application are not complied with;
- erroneous documentation with respect to any of the provisions of this by-law has been filed;
- the conditions imposed on the issuance of the Certificate of Approval are not met by the applicant.

40. SEPARATE OFFENCE

If an offence lasts more than one day, the offence committed on each day is a separate offence and the penalties for each offence may be imposed for each day that the offence continues.

41. EXPENSES INCURRED

Any expenses incurred by the Municipality as a result of non-compliance with any of the articles of this by-law shall be borne entirely by the offenders.

42. CIVIL RECOURSE

A criminal prosecution of an offender is without prejudice or limitation to any other remedy that the Municipality may have against the offender including civil remedies in any court.

CHAPTER X: FINAL PROVISIONS

1. ADOPTION

Council enacts that this by-law be passed as a whole and also chapter by chapter and section by section, so that if any chapter or section thereof is or should be declared invalid, the remaining provisions of this by-law shall continue to apply.

2. ENTRY INTO FORCE

This by-law shall come into force in accordance with the Act.

SIGNED AT CAMPBELL'S BAY, this 14th day of March 2023.

Tim Ferrigan, Acting Mayor

Sarah Bertrand, Director General