



**MUNICIPALITY OF THE TOWNSHIP OF
WENTWORTH**

CONDITIONAL USES BY-LAW NUMBER 2018-014

The English version is a translation and has no legal value as the French version always takes precedence.

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CHAPTER 1 GENERAL PROVISIONS

SECTION 1.1 –LEGAL PROVISIONS

1. By-Law Title and Number

The title of the present By-Law is the Conditional Uses By-Law whose number is 2018-014.

2. Superseded By-Laws

The present By-Law supersedes and repeals, for all legal purposes, Conditional Uses By-Law Number 104 of the Municipality of the Township of Wentworth and its amendments.

Such replacements and repeals do not modify the penal procedures instituted under the authority of the superseded or repealed By-Laws, which will continue under the authority of said superseded or repealed By-Laws until final judgement and execution.

3. Territory Covered

The present By-Law governs the entire territory under the jurisdiction of the Municipality of the Township of Wentworth.

4. Persons Concerned

The present By-Law concerns all physical and corporate persons.

5. Partial Nullity of the By-Law

In the event that one section, clause or provision would be declared null and void by a recognized tribunal, the validity of all other parts, clauses or provisions would not be questioned.

The Council has adopted this By-Law, article by article, and would have decreed the remainder of the By-Law, even if one section or all of one or numerous articles were null and void.

6. The By-Law and the Laws

No article of this By-Law can exclude a person from the application of a Canada or Quebec Law.

7. Precedence

When a provision of this By-Law is inconsistent with any other municipal By-Law, the most restrictive or prohibitive provision must apply. When provisions of this By-Law are incompatible, the specific provision applies in relation to the general provision.

SECTION 1.2 – ADMINISTRATIVE PROVISIONS

8. Administration and Application of the By-Law

The administration and application of this By-Law shall be entrusted, by resolution of the Municipal Council, to any person hereinafter referred to as a "designated officer".

9. Duties of the Designated Officer

The duties of the designated officer are set out in the Planning Program Administration By-Law.

SECTION 1.3 – INTERPRETIVE PROVISIONS

10. General Rule

The general rules of interpretation of the By-Law are:

- 1) the present tense of a verb includes the future tense;
- 2) the singular includes the plural and vice-versa unless the meaning clearly shows that it is not logical;
- 3) with the use of the word "must", the obligation is absolute; the word "can" has an elective meaning;
- 4) the word "whoever" includes any natural person or corporate person;
- 5) the masculine gender includes the two (2) sexes unless the context shows otherwise.

11. Specific Rule in the event of Contradiction

Unless otherwise indicated, the following specific rules apply in the event of contradiction:

- 1) between two standards or provisions within this By-Law or a Planning By-Law, the most specific or restrictive provision applies;
- 2) between the text and a title, the text has precedence;
- 3) between the text and any other form of expression, the text has precedence;
- 4) between a chart and a graph or sketch, the chart has precedence;
- 5) between the text and a specification grid, the grid has precedence;

6) between the specification grid and the Zoning Plan, the grid has precedence.

12. Unit of Measure

All dimensions given in this By-Law are indicated in metric measure.

13. Terminology

For the purposes of comprehension of all the terms used, reference must be made to the rules of interpretation described in the Zoning By-Law.

CHAPTER 2 TERMS AND PROCEDURES

SECTION 2.1 – TRACKING THE APPLICATION

14. Deposit and Content of the Application

An applicant for a conditional use authorization must submit a written application to the designated officer.

The application must include the following information and documents:

- 1) the surname, given name, telephone number and address of the applicant. If this person does not own the immovable concerned, he must present a power of attorney from said owner specifically mandating him to apply for a conditional use authorization on his behalf;
- 2) a plan indicating the exact lot limits on which the conditional use will be exercised;
- 3) for an existing building, a current location certificate of the property concerned, prepared and signed by a land surveyor;
- 4) for a proposed construction, a site plan of the property concerned, prepared and signed by a land surveyor and illustrating the construction project, indicating the dimensions of each building, the distances between each existing and projected buildings and the lot limits and the distances between each existing and proposed buildings.
- 5) if the applicant acquired the property within the year preceding request, a copy of the title deed for the property concerned;
- 6) a plan showing the location of any main and accessory buildings situated on the property or lots adjacent to the property concerned;
- 7) condition of the property and the proposed development, open spaces and their development, natural areas, traffic lanes, parking facilities, landscape design, storage area for residual materials and its layout, and signs;
- 8) an architectural sketch of any proposed construction or photograph of the existing building, or both if it is an enlargement;
- 9) a description of the use of each room in the building;
- 10) a description of the neighborhood accompanied by photographs.

11) The application may also include a presentation of the reasons why the applicant considers that the request meets the applicable evaluation criteria.

The plans and documents required in this section are in addition to those required in the Planning Administration By-Law, in the case of applications for permits and certificates.

15. Power of Attorney

If the applicant for the conditional use authorization is not the owner of the building, construction or property to which the application relates, he must, at the time of filing the application, submit a power of attorney, signed by the owner, authorizing him to apply.

16. Study Fees

The fees applicable to the study and processing of an application are provided for in the Planning Administration By-Law.

In all cases, these fees are non-refundable.

These fees do not cover the costs for issuing a permit or certificate.

17. Completed Application

The application for authorization of a conditional use is considered complete when the study fees have been paid and all the required documents and plans have been filed with the designated officer.

18. Application Verification

The designated official shall verify the conformity of the application with this By-Law. At the request of the designated officer, the applicant must provide any additional information for a clear understanding of the application.

19. Transmission of the Application to the Planning Advisory Committee

When the application is completed, and the designated officer has verified the conformity of the application, the application for a conditional use authorization is forwarded to the Planning Advisory Committee for evaluation within 60 days.

20. Study and Recommendation of the Planning Advisory Committee

The Planning Advisory Committee writes its opinion in the form of a recommendation, taking into account the provisions of this By-Law, and sends the notice to the Municipal Council.

At the Planning Advisory Committee meeting, members may hear interested persons if they ask the designated officer in advance.

21. Public Notice

The Secretary-Treasurer of the Municipality must, at least 15 days before the meeting at which the Municipal Council must render its decision for a conditional use application, publish a notice in accordance with the act that governs the Municipality. In addition, a poster or sign must be placed in a conspicuous place on the property named in the application.

Publication costs related to the public notice are not included in the fees to study the application: if applicable, they must be paid to the Municipality before the date of the meeting when the Municipal Council makes its decision.

22. Municipal Council Decision

The Municipal Council renders its decision in session on the date mentioned in the public notice, after having received the recommendation of the Planning Advisory Committee and after having heard any interested person who wishes to be heard on this request.

The resolution by which the Municipal Council renders its decision may prescribe any condition, with regard to the jurisdiction of the municipality.

If the Council denies the application filed, the resolution indicates the grounds for refusal.

A copy of the resolution by which the Municipal Council renders its decision must be sent to the applicant of the conditional use authorization application.

23. Permit or Certificate Issue

The permit or certificate may be issued by the designated officer upon receipt of a certified copy of the resolution authorizing conditional use by the Municipal Council.

The designated officer shall issue the permit or certificate if the application complies with the Planning Program By-Laws in force, except those that were the subject of the resolution, and if, as the case may be, the conditions prescribed in the resolution of approval of the application are fulfilled.

24. Lapse of the Conditional Use Authorization

The authorization of a conditional use lapses within twelve (12) months following the decision of the Municipal Council if a permit or certificate authorizing the exercise of the use has not been issued, or if the exercise of the use is not started within the same period, in the absence of an obligation to obtain a permit or a certificate.

25. Conditional Uses Registry

The application for a conditional use authorization and the Council resolution are entered in the register established for this purpose.

CHAPTER 3 CONDITIONAL USES

SECTION 3.1 – TELECOMMUNICATION TOWER AND ANTENNA

26. Zones and Admissible Uses

In all areas of the territory, an application may be filed for the exercise of the "telecommunication tower and antenna" use.

For the purposes of this section, this use includes telecommunication transmission antennae greater than 15 meters in height, their structure and any related infrastructure (road, wiring, accessory building, etc.).

Any project for the extension or modification of buildings and structures attached to a conditional use for telecommunication tower and antenna must be the subject of a new authorization by a resolution of the Council in accordance with this By-Law.

27. Evaluation Criteria

The opportunity to authorize a telecommunication tower and antenna on a property, as a conditional use, is assessed, based on the following criteria:

- 1) the installation of a telecommunication tower and antenna must be necessary to provide coverage primarily for the territory of the Township of Wentworth and the service of its residents. A document prepared by an expert must demonstrate this;
- 2) if alternative measures are possible, they should be preferred to the installation of a new tower or antenna;
- 3) the location of the structure and buildings must allow the conservation of mature trees and ensure the preservation of wooded areas between buildings on the same property and adjacent properties;
- 4) The layout must avoid any backfilling of a wetland for the antenna reception structure or for any related infrastructure (road, wiring, accessory building, etc.);
- 5) A natural and wooded area must be conserved around the property except for the location of the vehicular access to the property, which must be sinuous in order to promote integration with the landscape;
- 6) It is authorized to install or build a single accessory building. The maximum area of this building is 30 square meters and its height must not exceed 4.5 meters;
- 7) the choice of the site for the tower or antenna installation minimizes impacts on neighbouring properties;
- 8) the choice of the site for the installation of the tower or antenna minimizes the impacts on the landscape, particularly in mountainous sectors and landscapes identified in the Planning Program By-Law;

9) the methods chosen for the implementation and construction favour the integration of the structure on the site and minimizes its visual impact;

10) landscaping measures are planned in the vicinity of the structure.

SECTION 3.2 – BED AND BREAKFAST AND RESTAURANT

28. Scope

An application for the exercise of the use "bed and breakfast and restaurant" is eligible in the following areas: RU (rural), NV (village core) and V (country-style living), with the exception of zone V-18.

For the purposes of this section, this use corresponds to a main use where a bed and breakfast and a restaurant are operated, in an accessory manner, in a dwelling.

29. Evaluation Criteria

The desirability of authorizing the main use of "bed and breakfast and restaurant" on property as a conditional use is assessed according to the following criteria:

1) the proposed use must be compatible with and complementary to the surrounding environment;

2) a maximum of two (2) "bed and breakfast and restaurant" uses is authorized per zone, except for zones V (country-style living) where the maximum number is fixed at one (1) use per zone;

3) the project must integrate with the surrounding environment while respecting the exterior appearance of the construction, the layout and occupation of outdoor spaces;

4) the intended use must not affect the architectural integrity of the building. In the case of an enlargement, the work is part of the initial architecture of the building or improves it;

5) activities must be carried out inside the main building;

6) a sufficient number of parking spaces is provided. The parking space is subject to landscaping;

7) The number of seats for the restaurant is limited to twenty (20). The number of bedrooms for the bed and breakfast is limited to five (5);

8) the main building must be more than 25 meters from the lot lines when it is adjacent to a lot whose main use is residential;

9) a single sign with a maximum area of 2 m² is authorized;

10) the property is landscaped, and outdoor lighting is minimized while assuring safety;

11) no outdoor terrace can be built;

12) where applicable, storage areas for waste and recyclable materials are concealed by landscaping;

13) A maximum of three (3) employees, in addition to the occupants, can work there.

CHAPTER 4 FINAL PROVISIONS

SECTION 12.1 – SANCTIONS AND PENALTIES

30. Sanctions

Anyone who contravenes the provisions of this By-Law commits an offense.

An offense under this By-Law renders the offender liable to the following fines (in all cases, the court costs of the lawsuit are extra):

	Physical Person		Corporate Person	
	Minimum	Maximum	Minimum	Maximum
First Fine:	\$300	\$1,000	\$600	\$2,000
Repeat Fine:	\$600	\$2,000	\$1,200	\$4,000

The deadlines for the payment of fines and fees imposed under this By-Law and the consequences of failure to pay such fines and fees within the prescribed time, are established in accordance with the *Code de Procédure pénale du Québec* (RSQ, c. 25.1).

If an offense lasts longer than one day, the offense committed on each day constitutes a separate offense and the penalties imposed for each offense may be imposed for each day that the offense continues, in accordance with this article.

31. Civil Law Recourse

Notwithstanding recourse through penal actions, the Municipality may exercise, before tribunals of jurisdiction, all civil recourse necessary to have the provisions of this By-Law respected, when the Council deems it necessary, or it may exercise all appeals non-concurrently.

32. Penal Actions

Penal sanctions are instituted, for and on behalf of the Municipality, by the person designated for that purpose by a resolution of the Council.

SECTION 12.2 – EFFECTIVE DATE

33. Effective Date

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