



**MUNICIPALITY OF THE TOWNSHIP OF
WENTWORTH**

**PROPOSED MINOR DEROGATIONS BYLAW
NUMBER 2018-012**

August 6, 2018

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CHAPTER 1 GENERAL PROVISIONS

SECTION 1.1 – LEGAL DISPOSITIONS

1. Bylaw Title and Number

This bylaw is titled “Minor Derogations Bylaw Number 2018-012”.

2. Superseded Bylaws

The present bylaw supersedes and repeals, for all legal purposes, Minor Derogation Bylaw Number 94 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Such replacements and repeals do not modify the penal procedures instituted under the authority of the superseded or repealed bylaws, which will continue under the authority of said superseded or repealed bylaws until final judgement and execution.

3. Territory Covered

The present bylaw governs the entire territory under the jurisdiction of the Municipality of the Township of Wentworth.

4. Persons Concerned

The present bylaw concerns all physical and corporate persons.

5. Partial Nullity of the Bylaw

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 bylaw, article by article, and would have decreed the remainder of the bylaw, even if one section or all of one or numerous articles were null and void.

6. The Bylaw and the Laws

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

7. Precedence

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

SECTION 1.2 – ADMINISTRATIVE PROVISIONS

8. Administration and Application of the Bylaw

The administration and application of this bylaw 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 Urban Planning Administration Bylaw.

SECTION 1.3 – INTERPRETIVE PROVISIONS

10. Text and Words

With the exception of the words defined hereinafter, all words used in this bylaw keep their usual signification, also:

- 1) The titles contained in this bylaw are an integral part of it for legal purposes. In the event of a contradiction between said text and titles, the text must have precedence;
- 2) the present tense of a verb includes the future tense;
- 3) the singular includes the plural and vice-versa unless the meaning clearly shows that it is not logical;
- 4) with the use of the word "must", the obligation is absolute; the word "may" has an elective meaning;
- 5) the word "whoever" includes any natural person or corporate person;
- 6) the masculine gender includes the two (2) sexes unless the context shows otherwise.

11. Plans, Charts, Diagrams, Graphs, Symbols, Appendices, Text and Specification Grids

Unless otherwise indicated, plans, charts, diagrams, graphs, symbols, specification grids, appendices and any other form of expression, other than the actual text included or to which it refers, are an integral part of this bylaw.

12 Agreement Between Charts, Plans, Graphs, Symbols, Appendices, Text and Specification Grids

Unless otherwise indicated, in the event of a contradiction:

- 1) between the text and a title, the text has precedence;

- 2) between the text and any other form of expression, the text has precedence;
- 3) between a chart and a graph, the chart has precedence;
- 4) between the text and a specification grid, the grid has precedence;
- 5) between the specification grid and the Zoning Plan, the grid has precedence.

13. Agreement Between General and Specific Provisions

In the event of an inconsistency between two provisions within this bylaw or in this bylaw and another bylaw, the specific provision prevails over the general provision.

14. Unit of Measure

All dimensions given in this bylaw are indicated in metric measure.

15. Terminology

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

CHAPTER 2 TERMS AND PROCEDURES

SECTION 2.1 – ADMISSIBILITY OF THE APPLICATION

16. Provisions Subject to a Minor Derogation

The regulatory provisions contained in the Zoning Bylaw may be the subject of a minor derogation request, with the exception of the regulatory provisions relating to:

- 1) uses;
- 2) the land occupation density, in terms of dwellings per hectare;
- 3) interventions on the shoreline, littoral, wetlands and their protection bands.

The regulatory provisions contained in the Subdivision Bylaw may be the subject of a minor derogation application, with the exception of the regulatory provisions relating to:

- 1) the contribution for purposes of parks, playgrounds or natural areas.

17. Admissible Applications

An application for a minor derogation must be made at the time of the application for a permit or certificate in accordance with the Urban Planning Administration Bylaw and must comply with the provisions of the Zoning, Subdivision and Construction bylaws, not being the subject of the application for a minor derogation.

An application for a minor derogation may also be made in the case where the work is in progress or has already been completed and the applicant has obtained a permit or certificate to do the work and has done so in good faith.

No minor derogation may be requested if the subject of the derogation is located in an area or part of an area where the land use is subject to particular constraints for reasons of public safety.

18. Evaluation Criteria and Admissibility of an Application

The evaluation and eligibility criteria for a minor exemption application are as follows:

- 1) the application respects the objectives of the Urban Planning Bylaw;
- (2) the application of the bylaws referred to in its provisions, or of one of them, has the effect of causing serious prejudice to the applicant if the minor derogation is not granted
- (3) if the request for a minor derogation is granted, it may not be detrimental to the enjoyment, by neighbours, of their property ownership.

SECTION 2.2 – APPLICATION PROCEDURE

19. Deposit and Content of the Application

The minor derogation applicant must submit one copy of the application, in writing.

A minor derogation applicant must submit a written application on the form provided for that purpose to the designated officer and provide the following plans and documents:

- 1) the full contact information of the owner (name, address and telephone number);
- 2) when the application is made by an agent, a power of attorney from the owner authorizing the agent to act on his behalf;
- 3) the deed establishing that the property of the immovable in the application is the property of the applicant;
- 4) a description of the land in the form of a cadastre plan or a certificate of location;
- 5) a certificate of location prepared by a land surveyor for an existing construction;
- 6) a site plan prepared by a land surveyor for a proposed construction;
- (7) in the case of a height request, the precise measurement of the existing building, construction or works prepared by a land surveyor;
- 8) recent photographs, taken within 30 days of the application, of the constructions, buildings, works or property affected by the work and the buildings located on the adjacent properties;
- 9) details of any proposed and existing derogations, including the reasons why the project cannot be completed in accordance with the prescribed bylaws;
- 10) proof of prejudice caused to the applicant;
- 11) the demonstration that the minor derogation is not detrimental to the enjoyment, by the owners of the neighboring buildings, of their right of ownership.

The plans and documents required by this section are in addition to those required by the Urban Planning Administration Bylaw in the case of applications for permits and certificates.

20. Power of Attorney

If the applicant for the minor derogation is not the owner of the building, construction or property to which the application relates, he must, when filing the application, submit a power of attorney, signed by the owner, authorizing him to make an application.

21. Study Fees

The study fees and processing of an application are provided for in the Urban Planning Administration Bylaw.

In all cases, these fees are non-refundable.

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

22. Completed Application

The request for a minor derogation is considered complete when the study fees have been paid and all required documents and plans have been filed with the designated officer.

23. Verification of the Application

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

24. Transmission of the Application to the Planning Advisory Committee

When the application is complete, and the designated officer has verified the conformity of the application, the application for a minor derogation is sent to the Planning Advisory Committee for evaluation within 60 days.

25. Study and Recommendation of the Planning Advisory Committee

The Planning Advisory Committee must, in writing, formulate its opinion in the form of a recommendation, taking into account the provisions of this bylaw, and send 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.

26. Public Notice

The Secretary-Treasurer of the Municipality must, at least 15 days before the meeting at which the Municipal Council must decide on the minor derogation application, publish a notice in accordance with the law that governs the Municipality.

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

The notice shall indicate the date, time and place of the meeting of the Municipal Council and the nature and effects of the requested derogation. This notice contains the designation of the immovable assigned using the circulation lane and the building number or, failing that, the cadastral number and mentions that any interested party may be heard by the Municipal Council with respect to this application.

27. 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 concerning this request.

The resolution rendered by the Municipal Council may include any condition with regard to the jurisdiction of the Municipality, to mitigate the impact of the derogation.

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 minor derogation applicant.

28. Permit or Certificate Issue

The permit or certificate may be issued by the designated officer once he has obtained a certified copy of the resolution granting the minor derogation.

The designated officer must issue the permit or certificate if the application complies with the urban planning bylaws in force, except for those that have been the subject of the minor derogation, and if, as the case may be, the conditions prescribed in the resolution of approval of the application are fulfilled.

29. Lapse of the Minor Derogation

The minor derogation is void for work that has not started within 12 months following the decision of the Municipal Council.

30. Minor Derogation Registry

The request for a minor derogation and the Council resolution are entered in the register established for this purpose.

CHAPTER 3 FINAL PROVISIONS

SECTION 3.1 – SANCTIONS AND PENALTIES

31. Sanctions

Anyone who contravenes the provisions of this bylaw commits an offense.

An offense under this bylaw 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 bylaw 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.

32. 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 bylaw respected, when the Council deems it necessary, or it may exercise all appeals cumulatively.

33. 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

34. Effective Date

The present bylaw comes into force in accordance with the law.