

## **BY-LAW NUMBER 02-02-2022**

### **BY-LAW RESPECTING MINOR EXEMPTIONS TO PLANNING BY-LAWS**

WHEREAS *the municipality of Otter-Lake adopted a Subdivision By-law 033-05-2003 on October 4, 2005, and a Zoning By-law 032-05-2003 on October 4, 2005;*

WHEREAS *under the Act Respecting Land Use Planning and Development (LRQ, ch. A-19.1), the municipality may pass a by-law concerning minor exemptions from the provisions of the Zoning or Subdivision by-laws other than those relating to land use and land occupation density;*

WHEREAS *a Planning Advisory Committee will be constituted in accordance the Act Respecting Land Use Planning and Development (LRQ, c. A-19.1);*

WHEREAS *the by-law respecting minor exemptions to Planning by-laws was tabled by Resolution 34-03-2022 at the March 1, 2022, meeting.*

*It was moved by Councillor Robin Zacharias*

*Ordered and decreed by by-law and the Council as follows:*

#### **1. LEGAL PROVISIONS**

*This by-law is titled "BY-LAW RESPECTING MINOR EXEMPTIONS TO PLANNING BY-LAWS" (Subdivision and Zoning).*

##### **1.1 Effective Date**

*This by-law shall take effect in accordance with the law.*

##### **1.2 Jurisdiction**

*This by-law applies to the entire territory of the municipality.*

##### **1.3 Amendment Procedure**

*In accordance with the provisions of the Act Respecting Land Use Planning and Development (R.S.Q., c. A-19.1), this by-law must be amended or repealed by a by-law approved in accordance with the provisions of this Act.*

#### **2. SCOPE OF BY-LAW**

**2.1** *The Municipal Council may grant a minor exemption.*

**2.2** *A minor exemption may be granted only if the application of the by-law would cause serious prejudice to the person making the request.*

**2.3** *A minor exemption may not be granted if it would interfere with the enjoyment of property rights of neighbouring building owners.*

**2.4** *Only the provisions of the Zoning and Subdivision By-laws may be subject to a minor exemption, **except those relating to land use and density**, and with the exception of minimum standards for structures and works adjacent to a lake or watercourse (Section 4.12 of the Zoning By-law), provisions specific to agricultural activities (Section 4.13 of the Zoning By-law), uses, subdivisions and structures prohibited for reasons of public health, and standards for tree preservation and felling (Chapter 4.6 of the Zoning By-law).*

*Notwithstanding the preceding paragraph, a minor exemption may be requested and granted under the following conditions:*

**2.4.1** *To allow the construction or enlargement of a principal building if, following the establishment of the riparian protection strip, the dimensions of the lot, which must be separate, do not permit the construction or enlargement of such principal building, and the work cannot reasonably be done elsewhere on the lot. However, at least a five (5) metre riparian protection strip must be retained and maintained in its natural state;*

**2.4.2** *To authorize the felling of trees in excess of prescribed standards in the case of stands that are exceptionally degraded or highly vulnerable to natural disturbances. The application for a minor exemption must be accompanied by a forest management plan signed by an engineer who is a member of the Ordre des ingénieurs forestiers du Québec;*

**2.4.3** To authorize an agricultural area of less than one (1) hectare for each one point two (1.2) animal unit, on condition that an agronomic study accompanies the request for minor exemption and demonstrates that the requested minor exemption will not generate more than forty-five (45) kilograms of phosphorus per hectare;

**2.4.4** To authorize the inclusion of spreading grounds for livestock production, even if they are located more than five (5) kilometres from the livestock building, provided that an economic and agronomic study is submitted with the application and demonstrates that the requested minor exemption will not affect the economic profitability of the production in question, and provided that the livestock building and spreading grounds are located within the municipality's territory.

**2.5** "The provisions relating to flood zones may be the subject of an exemption in accordance with the conditions and criteria enacted in the Regional County Municipality of Pontiac's Interim Control By-law relating to Flood Zones number 231-2016, applicable to the territory of the municipality, provided that the application for an exemption complies with the other provisions of this by-law."

**2.6** The application for a minor exemption must comply with all provisions of the Administrative and Construction By-laws, as well as the Subdivision and Zoning By-laws that do not apply to a minor exemption.

**2.7** A minor exemption to the Zoning and Subdivision By-laws must comply with the objectives of the Planning Program.

### **3. SITUATIONS APPLICABLE TO MINOR EXEMPTION REQUESTS**

An application for a minor exemption may be made at the same time as an application for a permit or certificate.

A minor exemption may also be granted **in extraordinary circumstances** for work in progress or completed, **provided that such work was the subject of a building permit or authorization and was carried out in good faith.**

### **4. MINOR EXEMPTION APPLICANT PROCEDURES**

Any person requesting a minor exemption related to any of the specific provisions listed in Section 2 of this by-law **must**:

- apply in writing by completing the "Application for a Minor Exemption to the Zoning By-law" form;
- provide the property title that proves that the applicant is the owner of the property in question;
- in the case of a minor exemption relating to setbacks and subdivision, provide a plan of the property and, if applicable, the proposed or existing building, which plan must be prepared and signed by a land surveyor;
- pay a two-hundred-dollar (\$200.00) application review fee at the time the minor exemption application is submitted. These fees are non-refundable by the municipality, regardless of the municipality's response;
- Pay (cover) the publication costs of one hundred dollars (\$100.00) for the public notice provided for in Article 5.6. These publication fees are not refundable by the municipality, regardless of the municipality's response. Furthermore, after the building inspector has reviewed the contents of the application, the applicant must provide any additional information requested by the inspector.

### **5. ADMINISTRATIVE PROCEDURES**

The process for requesting a minor exemption is as follows:

**5.1** The applicant wishing to request a minor exemption must:

- Submit an application using the appropriate form;
- Pay application review fees;
- Pay publication fees.

**5.2** The request is sent to the building inspector who reviews the application to ensure it includes all required plans and documents according to the By-law for the Issuance of Permits and Certificates. In addition, the inspector verifies that the application complies with the provisions of the Building By-law and the Zoning and Subdivision By-laws not covered by the minor exemption application, and assesses the application for a minor exemption against set criteria to determine admissibility.

- 5.3 *The building inspector sends the application to the Planning Advisory Committee. If the application was previously subject to a permit or certificate application, the relevant documents must also be sent to the committee.*
- 5.4 *The Planning Advisory Committee reviews the application and may request further information from the building inspector or applicant to complete its review. The Committee may also visit the property that is the subject of a minor exemption request, after notifying the applicant.*
- 5.5 *The Planning Advisory Committee submits a written opinion to the Municipal Council, taking into account the criteria set forth in Article 2 of this by-law. The opinion should specify the factors that explain the Committee's decision.*
- 5.6 *The secretary-treasurer in conjunction with the Council shall set the date of the council meeting at which the minor exemption application will be considered, and shall publish a notice at least fifteen (15) days prior to the meeting in accordance with the provisions of Article 445 of the Municipal Code. Furthermore, the notice must include the following elements as required by section 145.6 of the Act respecting Land Use Planning and Development:*
- *The date, time, and place of the council meeting;*
  - *The nature and consequences of the requested minor exemption;*
  - *The designation of the property affected by the request;*
  - *A statement specifying that any interested person may be heard by the Council.*
- 5.7 *The Council shall then render its decision after having received the advice of the Planning Advisory Committee and after having heard any interested parties at the consultation session.*
- 5.8 *If the Municipal Council accepts the application for a minor exemption, the secretary-treasurer sends a resolution granting the exemption to the building inspector, who shall issue the permit or certificate upon payment of the fee outlined in the By-law for the Issuance of Permits and Certificates. If the application is refused, the applicant will be sent a copy of the resolution stating the reasons for the refusal.*
- 5.9 *A copy of the resolution by which the Council rendered its decision shall be sent to the **person who requested the exemption.***

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TERRY LAFLEUR  
MAYOR

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ANDREA LAFLEUR  
DIRECTOR GENERAL  
SECRETARY-TREASURER

Notice of Motion: February 1, 2022,  
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