

**BY-LAW 2009-06  
CONCERNING CONSTRUCTION**

**(The Building By-law)**

**VILLAGE  
OF AYER'S CLIFF**



**l'Esprit des Cantons  
the Spirit of the Townships**

**September 2009**

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**PROVINCE DE QUÉBEC  
M.R.C. MEMPHRÉMAGOG  
VILLAGE D'AYER'S CLIFF**

**BUILDING BY-LAW**

At a regular meeting of the municipal council held at École Saint-Barthélemy on September 8, 2009, in accordance with the law, at which are present councillors Patrick Proulx, Roger Dumouchel, Isabel Marcotte and France Coulombe-Goodsell, forming a quorum under the chairmanship of the Mayor Vincent Gérin.

**BY-LAW 2009-06**

**WHEREAS** the Municipality has the power, by virtue of the law, to adopt, modify or repeal a by-law respecting construction on its territory;

**WHEREAS** the regional land use and development plan (the Schéma) is being revised and a document dealing with the objectives of the revision has been produced;

**WHEREAS** it is timely to redraft the by-law governing construction in the context of the review of the Planning Program;

**WHEREAS** the applicable adoption procedure has been duly followed;

**FOR THESE REASONS**, the council decrees as follows:

## CHAPTER I

### DECLARATORY AND INTERPRETIVE PROVISIONS

#### Section I: Declaratory provisions

	<b>TITLE</b>	<b>1</b>
<p>This by-law is entitled the "By-law concerning construction" or the "Building By-law".</p>		
	<b>TERRITORY COVERED</b>	<b>2</b>
<p>This by-law applies to the entire territory of the Municipality of the Village of Ayer's Cliff.</p>		
	<b>REPEAL OF EARLIER BY-LAWS</b>	<b>3</b>
<p>Any provision in earlier municipal by-laws that is incompatible with this by-law is repealed by this by-law.</p> <p>Without limiting the generality of the preceding, this by-law repeals and replaces by-law 98-010 and its amendments.</p>		
	<b>PRIMACY OF APPLICATION</b>	<b>4</b>
<p>In the event of incompatibility among them, the by-laws and codes are applied in the following order of precedence: the Zoning By-law, the Building By-law and the codes.</p>		

## Section II: Interpretive provisions

### SYSTEM OF MEASUREMENT 5

The dimensions given in this by-law are in the International System (IS).

### TERMINOLOGY 6

The words and expressions used in this by-law have the meaning given to them according to the following order of precedence:

- (1) This by-law;
- (2) The Zoning By-law;
- (3) The Quebec construction code;
- (4) The Subdivision By-law;
- (5) The Permits and Certificates By-law;
- (6) The by-law respecting Conditions for issuing building permits.

### INTERPRETING THE TABLES 7

The tables, graphic diagrams, symbols and all forms of expression other than the text itself contained in this by-law or to which it refers, form an integral part of it, for all legal purposes. In the case of contradiction between the text and the tables, diagrams, graphic elements, symbols or other forms of expression, the text prevails.

### SPECIFIC DEFINITIONS 8

Unless the context indicates a different meaning, the following terms are understood to mean:

**« Code de construction du Québec » - The Quebec construction code:** The meaning given to it in article 21.

**« Établissement commercial » - Commercial establishment:** A building, or part of a building, used for display or sale of retail merchandise or commodities;

« *Établissement d'affaires* » - *Business premises*: A building, or part of a building, used for carrying on a business or offering professional or personal services;

« *Établissement de réunion* » - *Premises used for meetings*: A building or part of a building, used by persons who have gathered to take part in civic, political, tourism, religious, social, educational, recreational or other similar activities, or to consume food or beverages;

« *Établissement de soins ou de détention* » - *An establishment for the purpose of care or detention*: A building, or part of a building, offering shelter to persons who, because of their physical or mental state, require care or medical treatment, or to persons who, for reasons of safety outside of their control, cannot be housed elsewhere in case of danger;

« *Établissement industriel* » - *Industrial premises*: A building, or part of a building, used for assembling, manufacturing, making, treating repairing or stocking of products, raw materials or materials, not including an industrial establishment with a medium or very high risk, as defined in the by-law that applies to the Building Act (chapter B-1.1);

« *Niveau moyen du sol (pour déterminer la hauteur de bâtiment)* » - *Average grade level (to determine the height of a building)*: The lowest average grade level, measured along each exterior wall of a building within 3 m of the wall, according to readings that take into account any other change in grade that than those that give access to entrances to the building for vehicles or pedestrians;

« *Premier étage* » - *First floor*: The highest storey where the floor level is at most 1 m above ground level;

« *Résidence supervisée* » - *Supervised residence*: Care or Group B division 2 detention facility, other than a hospital, infirmary or rest home, which provides shelter for persons who are receiving medical care or to whom medical care is offered solely in transition or to assist them;

« *Usage principal* » - *Principal use*: The expression principal use signifies the primary real or planned use for the building or any use representing more than 10% of the area of the storey on which it is located;

## CHAPTER II

### ADMINISTRATIVE PROVISIONS

#### Section I: Area of application

#### **BUILDINGS COVERED 9**

This by-law applies to the following new and existing buildings:

- (1) Any new building;
- (2) Any part that has been enlarged or converted from an existing building;
- (3) In the case of the demolition of a building, the work on the part of the building that is not demolished;
- (4) A building that has been moved, only with regard to the minimum setbacks required in the Zoning By-law and the minimum limiting distances (surface covered) in the Quebec Construction Code (CCQ);
- (5) A building moved to another property;
- (6) Any parts of the building that present a danger.

#### **EXEMPTION 10**

This by-law does not apply to:

- (1) Public utility work carried out on a road or in the right of way of a traffic lane;
- (2) Hydro posts and public services pylons, television antennas, radio or other means of telecommunication, with the exception of the loads carried by those infrastructures situated on a building where they are attached;
- (3) Hydroelectric dams and constructions or constructions to regulate the flow of water or gas;



- (4) Mechanical equipment or other equipment not specifically mentioned in these requirements;
- (5) Accessory buildings where the area on the ground is equal to or less than 20 m<sup>2</sup>;
- (6) Forest shelters.

**RECONSTRUCTION 11**

The reconstruction or repair and rebuilding of any building that has been destroyed or has become dangerous or has lost at least half of its value following a fire or some other cause shall be carried out in compliance with the municipal by-laws in force at the time of the reconstruction or repair and rebuilding.

**Section II: Administration and application  
of the by-law**

**ADMINISTRATION OF  
THE BY-LAW 12**

The secretary-treasurer and director general of the municipality is responsible for the administration of the by-law.

**APPLICATION OF THE  
BY-LAW 13**

The inspector is responsible for applying this by-law. He is specifically authorized to issue a report of infraction related to any infraction of this by-law.

The council may, by resolution or by-law, authorize any other person to issue a report of infraction related to an infraction of this by-law.

**POWERS OF THE  
PERSON CHARGED  
WITH APPLYING THE  
BY-LAW 14**

The person responsible for the application of the by-law exercises the powers conferred on him by this by-law, specifically:

(1) He may visit and inspect a movable or immovable property as well as the interior or exterior of any house or building, between the hours of 7 am and 7 pm, to verify that the by-laws and other municipal regulations are being respected, verify any information or ascertain any fact needed for the exercise by the municipality of the power conferred on it by the law or a by-law, deliver a permit, issue a notice of compliance for an application, give an authorization or any other form of permission. In this context, the person charged with applying the by-law may take measurements, photograph the premises and collect any samples as required. In the territory decreed a permanent agricultural zone by the *Act respecting the preservation of agricultural lands and activities* (the LPTAAQ), he may gather any information or ascertain any fact necessary for the application of the norms for

distances separating incompatible activities, and he may be assisted by an agronomist, a veterinarian, a professional technologist or a land surveyor;

(2) He may give notice for the temporary evacuation of any building the condition of which could endanger the lives of any person;

(3) He may give notice to carry out any work or repairs that appear necessary to him for the safety of the construction, and recommend to the council any emergency measure(s);

(4) He may give notice to rectify any situation constituting a contravention of this by-law;

(5) He may recommend that the council take any measure necessary to halt construction or the use of a part of a lot, a parcel of land, a building or a construction that is not compatible with this by-law.

**OBLIGATION TO  
ALLOW ENTRY**

**15**

The owner, tenant or occupant of a movable or immovable property, a house or a building must allow the inspector or his assistant, as the case might be, to enter between the hours of 7 am and 7 pm, for the purpose of verifying that this by-law, other by-laws or resolutions of the council are being followed or respected.

### Section III: Contraventions and sanctions

#### **INFRACTIONS AND PENALTIES 16**

Whoever contravenes a provision of this by-law commits an infraction and is liable:

(1) For a first infraction, to a fine of \$500 to \$1,000, in the case of a physical person (i.e. an individual) or a fine of \$1,000 to \$2,000 in the case of a moral person (i.e. a company);

(2) In the case of a repeated offence, to a fine of \$1,000 to \$2,000 in the case of a physical person or a fine of \$2,000 to \$ 4,000 in the case of a moral person.

#### **ONGOING VIOLATION 17**

When an infraction has continued for more than one day, the penalty is applied for each of the days or fraction of a day that the infraction continues.

#### **REPEATED OFFENCES 18**

When the by-law contemplates a more severe penalty in the case of repeated offences, it may only be applied if the repeated offense has taken place within two years of the declaration of the offender's guilt for an infraction against the same provision for which a more severe fine is being sought.

#### **CIVIL RECOURSE 19**

In addition to penal recourse, the municipality may exercise any other civil recourse at its disposal before the courts to ensure that the provisions of this by-law are observed.

#### **COSTS 20**

Costs are added to the penalties provided in this by-law. They include the costs attached to execution of the judgement.

## CHAPTER III

### BUILDING STANDARDS

#### Section I: General standards

#### COMPENDIUM OF STANDARDS

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##### (1) Quebec construction code (CCQ) (decree)

As indicated in provincial government decree 953-2000 the Building Code applies to all construction work on a building to which the Building Act applies (and to a facility or equipment intended for a designated public use) except certain buildings as indicated in decree 954-2000:

Notwithstanding the foregoing, the buildings covered by decrees 953-2000 and 954-2000 are subject to stricter measures by amending the Quebec Building Code for two reasons as described below:

- a) Article 10.3.1.1 the separation of principal uses does not apply;
- b) Article 10.3.2.3 on the spatial separation and protection of facades is amended and subparagraph 1) is replaced by:

“1) The provisions of sub-section 3.2.3, concerning the spatial separation and protection of facades, does not apply during a conversion if it is done following requirements equal to or less demanding concerning the protection of facades and it is related to an existing part of an exposed building face.”

##### (2) The Quebec Construction Code (CCQ) (outside the decree)

The Quebec Construction Code with the amendments described hereafter forms an integral part of this by-law and is applied to buildings not covered by decree 954-2000, in the manner described below:

The following changes are made to the Quebec Construction Code:

a) In article 1.1.3.2

l) By replacing the definition « autorité compétente » by the following:

« Autorité compétente – the appropriate authority: The inspector of Ayer's Cliff. »

b) In article 2.3.1.2

l) By replacing paragraphs 1), 2) and 3) with the following paragraph 1):

“1) Plans shall be drawn to scale and shall indicate the type and scope of the work or use contemplated, in sufficient detail to make it possible to determine whether the completed work and the use contemplated will be in compliance with the Quebec Construction Code.”

c) In article 2.3.4.2 by inserting between the words « connexes » and « doivent » in paragraph 1), the words « soumis à l'appui de la demande de permis de construire » (“subject to the application for a building permit”),

d) In article 2.3.4.3 by inserting between the words « connexes » and « doivent » in paragraph 1), the words « soumis à l'appui de la demande de permis de construire » (subject to the application for a building permit”).

e) In article 2.3.4.6 by inserting between the words « fondations » and « doivent » in paragraph 1), the words « soumis à l'appui de la demande de permis de construire » (subject to the application for a building permit or an excavation permit”).

f) By the replacement of section 2.5 by the following:

## “ SECTION 2.5. EQUIVALENTS

### 2.5.1. General provisions

2.5.1.1. Equivalent material, apparatuses and equipment

1) The provisions of the CCQ (Quebec Construction Code) do not limit the use of materials, apparatuses or devices, systems, equipment, calculation methods or building procedures that are not specifically mentioned, provided that their use is appropriate.

2.5.1.2 Proof of equivalent performance

1) Whoever wishes to use an equivalent to satisfy one or several of the CCQ requirements shall provide evidence that the equivalent proposed meets the performance criteria required by the CCQ.

2.5.1.3. Equivalence established after trials, assessments or according to experience

1) It is permitted to use materials, devices, systems, equipments, calculation methods or building procedures not described in the CCQ or that do not completely satisfy the requirements of the CCQ, if it can be shown that this replacement solution is relevant according to the results of prior use, trials or assessments.

**2.5.2. Structural equivalents** (see Appendix A in the CCQ)

2.5.2.1. Structural equivalents

- 1) On the condition that the calculations are carried out by a person qualified to use the chosen method and that they guarantee safety and performance in compliance with part 4, the buildings and their structural elements covered by part 4, which cannot be submitted for analysis based on a generally recognized theory, may be calculated using one of the following methods:
  - a) Evaluation of a full-size structure or a prototype by load test; or
  - b) Analog studies using small-scale models.

**2.5.3 Standards for equivalence testing**

### 2.5.3.1 Acceptable standards

- l) The results of trials carried out according to different standards than those mentioned in the CCQ may be used, on the condition that these test standards give comparable results.”
- g) By adding a section 2.6 which reads as follows:

## **“SECTION 2.6. EXAMINATIONS TO VERIFY COMPLIANCE**

### **2.6.1. General provisions**

#### 2.6.1.1. Area of application

- 1) The requirements of this section apply to buildings contemplated by part 4; those in sub-section 2.6.5. apply to all buildings.

### **2.6.2. Examination of the construction for compliance**

#### 2.6.2.1. Construction compliance

- 1) The designer or any other duly qualified person shall determine the compliance of the construction of a building or part of a building with the design.

### **2.6.3. Examination of shop drawings for compliance**

#### 2.6.3.1. Compliance with the design

- 1) The designer or any other duly qualified person shall examine the shop drawings and other related documents and ensure that they are in compliance with the design.

### **2.6.4. Materials and quality of execution**

#### 2.6.4.1. Examination

- 1) The designer or any other duly qualified person shall examine the materials, the quality of execution and the results of the tests of the materials at different stages of the construction.



## 2.6.5. Examination of off-worksite compliance

### 2.5.6.1 Prefabricated assemblies

- l) When a building or a building component is assembled off-site and cannot be verified on the worksite, off-site tests must be carried out to verify their compliance with CCQ standards.”
- h) By replacing sub-section 2.7.1 by the following:

### “2.7.1. Area of application

#### 2.7.1.1. Restriction

1) The requirements of the documents incorporated through references in the CCQ only apply to the extent that they deal with buildings.”

i) Article 3.1.2.5, is repealed

j) Article 10.3.1.1, is repealed.

k) Article 10.3.2.3

- i) By replacing in paragraph 1) of the text following the word « transformation », including paragraphs a), b) and c) with the text:

« Si celle-ci se fait à l'intérieur d'exigences égales ou inférieures concernant la protection des façades et qu'il s'agit d'une partie existante d'une façade de rayonnement. »

*“If this is carried out within an equal or lesser requirement concerning the protection of facades and this consists of an existing part of a exposed building face”;*

l) Chapters 7 and 8 of the CCQ do not apply.

(3) Future amendments to the Code

- a) For buildings governed by paragraph (1) of this article, future modifications to the CCQ by government decree apply on the date of the

decree;

- b) For buildings governed by paragraph (2) of this article, future modifications to the CCQ will become part of the Building By-law only when they are accepted by resolution of the council and they will come into force on the date set by said resolution.

**Section II: Specific norms**

**UNCOMPLETED BUILDING 22**

Any unoccupied or uncompleted building shall be suitably enclosed or barricaded to prevent free access by any person.

**UNUSED FOUNDATIONS 23**

The foundations of a burned-out or demolished building or one that has been moved leaving a cellar or basement shall be enclosed by a fence at least 2 m high.

**FOUNDATIONS OF PRINCIPAL BUILDINGS 24**

Any principal building shall be built on permanent foundations.

For all principal buildings, foundations of piles or pilings, posts or "technopieux" (prefabricated metal posts) are prohibited except in the case of:

(1) Parts attached to the principal building as residential terraces or decks, porches, porticos (roofed porches) and greenhouses;

(2) A conversion or construction of a principal building when it is proved that the use of traditional foundations is not appropriate. A written confirmation by an architect or an engineer or another professional or technician recognized by the Act is the proof in this case.

**ELEMENTS USED TO  
PROTECT OR FORTIFY  
A CONSTRUCTION**

**25**

The use of materials and assemblies of construction materials to ensure that buildings are armoured against projectiles from firearms or explosions is prohibited for all buildings with the exception of buildings where such a use is required, such as financial institutions or prisons.

Without limiting the generality of the preceding paragraph, the following are prohibited:

- (1) Installation of laminated glass (H-6) or any other bullet-proof glass in windows and doors;
- (2) Installation of protective steel shutters inside or outside the building;
- (3) Installation of fortified doors or specially reinforced doors to resist gunshots;
- (4) Installation of walls or interior or exterior wall doors in the building or an observation tower of concrete, armed or not, or specially reinforced to resist the impact of gunshots.

Furthermore, any building in existence on the date of the coming into force that is not in compliance with the standards listed in this article shall be repaired or rebuilt within a period of 6 months, to bring it into compliance with the provisions of this article.

## COMING INTO FORCE

This by-law comes into force in accordance with the law.

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Vincent Gérin, Mayor

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Ghislaine Poulin-Doherty, Director-general and secretary-treasurer

Notice of motion: July 6, 2009

Adoption of draft by-law: July 6, 2009

Public consultation meeting: July 27, 2009

Adoption of the by-law: September 8, 2009

Notice of conformity from the MRC: \_\_\_\_\_

Notice of the coming into force: \_\_\_\_\_