

**BYLAW 2010-004 CONCERNING MINOR DEROGATIONS
REGARDING URBAN PLANNING BYLAWS**

WHEREAS in virtue of provisions foreseen in Article 145.1 and following the Act Respecting Land Use Planning, the council may adopt a bylaw concerning minor derogations;

WHEREAS a notice of motion regarding the presentation of the abovementioned was given at a sitting of council held February 10, 2010;

WHEREAS a copy of this present bylaw was given to all members of the council two (2) working days prior to the present sitting of council;

WHEREAS the members declare having read the present bylaw;

WHEREAS the Secretary-Treasurer, during the course of the sitting, gives a brief summary of the bylaw.

THEREFORE

It is moved by Geraldine Burke
Seconded by Vanessa Goodwin
And unanimously approved by the members present

THAT by-law 2010-004 be adopted, and that the following is ordered and decreed by the said by-law:

ARTICLE 1: GENERAL PROVISIONS

Article 1.1 : Preamble

The preamble of this present bylaw makes an integral part thereof.

Article 1.2: Goal of the bylaw

This present bylaw constitutes the procedure to an exception in which the council may authorise projected, partially or completed works that do not meet certain provisions.

Article 1.3: Basic conditions

The council cannot grant a minor derogation in regard to the provisions of the zoning and subdivision bylaws except to dispositions that are specifically indicated in this present bylaw.

Under no circumstance, can the council grant a minor derogation to a provision relative to land use or density of land occupation.

Article 1.4: Zones in which a minor derogation may be granted

This present bylaw applies to the territory under the jurisdiction of the Municipality.

**ARTICLE 2 PROVISIONS IN THE ZONING BYLAW THAT MAY BE THE
OBJECT OF A MINOR DEROGATION**

The following provisions of the zoning bylaw may be the object of a minor derogation:

- Maximum area of an occupation lot;
- Minimum area of a main or secondary building;
- Maximum area of a main or secondary building;
- Limit of the side line;
- Limit of the front line;
- Limit of the back line;
- Maximum height of a main or secondary building;
- Regulations for the implantation of a secondary building;
- Construction or works permitted in a yard;
- Exterior improvements;
- Area permitted for professional use as a secondary activity in a domestic setting
- Dimension and regulations for the implantation of a sign;
- Number of required parking spaces per lot;
- Dispositions relative to sectors identified as erosion zones;
- Extension of a construction or exceptional usage.

ARTICLE 3 PROVISION IN THE SUBDIVISION BYLAW THAT MAY BE THE OBJECT OF A MINOR DEROGATION

The following provision of the subdivision bylaw may be the object of a minor derogation:

- Minimum width of a road;
- Area and dimensions of a lot.

ARTICLE 4 REQUIRED PROCEDURES

Article 4.1 Request addressed to the designated municipal officer

An owner of an immovable or the applicant of a permit or certificate for this immovable, which the construction, the change of vocation or subdivision project does not meet the regulations outlined in the dispositions of the zoning or subdivision bylaws currently in force in the Municipality and outlined in Articles 2 and 3 of this present bylaw and who wishes to obtain an authorization certificate for a minor derogation, must submit a written request to the designated municipal officer on a form designated to this effect.

Article 4.2 Fees

The request must be accompanied with the payment in the amount of fifty dollars (\$50.00) required to study the file. Also, the applicant must pay, prior to publication, all fees relative to the public notice foreseen in Article 4.6.

Article 4.3 Verification of the request

Once a verification of the content of the request is carried out by the designated municipal officer, the applicant must supply any additional information required by the officer.

Article 4.4 Request referred to the Urban Advisory Committee (C.C.U.E.)

As soon as the request is duly completed and all fees have been paid, the designated municipal officer transmits the request to the Urban Advisory Committee and suspends, as the case may be, all other requests for permits and certificates related to the same project. The designated municipal officer also transmits all documents relevant to the request to the Urban Advisory Committee.

Article 4.5 Study of the request by the Urban Advisory Committee

The Urban Advisory Committee studies the request and may ask the designated municipal officer or the applicant for any additional information necessary to complete the study. They may also visit the immovable that is the object of the request for a minor derogation. The Committee, once the study is completed, may make any useful recommendation regarding his project and recommend that the council simply reject or accept the request.

Article 4.6 Public Notice

Following the study of the request by the Urban Advisory Committee, the director-General must publish, at the cost of the applicant, a public notice in a newspaper distributed within the territory of the Municipality, or at the designated areas as the case may be, indicating the nature of the derogation requested as well as the date, time and place of the sitting at which time the council must make a decision regarding the request. This notice must include the designation of the concerned immovable by using the road and the civic number or, if necessary, the lot number, and mention that all interested persons may voice their opinion to the members of council in regard to this request.

Article 4.7 Report from the Director-General

At the sitting indicated in the public notice, the director-general must report on any objections that have been made to him/her and, as the case may be, indicate the number of objections and their content.

Article 4.8 Decision of council

After being made aware of the decision of the Urban Advisory Committee and the report from the director-general, the council, by resolution, may accept the request if it feels that the requirements of this present bylaw have been met or refuse if the contrary.

Article 4.9 Copy of the resolution

A copy of the resolution by which the council renders its decision must be transmitted to the person that requested the minor derogation.

Article 4.10 Register of minor derogations

The request for minor derogations and the resolution of council are inscribed in a register set up to this effect.

Article 4.11 Issuing of the certificate

In spite of articles 120, 121 and 122 of the Act Respecting Land Use Planning, upon presentation of a copy of the resolution granting the minor derogation, the designated municipal officer shall issue, besides the required permit or certificate, as the case may be, a certificate authorizing the minor derogation.

Article 4.12 Permit request considered conform

In the case where the council approves a minor derogation, the request also being approved by the council, it is therefore deemed in conformity to the zoning and subdivision bylaws.

ARTICLE 5 CONDITIONS REQUIRED FOR THE ACCEPTANCE OF A MINOR DEROGATION

A minor derogation is granted under the following conditions:

- The minor derogation to the zoning and subdivision bylaws must respect the objectives of the Urban Plan adopted by the Municipalité des Îles-de-la-Madeleine;
- All requests must conform to all other provisions of the zoning and subdivision bylaws that is not included in the request for a minor derogation;
- The application of the zoning and subdivision bylaws causes serious prejudice to the person making the request for a minor derogation;
- The minor derogation does not infringe on the enjoyment of the property rights of the neighbouring owners;
- In the case of a construction where the works have already begun, or have been completed, the permit must have been requested and the works must have been carried out in good faith. Construction works considered not to have been carried out in good faith are those that:
 - a) started before the construction permit was issued;
 - b) were not carried out in accordance to authorized plans;
 - c) were used as a means to get around the Urban Plan and bylaws;
 - d) were carried out despite an order to cease work by the inspector, conforming to planning bylaws.

ARTICLE 6 COMING INTO FORCE

This present bylaw comes into force conforming to the Act Respecting Land Use Planning.

Rose Elmonde Clarke
Mayor

Janice Turnbull
Director General

NOTICE OF MOTION: February 10, 2010
ADOPTION: April 14, 2010
PUBLICATION: April 19, 2010