



PROVINCE OF QUÉBEC

BY-LAW# 2017-263 PERTAINING TO CONDITIONAL USES

WHEREAS the Municipality of Clarendon is governed by the provisions of the Municipal Code of Quebec;

WHEREAS under the provisions of the Act respecting Land Use Planning and development (L.R.Q., c. A-19-1), Council can adopt a by-law pertaining to conditional uses regarding the provisions of zoning by-laws;

WHEREAS a Municipal Planning Advisory Committee is in existence;

WHEREAS there is, by the same occasion, an opportunity to create a by-law concerning conditional uses;

WHEREAS a draft of the present by-law was deposited at the regular council meeting held on December 12th, 2017;

WHEREAS a public meeting was held February 6th

THEREFORE it is proposed by Crs. Walsh Seconded by Crs. Dagg and resolved by the municipal Council that By-Law # 2017-263 entitled "By-Law Pertaining to Conditional Uses" be adopted as follows.

CHAPTER 1 - ADMINISTRATION

ARTICLE 1.1: Preamble

In the Zoning By-law currently in force, uses are either allowed in the entire Zone or completely prohibited. This regulatory framework leaves no place to implement uses not authorized, but could, in fact, integrate well its environment. To offer more accommodations in the application of its regulations, the municipality adopted the present Bylaw on conditional uses to provide more flexibility and to create a more diversified mix of uses on the territory of the municipality while maintaining the sustainability of activities already established.

ARTICLE 1.2: Territory Affected

The provisions of the present by-law shall apply to the whole territory under the jurisdiction of the Municipality of Clarendon. On this territory, the present by-law applies to both individuals and legal persons under public or private law.

ARTICLE 1.3: Scope of Application

The present by-law governs the format and procedure of analysis of a conditional uses application within Zoning By-Laws. In addition, it regulates the requirements for eligibility of admissibility in regards to such a request. Any conditional uses application must be submitted and studied in conformity with the present by-law. The present by-law or any by-law that amends or replaces the conditional use by-law is also subject to approval by way of referendum.

ARTICLE 1.4: General Principles of Interpretation

This by-law is written according to the principles mentioned in Articles 38 to 62 of the Interpretation Act (L.R.A., c. I-16). Consequently, the text of this by-law must be interpreted according to this Act.

ARTICLE 1.5: Terminology

For the purposes of interpreting the present by-law, except where the context indicates a different meaning, any word or expression has the meaning given to it in Chapter 2 of the *Planning By-laws Interpretation and administration By-law* in force. Should a word or an expression not be specifically defined in that by-law, it is understood by its common meaning as defined in a dictionary.

Conditional Uses: Conditional use means a special activity, operation or improvement that is proposed within a building, a development, or on a site, which is allowed by the regulations of the zoning district in which it is located, subject to obtaining approval of a conditional use permit, as provided in Section X, Articles 145.31 to 145.35 of the Act Respecting Land Use Planning (L.R.Q., c. A-19-1).

ARTICLE 1.6: Administration and Enforcement of the By-Law

The administration and enforcement of the present by-law refers to the designated officer appointed under the provisions of Chapter 3 of the *Planning By-laws Interpretation & Administration By-law* in force.

Every conditional use application shall respect the aims of the planning program. This by-law may not, however, apply to **agricultural activities** within the meaning of the Act respecting the preservation of agricultural land and agricultural activities in an agricultural zone established under that Act. However, a municipality may exercise its power on conditional uses with respect to **non-agricultural activities** in the agricultural zone since the Land Use and Planning Program promotes the protection of the agricultural activities.

Once the Municipal Council authorizes the implementation of a conditional use and that the project is realized, this conditional use has the same rights as any other use permitted in the zone. Therefore, the adoption or the entry into force of a new regulation that would have the effect of making this use non-conforming would not be applicable to the conditional use as it would be protected by acquired rights.

CHAPTER 2 - PROCESSING AN APPLICATION FOR A CONDITIONAL USE

ARTICLE 2.1: Obligation & Fees

The issuance of a permit or a certificate of authorization for a conditional use listed in the present by-law is subject to a recommendation from the Planning Advisory Committee (PAC) and to approval from the Clarendon Municipal Council.

The applicant must also complete the conditional use application form and provide a signed copy to the municipality along with a check payable to the Municipality of Clarendon for the amount of \$500.00 to cover review costs and required publications fees.

ARTICLE 2.2: Submitting the Application

An application for approval of a conditional use must be submitted by the applicant or his authorized representative to the appointed official. It must be signed by the applicant or his authorized representative and be accompanied by the information and documents required in the present by-law.

ARTICLE 2.3: Information and documents required for an Application for a Conditional Use

An application for approval of a conditional use may include the following information and documents:

1. The last name, first names, address and telephone number of the owner or of the occupant if they are different from those of the owner.
2. The address and the cadastral number of the property targeted by the application.
3. The existing use and the proposed use of the land site or the building or part of the land site or building targeted by the application.
4. Copy of an official cadastral plan of the land site.
5. Copy of a certificate of location of the site concerned.
6. Copy of a site plan showing, for the site concerned, the information listed in Chapter 4 of the *Planning By-laws Interpretation & Administration By-law* in force for the issuance of permits and certificates.
7. Copy of the architectural plans, sections, elevations, and details listed in Chapter 4 of the *Planning By-laws Interpretation & Administration By-law* in force for the issuance of permits and certificates.
8. Photographs or an architectural survey of the existing buildings on the site and on adjoining sites.
9. Proposed timetables and phases for implementation of the use.
10. A detailed description and presentation of the projected use(s).
11. The estimated cost of the project.
12. Any other document necessary for a good understanding of the project.

Depending on the nature of the application, the appointed official may indicate to the applicant the information and documents, among those listed previously, that are not required for the evaluation of his application and, as a consequence, do not need to be submitted. However, the above-listed document is not limited to; the appointed official may also indicate to the applicant if additional documents are required. If the information and documents required are incomplete or inaccurate, the examination of the application is suspended until the information and documents required are submitted by the applicant. The application is then considered to be received on the date of receipt of this additional information or documents.

ARTICLE 2.4: Transmission of the file to the Municipal Planning Advisory Committee

From the date on which all the information and documents required by the present by-law are handed, the designated officer has thirty (30) days to transmit the file to the Municipal Planning Advisory Committee.

ARTICLE 2.5: Study of the Application by the Committee

The Municipal Planning Advisory Committee reviews the request. After analyzing the request, the Municipal Planning Advisory Committee must give a written recommendation taking into account the conditions and criteria outlined in the present by-law.

If the Committee finds and concludes that the conditional use application does not comply with the provisions of the present by-law, it shall dismiss the application.

The resolution stating the Committee's recommendation must be submitted within sixty (60) days following the date upon which the conditional use request, accompanied by all the required information and documents and the amount covering the cost of the analysis, were received by the designated officer.

CHAPTER 3 - CONDITIONAL USES AND EVALUATION CRITERIA

ARTICLE 3.1: Abbreviations

Dominant Uses as described in Zoning By-law in force:

1. Dwelling Groups (RE)
2. Commercial & Services Groups (C)
3. Recreation & Tourism Groups (RT)
4. Industrial Groups (I)
5. Public Groups (P)
6. Agricultural Groups (AG)

ARTICLE 3.2: Evaluation criteria

ZONES OF APPLICATION

The provisions in the present article apply in all zones.

CONDITIONAL USE THAT MAY BE AUTHORIZED

The type of permitted conditional use will be evaluated on a **case by case basis**.

EVALUATION CRITERIA APPLICABLE

An application for a conditional use must in all cases, be evaluated considering the following criteria:

1. In the case of a new or existing structure, the architectural composition must be adapted to the function of the use with respect to the requirements of the Zoning and Construction By-law in force.
2. Displayed merchandise or exterior storage of merchandise may be permitted depending on the conditional use requested and the zoning it is located in.
3. The quality of integration of the project into the surrounding environment in regard to the external appearance of the structure, the landscaping and the use of the outdoor spaces.
4. The intensity of the use, in particular in terms of floor area, attendance, volumes of pedestrian and vehicular traffic, times of use and hours of operation, must not disturb the serenity of the surrounding environment.
5. Existing and proposed pedestrian and vehicular entrances must be designed with respect for the insertion environment.
6. The use must be compatible with, and complementary to, its environment, taking into account the following elements:
 - a. The location of the use within the sector, on the lot and inside the building.
 - b. The nature and the degree of concentration of the other uses and conditional uses installed in the building and in the sector.
 - c. The locations of entrances to the site and entrances to the building.
 - d. The characteristics of the building occupied, as well as those of the landscaping and of the uses of the outdoor spaces.
 - e. Vibrations and the emission of dust, smoke, odor, light, and noise generated by the project.
 - f. The proximity of residential zones.
 - g. The area of the land site in terms of the conditional use requested.
 - h. Any proposed signage must be discreet and respect the applicable provisions listed in the Zoning By-law in force.
 - i. Availability of parking spaces for the disabled.
7. The project must not be the source of any irritation or annoyance for the neighborhood.

CHAPTER 4 - AUTHORIZATION

ARTICLE 4.1: Public Notice

The Director General of the Municipality must, no later than fifteen (15) days before the holding of the sitting at which the council is to give a decision on the application for a conditional use, cause a notice to be published in accordance with the Law governing the municipality under section 145.33 of the *Act respecting Land Use Planning* (L.R.Q., c. A-19.1) and place a poster or a sign in full view on the site to which the application relates,

indicating the date, time and place of the sitting, the nature of the application and that any person interested may be heard at the sitting in relation to the application.

ARTICLE 4.2: Council Decision

Before making its decision, the Council or the designated officer shall explain the conditional use request. After hearing any person wishing to speak concerning the request and having reviewed the recommendation of the Municipal Planning Advisory Committee, the council makes its decision. The Council is not bound by the decision of the Municipal Planning Advisory Committee.

A certified copy of the resolution by which Council issued its decision must be transmitted by the Director General of the Municipality to the applicant and the designated officer within fifteen (15) days after its adoption by Council.

ARTICLE 4.3: Issuance of the Permit or Certificate

When the Council resolution grants the conditional use requested, the officer may then issue the building permit or certificate of authorization required, provided that the application complies with all provisions of the planning regulations.

ARTICLE 4.4: Inscription in the Register Book

The conditional use application and the resolution from Council are recorded in the register compiled for this purpose.

ARTICLE 4.5: Entry into Force

The present by-law shall enter into force in accordance with the Law.

Notice of Motion:	December 12 th 2017
Deposit of first Draft By-Law:	January 9 th , 2018
Public meeting:	February 6 th , 2018
Deposit of the second Draft By-Law:	February 13 th , 2018
Adoption of the By-Law:	March 27 th 2018
MRC certificate of conformity:	April 18 th , 2018
Date de publication:	May 9 th , 2018

Mayor, John Armstrong

Director General, Mike Guitard