

VILLE DE MONTRÉAL
BY-LAW
RCG 18-043

**BY-LAW ESTABLISHING THE FINANCIAL ASSISTANCE PROGRAM FOR
ESTABLISHMENTS LOCATED IN AN AREA UNDERGOING MAJOR WORK**

In view of section 10.1 of schedule C to the Charter of Ville de Montréal, metropolis of Québec (CQLR, chapter C-11.4);

In view of section 411 of the Cities and Towns Act (CQLR, chapter C-19);

In view of section 46 of the Act to increase the autonomy and powers of Ville de Montréal, the metropolis of Québec (2017, chapter 16);

In view of the By-law of the urban agglomeration council concerning business assistance (RCG 06-019);

In view of the 2018-2022 economic development strategy (CG18 0245 of April 26, 2018);

In view of the joint economic plan Ville de Montréal – Ministère de l'Économie, de la Science et de l'innovation (MESI) (CE18 0491 of March 28, 2018);

At its meeting of December 20, 2018, the urban agglomeration council enacts:

SECTION I
INTERPRETATION

1. In this by-law, the following words mean:

“business”: a legal person established for a private interest, a general, limited or undeclared partnership, or a natural person carrying on a sole proprietorship, who pursues business activities, except for a work period prior to September 21, 2017, where the word business means a legal person established for a private interest or a natural person carrying on a sole proprietorship;

“commercial activities”: retail sales, product rental or consumer service delivery, excluding massage services and the following activities within the meaning of the North American Industry Classification System (NAICS, 2017):

- (1) professional, scientific and technical services (sector 54) other than interior design services (level 54141) and photographic services (level 54192);
- (2) finance and insurance services (sector 52);

(3) health care and social assistance (sector 62);

(4) real estate services (subsector 531), other than self-storage mini-warehouses (level 53113);

“designated area”: the work area determined by ordinance of the executive committee;

“director”: the director, Service du développement économique or their authorized representative;

“establishment”: any premises in an immovable located in a sector determined by ordinance of the executive committee where a business is engaged in commercial activities;

“fiscal year”: the 12-month period during which the business is engaged in commercial activities and for which a tax return has been filed or financial statements have been prepared;

“gross benefit”: excess of an establishment’s revenues over all of its variable costs;

“gross benefit loss”: the difference between the gross benefit recorded in an eligible fiscal year and the gross benefit for one or more fiscal years preceding the work period, calculated in accordance with schedule 1 to this by-law;

“related municipality”: municipality located on the territory of the urban agglomeration of Montréal;

“revenues”: total gross revenues that an establishment generates for a business;

“variable costs”: costs with a variation that is directly proportional to the revenues or level of commercial activity of an establishment, namely the cost of merchandise retailed, or the costs directly attributed to services rendered;

“work”: the following major work carried out in an area designated by ordinance of the executive committee:

- (1) construction or repair work for sewer or water conduits carried out by a related municipality on or after January 1, 2016, for a minimum projected or actual duration of at least 6 months;
- (2) any other major public infrastructure project that causes impediments to automobile traffic, of a minimum planned or actual duration of 36 months, carried out by a related municipality as of January 1, 2016 or by the Société de transport de Montréal, as of September 21, 2017;

“work period”: period of time determined by ordinance of the executive committee.

SECTION II

OBJECT

2. This by-law allows for the implementation of a subsidy program for businesses with an establishment located in an area undergoing major work.

SECTION III

ELIGIBILITY

3. A business may file a subsidy application under this by-law for each eligible fiscal year.

For the purposes of this by-law, an eligible fiscal year is a completed fiscal year that ran during the work period and for which an establishment located in a designated area has a gross benefit loss of more than 15%, calculated in accordance with provisions under this by-law.

SECTION IV

INELIGIBILITY

4. The following businesses are ineligible under the program:

(1) a business whose establishment:

- (a) ceases its operations or declares bankruptcy within 40 days following the filing of the application;
- (b) has moved to an area other than one of those designated by the executive committee during the work period;
- (c) is acquired or installed after the beginning of the work period;
- (d) is installed inside a metro station or an educational institution, except if the establishment has a direct access to the public roadway;
- (e) does not have a valid occupancy certificate;

(2) a business listed in the Register of Enterprises Ineligible for Public Contracts (REIN) in accordance with the Act respecting contracting by public bodies (CQLR, chapter C-65.1).

SECTION V

SUBSIDY APPLICATION

5. A business may file, for any eligible fiscal year, a subsidy application under the conditions established in this by-law, using the form provided by the city.

Where the business has several establishments, a separate application must be filed for each one.

6. For the purposes of a subsidy application, the business must file the following documents:

- (1) the current information statement in Québec's Enterprise register;
- (2) a document establishing the mandate of any person acting on the applicant's behalf;
- (3) where required, a copy of the lease confirming that the applicant is the lessee of part or all of the building located in the designated area;
- (4) a copy of the valid occupancy certificate;
- (5) the calculation grid in schedule 1, filled out in accordance with that schedule;
- (6) the financial statements of the establishment for any eligible fiscal year and any comparable fiscal year to be considered in accordance with the provisions in schedule 1, if available;
- (7) the business's income tax returns related to any eligible fiscal year and any comparable fiscal year to be considered in accordance with the provisions in schedule 1;
- (8) if available, the notices of assessment for the business received in accordance with the Income Tax Act, R.S.C., 1985, c. 1 (5th Supp.) and the Taxation Act (CQLR, chapter I-3) for any eligible fiscal year and any comparable fiscal year to be considered in accordance with the provisions in schedule 1;
- (9) the solemn declaration in schedule 2 to this by-law, filled out and signed before a duly authorized person.

7. Only one application may be filed for an establishment per 12-month period.

8. An application may relate to more than one eligible fiscal year.

9. An application must be filed no later than 24 months following the end of the work period.

Despite the foregoing, where the work period is prior to the date of coming into force of this by-law, an application may be filed no later than 24 months after the adoption of the ordinance of the executive committee designating a sector.

SECTION VI

AMOUNT OF SUBSIDY

10. The amount of subsidy is equivalent to the percentage that represents the loss of gross benefit calculated in accordance with schedule 1, less 15%.

Despite the foregoing, the maximum subsidy is \$30,000 per eligible fiscal year per establishment.

SECTION VII

SUBSIDY PAYMENT

11. Where the formalities under article 6 have been completed and it has been determined that the application meets the requirements of this by-law, the director approves the subsidy application; otherwise, the application is rejected.

In addition to the documents required under article 6, the director may, before approving the subsidy application, require any other document in order to confirm that the eligibility conditions under this by-law are met, as well as any financial information submitted for the purposes of this by-law.

12. The director notifies the business, in writing, of the approval or rejection of the application. If the application is approved, the date of approval and the amount of the subsidy are shown on the notice.

13. Following the notice referred to in article 12, the amount of subsidy is paid.

SECTION VIII

VERIFICATION OF COMPLIANCE WITH ELIGIBILITY CONDITIONS AND OF FINANCIAL INFORMATION

14. The director may, at any time before or after a subsidy is paid, verify compliance with the eligibility conditions under this by-law as well as the financial information submitted for the purposes of this by-law.

Where applicable, the director informs the business in writing.

A verification may be carried out within a maximum of two years following the payment of the subsidy.

For verification purposes, the business must keep all documents related to the subsidy application for two years following the payment of the subsidy.

15. For a verification under article 14, the director may require any document, including any sales tax or income statement, any financial report and any invoice, proof of payment or sales record.

All documents required for verification purposes must be submitted within 60 days following the date of the notice under article 14.

16. Upon presentation of an identification document, the director or their authorized representative may, for the purposes of this by-law, visit, examine and take pictures of any immovable or movable property.

Every person must allow the director or their authorized representative access to the premises without hindering their work.

Any failure to comply with this article results in the loss of the right to a subsidy under this by-law. If the subsidy has already been paid, the business must reimburse the amount within 60 days following the written notice issued by the director to that effect.

17. No subsidy is paid if the business ceases its commercial activities, goes bankrupt or sells its establishment during the analysis of its application.

18. Any false representation, attempted fraud or fraud results in the cancellation of the subsidy under this by-law. In such a case, the business may not file any another subsidy application under this by-law. Where applicable, any amount paid under this by-law, by way of a subsidy, must be reimbursed in cash to the city within 60 days following the written notice issued by the director to that effect.

19. No subsidy may be granted if an expropriation procedure or a land reserve affects the immovable in which the establishment is located.

SECTION IX

TOTAL VALUE AND DURATION OF THE PROGRAM

20. The total amount of financial assistance that may be awarded under the financial assistance program in this by-law is \$25 million.

21. The financial assistance program under this by-law ends on the following dates, whichever occurs first:

(1) the date determined by ordinance of the executive committee;

(2) the date on which the subsidies awarded under the program reach the total value of the assistance set in article 20 of this by-law;

- (3) when the funds earmarked for the program are exhausted.

SECTION X

ORDINANCES

22. The executive committee may, by ordinance:

- (1) designate any work area;
- (2) set the start and end dates for the work period;
- (3) modify the list of documents required under article 6;
- (4) modify the minimum gross benefit loss under articles 3 and 10;
- (5) the maximum amount of subsidy established under article 10;
- (6) set the date on which the financial assistance program under this by-law ends.

SCHEDULE 1

CALCULATION GRIDS FOR GROSS BENEFIT LOSS

SCHEDULE 2

SOLEMN DECLARATION

The public notice relating to this by-law was posted at city hall and published in *The Gazette* on December 21, 2018.

SCHEDULE 1

CALCULATION GRIDS FOR GROSS BENEFIT LOSS

- 1.** To determine the gross benefit loss for each establishment, a business must fill out the calculation grid A, B or C in this schedule according to the applicable situation.
- 2.** For each establishment, the gross benefit loss is calculated by comparing the gross benefit recorded during an eligible fiscal year with the gross benefits recorded during one or more fiscal years preceding the beginning of the construction work, according to the following criteria:
 - (1) for establishments having completed at least two fiscal years in the designated area, prior to the beginning of the work period, the gross benefit loss is calculated by comparing the gross benefit recorded during an eligible fiscal year with the average gross benefit for the two last fiscal years preceding the work (comparable fiscal years);
 - (2) for establishments having completed only one fiscal year in the designated area, prior to the beginning of work period, the gross benefit loss is calculated by comparing the gross benefit recorded during an eligible fiscal year with the gross benefit for the fiscal year preceding the work period (comparable fiscal year);
 - (3) for establishments having completed less than one fiscal year in the designated area, prior to the beginning of work period, the gross benefit loss is calculated by comparing the gross benefit recorded during an eligible fiscal year with the gross benefit for all the months where no work was carried out before the end of the first fiscal year (partial or complete), extrapolated over 12 months.

Temporary closing periods that occurred during an eligible fiscal year shall be excluded from the calculation of gross benefit loss as determined in accordance with the provisions under this article. If applicable, the gross benefit of the comparable fiscal year (s) must be pro-rated for the same number of months as the period during which the establishment was in activity during the eligible fiscal year.

A) Establishments having completed at least two fiscal years in the designated area, prior to the beginning of the work period.

	Comparable fiscal year(s) (Note 1)		Eligible fiscal year(s)		
	Previous fiscal year 2	Previous fiscal year 1	Fiscal year 1	Fiscal year 2	Fiscal year 3
Revenues (\$)					
– Variable costs					
= gross benefit			(B)	(C)	(D)
Average gross benefit of comparable periods	(A)				
Loss of gross benefit per period			(B-A)	(C-A)	(D-A)

Note 1: These fiscal years are the two fiscal years ending before the work begun under ordinance of the executive committee.

Previous fiscal year 2: Second-to-last fiscal year completed before the beginning of work.

Previous fiscal year 1: Last fiscal year completed before the beginning of work.

B) Establishments having completed only one fiscal year in the designated area, prior to the beginning of the work period.

	Comparable fiscal year (Note 2)	Eligible fiscal year(s)		
	Previous fiscal year 1	Fiscal year 1	Fiscal year 2	Fiscal year 3
Revenues (\$)				
– Variable costs				
= gross benefit	(A)	(B)	(C)	(D)
Loss of gross benefit per period		(B-A)	(C-A)	(D-A)

Note 2: This fiscal year is the fiscal year that ended before the beginning of work.

C) Establishments having completed less than one fiscal year in the designated area, prior to the beginning of the work period.

	Comparable period (Note 3)	Eligible fiscal year(s)		
	Period 1	Fiscal year 1	Fiscal year 2	Fiscal year 3
Revenues (\$)				
– Variable costs				
= gross benefit	(A)	(D)	(E)	(F)
Number of months completed during the period prior to the beginning of work	(B)			
Extrapolation of gross benefit over 12 months (\$)	$C=(A/B)*12$			
Loss of gross benefit per period		(D-C)	(E-C)	(F-C)

Note 3: This period covers the number of months during which commercial activities were carried out without any construction work, during the establishments first fiscal year (partial or full). Since the establishment had not yet completed a full fiscal year prior to the beginning of work, gross benefit for that period was extrapolated over 12 months.

SCHEDULE 2 – SOLEMN DECLARATION

SOLEMN DECLARATION

I, the undersigned, _____
first name and last name
whose establishment is located at _____
current address of the establishment
do solemnly declare that:

1. Have read and understood the By-law establishing the financial assistance program for establishments located in an area undergoing major work (RCG 18-043) and I am requesting a subsidy in accordance with that same by-law.
2. Am aware of the fact that I am responsible for ensuring that my subsidy application is received by the *Service du développement économique* of Ville de Montréal within the deadlines prescribed in the Program.
3. Understand that all subsidies paid under the Program based on a false or incomplete declaration must be reimbursed to the city and consequently, I understand that I will not be entitled to filing any other application under that same by-law.
4. Understand that the city may, at any time prior to, or up to 2 years following payment of the subsidy, carry out a verification to ensure that all of the Program's conditions are met and demand any document or information required for that purpose.
5. Understand that the city may, at any time within the first 2 years following payment of the subsidy, carry out a verification of compliance with all conditions listed in the program, and demand any document or information required for that purpose.
6. Understand that the business must keep all documents pertinent to the subsidy application for the two years following payment of the subsidy.
7. Authorize the compilation of data for the purposes of documenting the type of businesses who apply for subsidies and I authorize the disclosure of this statistical review.
8. Declare that I have provided the city with truthful and complete information pertaining to the gross benefits and variable costs of my establishment for the duration of work, as well as for all comparable fiscal years.
9. Declare that the tax reports filed along with my subsidy application are in conformity with those filed with the federal and provincial governments.
10. Declare that the business on behalf of which I am requesting this subsidy is not listed in the Register of Enterprises Ineligible for Public Contracts (REIN).
11. Declare that all information provided in this declaration is truthful.

Signed in _____, on this _____ day of the month of _____ two thousand _____

Applicant's signature

Solemnly declared before me, in _____, on this _____ day of the month of _____ two thousand _____

Name and address of the Commissioner of Oaths (or notary)

Signature of the Commissioner of Oaths

(Identification number of the Commissioner of Oaths where applicable)