

A P E N D I X A

NONCONFORMING USES AND STRUCTURES

THE MUNICIPAL GOVERNMENT ACT
S.N.S., Chapter 18, 1998
SECTIONS 238 (1) TO 248 (2) INCLUSIVE

Nonconforming structure or use

- 238 (1) A nonconforming structure, nonconforming use of land or nonconforming use in a structure, may continue if it exists and is lawfully permitted at the date of the first publication of the notice of intention to adopt or amend a land-use by-law.
- (2) A nonconforming structure is deemed to exist at the date of the first publication of the notice of intention to adopt or amend a land-use by-law, if the
- (a) nonconforming structure was lawfully under construction and was completed within a reasonable time; or
 - (b) permit for its construction was in force and effect, the construction was commenced within twelve months after the date of the issuance of the permit and the construction was completed in conformity with the permit within a reasonable time.
- (3) A nonconforming use in a structure is deemed to exist at the date of the first publication of the notice of intention to adopt or amend a land-use by-law if
- (a) the structure containing the nonconforming use was lawfully under construction and was completed within a reasonable time; or
 - (b) the permit for its construction or use was in force and effect, the construction was commenced within twelve months after the date of the issuance of the permit and the construction was completed in conformity with the permit within a reasonable time; and
 - (c) the use was permitted when the permit for the structure was granted and the use was commenced upon the completion of construction.
- (4) This Act does not preclude the repair or maintenance of a nonconforming structure or a structure containing a nonconforming use.
- (5) A change of tenant, occupant or owner of any land or structure does not of itself affect the use of land or a structure. 1998, c. 18, s. 238.

Nonconforming structure for residential use

- 239 (1) Where a nonconforming structure is located in a zone that permits the use made of it and the structure is used primarily for residential purposes, it may be
- (a) rebuilt or repaired, if destroyed or damaged by fire or otherwise, if it is substantially the same as it was before the destruction or damage and it is occupied by the same use;
 - (b) enlarged, reconstructed, repaired or renovated where
 - (i) the enlargement, reconstruction, repair or renovation does not further reduce the minimum required yards or separation distance that do not conform with the land-use by-law, and
 - (ii) all other applicable provisions of the land-use by-law except minimum frontage and area are satisfied.
- (2) A nonconforming structure, that is not located in a zone permitting residential uses and not used primarily for residential purposes, may not be rebuilt or repaired, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance with the land-use by-law, and after the repair or rebuilding it may only be occupied by a use permitted in the zone. 1998, c. 18, s. 239.

Nonconforming use of land

- 240 A nonconforming use of land may not be
- (a) extended beyond the limits that the use legally occupies;
 - (b) changed to any other use except a use permitted in the zone; and
 - (c) recommenced, if discontinued for a continuous period of six months. 1998, c. 18, s. 240.

Nonconforming use in a structure

- 241 (1) Where there is a nonconforming use in a structure, the structure may not be
- (a) expanded or altered so as to increase the volume of the structure capable of being occupied, except as required by another Act of the Legislature;
 - (b) repaired or rebuilt, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance with the land-use by-law and after the repair or rebuilding it may only be occupied by a use permitted in the zone.

- (2) Where there is a nonconforming use in a structure, the nonconforming use
 - (a) may be extended throughout the structure;
 - (b) may not be changed to any other use except a use permitted in the zone;
 - (c) may not be recommenced, if discontinued for a continuous period of six months. 1998, c. 18, s. 241.

Relaxation of restrictions

- 242 (1) A municipal planning strategy may provide for a relaxation of the restrictions contained in this Part respecting nonconforming structures, nonconforming uses of land, and nonconforming uses in a structure and, in particular, may provide for
- (a) the extension, enlargement, alteration or reconstruction of a nonconforming structure;
 - (b) the extension of a nonconforming use of land;
 - (c) the extension, enlargement or alteration of structures containing nonconforming uses;
 - (d) the reconstruction of structures containing nonconforming uses, after destruction;
 - (e) the recommencement of a nonconforming use of land or a nonconforming use in a structure after it is discontinued for a continuous period in excess of six months;
 - (f) the change in use of a nonconforming use of land or a nonconforming use in a structure, to another nonconforming use.

Implementation

- (2) The policies adopted in accordance with this Section shall be carried out through the land-use by-law and may require a development agreement. 1998, c. 18, s. 242.

APPENDIX A	AMENDED DATE	SECTION
	May 10, 2005	APPENDIX A

