



Department of Community Development – Planning Division

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DEVELOPMENT INFORMATION BULLETIN

NON-CONFORMING USES

This is one in a series of Development Information Bulletins prepared to assist Property Owners and Developers to undertake specific types of development in the City of Mount Pearl. For further information on other Bulletins available in the series please contact the Department of Community Development – Planning Division.

INTRODUCTION

The City of Mount Pearl Land Use, Zoning and Subdivision Regulations (commonly referred to as the Development Regulations) provide standards on a wide variety of property development issues. Most properties within the City of Mount Pearl will satisfy these conditions; however, in certain instances, there are uses of property which were in legal existence prior to the approval of the existing Development Regulations, and which do not satisfy the requirements of these Regulations. These types of uses are classified as 'Non-Conforming Uses'.

STATUS OF NON-CONFORMING USES

The Development Regulations permits Non-Conforming Uses to continue subject to a number of conditions. A Non-Conforming Use loses its status if (a) the Non-Conforming Use has been discontinued for a period in excess of six (6) months; (b) if the building pertaining to the Non-Conforming Use has been removed; (c) if the building pertaining to the Non-Conforming Use suffers damage or deterioration beyond fifty (50) percent of its replacement value and an application to reconstruct the building for same use is not received within one year of such damage; or (d) if the Non-conforming Use has been replaced by a use which meets the requirements of the Mount Pearl Development Regulations.

A Change to a Non-Conforming Use may be allowed by Council to be extended by up to 50% of the original floor area of the building containing a Non-Conforming Use. This is subject to certain criteria as identified in the Development Regulations. An application for a change from one Non-Conforming Use to another Non-Conforming Use may be permitted provided the new use is more compatible with the permitted uses in the zone. Certain applications for restoration of Non-Conforming Uses maybe made as well subject to the requirements of the Development Regulations.

A processing fee is to accompany the Change to a Non-Conforming Use application, in addition to any other required fees. This fee must be paid in full before the application can be accepted for processing. The application fees are non-refundable once the application has been accepted for processing. Please see the City's Schedule of Rates and Fees.

This is an office consolidation prepared for easy reference. The City's Regulations are subject to periodic amendments. For the most recent and official version of the regulations pertaining to "Non-Conforming Uses", please refer to the City of Mount Pearl Development Regulations.

THE APPROVAL PROCESS

The Planning Division staff will advise the Applicant of the information required to be submitted with the application. After the application is officially accepted for processing, it will be reviewed by the Planning Division and other City staff where necessary. Once it has been determined that the application meets the City's technical requirements, staff will proceed to notify persons in accordance with the Mount Pearl Development Regulations.

The public notification process will involve the publication of a notice of the application in the newspaper and the distribution by mail of written notices to all property owners within a minimum 150-metre radius of the application site. Both notices are intended to advise the public of the receipt of the application and the name of the Applicant. The notices will also include a date for the receipt of written representations by the Planning and Development Department for anyone wishing to express an interest in the application. This public inspection period is a minimum of 14 days. The notices will also include a date for the receipt of written representations by the Planning and Development Department for anyone wishing to express an interest in the application.

If written representations are received, a briefing session will be held by members of the Planning and Land Use Development Committee. The written representations along with the notes of the briefing session will accompany the Planning and Land Use Development Committee report when the Non-Conforming Use application is considered by Council.

If approved, Council will issue a conditional development permit that is valid for one year unless otherwise stated in the permit. The applicant will then be required to apply to the Engineering Services Division for the applicable permits and to ensure that all other approvals are in place.

If an application for a Change to a Non-Conforming Use is not approved by Council, the Applicant has the right to appeal the decision to the Mount Pearl Local Board of Appeal.

THE APPROVAL PROCESS

The time involved for processing a Change to a Non-Conforming Use Application, from receipt of the completed application form and required information, to a decision by Council, is approximately five weeks; however, depending on the nature of the application this time frame may be longer. The applicant will be advised by the Planning Department in writing of the progress of the application through the approval process.

INFORMATION REQUIRED FOR A CHANGE TO A NON-CONFORMING USE APPLICATION

The following information is to be submitted to the Planning and Development Department for the processing of a Change to a Non-Conforming Use application:

1. Development application completed and signed by the applicant and property owner.
2. Real Property Report.
3. Proposed site plan at a scale not less than 1:500 (if applicable). Site plan to illustrate:
 - (a) existing and proposed development
 - (b) the existing and proposed setbacks from all property boundaries
4. Floor plan illustrating existing and proposed work (if applicable).
5. Architectural elevation drawings illustrating the proposal.
6. The application and processing fees (see the City's Schedule of Rates and Fees).

APPEAL

Once Council has made a decision on the Change to a Non-Conforming Use Application, the Applicant or any other interested persons have the right to appeal Council's decision to the Board of Appeal. Such appeals must be made within 14 days of the receipt of Council's written decision. Additional information on the appeal process may be obtained from the Mount Pearl Department of Community Development – Planning Division.

FURTHER INFORMATION

Any person who wishes to make an application pertaining to a Change to a Non-Conforming Use should contact the Department of Community Development – Planning Division, Mount Pearl City Hall, 3 Centennial Street, Mount Pearl, NL, Telephone (709)748-1017/1022, Fax (709)748-1111, or Email at planning@mountpearl.ca.

Please note: When the applicant is not the property owner, the property owner's authorization signature must appear on the application form before an application pertaining to a Change to a Non-Conforming Use may be officially accepted by the Department of Community Development – Planning Division for processing.