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11.1 Non-conforming structures

A non-conforming structure shall be considered to be any structure which contravenes one or more of the provisions of this by-law, but which either:

- i) Existed when this by-law came into effect; or
- ii) For which a construction permit, in conformity with the provisions of the by-law repealed in [article 1.2](#), had been issued prior to this by-law coming into force, provided that such permit remains valid and that the work is completed within the allotted time.

11.2 Non-conforming uses

A non-conforming use is considered to be any use of a property or structure, whether or not the structure is itself non-conforming to the present by-law, which contravenes one or more provisions of this by-law, but :

- i) Was existing or effective at the time this by-law came into force; or
- ii) For which a construction or occupancy permit, in conformity with the provisions of the by-law repealed in [article 1.2](#), had been issued prior to this by-law coming into force, and provided that such permit remains valid and that the work is completed within the allotted timeframe.

11.3 Acquired rights

- i) A non-conforming structure has acquired rights provided that a permit had been legally issued for it under a zoning by-law pre-dating this by-law, or that it was erected prior to February 25, 1972, the date that Zoning By-Law 1608 came into force.
- ii) A non-conforming use has acquired rights provided that a permit had been legally issued for it under a zoning by-law pre-dating this by-law, or that it existed prior to December 1, 1952, the date that the first zoning by-law of the City of Pointe-Claire came into force, and provided that it still existed within the timeframe specified in article 11.9.

11.4 Repairs or improvements to non-conforming structures

A structure which is non-conforming to this by-law may be repaired or improved, but may not be modified to render it more non-conforming in terms of the present by-law.

11.5 Extensions to non-conforming structures

Provided that it complies with all the other provisions of this by-law, a non-conforming structure can be extended only in the cases and under the conditions that follow:

- a) Non-conforming minimum height or minimum number of storeys

A structure which is non-conforming due to the fact that it does not respect the minimum required height or the minimum number of storeys, may be extended up to a maximum of 25% of the footprint it occupied at the coming into force of the present by-law.

- b) Non-conforming encroachment in a minimum setback

Except when it is located on the south side of Bord-du-Lac–Lakeshore Road, a building which is non-conforming due to an encroachment in a minimum setback, may be extended in height, and therefore in volume, on the portion that encroaches in the minimum setback, provided that there is no increase in the footprint.

- c) Single-family homes on a corner lot

On any corner lot, a single-family home already in existence at the coming into force of the present by-law, whether it encroaches or not in a minimum front setback or in a minimum secondary front setback, can be extended with an encroachment in the minimum rear setback, but only under the following conditions :

- i) The extension shall respect a minimum rear setback (from the rear property line, opposite the main front façade of the house) that is equal to the minimum lateral setback established in the [Particular Provisions Table](#) (the larger of the two, in the case where two numbers are indicated);
- ii) The house, including the extension referred to in sub-paragraph i), shall respect a minimum lateral setback equal to the minimum rear setback established in the [Particular Provisions Table](#);

11.6 Repair, improvement or extension of a non-conforming use

a) Repairs or improvement

A non-conforming use may be repaired or improved.

b) Extension

- i) A non-conforming use can not be extended, except when specifically authorised in the [Particular Provisions Table](#) by the letters “d.a.”, in which case it may be extended by no more than 10% of the total area it occupied on the date of the coming into force of the present by-law.

When a percentage is indicated at the intersection of the line of a use and the column of a zone with the letters “d.a.”, the use (only if it is existing and has acquired rights) may be extended by a maximum area equal to the percentage indicated, and applied to the area occupied by the use on the date of the coming into force of the present by-law.

- i) Any extension or modification of a non-conforming use must take place on the same landsite, or on the landsite immediately adjacent, provided that the owner was the same owner of the non-conforming use on the date that the present by-law came into force and provided that all other provisions of the present by-law and any other law or regulation in force are respected.
- ii) No extension of a non-conforming use may serve a non-conforming use other than the one in existence on the date of the coming into force of the present by-law.
- iii) A non-conforming use of a setback can not be extended.

11.7 Modification or replacement of a non-conforming use

A non-conforming use shall not be replaced by another use which does not conform to this by-law.

11.8 Termination of acquired rights pertaining to non-conforming structures

- a) Should a structure non-conforming to this by-law be burned, demolished or damaged in any other way to the point that it has lost more than 50% of the value ascribed to it by the evaluation roll, it shall not be rebuilt other than in conformity with this by-law.

However, a building which served for one or more non-conforming uses before the fire or the demolition does not have to respect the required minimum floor space index.

- b) Notwithstanding the provisions of paragraph a), a structure that is totally or partially non-conforming to this by-law and that has been intentionally or otherwise burned, demolished or damaged in any other way, may be rebuilt in accordance with the following conditions:
- i) If it is non-conforming due to the fact that it encroaches in a setback or on a riverbank and:
- a Its foundation is not demolished, the structure can be rebuilt on the same foundation, providing it respects the same volume and height that it had prior to the fire, disaster or demolition;

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- b Its foundation is demolished, the structure shall be relocated in compliance with the minimum setbacks and without encroaching on the riverbank. If this is not possible, the structure shall be relocated in such a way as to reduce its non-conformity as much as possible, while respecting the same volume and height that the encroachment had prior to the fire, disaster or demolition.
 - ii) If it is non-conforming due to the fact that it does not respect the required minimum facade width and:

 - a Its foundation is not demolished, it can be rebuilt while respecting the same facade width it had prior to the fire, disaster or demolition;
 - b The structure and its foundation are demolished, it shall be rebuilt while respecting the minimum required facade width. If this is not possible due to the frontage width of the landsite and the minimum required setbacks, it must be rebuilt to respect the largest possible facade width and the minimum required setbacks.
- c) A structure that is non conforming due to the fact that it encroaches in a minimum setback or on a riverbank, or due to the fact that it does not respect the required minimum facade width, can be raised and installed on new foundations while maintaining the same siting and footprint.
- d) A non-conforming structure which has been modified to render it conforming shall not be rendered non-conforming again. Amendment PC-2775-1, September 14, 2011)

11.9 Termination of acquired rights applying to non-conforming uses

In the event that a non-conforming use has been abandoned, ceased to function or has been interrupted for a period of six (6) consecutive months, or in the event that it is replaced by a conforming use, the owner of the acquired right pertaining to this non-conforming use shall be presumed to have relinquished said acquired right. Any subsequent use of the same property or structure shall conform to this by-law.

11.10 The present by-law shall come into force according to the law.

Bill McMurchie, Mayor

Lucie Tousignant, City Clerk