

CONDITIONAL USES BYLAW

In the case of discrepancy between the English version and the French version of this bylaw, only the French version is considered valid for the application of the law.

BYLAW 2012-006-1
Conditional Uses Bylaw

WHEREAS on November 5, 2012 the Municipality of Grosse Ile adopted a land use planning bylaw and a zoning bylaw which came into force on March 13, 2013;

WHEREAS these revised land use planning and development drafts formulate one of the important issues of the land use management plan and therefore, require that the Municipality implement a bylaw concerning conditional uses in order to oppose the dispersion of settlement and the harmful consequences that this type of occupancy can lead to;

WHEREAS this bylaw was submitted for public consultation during a public meeting held on June 11, 2012, and afterwards to a public approval process in accordance to the Act Respecting Land Use Planning;

WHEREAS a notice of motion was given at the sitting of council held on April 2, 2012 regarding the presentation of a bylaw as such;

WHEREAS a copy of this bylaw was also given to all members of council two (2) working days before this present meeting;

WHEREAS the members of council present declare having read the bylaw;

WHEREAS During the course of the sitting, the purpose and scope of the bylaw were briefly summarized;

THEREFORE

It is moved by Miles Clarke
Seconded by Vanessa Goodwin
And unanimously approved

That bylaw number 2012-006-1 be adopted and the following is ordered and decreed by the said bylaw:

Chapter 1

DECLARATORY PROVISIONS

Article 1.1 TITLE AND NUMBER OF THE BYLAW

The bylaw number 2012-006-1 is entitled “Bylaw Concerning Conditional Uses”.

Article 1.2 PREAMBLE AND ANNEXES

The preamble and the annexes of this present bylaw are an integral part thereof.

Article 1.3 PURPOSE OF THE BYLAW

The purpose of this bylaw is to permit in certain areas of the territory uses that are automatically unauthorized by the zoning bylaw, considering that particular conditions be respected.

This bylaw also constitutes a means to replace or enlarge a derogatory usage protected by an acquired right which is not authorized by the zoning bylaw while respecting particular conditions.

Article 1.4 TERRITORY OF APPLICATION

This bylaw applies to the territory of the Municipality of Grosse Ile.

Article 1.5 PERSONS SUBJECT TO THIS BYLAW

Any individual or corporation, association or society is subject to this bylaw.

Article 1.6 THE BYLAW AND ARTICLES

No article of this bylaw would be known to have an effect to exclude any person from enforcing a law from Canada or the province of Quebec.

Article 1.7 PROVISIONS OF OTHER BYLAWS

Any building that is erected, set up, reconstructed, enlarged, renovated or altered and any parcel of land or building occupied or used for authorized purposes, and in the manner dictated by this bylaw are, furthermore, subject to the specific provisions of other municipal bylaws that relate to them.

CHAPTER 2

INTERPRETATIVE AND ADMINISTRATIVE PROVISIONS

Article 2.1 TERMINOLOGY

For the enforcement of this bylaw, the definitions in article 2.3 TERMINOLOGY of the zoning bylaw number 2012-002 are applicable and valid as if they were integrally duplicated herein.

Article 2.2 BYLAW ADMINISTRATION AND APPLICATION

The administration and application of this bylaw are entrusted to the municipal inspector and/or the Director-General of the Municipality, but the issuing of permits remains the responsibility of the designated municipal officer according to the provisions of the “Bylaw Concerning the Issuing of Permits and Certificates, as well as the administration of the zoning, subdivision and construction bylaws” in force in the municipality.

Article 2.3 RESPONSIBILITIES OF THE APPLICANT

The responsibilities of the owner, occupant, applicant or the agent carrying out the work or services are those that are granted to him in the municipal bylaw currently in force concerning permits and certificates, as well as the following:

1. prior to the issuing of the permit, the applicant must inform the Municipality, in writing, of his agreement to the conditions issued within the framework of the acceptance of his project.
2. the applicant must also submit, if necessary, the details of a consent policy with the Municipality regarding that the commitments agreed upon will be followed within the framework of the acceptance of the conditional use.

Article 2.4 PROCEDURE REGARDING THE PRESENTATION OF A CONDITIONAL USE REQUEST

The issuing of a permit or certificate in regards to a conditional use aimed at by this bylaw is subject to approval of the conditional use by the municipal council, in accordance with the provisions of this bylaw and any other applicable municipal bylaw.

Article 2.5 PRESENTING A CONDITIONAL USE REQUEST

A written request aiming at the approval of a conditional use must be submitted to the competent authority by the applicant or his authorized representative. The request must be signed by the applicant or his authorized representative and the information and documents required by this bylaw must also be submitted with the request.

Article 2.6 CONDITIONAL USE REQUEST IN CONNECTION TO A CONSTRUCTION PROJECT

Similar to the conditional use request, a permit or certificate request must be presented to the Municipality for any subdivision, construction or

demolition project, in accordance with the municipal bylaw currently in force concerning permits and certificates.

Article 2.7 REQUIRED DOCUMENTS AND INFORMATION

A conditional use request submitted to the Community Development and Advisory Committee for analysis and recommendation must include, at the request of the designated municipal officer, one or all of the following general information:

1. family name, first name and address of the owner (s) or his authorized representative (s);
2. a proxy signed by the owner in the case of a request made by a representative;
3. if necessary, family name, first name and address of the professional (s) having worked on the presentation of plans and documents;
4. identification of the landsite aimed at by the conditional use request;
5. recent photographs of the site and adjacent lots taken within the 30 days prior to the request;
6. the plans, elevations, sections showing the architecture of any projected construction, including the colours;
7. the visual perspectives of the planned operation from the access road;
8. an explanatory text demonstrating the integration of the planned operations to the milieu (surroundings) according to the criteria of this bylaw.

Article 2.8 STUDY FEES

Applicable fees for studying and processing the approval of a conditional use request are set at 300\$, which includes the public notice and if necessary, the permit authorizing the work.

These fees are not refundable under any circumstances once the request has been presented.

Article 2.9 AMENDMENTS OF THE WORK

Once approved by council, the work to be carried out regarding a conditional use can not be altered unless it is the object of a new request according to the clauses foreseen by this bylaw.

Article 2.10 PROGRESS OF THE REQUEST

1. Complete Request

The request for the approval of a conditional use is considered complete when the study fees have been paid and all the required documents and plans have been submitted to the designated municipal officer.

2. Verification of the Request

The designated municipal officer verifies if the request is complete and in conformity with the urban planning bylaws. At the request of the designated municipal officer, the applicant must provide any additional information for the full understanding of the request.

When the planned operation does not conform with the urban planning bylaws, with exception to the planned use, the designated officer notifies the applicant within 30 days following the presentation of the completed request.

When the information, plans and documents provided by the applicant are inaccurate, erroneous or insufficient, the designated municipal officer notifies him that the transferal to the Community Development and Planning Advisory Committee is suspended in order for him to provide the corrected and sufficient information, plans and documents for the verification of the request.

3. Transferal of the Request to the Community Development and Planning Advisory Committee

When the request is complete and the designated municipal officer verified its conformity, the request is transferred to the Community Development and Planning Advisory Committee for their opinion within the thirty (30) days following the completion of the verification.

4. Study and Recommendation of the Community Development and Planning Advisory Committee

The Community Development and Planning Advisory Committee formulates a written notice in the form of a recommendation, taking into account the pertinent evaluation criteria dictated in this bylaw and forwards this notice to the municipal council.

5. Public Notice

At least fifteen (15) days before the meeting where the municipal council must decide on a request authorizing a conditional use, the town clerk must, by means of a public notice in accordance with the provisions of the *Act Respecting Land Use Planning* and a notice posted in a public place regarding the site aimed at by the request, announce the date, time and place of the sitting, the dispositions of the request and the right of any interested person to voice his opinion or concerns regarding the request during the sitting of council.

6. Approval by Municipal Council

After receiving the recommendation of the Community Development and Planning Advisory Committee, the municipal council renders their decision at the meeting indicated in the public notice (referred to in point 5).

The resolution by which the municipal council grants the request foresees any condition, considering the powers of the Municipality, that must be met regarding the implementation or the carrying out of the conditional use.

A copy of the resolution is forwarded to the applicant. The resolution by which the municipal council refuses the request specifies the reasons of refusal.

7. Issuance of the Permit or Certificate

The permit or the certificate can not be issued by the designated municipal officer until he obtains a true certified copy of the resolution by which the municipal council approves the request.

The designated municipal officer issues the permit or the certificate in accordance with the provisions of the *Bylaw Concerning Permits and Certificates* if the request is in compliance with all the provisions of the land use planning bylaws currently in force, and if, except for the targeted use, the conditions in the resolution approving the request are met.

CHAPTER 3

PROVISIONS APPLICABLE TO ISOLATED SINGLE-FAMILY DWELLINGS OUTSIDE OF THE VILLAGE CORE AREA

Provisions Related to the Admissibility, Application and Evaluation Criteria

Article 3.1 General Principles

The territory of the Municipality of Grosse Ile is characterized by a dispersion of dwellings that causes its share of impacts, particularly in regards to the cost of public services as well as the protection of agricultural land sites, forestry coverings and panoramic sceneries that are the base of the tourism product offered to visitors.

The objective of this chapter is to permit isolated single-family dwellings outside of the Village Core network, conditionally that specific norms and criteria are respected.

Article 3.2 APPLICABLE AREAS

In the agricultural A and forestry F zones included in the zoning plan of the Municipality and integrally part of Bylaw No. 2012-002, may be authorized, as conditional uses, isolated single-family dwellings of low impact on the landscape if all provisions of this bylaw are respected.

Article 3.3 ELIGIBILITY

3.3.1 General Rule

For the purposes of this bylaw, the category of an isolated single-family dwelling of low impact on the landscape refers to a project that respects the following normative elements:

- the landsite intended for an isolated single-family dwelling of low impact on the landscape, has a minimum area of 3000 sq. m. (32 291 sq. ft.);
- the height of the isolated single-family dwelling is limited to two (2) stories and its ground area does not exceed 82.1 sq. m. (884 sq. ft.);
- the number of secondary buildings corresponding to residential use is limited to one (1) on the condition that it is does not exceed one-story and a ground area of 37 sq. m. (400 sq. ft.);

Article 3.4 EVALUATION CRITERIA

3.4.1 Criteria regarding the construction

- access to the site and construction of the structures integrate with the natural environment (layout, vegetation, wooded, etc.) and supports construction procedures that minimize embankment and excavation work;
- the planned construction must be designed in a way to harmoniously integrate in to the site and also in a way that prevents the construction from dominating the landsite;
- the planned construction must take into account the agricultural potential of the soil and the presence of a forestry covering if necessary;
- the location of buildings is planned in a way to minimize their visual impact and to preserve the ridge lines;

3.4.2 Criteria Regarding the Connection to Public Services

- connection to the electrical and cable distribution networks between the main network and the building must give preference to underground connection.

CHAPTER 4

APPLICABLE PROVISIONS REGARDING THE EXPANSION OR REPLACEMENT OF A NON-CONFORMING USE PROTECTED BY ACQUIRED RIGHTS

Provisions regarding eligibility, areas of application and evaluation criteria

Article 4.1 General Principles

Given that land occupancy on the Magdalen Islands was carried out in the absence of urban planning bylaws (until the coming into force of the zoning bylaw in 1994), there are quite a few non-conforming uses protected by acquired rights within the territory. This situation, in virtue of the present zoning bylaws, makes it difficult to get the optimal use from buildings that house non-conforming uses and even prevents the implementation of interesting and sometimes innovative projects when standard provisions associated with acquired rights must be applied.

The objective of this chapter is to permit the expansion or replacement of a non-conforming use protected by acquired rights by another non-conforming use that is more acceptable or less restrictive based on the following principles:

In the case of a replacement

- the replacement has a more compatible impact with the authorized uses within the vicinity than that of the existing non-conforming use protected by acquired rights.

In the case of an expansion

- the expansion of the existing non-conforming use protected by acquired rights does not increase the negative impacts that this non-conforming use already causes within the vicinity.

Article 4.2 Areas of application

The expansion or replacement of a non-conforming use protected by acquired rights by another non-conforming use may be permitted throughout the territory, as a conditional use, if all the provisions of this present bylaw are respected.

Article 4.3 Eligibility

4.3.1 General rule

In order to be eligible a request must meet the following conditions:

- the applicant must show that the non-conforming use has acquired rights before the initial analyzing of his replacement request will begin;
- the non-conforming replacement use must result in the termination of any non-conforming use protected by acquired rights by replacing it for another use that appears to be closer to an automatically authorized use than that of the existing non-conforming use;
- the non-conforming expansion use must improve the situation in regards to the inconveniences that the existing non-conforming use can cause.

Article 4.4 Eligibility criteria

4.4.1 Criteria regarding the basic integration of the site

The proposed expansion or replacement is instrumental to the harmonization of the vicinity and does not entail any significant negative impacts for the surrounding area and/or it reduces the constraints in regards to the expanded or replaced non-conforming use concerning:

- the visible architectural characteristics in the neighbourhood (volume, colours and materials of the buildings; the slopes of the roofs);
- the development of the land;
- increased traffic caused by the expanded or replaced use;
- the activities resulting from the expanded or replaced use;
- the through traffic within the vicinity.

4.4.2 Criteria regarding integration within the area

- the proposed concept for signage is detached and enhances both the building and the site and integrates within the surrounding area;
- outdoor areas and secondary buildings are located and developed in a manner to minimize any inconveniences;
- outdoor lighting does not interfere with the immediate surroundings;
- the facilities used for storing waste or any other facility is located in an area where the risk of causing inconveniences is very low.

4.4.3 Criteria regarding the architecture of the reception building

- the main and secondary buildings are built, expanded, renovated or altered in an architectural style that enhances the natural value of the buildings and this, in respect to the landscape in which it is established.

4.4.4 Criteria regarding parking

- the site on which the non-conforming use is located has a sufficient number of parking spaces and meets the requirements of the expanded or replaced use, while minimizing potential inconveniences for the surrounding area;
- the location and accessibility of the parking spaces in regards to public roads are maximized in accordance with the overall development and are concealed by the integration of landscaped strips

CHAPTER 5

FINAL PROVISIONS

Article 5.1 PENALTIES

Anyone who violates one or another of the provisions in this bylaw commits an infraction and is liable to a penalty, with or without fees; the amount of this penalty is as follows:

1. If it is an individual:
 - For a first offence, a penalty of 100\$ and maximum of 1000\$.
 - For a second offence within a one year period, a minimum penalty of 300\$ and maximum of 2000\$.
2. If it is a corporation:
 - For a first offence, a penalty of 600\$ and maximum of 2000\$.
 - For a second offence within a one year period, a minimum penalty of 1000\$ and maximum of 4000\$.

A continuous violation of one or another of the provisions of this bylaw constitutes, day-by-day, a separate and distinct infraction.

Article 5.2 VIOLATION REPORT

When the designated municipal officer notices a violation to this bylaw, he is authorized to issue a violation report. He forwards a copy to the offender.

Article 5.3 LEGAL PROCEEDINGS

The Municipality can use the necessary legal action against anyone who violates this bylaw.

Article 5.4 LEGAL PROCEEDINGS INITIATIVE

Only the council is entitled to authorize legal proceedings.

Article 5.5 CIVIL OR CRIMINAL COURT

In order to respect the provisions of this bylaw, the Municipality can exercise consecutively or alternately the proceedings foreseen in this bylaw, as well as any other appropriate civil or criminal legal action.

Article 5.6 COMING INTO FORCE

This bylaw will come into force conforming to the provisions of the Act Respecting Land Use Planning (L.R.Q.,c.A-19.1).

Rose Elmonde Clarke
Mayor

Janice Turnbull
Director General

NOTICE OF MOTION: April 2, 2012
ADOPTION: January 14, 2013
PUBLICATION: March 25, 2013