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## 28N. Nonconformities

## 28N.1201 Nonconformities

### (1) Purpose

Within the Zoning Districts established by this ordinance, there may exist uses, buildings, structures, and lots that do not conform to the provisions of this ordinance. The purpose of this Section is to specify those circumstances and conditions under which these nonconforming uses, buildings, structures, and lots shall be permitted to continue.

### (2) Nonconforming Uses

The lawful nonconforming use of a building, structure, or land existing on the effective date of this ordinance may be continued although it does not conform to the provisions of this ordinance, provided that:

- A. Structural repairs or structural alterations to the building or structure shall not exceed fifty percent (50%) of the total assessed value of the building or structure.
- B. The nonconforming use shall not be extended or expanded.
- C. The building or structure does not become and remain vacant for a continuous period of twelve (12) months.
- D. The nonconforming use of the land does not cease for a continuous period of twelve (12) months.

### (3) Nonconforming Buildings or Structures.

A lawful nonconforming building or structure existing on the effective date of this ordinance may be continued although it does not conform to the provisions of this ordinance with respect to bulk characteristics including, but not limited to, setback, open space, floor area ratio, height, density, parking facilities, amount of parking, and style, provided that any additions or enlargements shall conform to the provisions of the ordinance.

### (4) Nonconforming Lot

A lawful nonconforming lot existing on the effective date of this ordinance may be continued although it does not conform to the provision of this ordinance, provided that the size and shape of the lot shall not be changed in any way to increase the nonconformity.

- A. Lots of record. In any district where residential uses are allowed, a single-family dwelling may be established on a lot of record existing on the effective date of this ordinance, regardless of the size of the lot, provided that all other requirements of the applicable zoning district are complied with.

### (5) Restoration of a Nonconforming Building or Structure

A lawful nonconforming building or structure existing on the effective date of this ordinance that has been damaged or destroyed may be restored to the size,

location, and use that it had immediately before the damage or destruction occurred provided that:

- A. The nonconforming building or structure was damaged or destroyed on or after March 2, 2006, and
- B. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

The size of the restored building or structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure or building to comply with applicable state or federal requirements.

### **(6) Certificate of Occupancy for Nonconforming Use**

Any person having a legal or equitable ownership interest of record in a property that is nonconforming as to use shall obtain a certificate of occupancy from the office of the Zoning Administrator. Such person shall present documentary evidence that said use was a lawful permitted or conditional use at the time it originated and was made nonconforming by the adoption of this ordinance or any amendment thereto or was made nonconforming by the zoning ordinance in effect at the time this ordinance was adopted. Documentary evidence may include leases, affidavits, lawfully issued permits, certificates of occupancy, and other legal documents, subject to verification of authenticity and accuracy.