

## SECTION 4

### NON-CONFORMING USES, STRUCTURES, AND PARCELS

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#### 4.1 TYPES OF NON-CONFORMITY & ENFORCEMENT ACTION:

- A. Parcels of land, structures, and uses, may be:
- (1) Legal-conforming: lawfully created and within present zoning district requirements and provision;
  - (2) Legal-non-conforming: created or constructed lawfully or the use begun lawfully, but due to changes in the LUC are now still legally continued, but no longer in conformance with the LUC so cannot be expanded or changed; or
  - (3) Illegal-non-conforming: the parcel was created unlawfully, the use begun unlawfully, or the structure built unlawfully, and all of these remain unlawful.
- B. Illegal-non-conforming parcels, buildings or structures and uses are subject to enforcement action under this Code or the Building Code, or may become legal upon application and approval by BOCC or the Board of Adjustment.

#### 4.2 EXPANSION OR ENLARGEMENT:

- A. The expansion or enlargement of a legal non-conforming structure shall be considered a structural alteration and, upon completion of such expansion or enlargement, such structure shall conform with all the provisions of this Code.
- B. Any pre-existing, legal non-conforming use may not be expanded except as otherwise provided for in this Code.

#### 4.3 REPAIRS AND MAINTENANCE:

The following changes or alterations may be made to a legal non-conforming structure or to a legal conforming structure housing a non-conforming use:

- A. Maintenance repairs that are needed to maintain the good condition of a building, except that if a building has been officially condemned, it may not be restored under this provision.
- B. Any structural alteration that would reduce the degree of non-conformance or change the use to a conforming use.
- C. The addition of a solar energy device to such structure.

#### **4.4 RESTORATION OR REPLACEMENT:**

- A.** If a legal non-conforming structure or a structure housing a legal non-conforming use is destroyed or damaged in any manner, it may be restored or replaced to its original design and footprint, or decrease the degree of non-conformity, so that the exterior appearance remains the same as prior to the damage; however the structure will need to meet applicable building code requirements. If design features are changed, or if the footprint of the building is enlarged, so that the exterior appearance is not the same, then the structure, or the non-conforming activities in the structure, shall conform with all provisions of this Code, and the interior finish must meet all applicable building code requirements.
- B.** Where restoration of a legal non-conforming structure or of a conforming structure to a legal non-conforming use would otherwise be permitted, it shall not be permitted unless the repair or restoration is commenced within twelve (12) months and completed within eighteen (18) months from the date of damage or destruction, except upon approval of an extension by the BOCC.
- C.** The exterior appearance must remain the same or decrease the degree of non-conformity that existed prior to the damage.

#### **4.5 DISCONTINUANCE:**

Whenever a non-conforming use has been discontinued for a period of six (6) months, it shall not thereafter be re-established, and any further use shall be in conformance with the provisions of this Code.

#### **4.6 NON-CONFORMING PARCELS:**

- A.** Legal-non-conforming lots may be built upon, and structures must meet all other applicable provisions of this Code and applicable provisions of the building codes.
- B.** Illegal-non-conforming lots may not be built upon without an exception, variance or other approval by the BOCC.
- C.** Boundary adjustments involving not more than two properties may be utilized to make a non-conforming parcel conforming, or to reduce the degree of non-conformity, provided that no additional non-conformities result from such action.
- D.** Parcels which have been divided, adjusted, or otherwise conveyed with a legal description that has not resulted from a legal subdivision or other county approval process, and which result in one or more non-conforming parcels, will require a variance or exception.

**4.7 CHANGE IN NON-CONFORMING USE:**

No non-conforming use of a building or parcel may be changed to another non-conforming use. A non-conforming use of the building or parcel may be changed to a conforming use.

**4.8 COUNTY-OWNED PROPERTY:**

If the County acquires title to any property by reason of tax delinquency and such property is not redeemed as provided by law, the future use of such property shall be in conformity with the current Code.