

## Section 3.8 Nonconforming Uses of Land & Structures

### (A) Nonconforming Use *(unchanged)*

... **(B) Nonconforming Structures.** Any structure, or portion thereof, legally in existence as of the effective date of these regulations which does not comply with the requirements of these regulations as adopted, or as subsequently amended, shall be considered a nonconforming structure. A nonconforming structure may continue to be occupied indefinitely in accordance with the Act [4412(7)], subject to the following limitations. A nonconforming structure:

- (1) may undergo routine maintenance and repair, provided that such action does not increase the degree of noncompliance;
  - (2) may only be structurally modified or moved in a manner that will not increase the degree of nonconformity, unless approved by the Development Review Board through conditional use review under Section 5.4. Any structural alteration which extends the building footprint or increases the height of a structure further into a setback than the existing structure shall be considered to increase the degree of non-conformity. Any structural alteration of a nonconforming structure which does not encroach further into the setback, or increase the height of the non-conforming part of a structure, or extends the structure's footprint outside of any setback, shall not be considered to increase the degree of non-conformity.
  - (3) may be repaired, restored or reconstructed after damage from any cause provided that the repair or reconstruction does not increase the degree of noncompliance which existed prior to the damage, is commenced within one year of the date of the event that led to the damage, and is substantially completed within two (2) years of the damage or destruction, in accordance with Section 3.1. The Development Review Board may, on appeal, grant a one (1)-year extension to this deadline upon a determination that the delay was unavoidable and that the owner had acted to substantially complete the repair, restoration or reconstruction within the initial one (1)-year period. Any non-conforming structure in the Flood Hazard Overlay Area District must meet the standards of Section 5.6.
- (C)** Nothing in these regulations shall be construed as allowing the continuation of a use or occupancy of a structure that has been declared by an appropriate governmental authority (e.g., Health Officer) to be unsafe, or to pose a threat to public health or safety.