

**CITY OF WASILLA  
ORDINANCE SERIAL NO. 98-30(AM)**

**AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC 16.43.204, AND ADOPTING WMC 16.43.803, NON-CONFORMING STRUCTURES AND USES REPEALING WMC 16.43.802, NON-CONFORMITIES.**

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BE IT ORDAINED AND ENACTED BY THE CITY OF WASILLA, ALASKA AS FOLLOWS:

**Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

**Section 2. Amendment of section.** WMC 16.43.204, Definitions, is hereby amended to add two definitions, to be inserted in alphabetical order with subsequent paragraphs renumbered accordingly:

“Non-conforming Structure” means a building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.

“Non-conforming Use” means a use which lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform with the use regulations.

“Non-conforming Lot” means a lot whose width, area or other dimension did not conform to the regulations when this code became effective.

**Section 3. Adoption of new section.** WMC 16.43.803 Non-conforming Structures and Uses, is adopted to read as follows:

**16.43.803 Non-conforming Structures and Uses.**

(A) *Continuance.* Except as otherwise required by law, a structure or use that was legally established prior August 12, 1996, may be continued unchanged. In other than criminal proceedings, the owner, occupant or

user shall have the burden to show that the structure, lot or use was lawfully established.

(B) *Vacancy.* Any lot or structure, or portion thereof, occupied by a non-conforming use, which is or becomes vacant and remains unoccupied, by a non-conforming use for a period of 12 months shall not be occupied, except by a use which conforms to the Wasilla Development Code.

(C) *Damage.* If any non-conforming structure or use is damaged, by any cause, to the extent of 65 percent of its value or more, as determined by the city planner, the structure or use shall not be reconstructed or continued. The city planner shall obtain input from the property owner, lessees, insurance companies, appraisers, and others, as deemed necessary and appropriate by the city planner in making the decision. However, single-family and multifamily dwellings, duplexes, and mobile homes may be replaced within 12 months, regardless of the amount of damage, if the owner obtains a conditional use permit from the city authorizing the owner to do so.

(D) *Maintenance and repair.* Maintenance, repairs and structural alterations shall be allowed to non-conforming structures or to a building housing a non-conforming use with appropriate permits.

(E) *Changes of non-conforming use.* A change of use of a non-conforming use of a structure or parcel of land shall not be made except to that of a conforming use. Where such change is made, the use shall not be changed back to a non-conforming use.

(F) *Additions.* All additions to non-conforming structures shall conform to the requirements of the Wasilla Development Code. Additions to structures housing non-conforming uses that increase the area of a non-conforming use shall not be made.

**Section 4. Repeal of section.** WMC 16.43.802 Non-conformities is hereby repealed in its entirety.

**16.43.802 NONCONFORMITIES.** THE PURPOSE OF THIS SECTION IS TO CONTROL, REDUCE OR ELIMINATE CONFLICTS FROM THE PRESENCE OF BUILDINGS AND USES NOT CONFORMING TO DISTRICT REGULATIONS. NONCONFORMITY'S THAT ARE MAINTAINED IN FULL COMPLIANCE WITH THE PROVISIONS OF THIS SECTION ARE NOT SUBJECT TO FINES OR REMEDIAL ACTIONS.

A. TYPES OF NONCONFORMITIES. THERE ARE THREE BASIC TYPES OF NONCONFORMITIES:

1. NONCONFORMING USES. A NONCONFORMING USE IS A USE WHICH IS PROHIBITED UNDER THIS TITLE, BUT WHICH WAS LAWFUL PRIOR TO THE EFFECTIVE DATE OF THIS TITLE OR ANY SUBSEQUENT REVISIONS.

2. NONCONFORMING BUILDINGS. A NONCONFORMING BUILDING IS ONE WHICH WAS LAWFUL AT THE TIME OF CONSTRUCTION BUT WHICH DOES NOT PRESENTLY CONFORM TO THE PROVISIONS AND STANDARDS OF THE DISTRICT IN WHICH IT IS LOCATED.

3. NONCONFORMING LOTS OF RECORD. NONCONFORMING LOTS OF RECORD ARE THOSE LOTS IN EXISTENCE ON THE EFFECTIVE DATE OF THIS TITLE OR ANY SUBSEQUENT REVISIONS WHICH DO NOT MEET APPLICABLE MINIMUM LOT SIZE REQUIREMENTS.

B. REGULATION OF NONCONFORMITIES. PRIORITY REGULATORY ATTENTION SHALL BE GIVEN TO NONCONFORMITIES WHICH ARE FIRE AND SAFETY HAZARDS OR WHICH ARE CLEARLY INCONSISTENT WITH SURROUNDING USES OR BUILDINGS. THE FOLLOWING ARE THE REGULATIONS FOR THE VARIOUS TYPES OF NONCONFORMITY'S:

1. USES. A NONCONFORMING USE MAY BE CHANGED TO AN ALLOWED USE OR ANOTHER NONCONFORMING USE WITH APPROVAL OF THE PLANNER AS A USE PERMIT. THE PLANNER MUST FIND THE NEW USE IS MORE CONSISTENT WITH THE USES ALLOWED IN THE ZONING DISTRICT, OR IS LESS OF A FIRE OR SAFETY HAZARD. WHEN A NONCONFORMING USE IS DISCONTINUED OR ABANDONED FOR TWELVE MONTHS OR MORE AT ANY TIME AFTER THE EFFECTIVE DATE OF THIS TITLE, IT SHALL NOT THEREAFTER BE RESUMED UNLESS AN EXTENSION IS APPROVED BY THE COMMISSION UNDER THE PROCEDURES SPECIFIED FOR A CONDITIONAL USE. WHEN A NONCONFORMING USE IS DAMAGED SO THAT THE COST OF REPAIR EXCEEDS SIXTY-FIVE PERCENT OF THE CURRENT ASSESSED VALUE OF THE BUILDING, THE USE MUST BE CHANGED TO A USE WHICH IS ALLOWED IN THE DISTRICT.

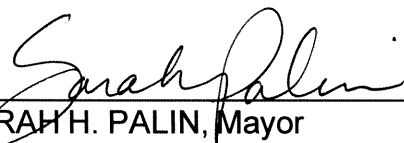
2. BUILDINGS. THE MOVING, REPLACEMENT, REPAIR AND MAINTENANCE OF THE NONCONFORMING PORTION OF A BUILDING IS ALLOWED; PROVIDED THAT NO ADDITIONAL BUILDING OR NEW BUILDING IS ADDED WITHIN THE YARD AND THAT THE BUILDING COMPLIES WITH ALL OTHER DISTRICT REQUIREMENTS. ANY NONCONFORMING RESIDENTIAL BUILDING WHICH HAS BEEN DAMAGED MAY BE REPAIRED, REBUILT OR REPLACED WITHIN

ONE YEAR OF SUCH DAMAGE UNLESS AN EXTENSION IS APPROVED BY THE COMMISSION UNDER THE PROCEDURES FOR A CONDITIONAL USE; PROVIDED, THAT SUCH REPLACEMENT DOES NOT EXTEND OR EXPAND THE PREVIOUSLY EXISTING NONCONFORMITY. OTHER NONCONFORMING BUILDINGS THAT ARE DAMAGED SO THAT THE COST OF REPAIRS EXCEEDS SIXTY-FIVE PERCENT OF THE CURRENT ASSESSED VALUE OF THE BUILDING SHALL NOT BE CONTINUED UNLESS THE BUILDING CONFORMS WITH ALL REQUIREMENTS OF THE APPLICABLE ZONING DISTRICT.

3. LOTS. NONCONFORMING LOTS OF RECORD IN EXISTENCE ON THE EFFECTIVE DATE OF THIS TITLE WHICH DO NOT MEET APPLICABLE MINIMUM LOT SIZE REQUIREMENTS FOR THE DISTRICT IN WHICH THEY ARE LOCATED MAY BE USED FOR ALL USES PERMITTED IN THE DISTRICT, PROVIDED THAT ALL OTHER PROVISIONS OF THIS TITLE ARE MET. (ORD. 96-29 ATTACHMENT A 1996)

**Section 5. Effective date.** This ordinance is effective upon adoption.

ADOPTED by the Wasilla City Council on this 13th day of July, 1998

  
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SARAH H. PALIN, Mayor

ATTEST:

  
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KRISTIE L. VANGORDER, CMC/AE  
City Clerk

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