

TABLE OF CONTENTS

1			
2			
3	CHAPTER 21.11: NONCONFORMITIES		524
4	21.11.010 General Provisions		524
5	A. Purpose		524
6	B. Authority to Continue		524
7	C. Determination of Nonconformity Status		525
8	D. Nonconformities Created Through Government Action		525
9	E. Change of Ownership or Tenancy		525
10	F. Damage or Destruction		525
11	G. Maintenance and Minor Repair		525
12	H. Replacement Cost		526
13	I. Willful Destruction		526
14	21.11.020 Single- and Two-Family Structures		526
15	A. Applicability		526
16	B. Expansions and Enlargements		526
17	C. Damage or Destruction		526
18	21.11.030 Nonconforming Uses of Land or Structures		526
19	A. Limitations on Continuation of Nonconforming Uses of Land or Structures		526
20	B. Change of Use		527
21	C. Alteration, Expansion, or Intensification of Nonconforming Use		527
22	D. Abandonment or Cessation of Use		529
23	E. Overcoming Presumption of Abandonment		529
24	F. Damage or Destruction		530
25	21.11.040 Nonconforming Structures		530
26	A. Continuation of Nonconforming Structures Generally		530
27	B. Overheight Buildings		530
28	C. Buildings Exceeding Maximum Setback		531
29	D. Damage or Destruction		531
30	E. Mobile Homes		532
31	F. Legalization of Nonconforming Dimensional Yard Setback Encroachments		532
32	G. Preexisting Tower and Antennas		533
33	21.11.050 Nonconforming Lots of Record		533
34	A. One Single-Family Dwellings Allowed		533
35	B. Undivided Parcels		534
36	C. Legalization of Lots Created Prior to September 16, 1975		534
37	21.11.060 Nonconforming Characteristics of Use		535
38	A. Nonconforming Characteristics of Use, Lot, or Structure		535
39	B. Bringing Nonconforming Characteristics into Compliance		535
40	21.11.070 Nonconforming Signs		536
41	A. Effective Date		536
42	B. Amortization Provisions		536
43	C. Termination		537
44	D. Maintenance of Nonconforming Signs		537
45	E. Alteration, Relocation or Replacement of Nonconforming Signs		537
46	F. Reconstruction of Damaged Sign		537
47	G. Historic Signs		537
48	H. Extension of Time to Comply		537
49			
50			
51			

1 **CHAPTER 21.11: NONCONFORMITIES**

2 **21.11.010 GENERAL PROVISIONS**

3 **A. Purpose**

4 The purpose of this chapter is to regulate ~~and limit the development and~~ continued
5 existence of legal uses, structures, lots, signs, and use characteristics such as parking
6 and landscaping, established prior to the effective date of this title, or the effective date of
7 future amendments to this title, that no longer conform to the requirements of this title. All
8 such situations are collectively referred to in this chapter as “nonconformities.” **It is the**
9 **intent of this chapter to permit these nonconformities to continue until they are removed**
10 **or brought into conformance with this title, and to encourage their re-use and movement**
11 **towards conformity.** ~~While nonconformities may continue, the provisions of this chapter~~
12 ~~are designed to curtail substantial investment in nonconformities to bring about their~~
13 ~~eventual elimination in order to preserve the integrity of this title and the character of the~~
14 ~~Municipality.~~

15 **B. Authority to Continue**

16 **1. Generally**

17 Any nonconformity that lawfully existed as of the effective date of this title and
18 that remains nonconforming, and any nonconformity that is created as a result of
19 any subsequent rezoning, amendment to the text of this title, or by the acquisition
20 of property for a public purpose, may be continued or maintained as a
21 nonconformity only in accordance with the terms of this chapter, unless such
22 nonconformity falls within the exception set forth in subsection 21.11.010.B.2.

23 **2. Exception Due to Variances or Minor Modifications**

24 This chapter shall not apply to any development standard or feature that is the
25 subject of a variance or minor modification granted under this title. Where a
26 variance or minor modification has been granted that results in a development
27 standard or feature that does not otherwise conform to the requirements of this
28 title, that development standard or feature shall be deemed conforming.

29 **3. Conditional Uses**

30 **a.** A use existing prior to the effective date of this title that is permitted as a
31 conditional use in the district in which it is located under this title, but
32 which lacks an approved conditional use permit, shall not be deemed a
33 nonconforming use, but rather shall be considered to exist as a
34 conditional use. The scope of such a conditional use shall be governed
35 by the provisions of this chapter unless modified by the Planning and
36 Zoning Commission in accordance with section 21.03.070, *Conditional*
37 *Uses*.

38 **b.** A conditional use existing prior to the effective date of this title that is
39 permitted in its entirety as a principal use in the district in which it is
40 located under this title shall not be deemed a nonconforming use. Such
41 use shall be deemed a permitted principal use and the conditional use
42 permit shall be null and void.

1 **C. Determination of Nonconformity Status**

2 In all cases, the burden of establishing the existence of a legal nonconformity shall be
3 solely upon the owner of the nonconformity, not the Municipality. Verification of
4 nonconforming status may be established through the process set forth in section
5 21.03.170, *Verification of Nonconforming Status*.

6 **D. Nonconformities Created Through Government Action**

7 If a structure, use of land, use of structure, or characteristic of use does not comply with
8 the requirements of this title solely as a result of an acquisition of land or other action by
9 a government agency for a public purpose, then such structure, use of land, use of
10 structure, or characteristic of use on land not acquired by the government shall be
11 deemed conforming. For purposes of this section the word "land" means fee simple
12 interest in real estate.

13 **E. Change of Ownership or Tenancy**

14 Changes of ownership, tenancy, or management of property with an existing
15 nonconformity are permitted but such nonconformities shall continue to be subject to the
16 provisions of this chapter.

17 **~~F. Damage or Destruction~~**

18 ~~If a nonconformity is damaged or destroyed by any means to an extent greater than 50~~
19 ~~percent of its replacement cost at the time of damage or destruction, then such~~
20 ~~nonconformity shall not be re-established unless it is made to conform to the~~
21 ~~requirements of this title.~~

22 **G. Maintenance and ~~Minor~~ Repair**

23 1. ~~Minor~~ **R**epairs or maintenance of nonconformities that are required to keep
24 structures or sites in a safe condition are permitted, provided that the ~~minor~~
25 repair or maintenance does not increase the extent of nonconformity. For
26 purposes of this section, "maintenance or ~~minor~~ repair" shall mean:

27 a. Repairs that are necessary to maintain and to correct any damage or
28 deterioration to the structural soundness or interior appearance of a
29 building or structure without expanding or altering the building or
30 structure;

31 **b. Repair of uses or structures that are damaged or destroyed by 50% or**
32 **less of the replacement cost of the use or structure at the time of**
33 **damage.**

34 c. Maintenance of land areas to protect against health and environmental
35 hazards and promote the safety of surrounding land uses;

36 d. Repairs that are required to remedy unsafe conditions that cause a
37 threat to public safety; and

38 e. Repairs and maintenance of nonconforming signs as set forth in section
39 21.11.060, *Nonconforming Signs*.

- 1 2. Nothing in this chapter shall be deemed to prevent the strengthening or restoring
2 to a safe condition of any building or part thereof declared to be unsafe by any
3 official charged with protecting the public safety, upon order of such official.

4 **H. Replacement Cost**

5 Where the term "replacement cost" is used in this chapter, it shall be determined by the
6 building official pursuant to title 23.

7 **I. Willful Destruction**

8 In the event of arson or other willful destruction, any rights to reinstate, replicate, rebuild,
9 or otherwise reestablish the nonconforming use or structure, as allowed in this chapter,
10 shall be prohibited if such casualty is traceable to the owner or his or her agent. Such
11 instances shall result in forfeiture of the nonconforming status.

12 **21.11.020 SINGLE- AND TWO-FAMILY STRUCTURES**

13 **A. Applicability**

14 Sections 21.11.010, 21.11.020, and 21.11.050 shall apply to lawfully erected
15 nonconforming single- and two-family structures. Other sections of this chapter shall not
16 apply to lawfully erected single- and two-family structures.

17 **B. Expansions and Enlargements**

18 Any lawfully erected nonconforming single- or two-family structure may be expanded or
19 enlarged, as long as the nonconformity is not increased.

20 **C. Damage or Destruction**

21 Any lawfully erected nonconforming single- or two-family structure that is damaged or
22 destroyed may be rebuilt in the same location and to the same dimensions so that the
23 nonconformity of the damaged or destroyed structure is not increased, but the structure
24 may be rebuilt in a manner that moves towards conformity.

25 **21.11.030 NONCONFORMING USES OF LAND OR STRUCTURES**

26 **A. Limitations on Continuation of Nonconforming Uses of Land or Structures**

27 Nonconforming uses of land or structures may continue, subject to the general provisions
28 of section 21.11.010 and the following limitations, or as provided in C below:

- 29 1. No nonconforming use of land shall be enlarged or increased or extended to
30 occupy a greater area of land than was occupied at the effective date of adoption
31 or amendment of the regulations that make the use nonconforming. Any
32 nonconforming use on a lot or portion thereof may be altered to decrease its
33 nonconformity.
- 34 2. No nonconforming use of land shall be moved in whole or in part to any portion of
35 the lot or parcel other than that occupied by such use at the effective date of
36 adoption or amendment of the regulations that make the use nonconforming.
- 37 3. No existing structure devoted to a use not permitted by this title in the district in
38 which it is located shall be enlarged, extended, constructed, reconstructed,

1 moved, or structurally altered except in changing the use of the structure to a use
2 permitted in the district in which it is located.

3 4. Any nonconforming use may be extended throughout any parts of a building that
4 were manifestly arranged or designed for such use at the time of adoption or
5 amendment of the applicable regulations, but no such use shall be extended to
6 occupy any land outside such buildings.

7 5. No additional structure not conforming to the requirements of this title shall be
8 erected in connection with the nonconforming use of land or structure.

9 **B. Change of Use**

10 1. If no structural alterations are made, any nonconforming use may be changed to
11 another nonconforming use provided that the zoning board of examiners and
12 appeals, either by general rule or by making findings in the specific case, shall
13 find that the proposed use is more appropriate to the district than the existing
14 nonconforming use. In permitting such change, the zoning board of examiners
15 and appeals may require appropriate conditions and safeguards.

16 2. If a nonconforming use is superseded by a permitted use, the permitted use shall
17 thereafter conform to the use regulations for the district, and the nonconforming
18 use may not thereafter be resumed.

19 **C. Alteration, Expansion, or Intensification of Nonconforming Use**

20 Any person wishing to expand, alter, or intensify a nonconforming use, or wishing to
21 replicate a nonconforming use that has been damaged or destroyed to an extent of more
22 than 50 percent of the replacement cost at the time of destruction (per subsection F.
23 below), shall choose one of the two application and approval methods in subsection 2.
24 below.

25 **1. Limits on Expansion, Alteration, or Intensification of Nonconforming Uses**

26 a. The use may not be enlarged by more than 25% in a non-residential
27 district, or by more than 15% in a residential district, when compared to
28 the floor area or site area coverage of the nonconforming use at the time
29 it became nonconforming. The use or structure may not be enlarged
30 beyond the limitations of maximum lot coverage in the district.

31 b. The lot on which a nonconforming use is situated may not be enlarged
32 through land purchase or replatting for purposes of creating a single
33 larger lot on which a nonconforming use shall be situated.

34 **2. Application and Approval Methods**

35 a. **Administrative Approval**

36 i. An application for administrative approval to increase or rebuild a
37 nonconforming use shall contain the information specified in the
38 title 21 user's guide, and shall be submitted to the director.

39 ii. Notice of the application shall be published, mailed, and posted
40 in accordance with section 21.03.020H.

1 iii. There shall be a 30 day comment period, starting from the date
2 of notice, before the director acts on the application as provided
3 in subsection a.iv. below.

4 iv. The director shall review the application and act to approve,
5 approve with conditions, or deny the application based on the
6 approval criteria of subsection C.3. below. Findings of the
7 director shall be in writing. The director may impose limitations
8 or conditions as may be necessary to meet the approval criteria
9 or to reduce or minimize any potential adverse impact on other
10 property in the area.

11 v. Appeals of the director's decision may be made to the zoning
12 board of examiners and appeals, pursuant to section
13 21.03.200B.

14 vi. If the application is approved or approved with conditions, the
15 use shall continue to be a nonconforming use and be subject to
16 the provisions of this chapter.

17 **b. Conditional Use Approval**

18 i. An application for conditional use approval to increase or rebuild
19 a nonconforming use shall contain the information specified in
20 the title 21 user's guide, and shall be submitted to the director.

21 ii. The conditional use application shall be processed in
22 accordance with the procedures of section 21.03.070C., except
23 that a community meeting is not required, and the planning and
24 zoning commission shall base their decision on the approval
25 criteria of subsection 3. below. The commission may impose
26 limitations or conditions as may be necessary to meet the
27 approval criteria or to reduce or minimize any potential adverse
28 impact on other property in the area.

29 iii. If the application is approved or approved with conditions, the
30 use shall continue to be a nonconforming use and be subject to
31 the provisions of this chapter.

32 **3. Approval Criteria**

33 a. The nonconforming use is or can be made compatible with uses allowed
34 on adjacent properties, in terms of site design and operating
35 characteristics (such as lighting, noise, odor, dust, and other external
36 impacts);

37 b. The nonconforming use will not limit, impair, or impede the normal and
38 orderly development and improvement of surrounding property for uses
39 permitted on those properties;

40 c. Adequate utilities, access roads, drainage, and other necessary facilities
41 have been or will be provided;

42 d. Adequate measures have been or will be taken to provide ingress and
43 egress that are designed to minimize traffic congestion on the streets;
44 and

1 e. The nonconforming use will not result in the creation of additional
2 nonconformities, or the need for any variances or minor modifications.

3 **D. Abandonment or Cessation of Use**

4 1. A nonconforming use shall be presumed abandoned and its nonconforming
5 rights extinguished where any one of the following has occurred:

6 a. The owner has indicated, in writing or by public statement, an intent to
7 abandon the use.

8 b. A conforming or less intensive nonconforming use has replaced the
9 nonconforming use.

10 c. The building or structure that houses the nonconforming use has been
11 removed.

12 d. The owner has physically changed the building or structure, or its
13 permanent equipment, in a manner that clearly indicates a change in use
14 or activity to something other than the nonconforming use.

15 e. The use has been discontinued, vacant, or inactive for a continuous
16 period of at least one year.

17 f. Public utility service has been shut off for at least one year.

18 2. ~~If a nonconforming use ceases for any reason, except when government action~~
19 ~~impedes access to the premises, on a lot or any portion of a lot for a period of~~
20 ~~more than 12 consecutive months, the nonconforming use shall be considered~~
21 ~~abandoned. Once abandoned, the prior legal nonconforming status of the use~~
22 ~~shall be lost and any subsequent use of the property shall comply with all~~
23 ~~applicable provisions of this title, unless the nonconforming use is and~~
24 ~~reestablished ment of the use shall be through the process described in E.~~
25 ~~below. prohibited. Any subsequent use of the property shall comply with all~~
26 ~~applicable provisions of this title.~~

27 3. ~~Where nonconforming use status applies to a structure and premises, removal or~~
28 ~~destruction of the structure shall eliminate the nonconforming status of the land.~~
29 ~~The term "destruction," for the purpose of this subsection, is defined as damage~~
30 ~~to an extent of more than 50 percent of the replacement cost at time of~~
31 ~~destruction.~~

32 **E. Overcoming Presumption of Abandonment**

33 A presumption of abandonment based on evidence of abandonment, as provided in D.
34 above, may be rebutted upon a showing of all of the following, to the satisfaction of the
35 zoning board of examiners and appeals, that the owner:

36 1. Has been maintaining the land and structure in accordance with all applicable
37 regulations, including applicable building and fire codes, and did not intend to
38 discontinue the use;

39 2. Has been maintaining all applicable permits and licenses;

- 1 **3.** Has filed all applicable tax documents; and
- 2 **4.** In addition, the owner of the nonconforming use shall be required to
3 demonstrate, to the satisfaction of the zoning board of examiners and appeals,
4 that during the period of inactivity or discontinuance, the owner:
 - 5 **a.** Has been actively and continuously marketing the land or structure for
6 sale or lease; or
 - 7 **b.** Has been engaged in other activities that would affirmatively prove there
8 was no intent to abandon.

9 **F. Damage or Destruction**

10 Within one year of the damage or destruction, an administrative approval or a conditional
11 use permit may be requested to replicate a nonconforming use that is damaged or
12 destroyed to an extent of more than 50 percent of the replacement cost at time of
13 destruction. The decision-making body may approve the application upon finding that all
14 of the approval criteria of C.3. above have been met. An administrative or conditional
15 use approval shall expire if start of construction has not begun within one year of the
16 approval. For the purposes of this section, "replicate" shall mean to rebuild to the same
17 dimensions and in the same location as the damaged or destroyed use.

18 **21.11.040 NONCONFORMING STRUCTURES**

19 **A. Continuation of Nonconforming Structures Generally**

20 Nonconforming structures may continue, subject to the general provisions of section
21 21.11.010 and the following limitations:

- 22 **1.** No nonconforming structure may be enlarged or altered in a way that increases
23 its nonconformity, ~~but any~~ Any structure or portion thereof may be altered to
24 decrease its nonconformity, or may be altered or enlarged if the alteration does
25 not intensify the nonconformity. This subsection shall not be construed to allow
26 the expansion of a nonconforming use of structure, which is governed by section
27 21.11.030 above.
- 28 **2.** Should a nonconforming structure be moved for any reason for any distance
29 whatever, it shall thereafter conform to the regulations for the district in which it is
30 located after it is moved.

31 **B. Overheight Buildings**

- 32 **1.** If a lawful building erected prior to [date of passage] does not comply with the
33 requirements of this title with regard to height, such building shall be deemed
34 conforming with regard to height.
- 35 **2.** Where a lawful structure, existing on [date of passage], is engineered and
36 constructed for enlargement by the addition of one or more stories, such
37 structure may be enlarged within the full plan dimensions of the existing structure
38 by the addition of not more than two stories.

1 **C. Buildings Exceeding Maximum Setback**

2 If a lawful building erected prior to [date of passage] does not comply with the
3 requirements of this title with regard to maximum structure setbacks, such building shall
4 be deemed conforming with regard to setbacks.

5 **D. Damage or Destruction**

6 A person wishing to replicate a nonconforming structure that has been damaged or
7 destroyed to an extent of more than 50 percent of the replacement cost at the time of
8 destruction, shall choose one of the two application and approval methods in subsection
9 D.1. below. The application must be made within one year of the damage or destruction.

10 **1. Application and Approval Methods**

11 **a. Administrative Approval**

12 i. An application for administrative approval to rebuild a
13 nonconforming structure shall contain the information specified in
14 the title 21 user's guide and shall be submitted to the director.

15 ii. Notice of the application shall be published, mailed, and posted
16 in accordance with section 21.03.020H.

17 iii. There shall be a 30 day comment period, starting from the date
18 of notice, before the director acts on the application as provided
19 in subsection a.iv. below.

20 iv. The director shall review the application and act to approve,
21 approve with conditions, or deny the application based on the
22 approval criteria of subsection D.2. below. Findings of the
23 director shall be in writing. The director may impose limitations
24 or conditions as may be necessary to meet the approval criteria
25 or to reduce or minimize any potential adverse impact on other
26 property in the area.

27 v. Appeals of the director's decision may be made to the zoning
28 board of examiners and appeals, pursuant to section
29 21.03.200B.

30 vi. If the application is approved or approved with conditions, the
31 structure shall continue to be a nonconforming structure and be
32 subject to the provisions of this chapter.

33 **b. Conditional Use Approval**

34 i. An application for conditional use approval shall contain the
35 information specified in the title 21 user's guide, and shall be
36 submitted to the director.

37 ii. The conditional use application shall be processed in
38 accordance with the procedures of section 21.03.070C., except
39 that a community meeting is not required, and the planning and
40 zoning commission shall base their decision on the approval
41 criteria of subsection D.2. below. The commission may impose
42 limitations or conditions as may be necessary to meet the

1 approval criteria or to reduce or minimize any potential adverse
2 impact on other property in the area.

3 iii. An approved replication conditional use shall expire if start of
4 construction has not begun within one year of the planning and
5 zoning commission's approval. For the purposes of this section,
6 "replicate" shall mean to rebuild to the same dimensions and in
7 the same location as the damaged or destroyed structure, but
8 this shall not prevent moving towards conformity.

9 iv. A nonconforming structure that is approved to be rebuilt per this
10 conditional use process shall henceforth be considered a
11 conditional use and shall no longer be subject to the provisions
12 of this chapter.

13 **2. Approval Criteria**

14 a. The nonconforming structure is or can be made compatible with uses
15 allowed on adjacent properties, in terms of site design and operating
16 characteristics (such as lighting, noise, odor, dust, and other external
17 impacts);

18 b. The nonconforming structure will not limit, impair, or impede the normal
19 and orderly development and improvement of surrounding property for
20 uses permitted on those properties;

21 c. The parking, landscaping, and lighting either conform to the
22 requirements of this title, or are moving towards conformity to the
23 maximum extent feasible;

24 d. Adequate utilities, access roads, drainage, and other necessary facilities
25 have been or will be provided; and

26 e. Adequate measures have been or will be taken to provide ingress and
27 egress that are designed to minimize traffic congestion on the streets.

28 **E. Mobile Homes**

29 Notwithstanding subsection A. above or section 21.11.020, mobile homes may be
30 repaired or moved within the lot in compliance with setback and yard requirements if the
31 mobile home occupied the lot at the time of the adoption of applicable regulations.

32 **F. Legalization of Nonconforming Dimensional ~~Yard~~ Setback Encroachments**

33 **1. Generally**

34 Existing structures with dimensional encroachments into required setbacks yards
35 that were constructed prior to January 1, 1986, may continue in existence
36 provided the following requirements are met:

37 a. An application for the registration of nonconforming encroachment is
38 submitted to the department; and

39 b. The encroachment is determined not to be a life safety hazard by the
40 director.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

2. Procedures for Registration

a. Application for the registration of nonconforming encroachment shall be submitted to the department, on a form provided by the department. The application shall require an as-built drawn by a land surveyor registered in the State of Alaska, which shows all structures on the lot at the date of application. The application shall also require information supporting the assertion that the structure and encroachments were constructed prior to January 1, 1986. The director may require the petitioner to provide additional information to support this application.

b. Within 30 days of receipt of all requested information, and upon an adequate showing that the requirements stated in subsection 21.11.030C.2.a. above are met, the director shall issue or deny a certificate permitting the continued use and existence of the encroachment. The director may impose such conditions on the certificate as he/she may determine are appropriate to protect the general welfare. The certificate shall note the size and characteristic of the setback yard encroachment and the structure. A copy of the required as-built shall be attached thereto.

3. Operation

Once registered, the encroachment shall enjoy all the protections and privileges afforded to a nonconforming structure under the provisions of this chapter.

4. Appeal

Any aggrieved person may appeal the grant or denial of a certificate to the Zoning Board of Examiners and Appeals.

G. Preexisting Tower and Antennas

Except for abandoned towers and/or antennas, preexisting tower structures shall be allowed to continue their usage as they presently exist, or may be replaced with a new tower structure or antenna of like construction and height. Building permits to rebuild the facility shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned. New construction other than routine maintenance on a preexisting tower structure shall comply with the requirements of this title.

21.11.050 NONCONFORMING LOTS OF RECORD

A. ~~One Single-Family Dwellings~~ Allowed¹

In any zoning district in which dwellings are permitted, residential district, notwithstanding limitations imposed by other provisions of this title, dwellings a single-family dwelling and customary accessory buildings may be erected on any lot, provided the underlying zoning district and dimensional and design standards, such as setbacks, parking, open space, landscaping, etc. can be met, that is of record at the effective date of the original adoption or amendment of applicable regulations, except as restricted in subsection B. below. This provision shall apply even if the lot fails to meet the requirements for the area or width, or both, that are applicable in the district. Furthermore, setback and lot coverage requirements applicable to nonconforming lots of record shall be those of the zone with the largest lot area requirement within which the lot area would be conforming. A lot that fails to be conforming in any zone shall maintain a front setback yard of 20 feet, side setbacks yards of five feet, a rear setback yard of five feet, and maximum lot coverage of 50 percent.

1 **B. Undivided Parcels**

2 If two or more contiguous lots in single ownership, either of which contains less than the
3 minimum lot area of the zoning district in which it is located, are of record on or after
4 November 27, 1990, and either is nonconforming by virtue of this title or any amendment
5 thereto, the lands involved shall be considered to be an undivided parcel for the purpose
6 of this title, and no portion of such parcel shall be sold or used that does not contain a lot
7 area and lot width equal to or greater than the minimum lot area and width required in the
8 zoning district it is in.

9 This provision shall not apply to those lots legally created as part of a townhouse
10 development, a cluster housing development, a zero lot line development, or a planned
11 unit development.

12 **C. Legalization of Lots Created Prior to September 16, 1975²**

13 **1.** Lots existing prior to September 16, 1975 may continue in existence provided the
14 following requirements are met:

15 **a.** An application for the registration of nonconforming lot is submitted to the
16 department; and

17 **b.** The lot is determined to be sufficient in size to allow construction of a
18 structure and comply with associated district-specific, dimensional, and
19 development and design standards such as setbacks, parking,
20 landscaping, etc.

21 **2.** The application shall be on a form provided by the department, and shall be
22 accompanied by an as-built drawn by a land surveyor registered in the state of
23 Alaska, which shows the lot boundaries. The department may require additional
24 information to support the application.

25 **3.** Within 30 days of receipt of all requested information and upon an adequate
26 showing that the requirements stated in subsection 1. above are met, the director
27 shall issue or deny a certificate for the lot. The director may impose such
28 conditions on the certificate as he or she determines appropriate to protect the
29 general welfare. A copy of the required as-built shall be attached to the
30 certificate.

31 **4.** Once registered, the lot shall enjoy all the protections and privileges afforded to a
32 nonconforming lot under the provisions of this chapter.

33 **5.** Any aggrieved person may appeal the grant or denial of a certificate to the
34 zoning board of examiners and appeals within 30 days of the director's
35 determination.

- 1 **6.** Nothing in this section shall preclude relief for nonconforming lots by means of a
2 variance.
- 3 **7.** Nothing in this section shall exempt any lots from the provisions of subsection B.
4 above.
- 5 **8.** The department shall publish the registration of a nonconforming lot including the
6 street address and legal description of the property in a newspaper of general
7 circulation in the municipality within seven days of the issuance of the certificate.

8 **21.11.060 NONCONFORMING CHARACTERISTICS OF USE**

9 **A. Nonconforming Characteristics of Use, Lot, or Structure**

10 Except as provided in this section, if the characteristics of a use, lot, or structure such as
11 off-street parking, off-street loading, lighting, landscaping, or other features regulated by
12 this title in relation to specified uses of land, water areas, structures, or premises are not
13 in accord with the requirements of this title, no change shall be made in such
14 characteristics unless the change is in the direction of conformity to the requirements of
15 this title.

16 **B. Bringing Nonconforming Characteristics into Compliance**

17 **1. Applicability**

18 Development projects that include any construction or reconstruction of a use or
19 structure that is not solely and entirely interior to the structure, shall conform to
20 the requirements of this section. For the purposes of determining "total project
21 costs" in this section, those project costs do not include the costs for construction
22 or reconstruction that is solely and entirely interior to the structure.

23 **2. Standard**

24 An applicant for a building or land use permit in a multi-family, commercial,
25 mixed-use, or industrial zoning district that involves a development project
26 costing more than 2.5 percent of the value of the structure ~~\$20,000 or more, or~~
27 ~~20 percent or more of the value of the property,~~ shall be required to spend at
28 least 10 percent of the total project costs on bringing the following
29 nonconformities, listed in priority order, towards ~~into~~ compliance with all
30 applicable provisions of this title. The director, in consultation with the applicant,
31 shall determine the extent to which each of the listed characteristics shall be
32 addressed, within the expenditure requirements noted herein. ~~prior to approval~~
33 ~~of the permit, unless the Director determines in writing that such nonconformities~~
34 ~~have no significant adverse impact on surrounding properties.~~

- 35 a. Landscaping;
- 36 b. Lighting;
- 37 c. Parking;
- 38 d. Refuse containers;
- 39 e. Driveway and parking area surfacing;
- 40 f. Screening walls or fences (for parking areas or storage areas);

1 g. Screening of mechanical equipment.

2 3. If the development project is a Large Commercial Establishment, as defined in
3 section 21.07.120, then the applicant shall spend an additional 10 percent of the
4 total project costs on bringing the structure into compliance with the design
5 standards of section 21.07.120. If the structure already complies with section
6 21.07.120, then this subsection 2. shall not apply.

7 4. These nonconforming characteristics of use shall be brought towards ~~into~~
8 compliance with all applicable provisions of this title prior to the issuance of the
9 building or land use permit or shall be included in the work to be accomplished
10 under the permit.

11 **21.11.070 NONCONFORMING SIGNS³**

12 **A. Effective Date**

13 The effective date of this section 21.11.070 is October 1, 2003.

14 **B. Amortization Provisions**

15 **1. Amortization of Permanent Signs**

16 Any lawful permanent sign built prior to the adoption of this title that does not
17 comply with the maximum height, maximum area, or the number of signs
18 permitted as set forth in this title shall be removed or altered to comply with the
19 requirements of this title within ten years from the effective date of this section.
20 The maximum area requirements shall apply to the total area of all signs on the
21 property.

22 **2. Amortization of Illuminated Signs**

23 Any illuminated sign that does not meet the requirements of subsection
24 21.10.090A., with the exception of subsection 21.10.090A.3.a., shall be altered
25 to comply with the requirements of this title by May 31, 2008. All LED signs shall
26 comply with the luminance standards of subsection 21.10.090A.3.d. by
27 November 30, 2005. ~~within three years from the effective date of this section.~~

28 **3. Amortization of Pole Signs**

29 Any sign where the structural steel supports are visible and that does not meet
30 the requirements of 21.10.060C.2. or 21.10.070C.2., shall be altered to comply
31 with the requirements of this title within ~~ten~~ three years from the effective date of
32 this section.

33 **4. Amortization of Animated Signs**

34 Any sign that contains non-complying animation, changeable copy, or flashing or
35 moving parts shall be altered to comply with the requirements of this title within
36 180 days from the effective date of this section.

37 **5. Amortization of Converted Signs**

38 Any non-conforming sign that was originally portable or temporary, was
39 subsequently affixed to the ground or a building, and does not comply with the
40 height, area, or the number of signs permitted requirements of this title shall be
41 removed, altered, reconstructed, or reinstalled to be in compliance with this title
42 within three years from the effective date of this section.

1 **6. Amortization of Roof Signs**

2 Any roof sign shall be removed within ten years from the effective date of this
3 section.

4 **C. Termination**

5 ~~Except as provided in subsection 21.10.090D, a~~ A nonconforming sign shall immediately
6 lose its legal nonconforming status, and therefore shall be brought into conformance with
7 this title or removed, when any of the following occur:

8 1. The size or shape of the sign is changed.

9 2. The location of the sign is changed. ~~The sign structure is altered. Alteration~~
10 ~~does not include repairs and/or maintenance.~~

11 3. The nonconforming sign is accessory to a nonconforming use that has lost its
12 nonconforming status.

13 **D. Maintenance of Nonconforming Signs**

14 Nonconforming signs shall continue to be maintained in safe condition pursuant to the
15 building regulations of the municipality until such sign is required to be removed as set
16 forth in this section.

17 ~~**E. Alteration, Relocation or Replacement of Nonconforming Signs**~~

18 ~~A nonconforming sign shall not be structurally altered, relocated, or replaced unless it is~~
19 ~~brought into compliance with the provisions of this section.~~

20 **F. Reconstruction of Damaged Sign**

21 If a sign and/or its support are damaged to the extent where the repair costs exceed 50
22 percent of the replacement cost of the sign, the sign shall be removed or brought into
23 compliance. If the repair costs do not exceed 50 percent of the replacement cost of the
24 sign, the director may authorize the sign to be repaired, provided all repair work is
25 completed within 90 days, subject to the director extending the time for good cause, of
26 the date the director determines the damage requires replacement or permits repair. In
27 no event may a sign be maintained in an unsafe condition during the process of this
28 determination or the period necessary for repairs.

29 **G. Historic Signs**

30 The urban design commission may grant exceptions to these standards whenever a sign
31 or property has been designated a historic sign pursuant to the guidelines and criteria
32 established and adopted by the urban design commission.

33 **H. Extension of Time to Comply**

34 The dates established in this section for a sign to be brought into compliance with the
35 requirements of these regulations may be appealed to the zoning board of examiners and
36 appeals by the owner or lessee of the nonconforming sign pursuant to section
37 21.03.200.B., *Appeals to Zoning Board of Examiners and Appeals*. In evaluating the
38 extension of time for a nonconforming use, the zoning board of examiners and appeals

- 1 shall consider the following factors to determine whether the owner of the sign has had
2 reasonable amount of time to recoup his or her investment:
- 3 1. The value of the sign at the time of construction and the length of time the sign
4 has been in place;
 - 5 2. The life expectancy of the original investment in the sign and its salvage value, if
6 any;
 - 7 3. The amount of depreciation and/or amortization of the sign already claimed for
8 tax or accounting purposes;
 - 9 4. The length of the current tenant lease or expected occupancy compared to the
10 date the sign is to be brought into compliance;
 - 11 5. The extent to which the sign is not in compliance with the requirements of this
12 chapter; and
 - 13 6. The degree to which the board determines that the sign is consistent with the
14 purposes of this chapter.
- 15
16

¹ PRD#2: Changes to this subsection reflect AO 2005-67(s).

² PDR#2 NOTE: This addition generally reflects AO 2005-67(s).

³ NOTE: This section is carried forward with no changes from the *Proposed Sign Standards for the Municipality of Anchorage* document adopted by the Assembly on August 19, 2003. We have corrected a few misspellings, emphasized the effective date (which will be different than for the rest of the title), consolidated the amortization provisions, and made some minor changes to terminology for clarification.