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This Assistance Bulletin only applies to property within unincorporated Snohomish County and does not apply to property within incorporated city limits.

# Nonconforming Structures—Repair, Replacement, and Remodeling

Assistance Bulletin

# #75

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## Q: What is a nonconforming structure?

**A:** As defined by the Snohomish County Code (SCC) 30.91N.050, a nonconforming structure is “a structure which was lawful when established which does not now conform to the setback, height, lot coverage, or open space requirements of the zone in which it is located,” for example, a house, garage, or cabin that does not meet the current setback requirements from a front, side, or rear property line. Generally, this will be a situation where a structure was built prior to 1957, when there were no county zoning or setback requirements in effect.

## Q: Are there restrictions governing the repair, remodeling, and replacement of a nonconforming structure?

**A:** Yes. As specified by SCC 30.28.070(2), “Nonconforming structures may be structurally altered or enlarged only if the setback, height, lot coverage, and open space requirements of the zone in which the structure is located are met; except that repair to the existing structure including ordinary maintenance or replacement of walls, fixtures, or plumbing shall be permitted so long as the exterior dimensions of the structure, as it existed on the effective date of the nonconformance, are not increased.”

It is important to note the following: If a nonconforming structure is demolished, destroyed or removed, the nonconforming status is **TERMINATED**. New work to replace the nonconforming structure will be required to meet all setback, height and lot coverage requirements as well as current building code requirements.

## Q: What if the condition of the nonconforming structure is so poor that it is best to replace the building?

**A:** As noted in the previous question, there are restrictions and limitations. If the building must be demolished, the new building and work must meet all setback requirements.

## Q: What if a nonconforming structure is accidentally destroyed by fire, wind or other catastrophic event? Can I rebuild?

**A:** Pursuant to SCC 30.28.070(3), the new “replacement” structure will be required to be constructed to all applicable code requirements in effect at the time of replacement. If the restoration costs exceed 75% of the assessed valuation, the structure is considered destroyed and the replacement structure will need to be rebuilt in compliance with the current code requirements. If the restoration costs do not exceed 75% of the assessed valuation, the structure can be repaired in the same location.

This bulletin is intended only as an information guide. The information may not be complete and is subject to change. For complete legal information, refer to Snohomish County Code.

**Q:** Could there be any issues for repair, remodeling, and replacement projects where the lot utilizes a septic tank and drainfield?

**A:** Yes. If your lot utilizes a septic tank and drainfield for sewage disposal, you also need to check with the Snohomish County Health Department for requirements. You may contract the Health Department at 425-339-5250 or visit their website at [Septic Permitting | Snohomish Health District, WA \(snohd.org\)](https://www.snohd.org).

**Q:** Can a nonconforming structure continue to remain on the property?

**A:** Yes. Pursuant to SCC 30.28.070(1) any legally established nonconforming structure is permitted to remain in the form and location in which it existed on the effective date of the nonconformance. Any additions to a nonconforming structure must comply with current setback regulations.

**Q:** Is there a difference between a “nonconforming use” and a “nonconforming structure”?

**A:** Yes. A “nonconforming structure” means a structure that was lawful when established which does not now conform to the setback, height, lot coverage, or open space requirements of the zone in which it is located. A “nonconforming use” means a use of land or a structure which was lawful when established and which does not now conform to the use regulations of the zone in which it is located. For example, some areas in the Paine Field Airport area were residentially zoned years ago and developed with residences. In recent years, some of these areas were rezoned to industrial zones. The industrial zones do not allow residential dwellings and, therefore, the existing residences in those rezoned areas became nonconforming. Nonconforming uses are defined in SCC 30.91N.070 and code requirements are specified in SCC 30.28.072.

**Q:** Are there any other code requirements that apply to nonconforming structures?

**A:** Yes. If your structure is located within shoreline jurisdiction or within a flood hazard zone, there are additional codes that apply. SCC 30.91N.060 defines “nonconforming structure” within flood hazard zones and SCC 30.65.300 addresses requirements for nonconforming structures in flood hazard zones. SCC 30.44.430 addresses nonconforming structures and uses within shoreline jurisdictions.

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