

22 2291  
ORDINANCE No. 115687

COUNCIL BILL No. 108135

The City of

AN ORDINANCE relating to land use and zoning regarding replacement of nonconforming structures within a specified time limit; amending Sections 23.44.082, 23.45.190, 23.47.038, 23.49.030 and 23.50.010.

Honorable President:

Your Committee on \_\_\_\_\_

to which was referred the within Council report that we have considered the same

COMPTROLLER FILE No. \_\_\_\_\_

Introduced: AUG 1 1991	By: DONALDSON
Referred: AUG 1 1991	To: LAND USE
Referred:	To:
Referred:	To:
Reported: JUN 17 1991	Second Reading: JUN 17 1991
Third Reading: JUN 17 1991	Signed: JUN 17 1991
Presented to Mayor: JUN 13 1991	Approved: JUN 24 1991
Returned to City Clerk: JUN 24 1991	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">OK</span>

*Full Council*

*Finance Department*

# The City of Seattle--Legislative Department

ce-  
,

Date Reported  
and Adopted

## REPORT OF COMMITTEE

President:

mitted on \_\_\_\_\_

was referred the within Council Bill No. \_\_\_\_\_

we have considered the same and respectfully recommend that the same:

*Full Council vote 7-0*

\_\_\_\_\_  
Committee Chair

ORDINANCE 115687

AN ORDINANCE relating to land use and zoning regarding replacement of nonconforming structures within a specified time limit; amending Sections 23.44.082, 23.45.190, 23.47.038, 23.49.030 and 23.50.010.

TO BE ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That Section 23.44.082 of the Seattle Municipal Code, as last amended by Ordinance 111590, is further amended to read as follows:

**23.44.082 Nonconforming Structures**

\* \* \*

G. Where replacement of a nonconforming structure or portion of a structure is permitted under this section, action towards that replacement must be commenced within 12 months after the demolition or destruction of the structure. Action towards replacement shall include application for a building permit, commencement of construction, or other significant activity directed towards the replacement of the structure. If this action is not commenced within this time limit, any replacement must conform to the existing development standards.

Section 2. That Section 23.45.190 of the Seattle Municipal Code, as last amended by Ordinance 114887, is further amended to read as follows:

**23.45.190 Nonconforming Structures**

\* \* \*

H. Where replacement of a nonconforming structure or portion of a structure is permitted under this section, action towards

1 that replacement must be commenced within 12 months after the  
2 demolition or destruction of the structure. Action towards  
3 replacement shall include application for a building permit,  
4 commencement of construction, or other significant activity  
5 directed towards the replacement of the structure. If this  
6 action is not commenced within this time limit, any replacement  
7 must conform to the existing development standards.

8 Section 3. That Section 23.47.038 of the Seattle Municipal  
9 Code, as last amended by Ordinance 113263, is further amended to  
10 read as follows:

11 **23.47.038 Nonconforming Structures**

12 \* \* \*

13  
14 B. A nonconforming structure which is destroyed by fire, act  
15 of nature or other causes beyond the control of the owner may be  
16 rebuilt to the same or smaller configuration existing immediately  
17 prior to the time the structure was destroyed. Where replacement  
18 of a nonconforming structure or portion of a structure is  
19 permitted under this section, action towards that replacement  
20 must be commenced within 12 months after the demolition or  
21 destruction of the structure. Action towards replacement shall  
22 include application for a building permit, commencement of con-  
23 struction, or other significant activity directed towards the  
24 replacement of the structure. If this action is not commenced  
25 within this time limit, any replacement must conform to the  
26 existing development standards.

27 Section 4. That Section 23.49.030 of the Seattle Municipal  
28 Code, as last amended by Ordinance 112303, is further amended to  
read as follows:

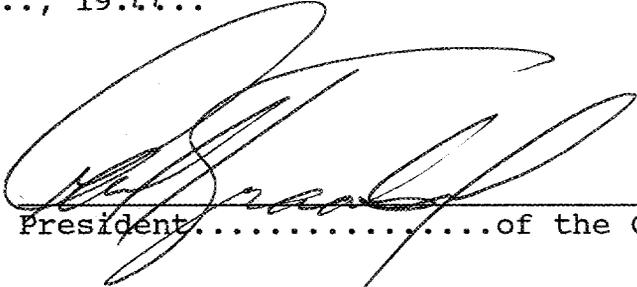


1 B. A nonconforming structure which is destroyed by fire, act  
2 of nature, or other causes beyond the control of the owner may be  
3 rebuilt to the same or smaller configuration existing immediately  
4 prior to the time the structure was destroyed. Where replacement  
5 of a nonconforming structure or portion of a structure is  
6 permitted under this section, action towards that replacement  
7 must be commenced within 24 months after the demolition or  
8 destruction of the structure. Action towards replacement shall  
9 include application for a building permit, commencement of  
10 replacement of the structure. If this action is not commenced  
11 within this time limit, any replacement must conform to the  
12 existing development standards.

13 \* \* \*

1 Section 6. This ordinance shall take effect and be in force  
2 thirty days from and after its passage and approval, if approved  
3 by the Mayor; otherwise it shall take effect at the time it shall  
4 become a law under the provisions of the city charter.

5 Passed by the City Council the 17<sup>th</sup> day of  
6 June....., 1991., and signed by me in open session in  
7 authentication of its passage this 17<sup>th</sup> day of  
8 June....., 1991...

9  
10  
11 

President.....of the City Council

12 Approved by me this 24<sup>th</sup> day of June....., 1991...

13  
14  
15 

Mayor

16 Filed by me this 25<sup>th</sup> day of June....., 1991...

17  
18  
19  
20 Attest:



City Comptroller and City Clerk

21  
22 (SEAL)

23  
24 Published \_\_\_\_\_

By



Deputy Clerk

LAND USE CODE TEXT AMENDMENT - NONCONFORMING STRUCTURES  
REPORT AND RECOMMENDATION OF THE DIRECTOR

The Department of Construction and Land Use has initiated this request to amend the Land Use Code in order to clarify the provisions applicable to the replacement of nonconforming structures. The proposed amendments establish a time limit for replacement of nonconforming structures.

BACKGROUND

The Land Use Code contains provisions throughout its length regarding the treatment of nonconforming uses and nonconforming structures. Under the code, a nonconforming use is defined as "a use of land or structure which was lawful when established and which does not now conform to the use regulations in the zone in which it was established." A nonconforming structure is defined as a structure which was lawful when established and which does not now conform to the development standards, such as the height limits or setback requirements, of the zone in which it is located.

The code provisions applicable to nonconforming uses clearly establish time periods after which a nonconforming use is to be considered discontinued. However, no such language appears in the provisions applicable to the replacement of nonconforming structures. This gives rise to a question of how long a property owner can wait before replacing a nonconforming structure, or portion of structure, without losing his or her right to rebuild to the prior configuration. As the code language currently stands, a person whose nonconforming structure was destroyed by some natural disaster arguably could wait indefinitely before rebuilding.

ANALYSIS

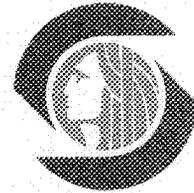
In addressing the question of the length of time in which a nonconforming structure must be replaced, the proposed amendments link the replacement period for nonconforming structures with that used for nonconforming uses, i.e., 12 months, except in Industrial zones where the period is 24 months. Under this proposal, the owner of a nonconforming structure would have that same period to take action towards its replacement. Action would generally involve submittal of a complete building permit application, but the proposed wording allows for instances where the property owner is unable, for good reason, to submit the application within the one or two year period, but is engaged in other activity relevant to reconstruction. If action is not commenced within the relevant time period, the structure would have to be rebuilt in conformance with current code requirements. These provisions apply to any replacement of a nonconforming structure, or portion thereof, which is permitted by the Land Use Code. The proposed regulations concern permitted replacement, not repair.

n-c.amend

J:dalthau\4non-con.cpt/I

Seattle  
Department of Construction and Land Use

Dennis J. McLerran, Director  
Norman B. Rice, Mayor



RECEIVED OMB

JUN 14 1990

MEMORANDUM

846035

TO: Paul Kraabel, Council President  
via Andrew J. Lofton, Director, Office Management and Budget

FROM: Dennis McLerran, Director *D.J.M.*

DATE: June 15, 1990

SUBJECT: Proposed Limitation on Replacement of Nonconforming  
Structures

Transmitted with this memorandum is a proposed Land Use Code amendment which would limit the time available for replacement of a nonconforming structure. The Code currently sets a time limit for replacement of a nonconforming use, but no similar limit is set for the replacement of a nonconforming structure.

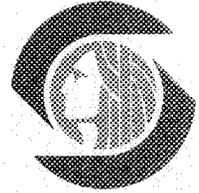
This amendment is considered to be a maintenance amendment, and environmental review was not necessary. The proposal was reviewed by the public in January of this year, and no comments were received.

Cost of implementation is expected to be minor. Purchase of ordinance copies for the staff will cost \$11.00. Staff training will be done by memo only and will cost \$71.00. New code pages, purchased from Book Publishing, are expected to cost \$115.00. The total cost will be approximately \$197.00

If you have any questions or comments about the proposed amendment, please call Diane Althaus at 684-8880.

DJM:rm

Seattle  
Department of Construction and Land Use



Dennis J. McLerran, Director  
Norman B. Rice, Mayor

June 15, 1990

Dear Citizen:

The Department of Construction and Land Use has prepared the attached revised Director's Recommendation which would set a time limit on the replacement of nonconforming structures. The report has been transmitted to City Council with a companion ordinance.

The City Council will be assigning the proposal to a Committee, which will hold a public hearing to take testimony on the changes. The Committee will then make a recommendation to the full Council.

If you have any questions or comments on the proposed changes, please call Diane Althaus at 684-8880.

Sincerely,

Dennis J. McLerran  
Director

DJM:rm

Non-con.2  
Dalthau non-con.cpt/i

# City of Seattle

Executive Department-Office of Management and Budget

Andrew J. Lofton, Director  
Norman B. Rice, Mayor

COPY RECEIVED

JUN 20 AM 9:52

SEATTLE CITY ATTORNEY



*Schneider / ok PJS 7/26/90*

June 19, 1990

The Honorable Mark Sidran  
City Attorney  
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING  
DEPARTMENT: Construction and Land Use

SUBJECT: AN ORDINANCE relating to land use and zoning regarding replacement of nonconforming structures within a specified time limit; amending Sections 23.44.082, 23.45.190, 23.47.038, 23.49.030 and 23.50.010.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Mona Goode at 684-8080.

Sincerely,

Norman B. Rice  
Mayor

by

ANDREW J. LOFTON  
Budget Director

AL/mg/dcd

Enclosure

cc: Director, DCLU

**SPONSORSHIP**

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

*Susan Arnold*

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**FOR CITY COUNCIL PRESIDENT USE ONLY**

COMMITTEE(S) REFERRED TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

6537  
City of Seattle

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD: 115687

was published on

06/27/91

The amount of the fee charged for the foregoing publication is the sum of \$ 114.66, which amount has been paid in full.

K. Kelly  
Subscribed and sworn to before me on

06/27/91

Jennifer A. Nicholson

Notary Public for the State of Washington,  
residing in Seattle

**City of Seattle**  
**ORDINANCE 115687**

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23.44.082 Nonconforming Structures

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G. Where replacement of a nonconforming structure or portion of a structure is permitted under this section, action towards that replacement must be commenced within 12 months after the demolition or destruction of the structure. Action towards replacement shall include application for a building permit, commencement of construction, or other significant activity directed towards the replacement of the structure. If this action is not commenced within this time limit, any replacement must conform to the existing development standards.

Section 2. That Section 23.45.190 of the Seattle Municipal Code, as last amended by Ordinance 114887, is further amended to read as follows:

23.45.190 Nonconforming Structures

\*\*\*

H. Where replacement of a nonconforming structure or portion of a structure is permitted under this section, action towards that replacement must be commenced within 12 months after the demolition or destruction of the structure. Action towards replacement shall include application for a building permit, commencement of construction, or other significant activity directed towards the replacement of the structure. If this action is not commenced within this time limit, any replacement must conform to the existing development standards.

Section 3. That Section 23.47.038 of the Seattle Municipal Code, as last amended by Ordinance 113263, is further amended to read as follows:

23.47.038 Nonconforming Structures

\*\*\*

B. A nonconforming structure which is destroyed by fire, act of nature or other causes beyond the control of the owner may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed. Where replacement of a nonconforming structure or portion of a structure is permitted under this section, action towards that replacement must be commenced within 12 months after the demolition or destruction of the structure. Action towards replacement shall include application for a building permit, commencement of construction, or other significant activity directed towards the

Passed by the City Council the 17th day of June, 1991, and signed by me in open session in authentication of its passage this 17th day of June, 1991.  
PAUL KRAABEL,  
President of the City Council.  
Approved by me this 24th day of June, 1991.  
NORMAN B. RICE,  
Mayor.  
Filed by me this 25th day of June, 1991.  
Attest: NORWARD J. BROOKS,  
City Comptroller and City Clerk.  
(Seal) By: MARGARET CARTER,  
Deputy Clerk.  
Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.  
Date of official publication in Daily Journal of Commerce, Seattle, June 27, 1991.  
8/27/8337

Section 4. That Section 23.49.030 of the Seattle Municipal Code, as last amended by Ordinance 112303, is further amended to read as follows:

23.49.030 Nonconforming Structures

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B. A nonconforming structure which is destroyed by fire, act of nature, or other causes beyond the control of the owner, may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed. When the structure is located in a PSM zone, the Pioneer Square Preservation Board shall review plans for the exterior design of the structure to insure compatibility with the design and character of other structures in the Pioneer Preservation District. Where replacement of a nonconforming structure or portion of a structure is permitted under this section, action towards that replacement must be commenced within 12 months after the demolition or destruction of the structure except for a nonconforming structure designated as a Landmark, pursuant to SMC 23.12. Action toward replacement of Landmark structures must be commenced within 3 years after the demolition or destruction of the structure. Action towards replacement shall include application for a building permit, commencement of construction, or other significant activity directed towards the replacement of the structure. If this action is not commenced within this time limit, any replacement must conform to the existing development standards.

\*\*\*

Section 5. That Section 23.50.010 of the Seattle Municipal Code, as last amended by Ordinance 113658, is further amended to read as follows:

23.50.010 Nonconforming Structures

\*\*\*

B. A nonconforming structure which is destroyed by fire, act of nature, or other causes beyond the control of the owner may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed. Where replacement of a nonconforming structure or portion of a structure is permitted under this section, action towards that replacement must be commenced within 24 months after the demolition or destruction of the structure. Action towards replacement shall include application for a building permit, commencement of construction, or other significant activity directed towards replacement of the structure. If this action is not commenced within this time limit, any replacement must conform to the