

Shoreline Master Program (SMP) Update

Questions and Answers on Nonconforming Uses and Structures

Responses are based upon the Staff Draft (July 2008) of the SMP update

- 1. If there is a change of tenant or the type of business (change of use) in a building that is located within the river buffer, will a new tenant/business be permitted?**

Businesses within a nonconforming building may continue and tenants may change as long the use complies with the overall zoning of the property. The proposed SMP update does not change the zoning districts within the shoreline jurisdiction.

The Nonconforming Structure section (18.70.050 TMC) of the Zoning Code governs the changes that may occur to buildings located in the buffer - see below.

Residential structures in residential zoning districts are not considered nonconforming in terms of use. (18.70.050(5) TMC)

- 2. Are employee/customer parking or storage areas allowed in the proposed river buffer?**

Nonstructural uses such as parking and storage areas currently located within the proposed buffer would be considered nonconforming uses, that is, they would not be an allowed use in the buffer under the proposed update, and would not be allowed to enlarge. (18.70.040 (1) TMC)

The nonconforming use of the river buffer, if vacated for a period of more than 6 consecutive months or a total of 365 days in a three year period, whichever occurs first, must then comply with the updated shoreline standards.

- 3. What are my options if my building is damaged due to flooding from a levee failure or other disaster?**

The ability to rebuild depends on the amount of damage to the structure and if it's a commercial or a residential structure.

For commercial buildings¹

Currently, for commercial structures, if the structure is destroyed by more than 50% of its replacement cost at the time of its destruction, its replacement must conform to the updated standards. (18.70.050(2) TMC)

In addition, the structure and premises may not be vacant for longer than 24 consecutive months; however, the property owner may request the City Council to grant an extension beyond the 24 months. (18.70.040(4) TMC)

¹Amending the Nonconforming chapter of the Zoning Code to allow remodeling, replacement and reconstruction provided that specific criteria are met has been requested in public testimony.

For residential structures

Homes may be replaced to their original dimensions (setbacks) and bulk (height.) (18.70.050(5) TMC) However, if the river bank is undermined and is not stable, resulting in building or life safety issues, the location of the house would need to be evaluated.

4. *May I modify my existing commercial/industrial structure that does not conform to the proposed river buffer (setback)?*

Modifications of commercial structures are allowed as long as the modifications do not increase any nonconformity by extending further (either in height, area or depth) into any required setback. (18.70.050(1) TMC. For example, a tenant improvement of the interior; normal maintenance, such as wiring, painting, mechanical equipment replacement, etc. is allowed.

5. *If I own a house that is located within the proposed river buffer may I enclose my carport or add on to the house?*

Single family structures in a residential zoning district may be expanded only on the ground floor along the existing building line(s), so long as the existing distance from the nearest point of the structure to the property line is not reduced, and the square footage of new intrusion into the setback does not exceed 50% of the square footage of the current intrusion. (18.70050(6) TMC)

For example, in the plan view below, 200 square feet of the existing house lies within the shoreline buffer, current regulations allow a 100 square foot ground floor expansion within the buffer.

