

**ZONING MOTION 2012-3**  
**INITIATED BY MATTHEWS BOARD OF COMMISSIONERS**

**MOTION TO CHANGE:**                      x   TEXT  
          DISTRICT BOUNDARIES  
(IF FOR A CHANGE IN DISTRICT BOUNDARIES, LIST PARCEL(S) AFFECTED)

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**DATE OF INITIAL DISCUSSION TO SET HEARING 4-9-12**

**PUBLIC HEARING DATE 5-14-12**

**PROPOSED ACTION**

Add clarification on allowed repairs and improvements to various nonconforming structures or uses in Nonconforming Situations chapter 153.220 through 153.227.

**AFFECTED AND/OR ADJACENT PROPERTY OWNERS NOTIFIED NA**

**ATTACHMENTS INCLUDE Proposed new text in Nonconforming Situations Chapter**

**PROTEST PETITION FILED?**                   YES (IF YES, DATE)  
     NA   NO

**OTHER COMMENTS:** This text was drafted in 2010 for inclusion into UDO, and was reviewed by Town Board of Commissioners on May 21, 2011. It is a portion of code that can be added to the current Zoning Ordinance now, and later incorporated into the complete UDO.

In the purpose statement at the beginning of the "Nonconforming Situations" chapter is a statement that this section of the code will allow many nonconforming situations to continue to exist but is "designed to curtail substantial investment in nonconformities, and to bring about their eventual improvement or elimination" so the Town's growth policies and character of the Town are preserved. The specifics regarding "substantial investment" have not been well-defined in the current code, so this proposed revision provides that needed clarification.

zonmot2012-3 cover

## Zoning Motion 2012-3

### *Nonconforming Situations*

#### **153.223 Nonconforming ~~Open~~ Uses of Open Land**

A nonconforming ~~open~~ use of ~~open~~ land is an open use on a lot, when the only buildings are incidental and accessory to the principal open use which was in existence prior to the adoption of this chapter and which would not be permitted by this chapter in the district in which it is located. Uses such as storage yards, used car lots, auto wrecking, salvage yards, golf driving ranges, and miniature golf courses are examples of ~~open~~ uses of ~~open~~ land. A legally established nonconforming ~~open~~ use of ~~open~~ land may be continued but is subject to the following limitations.

(A) When a nonconforming ~~open~~ use of ~~open~~ land has been changed to a conforming use, it may not later be used for any nonconforming use.

(B) A nonconforming ~~open~~ use of ~~open~~ land may only be changed to a conforming use.

(C) A nonconforming ~~open~~ use of ~~open~~ land that is discontinued for more than one year may not be reestablished, and all subsequent uses of the site must be in conformance with the particular district regulations. Any vacancy or nonuse of the land regardless of the intent of the owner or tenant will be considered discontinuance for the purposes of this requirement.

(D) A nonconforming ~~open~~ use of ~~open~~ land may not be enlarged to cover more land that it occupied when it became non-conforming. **The cost of any repairs or improvements to a nonconforming use of open land shall not exceed forty percent (40%) of the then-current County tax assessed value of the land. Before any repairs or improvement activity commences on the site of a nonconforming use of open land a list of all the repairs or improvements proposed to be completed, along with cost estimates for each activity, shall be submitted to the Zoning Administrator for a written determination that the proposed repairs or improvements comply with the requirements of this paragraph.**

#### **153.224 Nonconforming Uses of Structures**

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(C) Maintenance and repairs necessary to keep a structure which houses a nonconforming use in safe and sound condition are permitted. **No structural alterations are allowed to any structure containing a nonconforming use except for those required by law or an order from the office or agent authorized by the Board of Commissioners to issue building permits to ensure safety of the structure, and where the cost of such repairs do not exceed forty percent (40%) of the then-current County tax assessed value of the structure. Before any construction activity commences or any building permit is issued, a list of all proposed work, along with cost estimates for each activity, shall be submitted to the Zoning Administrator for written determination that it complies with the requirements of this paragraph.**

(D) A nonconforming use of a structure may be enlarged or extended only into portions of the structure which existed at the time that the use became nonconforming and which were designed or arranged to accommodate the use. No structural alterations are allowed to any structure containing a nonconforming use except for those required by law or an order from the office or agent authorized by the Board of Commissioners to issue building permits to ensure the safety of the structure. **The cost of such renovations to a nonconforming use of a structure shall not exceed forty percent (40%) of the then-current County tax assessed value of the structure. Before any construction activity commences or any building permit is issued, a list of all proposed work, along with cost estimates for each activity, shall be submitted to the Zoning Administrator for written determination that is complies with the requirements of this**

**paragraph.** Existing nonconforming residential uses in a business or industrial district may be enlarged or extended if no additional dwelling units result from the enlargement or extension.

(E) A nonconforming use of a structure that is abandoned for more than one year may not be re-established, and all subsequent uses of the structure must be in conformance with the particular district regulations. **Any vacancy or non-use of any portion of the structure housing the nonconforming use regardless of the intent of the owner or tenant will be discontinuation for the purpose of this paragraph.**

### **153.225 Reconstruction of Damaged Structures**

(A) When a structure on a nonconforming lot ~~or a structure containing a nonconforming use~~ is damaged by fire, flood, wind, or act of God, or condemnation proceedings, the structure may be repaired and restored to its original dimensions and condition as long as **a permit authorizing the reconstruction is ~~completed~~ issued** within one (1) year of the occurrence of the damage, **and the reconstruction work has received a Certification of Completion and/or Occupancy, as appropriate, within eighteen (18) months of the damage.**

(B) **When a structure containing a nonconforming use and not also on a nonconforming lot or being a nonconforming structure, is damaged by fire, flood, wind, or act of God, the structure may be repaired and restored to its original dimensions and condition as long as a permit authorizing the reconstruction is issued within one (1) year of the occurrence of the damage, and the reconstruction work has received a Certificate of Completion and/or Occupancy, as appropriate, within eighteen months of the damage.**

(C) **When a nonconforming structure is damaged by fire, flood, wind, or act of God, the structure may be repaired and restored only to current dimensional limits of the zoning district in which it is located as long as a permit authorizing the reconstruction is issued within one (1) year of the occurrence of the damage, and the reconstruction work has received a Certificate of Completion and/or Occupancy, as appropriate, within eighteen months of the damage.**

### **153.226 Nonconforming Signs**

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(B) A nonconforming sign will not be replaced with another nonconforming sign. However, the replacement of **paper, vinyl, film, or similar light-weight material** poster panels, painted boards, or other demountable materials on nonconforming signs is allowed.

(C) Minor repairs and maintenance of a nonconforming sign, such as repainting, electrical repairs, and neon tubing repairs will be permitted. However, no structural repairs or changes in the size, shape, or **message height** of a sign will be permitted, except to make the sign comply with the requirements of these regulations.