



SSB 5451

**“Conforming, Nonconforming,
and No Net Loss”**

“Non-Conforming” - Zoning

BIMC Definitions

“**Nonconforming use**” means a use of land that was *lawfully established* and has been *lawfully continued*, but does not conform to current zoning regulations... (BIMC 18.06.770)

EXAMPLE: Auto repair pre-existing in residential zone.

“**Nonconforming structure**” means a structure that was *lawfully constructed*... that does not conform to current regulations...(BIMC 18.06.760)

EXAMPLE: Old building exceeds current height limits.

Non-Conforming Structures

Zoning Code Limitations

A nonconforming structure may remain and be used, provided:

- It is **not *enlarged*** or ***altered*** so as to increase its nonconformity;
- If it is **more than 50% destroyed**, reconstruction must meet current zoning requirements. (BIMC 18.87.030)

“Non-Conforming” – Shorelines

Current COBI *Shoreline* Code

“Nonconforming development” means a **shoreline use or structure** lawfully established before the date of the applicable shoreline provision which does not conform to current provisions. (BIMC 16.12.030.A.119, WAC 173-14-055(1))

“Non-Conforming” Structures

Current COBI *Shorelines* Code

**Nonconforming Structures may be continued;
provided:**

- Expansion which *increases the nonconformity* requires a shoreline *variance*.

Where it does not increase the nonconformity, repair, reconstruction, and expansion of nonconforming structures is permitted.

- Expansion cannot obstruct the existing views of the water from primary waterfront residences or public rights-of-way to any greater degree than a fully conforming structure.
- If damaged or destroyed, the structure may be rebuilt to its pre-existing configuration. (BIMC 16.12.390)

WHAT DOES SSB 5451 SAY?

New/Updated Master Programs may consider residential structures to be “conforming”:

- If they were **legally built** and
- If they are used for a **conforming use**,
- Even if they do not meet new standards for (a) Setbacks, buffers, or yards; (b) Area; (c) Bulk; (d) Height; or (e) Density.

Master Programs may allow *redevelopment, expansion, change with the class of occupancy, or replacement* of such structures:

- If the work is **consistent with the Master Program**,
- This includes the requirement for **“no net loss of shoreline ecological functions.”**

SSB 5451: BOTTOM LINE

COBI's new SMP may label homes "conforming" which:

- Were **legally built**; and
- Are used for a **conforming use**;
- Even if they do not meet new setbacks, buffers, size limits, etc.

COBI's may adopt an SMP that lets such homes be *redeveloped, expanded, or replaced*:

- But they still must meet the new SMP requirements; and
- There must be "no net loss of shoreline ecological functions."