Section 4.189. Non-Conforming Uses.

(.01) Continuation of Use.

A. A non-conforming use may be continued subject to the requirements of this Section.

B. A manufactured or mobile home placed on a lot, parcel or tract of land and certified to be a non-conforming use shall be allowed to continue in that status. A non-conforming mobile home may be replaced by a newer Manufactured Home as defined herein.

C. A pre-existing use that is listed as "conditional" in the zone shall be considered to be non-conforming until such time as a conditional use permit is issued for it. In reviewing an application for a conditional use permit for a use that already legally exists, the Development Review Board shall establish conditions of approval that are proportional in scope to the changes proposed in the application and shall not establish conditions that prevent the continued operation of the use.

[Amended by Ordinance No. 538, 2/21/02.]

(.02) Change of Use.

A. A non-conforming use may not be changed unless the change or replacement is to a use that is determined by the Planning Director to be no less conforming to the regulations for the zone district in which the use is located than the existing use.

B. In any zone where single-family dwellings are permitted, a non-conforming mobile or manufactured home may be replaced provided that the Planning Director determines that the replacement unit meets the requirements for manufactured housing units on individual lots specified in Section 4.115.

(.03) Abandoned Use. If a non-conforming use is abandoned for a period of eighteen (18) consecutive months, the use shall not be re-established without fully complying with the use requirements of the zone. Mere vacancy of a site or building while it is being marketed or other plans for its use are being readied, does not constitute abandonment. In order to be considered abandoned, a site must not be receiving City utilities and must not actively be marketed for rent, lease, or sale. These standards concerning abandonment do not in any way affect the City’s processes for the abatement of nuisances as delineated in Chapter 6 of the Wilsonville Code.

(.04) Damage and Destruction. When a structure that is a non-conforming use or a building containing a non-conforming use is damaged by any cause, exceeding seventy-five percent (75%) of its replacement cost, as determined by the Building Official, the structure shall not be re-established unless the owners of that structure promptly and diligently pursue its repair or replacement. If all required building permits have not been received within eighteen (18) months of the damage or destruction, the non-conforming use shall not be re-established without meeting all
of the requirements of Chapter 4. City staff will use the address listed in County Assessor records to contact the owners of properties that have been damaged to alert them to the time limitations for receiving a building permit for repair or replacement. The property owner’s failure to receive such notification does not alter or extend the time limit specified in this subsection.

(.05) **Enlargements and Moving.** A non-conforming use, may be permitted to enlarge up to twenty percent (20%) in floor area on approval of a conditional use permit by the Development Review Board.

(.06) **Repairs.**

A. Normal maintenance of a structure containing a non-conforming use is permitted provided that any exterior additions meet the requirements of this Section.

### Section 4.190. **Non-Conforming Structures.**

(.01) A non-conforming structure that is in use may continue to be used.

(.02) If a non-conforming structure is abandoned, as defined herein, – for a period of eighteen (18) months, it may not again be used unless brought into conformity with the requirements of this ordinance. Except, however, that an abandoned non-conforming structure may be re-occupied if a Variance is approved per the requirements of Section 4.196.

(.03) When a non-conforming structure is damaged by any cause exceeding seventy-five percent (75%) of its replacement cost, as determined by the Building Official, the non-conforming structure shall not be re-established unless all required building permits for the repair or replacement are received within eighteen (18) months of the damage. City staff will endeavor to contact the owners of properties that have been damaged to alert them to the time limitations for receiving a building permit for repair or replacement. The property owner’s failure to receive such notification does not alter or extend the time limit specified in this subsection.

(.04) Normal maintenance of a non-conforming structure is permitted, provided that any exterior additions meet the requirements of this Section.

(.05) A non-conforming structure may be expanded or enlarged, provided that the portion of the structure being enlarged meets zoning requirements in terms of setbacks, height, and lot coverage.

### Section 4.191. **Non-Conforming Site Conditions.**

(.01) A property with non-conforming site conditions that is in use may continue to be used.

(.02) If a property with non-conforming site conditions is abandoned, as defined herein, for a period of eighteen (18) months, it may not again be used unless brought into
conformity with the requirements of this ordinance. Except, however, that an abandoned property with non-conforming site conditions may be re-occupied if a Variance is approved per the requirements of Section 4.196.

(.03) Normal maintenance of a property with non-conforming site conditions is permitted, provided that the site conditions do not become even less conforming as a result.

(.04) Any application for a change of occupancy, as determined by the City’s Building Official, or any application for discretionary review by the City shall justify conditions of approval that will bring the site into conformity with site improvement standards.

(.05) A structure with non-conforming site conditions may be expanded or enlarged, provided that there is a proportional decrease in the non-conforming site conditions. For example, an application to expand the floor area of a building by 10%, on a site that has 20% shortage of required parking, will be permitted, provided that at least a 10% increase in parking is also provided.

Section 4.192. Non-Conforming Lots.

(.01) A non-conforming lot may be used for any purpose allowed by zoning, provided that any structure built or located upon a non-conforming lot must meet all of the lot development standards of the zone, or be approved through the Variance procedures of Section 4.196. Except, however, if the non-conforming lot is contiguous to other property under legal control of the same owner or owners, no variance shall be granted for a structure or use that could be accommodated on that contiguous lot, or combination of lots, without a Variance.

(.02) A lot line adjustment between nonconforming lots may be approved where either:

A. Both lots involved in the adjustment will be conforming to zoning standards as a result of the adjustment; or

B. The Planning Director or Development Review Board finds, based on information in the record, that each of the lots involved in the adjustment will be suitable for development as allowed in the zone, as a result of the adjustment.