

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive,
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Affidavit of Nonconforming Use Application

How do I apply for an Affidavit of Nonconforming Use Application?

After you have completed all applicable application materials you may submit digitally via email by sending all application materials to epermits@co.whatcom.wa.us. Once the application has been received a planner will be assigned and you will be contacted with the project number and applicable fees. If you are unable to submit digitally, please call (360) 778-5900 in order to arrange a mail submittal. You can pay for your permit by the following options:

- Credit or Debit Card. Call 360-778-5900 to arrange payment. (there is a 2.35% transaction fee on credit cards, \$1.00 for debit cards.) Please have your permit number ready for the cashier.
- Mail a check payable to Whatcom County Planning to 5280 Northwest Drive, Bellingham WA 98226. (please include your permit number on the check)

Case Number _____ **Date** _____
(To Be Completed by Staff)

Nonconforming Use Description _____

Pursuant to WCC 20.83.130, An owner shall make public record of his right of nonconforming land use status by filing an affidavit of nonconforming use with the zoning administrator that contains the legal description of the affected property, the purpose for which the property is used and any other facts necessary as evidence to verify the legitimacy of the nonconformity.

Applicant

Name _____ Phone _____

Address _____ City _____

State _____ Zip _____ Email _____

Property Owner

Name _____ Phone _____

Address _____ City _____

State _____ Zip _____ Email _____

Authorized Agent

Name _____ Phone _____

Address _____ City _____

State _____ Zip _____ Email _____

Parcel Information

Assessor's Tax Parcel Number (APN) _____

Site Address _____

Parcel size _____ Zoning Designation _____

Legal Description

Lot _____ Block _____ Division _____ Plat Name _____

Section _____ Township _____ Range _____

W.M

Deed Attached Yes No Recorded Easements Attached Yes No

Natural Resources

Flood Zone Yes No Shoreline Jurisdiction Yes No

Critical Areas Yes No

Pursuant to WCC 20.83.010, "Except as otherwise provided in this chapter, the lawful use of any building, land or premises, existing on the effective date of adoption or amendment of this chapter, may be continued although such use does not conform to the provisions hereof."

Prior to July 6, 1972, Whatcom County had no zoning regulations. You may use this date to establish your nonconforming use or you may contact staff for a specific date relative to your parcel number and the nonconforming use you are trying to establish.

In order to provide the pertinent facts and evidence needed for the county to make an administrative determination to endorse the nonconforming use, please answer the following questions:

1. Please include with this application a specific and detailed narrative of the nonconforming use you wish to establish. If the nonconforming use utilizes structures then you must prove the buildings were legally established for the specific use(s) and show by chronological date the supporting evidence that proves the use has not ceased to operate for a period of twelve (12) months. If this cannot be established, then a nonconforming use cannot be approved. Substantial evidence to support the nonconforming use must be provided.

Have you attached a detailed narrative of the nonconforming use you are trying to establish?

Yes No

2. The following documents may be submitted to help establish the legitimacy of the nonconforming use. These documents include but are not limited to: utility bills, tax assessor records, old IRS records, septic tank information, etc. Photographs that are date stamped or indicative of an era (such as black and white photographs, Polaroid or photographs with scalloped/pinked edges) may help to identify a period in time. Photographs reflecting the clothing, hairstyles, vehicles, and/or scenic backdrops of a particular time such as the 1950's, 1960, 1970's may also be helpful. Notarized letters/affidavits endorsing the nonconforming use submitted without any other supporting documents will not be considered sufficient evidence to approve the use.

Have you attached sufficient evidence to substantiate the continued use from its inception to the present?

Yes No

3. Does the nonconforming use utilize one or more structures?

Yes No

- a. If yes, what is the square footage for each of the structures? (If no, please skip to question #4.)

Description of Structure #1 _____ Total SF: _____

Description of Structure #2 _____ Total SF: _____

Description of Structure #3 _____ Total SF: _____

- b. Please provide the county with a complete and detailed site plan of the parcel. If this is a business please include any and all aspects of the business you wish to establish as nonconforming and providing all supporting documents. This includes the square footage used for parking, storage, etc. If there is more than one structure on the property, please identify each one accordingly on the site plan and include the specific use of each building. If only a portion of the structure was used for the nonconforming use please provide a key on the site plan and indicate what portion (square footage) of the structure was used for the nonconforming use. The site plan must be to the scale: 1"=40'.

Site Plan Attached Yes No

- c. Please include a detailed floor plan for each structure. The floor plan must be to the scale: 1"=40'. If only a portion of the structure was used for the nonconforming use please indicate what portion (square footage) of the structure was used for the nonconforming use.

Floor Plan(s) Attached Yes No

- d. If you answered "No" for question #3, please provide a detailed site plan showing what portion of the parcel you wish to establish as nonconforming. If this is a business (with no structures) please include any and all aspects of the business you wish to establish as nonconforming. This includes the square footage used for parking, storage, etc. The site plan must be to the scale: 1"=40'.

Site Plan Attached Yes No

4. Pursuant to WCC 20.83.130, the zoning administrator or designee shall make a site examination to verify the nonconforming use. Are you willing to allow the county access onto the property and internal access inside all structures affiliated with the nonconforming use to verify the legitimacy of the supporting documents you provided?

Yes No

5. If sufficient evidence can be verified to support the county's endorsement of the nonconforming use, an Affidavit of Nonconforming Use will be required to be filed with the Whatcom County Auditor's Office. The affidavit will be provided by Whatcom County Planning and Development Services. Do you understand and agree to file an Affidavit of Nonconforming Use?

Yes No

Signature of Applicant

Date

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Fee Responsibility

Venue and Jurisdiction: The parties hereto recognize and agree that the venue of any action involving their rights or obligations related to this application shall be in Whatcom County, and the parties' rights and obligations hereunder shall be determined, in accordance with the laws of the State of Washington.

Fee Guaranty: Notwithstanding that this application has been submitted in the name of a company, I personally guarantee payment of fees accrued according to the terms listed in the Whatcom County Unified Fee Schedule and that my personal guarantee is part of the consideration for review of the application.

I/we, _____, hereby certify that the above statements and the information contained in any papers or plans submitted herewith are true and accurate to the best of my knowledge, and that the list of surrounding property owners is complete and current.

Signature of Applicant

Date

Signature of Owner

Date

I certify that I know or have satisfactory evidence that _____
is/are the person(s) who appeared before me, and said person(s) acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated _____

Notary Signature: _____

Printed Name: _____

Notary Public in and for the State of Washington

Residing at _____

My appointment expires: ____/____/____

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Agent Authorization

If you are authorizing an agent to apply for permits on your behalf you must complete this form and have it notarized, which will provide authorization for a designated agent to apply for permits on your behalf.

I/we, _____, the owner(s) of the subject property, understand that by completing this form I hereby authorize _____ to act as my agent. I understand that said agent will be authorized to submit applications on my behalf, and that any fees associated with submitted applications are due to me and not to the said agent. I also understand that once an application has been submitted that all future correspondence will be directed to the agent.

Property Address

Parcel Number

Property Owner Printed Name

Property Owner Printed Name

Property Owner Signature

Property Owner Signature

Date

Date

I certify that I know or have satisfactory evidence that _____ is/are the person(s) who appeared before me, and said person(s) acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated _____

Notary Public Signature

Notary Public Printed Name

Notary Public in and for the State of Washington

Residing at _____

My appointment expires: ____/____/____

Application received by _____

Date _____