Page 10-6; Lines 3 – 31 Reworded as per Board Deliberations:

1. Non-conforming Development

A. The following shall apply to non-conforming uses and developments, as defined in Article 2:

1. Legally established uses, buildings, structures and/or lots of record that do not meet the specific standards of this Program are considered legal non-conforming and may continue as long as they remain otherwise lawful, and meet the following criteria:

   i. **Existing, Permitted, or Vested -** The use, building, structure, or lot was existing on the effective date of initial adoption of the Program (December 20, 1974), or any subsequent amendment thereto, or was authorized under a permit or approval issued, or is otherwise vested to the Program; or

   ii. **Variance -** A structure for which a variance has been issued; or

   iii. **Conditional -** The existing use is designated as a conditional use under this Program and existed prior to the adoption of this Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit; or

   iv. **Abandoned –** As per JCC 18.20.260, the use or structure is not discontinued or abandoned for a period more than two years. A property owner may be allowed three years if they demonstrate a bona fide intention to sell or lease the property. For purposes of calculating this time period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

      a) On the date when the land was physically vacated;

      b) On the date the use ceases to be actively involved in the sale of merchandise or the provision of services; or

      c) On the date of termination of any lease or contract under which the nonconforming use has occupied the land.

2. The following provisions shall apply to non-conforming use and development:

   i. Normal maintenance and repair of a non-conforming structure may be allowed in accordance with Article 9 section 3, and other provisions of this Program.

   ii. Any repair, replacement, relocation or expansion/enlargement of a bulkhead shall conform to the provisions in Article 7.

   iii. If a non-conforming use or structure is discontinued or abandoned per this section the non-conforming rights shall expire and any subsequent use shall be conforming.

   iv. New single-family residential development on lots whose dimensions do not allow a residence to be constructed outside the standard shoreline buffer may be allowed without a variance in accordance with the provision in Article 6 section 1 (Nonconforming Lots).