

(DRAFT REVISIONS)
NONCONFORMING SITUATIONS

§ 155.385 PURPOSE OF CHAPTER.

This chapter establishes uniform provisions for the regulation of nonconforming land uses, development (including structures and improvements), and lots that were lawfully established but do not comply with the current requirements of this Zoning Ordinance (“nonconforming situations”). The overall intent of this chapter is to protect public health, safety, and general welfare while allowing reasonable use of private property by:

- (A) Limiting the number and extent of specific nonconforming uses and development that conflict with the provisions of this Zoning Ordinance by prohibiting their reestablishment after discontinuation;
- (B) Limiting the extent to which nonconforming uses and development that are involuntarily damaged or destroyed can be restored;
- (C) Allowing for the continuation and maintenance of nonconforming uses and development until they are redeveloped;
- (D) Establishing procedures and criteria for evaluating the allowable enlargement of specific nonconforming uses and development; and
- (E) Limiting the alteration, enlargement, or relocation of nonconforming uses and development in a manner that would further increase the difference between existing nonconforming conditions and the current provisions of this Zoning Ordinance.

§ 155.386 NONCONFORMING SITUATIONS, APPLICABLE PROVISIONS.

So long as a nonconforming situation exists upon a lot, no new use or structure may be constructed, established, or installed on the lot, except as allowed by this chapter. In addition to the general requirements in §§ 155.387 through 155.390, properties with nonconforming situations are subject to the standards and procedures for ~~the each~~ type ~~(or types)~~ of nonconforming situations that is applicable to that property. For example, a nonconforming development housing a nonconforming use is subject to § 155.392 and §§ 155.393 through 155.397.

- (A) Nonconforming lots are subject to § 155.391.
- (B) Nonconforming developments (except nonconforming signs) are subject to § 155.392.
- (C) Nonconforming uses are subject to §§ 155.393 through 155.397.
- (D) Nonconforming signs are subject to § 155.398.

§ 155.387 EXCEPTIONS TO THIS CHAPTER.

(A) Public Utilities. The Planning Director or designee, by written finding, may determine that a particular public utility facility or installation, nonconforming to the requirements of this chapter, is necessary to serve the areas in which it is located. Said public utility facility may then be expanded or altered, provided:

(1) The facility does not extend beyond the boundaries of the existing site or of the site approved by the city for such use; and

(2) The addition, extension, or alteration complies with all other performance standards provisions of §§ 155.415 through 155.433.

(B) Uses Requiring Conditional Use Permits. Notwithstanding the other provisions of this chapter, no use identified in this Zoning Ordinance as a "conditional use" that was lawfully in existence as of the effective date of these regulations shall be deemed nonconforming solely by reason of the application of the conditional use permit procedural requirements, in compliance with §§ 155.710 through 155.724; provided that:

(1) Use allowed with Conditional Use Permit approval. A land use that was legally established without a conditional use permit, but which would be required by current Zoning Ordinance provisions to have conditional use permit approval, must not be ~~altered or enlarged~~ ~~in any way~~ unless a conditional use permit is first obtained.

(2) Use no longer allowed with Conditional Use Permit approval. A land use that was established with conditional use permit approval, but which is no longer allowed with conditional use permit approval by the current Zoning Ordinance, may continue ~~only~~ in compliance with the original conditional use permit. Such use may be expanded or altered only in conformance with this chapter.

§ 155.388 NONCONFORMING SITUATIONS, DEFINED.

(A) Uses or developments that were not lawfully established do not have a legal right to continue as nonconforming situations as defined by this Zoning Ordinance and must be removed immediately.

(B) When submitting a development application to alter or expand a nonconforming situation or otherwise establishing that a lot, use or development is a legal nonconforming situation, the property owner or applicant must document that a nonconforming situation was legally established on its present site. Evidence that the situation was ~~allowed~~ legally established depends upon the type of nonconforming situation.

(1) For nonconforming lots, the property owner or applicant must document when the lot was lawfully created in accordance with § 155.391.

~~(2B)~~ For nonconforming development or nonconforming uses, the property owner or applicant must provide building, land use, or development permits. For development or uses which did not require a permit when lawfully established, the property owner or applicant must provide other evidence which clearly shows the date the development or use was established such as dated aerial photographs.

~~(3C)~~ In addition, for nonconforming uses, the property owner or applicant must document that the use has been maintained over time. Evidence that a use has been

maintained over time could consist of building permits, functioning utility hookups, tax records, business licenses, lease agreements, business receipts, and/or similar documentation.

§ 155.389 INTENTIONAL DEMOLITION OR DESTRUCTION.

Any nonconforming use or development dependent upon a building or structure that has been declared a “public nuisance” and ordered demolished pursuant to Santa Fe Springs Municipal Code § 95.07 will be considered terminated upon that notice unless the nuisance is abated in accordance with that section. Nonconforming uses or nonconforming developments that have been intentionally destroyed by the owner shall lose their legal nonconforming status.

§ 155.390 PROVISIONS APPLICABLE TO ALL NONCONFORMING SITUATIONS.

The following provisions shall apply to all nonconforming uses, structures, and lots existing as of the effective date of this chapter:

(A) The nonconforming status of a lot, development, or use shall not be affected by changes in ownership or tenancy.

(B) Except as specified herein, a nonconforming situation must maintain compliance with any and all ~~previously~~ conditions of approval previously established through prior land use reviews.

§ 155.391 NONCONFORMING LOTS.

(A) Determination of nonconforming status. A nonconforming lot of record that does not comply with the current access, area, or dimensional requirements of this ordinance for the zoning district in which it is located shall be considered to be a legal building site if it meets one of the criteria specified by this section. The applicant shall be responsible for providing sufficient evidence to establish the applicability of one or more of the following to the satisfaction of the city.

(1) Approved subdivision. The lot was created through a subdivision approved by the city or the County, before incorporation.

(2) Variance, modification permit, or lot line adjustment. The lot was approved through the variance procedure (§§ 155.670 through 155.682), the modification procedure (§§ 155.690 through 155.702) or its current configuration resulted from a lot line adjustment.

(3) Partial government acquisition. The lot was created in conformity with the provisions of this Zoning Ordinance but was made nonconforming when a portion of the lot was acquired by a governmental entity.

(4) Individual lot otherwise legally created. The lot was legally created before the effective date of the Zoning Ordinance amendment that made the lot nonconforming.

(B) Further subdivision prohibited. Where structures have been erected on a nonconforming lot, the lot may not be later subdivided, nor can lot lines be altered through a lot line adjustment so as to reduce the building site area or frontage below the requirements of the applicable

zoning district or other applicable provisions of this Zoning Ordinance, or in any way that makes the use of the lot more nonconforming.

§ 155.392 NONCONFORMING DEVELOPMENT.

(A) Nonconforming Development, Generally. A nonconforming development may be maintained and continued, provided there is no physical change ~~other than necessary maintenance and repair to the structure~~, except as allowed by this chapter. A nonconforming development which houses one or more nonconforming uses ~~is shall~~ also be subject to the provision of this chapter applicable to nonconforming uses.

(B) Alterations of a Nonconforming Development.

(1) Except as specified in §§ 155.392(B)(2) through (B)(5)), a nonconforming development or portion thereof may be enlarged or altered if the proposed addition or alteration:

(a) Satisfies all of the current requirements of this Zoning Ordinance; ~~or~~

(b) Causes the development to better comply with the applicable standards of the Zoning Ordinance for which it is nonconforming (i.e., to move in the direction of conformity) and ~~in no way does not materially~~ increases its nonconformity with the applicable standards of the Zoning Ordinance.

(2) Developments which are nonconforming only in regard to required distances between buildings, may be added to or enlarged in accordance with the following:

(a) Any additions or enlargements must not encroach into the required distances between buildings to a greater extent than the existing structure; and

(b) The encroachment of said additions or enlargements must not exceed one-half of the width of said distances.

(3) Structures which ~~on the effective date of this chapter, or any subsequent amendments thereto~~, are nonconforming only in regard to height may be added to or enlarged; provided, that any additions or enlargements must conform to the height regulations and to all other provisions of the Zoning Ordinance.

(4) Developments which are nonconforming only as to the regulations relating to off-street parking and loading facilities may be continued in the same manner as if the parking and loading facilities were conforming. However, such parking and loading facilities as do exist may not be further reduced. No increase in the intensity of use of any building, structure or premises through the addition of dwelling units, floor area, seating capacity or other units of measurement specified in this Zoning Ordinance shall be permitted except in accordance with the following requirements:

(a) The intensity of use may be increased up to 60%; provided, that the required parking and loading facilities for such increase are installed and that such parking and loading facilities as presently exist may not be reduced unless suitable substitutions are made which would meet the requirements of the Zoning Ordinance.

(b) The intensity of use may be increased by more than 60%; provided that parking and loading facilities for the entire developed portion of the property are provided in conformance with all requirements of this chapter.

(5) Sheet-metal buildings that are nonconforming only in regard to sheet-metal siding or Quonset-type construction may be altered, added to or enlarged; provided, that any alterations, additions or enlargements must conform to all of the provisions and regulations of the Zoning Ordinance.

(C) Damage or Partial Destruction of a Nonconforming Development. When a nonconforming development is damaged or partially destroyed by fire or other causes ~~beyond the control of the owner not caused by an act or deliberate omission of a property owner or person acting on their behalf~~, it may be rebuilt in-kind within the footprint of the damaged or destroyed improvement, provided:

(1) ~~The cost of repair or reconstruction does not exceed 75% of the appraised value of the building or structure. The determination of the appraised value shall be made by a professional appraiser selected by the City, whose fee shall be paid by the building owner. The damage does not exceed 75% of the improvement's value as determined by the assessed value of the improvements as shown on the current County property assessment roll in effect at the time of the occurrence of the casualty.~~ If the damage cost of repair or reconstruction exceeds 75% of the ~~improvements value~~appraised value, the development may not be rebuilt, except in full conformance with the current provisions of this Zoning Ordinance;

(2) Any reconstruction, restoration, or rebuilding undertaken pursuant to this section shall conform to all applicable Building Code requirements, a building permit is obtained within two years after the date of the damage or destruction, The reconstruction or repair is issued within 24 months after the date of destruction and the construction is diligently pursued to completion; and

~~(3) The reconstruction or repair is not otherwise precluded by the regulations of the Santa Fe Springs Municipal Code; and~~

~~(34)~~ The replacement improvements do not increase the degree of nonconformity beyond that of the previously existing improvements, as determined by the Building Official.

(D) Roadway Access. The owner of a nonconforming driveway approach or access to a public street or highway, upon receiving land use or development plan approval, may be required as a condition of approval to bring the nonconforming access into conformance with city standards.

(E) Required Improvements. A development application submitted for a site with nonconforming development that proposes alterations over the threshold in Subsection (1) must provide the required improvements listed in Subsection (2) for the area specified in Subsection (3).

(1) Threshold. The cumulative value of one or more building improvements or expansions exceeds \$500,000. The value of a proposed building or site improvement or expansion will

be the value stated on the application for building permits or calculated by the Building Official, whichever is higher. The cumulative value of the alterations is based on the value of improvements on the entire project site over the preceding three-year period (from date of application submittal), not individual building permits. The applicant may exclude the costs associated with the following alterations and improvements:

- (a) Alterations required by fire/life safety standards;
- (b) Alterations required to remove existing architectural barriers, as required by the Americans with Disabilities Act;
- (c) Seismic improvements required by building codes;
- (d) Energy efficiency or renewable energy improvements;
- (e) Required landscaping; and
- (f) Removal or remediation of hazardous substances conducted in accordance with State law.

(2) Required improvements. 5% percent of the cost of all improvements proposed in excess of the threshold in Subsection (1) must be allocated toward improvements that bring the site into compliance with standards listed below unless all of the standards listed below can be met at lesser cost. Category 1 improvements must be brought into compliance first unless doing so would exceed the costs established in this Subsection (2). Improvements within category 2 can be made in any order.

(a) Category 1

- i. Pedestrian facilities connecting the development to a public sidewalk (if a public sidewalk is abutting the property);
- ii. Buffering and screening standards in accordance with §§ 155.136, 155.166, 155.196, 155.226, 155.256, 155.286, §155.309, 155.141(B), 155.171(B), 155.201 (B), 155.231 (A), 155.261 (A), 155.291 (A), 155.381 (D), 155.201 (D)(1), 155.231 (C), 155.261 (C), and 155.291 (C). (unless there is not enough physical room);
- iii. Access to public streets in accordance with §§ 155.451, 155.489, and 155.490.

(b) Category 2

- i. Landscaping standards in accordance with §§ 155.545 through 155.559 and 155.079, 155.110, 155.140, 155.170, 155.200, 155.230, 155.260, 155.290, 155.313, and 155.380(C), (E) and (F). (unless there is not enough physical room);
- ii. Parking space and lot improvement standards in accordance with §§ 155.475 through 155.502;

- iii. Screening or removal of nonconforming metal buildings;
- iv. Screening of refuse storage areas in accordance with §§ 155.141 (E), 155.171 (E), 155.201 (E), 155.231 (D), and 155.261(D).

(3) Area of required improvements. Except as specified herein, required improvements must be made for the entire site. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. The area of the ground lease will be considered as a separate site for purposes of required improvements, provided the applicant submits a signed ground lease or excerpts from the lease document showing that there is at least one year remaining on the ground lease, and submits a legal description of the boundaries of the lease.

§ 155.393 NONCONFORMING USES, GENERALLY.

(A) Except as specified in § 155.393(B), a nonconforming use may be maintained and continued, provided there is no increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use, except as allowed by this chapter.

(B) Whenever any of the following facts are found to exist with reference to a nonconforming use, the nonconforming protection/benefits provided by this chapter shall cease except as otherwise allowed by this chapter:

- (1) The license or permit that is required to operate the nonconforming use has been revoked or terminated; or
- (2) There has been a violation of the provisions of this chapter with regard to change of use, alteration, or expansion of the nonconforming use.

(C) A nonconforming use may be changed to a conforming use, provided that any part of a structure or land occupied by a nonconforming use which is changed to or replaced by a conforming use shall not again be used or occupied by a nonconforming use.

(D) The area, space, or volume occupied by or devoted to a nonconforming use may be increased with the approval of a conditional use permit in accordance with § 155.395.

§ 155.394 DISCONTINUATION OF NONCONFORMING USE.

(A) Discontinuation. Except as provided in §§ 155.394(C) through (E), a nonconforming use that is discontinued for a period of more than 365 consecutive days shall be deemed abandoned and shall no longer be allowed as a legal nonconforming use. For purposes of calculating the 365-day time period, a use is discontinued on a site when any one of the following conditions occur:

- (1) The use no longer physically occupies the site;
- (2) The use ceases operation. For example, the site is no longer actively in use for the sale of merchandise, the manufacture or warehousing of products, or the provision of services, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service or similar indications;

~~(3) Any lease or contract under which the nonconforming use has occupied the site is terminated;~~

(34) A request for final reading of water and power meters is made to the applicable utility or the utility bill account indicates inactivity;

~~(45)~~ The non-payment of a required business license;

~~(56)~~ The use ceases operation as a result of damage or destruction by fire or other causes; and/or

~~(67)~~ An event occurs similar to those listed in § 155.394(A)(1) – ~~(56)~~, above, as determined by the city.

(B) Application of Criteria and Standards to Nonconforming Use. Once the city deems a nonconforming use discontinued pursuant to § 155.394(A), any subsequent use of the subject lot must conform to the current standards and criteria of this Zoning Ordinance applicable to the use. After the city has deemed a nonconforming use discontinued, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Zoning Ordinance and subject to enforcement proceedings.

(C) Appeals. In an appeal of the city's determination that the use has lost its nonconforming status by discontinuance, the appellant must present evidence satisfactory to the city showing that the use is in continual operation and/or that the discontinuation date used by the city was not accurate. Appeals shall be made to the City Council pursuant to § 155.394(F).

(D) Adult Businesses. Nonconforming adult businesses are subject to the provisions in § 155.603.

(E) Oil and gas wells. Idle wells as defined by the California Geologic Energy Management Division (CalGEM) are subject to the provisions of the State of California's idle well regulations.

(F) Appeal. Any party who has been administratively ordered by the city to terminate a nonconforming use shall have the right of appeal to the City Council if he feels that such order is unreasonable or would cause undue hardship. The City Council may approve the termination order or may extend the date upon which said nonconforming use must be terminated.

§ 155.395 NONCONFORMING USE REVIEW - PROCEDURES FOR EXPANDING OR CHANGING A NONCONFORMING USE ON A SITE.

Except for adult businesses, which are subject to § 155.396, an expansion or change of nonconforming use to another nonconforming use will be processed as a conditional use as established in §§ 155.710 through 155.724 and subject to the applicable review criteria in this section. The Planning Commission shall be governed by the following considerations in studying a request for such a conditional use permit:

(A) The nonconforming use was not created unlawfully.

(B) If the request involves a change of use, the proposed nonconforming use is within the same use category as the existing use, such as a change from one type of manufacturing use to another type of manufacturing use. Other changes from one nonconforming use to a different nonconforming use are prohibited, unless the Planning Commission finds that the proposed use, while still nonconforming, better meets the criteria in § 155.395(A)(3) than the existing nonconforming use.

(C) With mitigation measures through conditions of approval, the new use or expansion will comply with the performance standards in §§ 155.415 through 155.433 and will not result in a net increase in overall adverse impacts (over the impacts of the existing use) on the surrounding area taking into account factors such as:

- (1) Noise, vibration, dust, odor, fumes, glare, and smoke;
- (2) Potential for increased litter;
- (3) The amount, location, and nature of any outside displays, storage, or activities;
- (4) The appearance of the new or expanded use will not detract from the desired function and character of the zoning district;
- (5) The operating characteristics of the new or expanded use are compatible with the existing and anticipated uses in the immediate vicinity. The hours of operation of nonresidential uses in residential zoning districts cannot be extended into the period of 10 p.m. to 7 a.m.;
- (6) If the proposed change to the nonconforming use will result in an increase in vehicular trips, the street system has adequate capacity to accommodate the use, as determined by the City Engineer following a traffic study by the applicant;
- (7) If the proposed change to the nonconforming use will result in an increase in vehicle parking demand, the site has adequate on-site parking to accommodate the development or adequate parking will be provided in accordance with § 155.480;
- (8) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion;
- (9) Public services for water, sanitary sewer, stormwater, water management, and for fire and police protection, can serve the proposed use; and
- (10) Any applicable criteria in § 155.395(A)(4) and (5), below.

(D) Expansions in floor area to provide space for nonconforming uses do not exceed the following thresholds:

Existing Gross Floor Area	% of Expansion of Floor Area
Buildings under 3,999 sq. ft.	25%
Buildings between 4,000 sq. ft. and 9,999 sq. ft	20%

Buildings between 10,000 sq. ft. and 24,999 sq. ft.	15%
Buildings between 25,000 sq. ft. and 49,999 sq. ft.	10%
Buildings over 50,000 sq. ft.	5%

(1) Expansions in floor area for nonconforming uses may occur one time only, and the expansion must comply with current development standards for the zoning district in which the use is located.

(2) Expansion of a nonconforming use onto another site, except for an adjacent parcel under the same ownership, is prohibited.

(3) Addition of new residential units to a nonconforming residential use is prohibited unless such an addition would move the site toward conformance (e.g., adding units to a single detached dwelling in a multifamily zone) or would otherwise be permitted under state law

(E) Nonconforming Use Expansions in Residential Areas. If the nonconforming use is in a residential zoning district or in a mixed-use zoning district with residential uses adjacent to the site, the appearance of the proposed expansion will not lessen the residential character of the area, as determined by the Director of Planning. This is based on taking into account factors such as:

- (1) Building scale, placement, and facade;
- (2) Parking area placement;
- (3) Buffering and the potential loss of privacy to abutting residential uses; and
- (4) Lighting and signs.

§ 155.397 NONCONFORMING ADULT BUSINESSES.

Nonconforming adult businesses may not be enlarged or reconstructed and are subject to the amortization and termination provisions in § 155.603. Timeframes shall be calculated in accordance with § 155.399.

§ 155.398 NONCONFORMING SIGNS.

(A) Nonconforming signs may not be enlarged or reconstructed and are subject to the termination provisions of State law.

(B) In accordance with § 155.535, a sign permit may be required to maintain a nonconforming sign.

§ 155.399 MEASUREMENT OF TERMINATION DATE AND REMOVAL OF STRUCTURES OR USES.

(A) Where a use or structure is required to be terminated in accordance with §§ 155.397 or 155.398, the time periods shall be measured as follows:

(1) For nonconforming structures or uses which were conforming immediately prior to the effective date of this chapter, the time period shall be measured from the effective date of this chapter.

(2) For structures or uses which become nonconforming subsequent to the effective date of this chapter due to any zone change or other amendment to this chapter, the time period shall be measured from the effective date of whichever zone change or amendment first causes the structure or use to become nonconforming.

(3) For structures or uses which first became nonconforming by the provisions of any prior city or county ordinance, the time period shall be measured from the date such structures or uses first became nonconforming.

(B) Prior to the date determined in this subchapter for termination of nonconforming structures, the owner of the premises upon which such structure is located shall be notified in writing of the date of termination. Prior to such date, the nonconforming structure must be completely removed or brought into compliance with the requirements of this chapter. The city shall not be liable for the cost of altering or removing any nonconforming structure. If the nonconforming structure is not brought into compliance with the requirements of this chapter or removed within a reasonable time after the termination of the nonconforming status of said structure, the city shall have the authority to remove said structure. The cost of such removal may be charged to the owner of the premises and collected in the same manner as provided for special assessments on the land.