

CHAPTER 16.400
NONCONFORMITIES

§ 16.400.000. Intent.

The purpose of this chapter is to regulate the continuation, maintenance, expansion and abatement of lots, uses and structures, which, although lawful at the time of construction or initiation, do not conform to the standards of this title.

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§ 16.400.010. Applicability.

The provisions of this chapter shall apply to lots, uses and structures which were legally constructed or initiated but which do not conform to the present code because of subsequent changes in land use regulations and annexations.

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§ 16.400.020. Continuance of nonconformities.

Nonconforming lots, uses, and structures may be continued, maintained, and expanded subject only to the provisions of this chapter.

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§ 16.400.030. Nonconforming lots.

All lots, legally created, which do not meet the minimum lot area and dimension standards of the district in which they are located are hereby deemed nonconforming lots.

A. Permitted Development on Nonconforming Lots

1. Undeveloped, nonconforming lots may be used and have a structure erected upon them, provided the development standards of the district can be met. Such lots may be a proper subject for a variance, but shall be considered on a case by case basis.
2. No nonconforming lot shall be reduced in area or dimensions unless a variance is granted by the Planning Commission pursuant to Chapter 16.309.

B. Development on Nonconforming Lots in the RM Districts

In the RM (2000) and RM (3000) Districts, any lot with an area less than the minimum required for the District may be developed only to the RM (4000) District density, provided that any lot in any RM District that has an area less than 8000 square feet may be developed only with a single-family unit pursuant to the RS (8000) District development standards.

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§ 16.400.040. Nonconforming structures.

All structures including main buildings, accessory buildings, walls, fences, and other structures, which do not meet the height or setback standards, or which result in an outdoor living area less than required or in a lot coverage or floor area more than permitted by this title, or for which the number of parking spaces provided is less than required, and any residential structures in commercial and industrial districts except in the CV District, are hereby deemed to be nonconforming structures, and the following provisions shall apply:

A. Enlargement and Extension of Nonconforming Structures and Permitted Reductions in Setbacks**1. General Provisions for All Zones**

No enlargement or extension shall be made to a nonconforming structure, except if otherwise specifically permitted by this title or a variance is granted pursuant to Chapter 16.309.

2. Permitted Building Additions to Nonconforming Structures in the RS, HC, and AV Districts

Building additions to nonconforming structures that do not meet current interior setbacks, may have the same interior setbacks as established with the existing structure as noted in Chapter 16.130, provided all other development standards can be met.

3. New Construction on Single-Family Residential Property Without Required Parking

In single-family residential districts, an existing building may be expanded or a new accessory structure may be constructed on a lot where the parking requirements of the district are not met, provided the sum of the floor area of all buildings on a lot is not increased by more than 25 percent or 1000 square feet, whichever is less, during a period of five years or less, and if the new construction does not occupy the only available area suitable for the required parking and access thereto.

B. Replacement of Nonconforming Structures**1. General Provisions for All Districts**

Any nonconforming structure which is damaged may be restored to its original condition provided that the cost of such restoration does not exceed 50 percent of the replacement value of the structure, as determined by the Director, and that the restoration must start within one year from the date the damage occurred.

2. Replacement of Structures Not Meeting Lot Coverage, Floor Area or Height Restrictions in the RS, HC and AV Districts

In the RS, HC and AV Districts, dwelling units and accessory structures, nonconforming in that they do not meet lot coverage, floor area or height restrictions of the district, may be reconstructed if damaged or destroyed even if the cost of restoration exceeds 50 percent of the replacement cost of the structure, subject to the following requirements:

- a. The original structure was constructed in compliance with all applicable codes at the time of its construction.
 - b. The replacement construction duplicates the size, location, and footprint of the destroyed structure.
 - c. The reconstruction, if not replicating the original structure, shall be subject to architectural review pursuant to Chapter 16.300.
 - d. Reconstruction starts within one year from the date the damage occurred.
3. Replacement of Nonconforming Structures in the HC District
- a. In the HC District, legal dwelling units and accessory structures destroyed by natural catastrophe may be rebuilt at the previous density, provided reconstruction starts within one year from the date when the damage occurred.
 - b. Legal nonconforming fences may be maintained, repaired or replaced provided all replacement materials are reviewed and approved by the Director.
4. Replacement of Nonconforming Structures in the RR Districts
- In the RR Districts, legal nonconforming single-family residences and accessory structures which are damaged or destroyed may be reconstructed even if the cost of restoration exceeds 50 percent of the replacement cost of the structure pursuant to Chapter 16.007, Nonconformities.
5. Reconstruction of Multifamily Housing

For reconstruction, restoration, or rebuilding of multifamily housing, see also California Government Code Section 65852.25.

C. Signs Erected Prior to May 22, 1990

All signs legally erected prior to May 22, 1990 shall be treated as conforming signs. All such signs may be continued, maintained, and repaired so long as the sign is not expanded, structurally altered or abandoned pursuant to Title 18.

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§ 16.400.050. Residential development in the CV district.

In the CV District, existing residential structures shall be treated as conforming structures.

A. New Construction on Existing Residential Lots

Where there is no commercial use of the lot in combination with the residential use, an existing residential structure may be expanded or a new residential accessory structure may be constructed on the lot pursuant to the HC (7500) District development standards.

B. New Construction on Lots With Combination of Residential and Commercial Uses

On lots with a combination of residential and commercial uses, the expansion of an existing residential structure or construction of a new residential accessory structure shall require an amendment to the conditional use permit that was originally granted when the combined commercial and residential uses were initiated. If no conditional use permit was required at the time of initiation, a new conditional use permit shall be required.

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§ 16.400.060. Nonconforming site development and building appurtenances except single-family residential development.

Nonconforming site development is development on any site, except single-family residential development, where such development or building appurtenances do not meet the standards of this title for yard landscaping, parking lot landscaping, trash enclosures, fencing and screening, undergrounding of utilities, and/or mechanical equipment screening.

For nonconforming site development, no building permit for a new structure, or an addition to an existing structure which adds 25 percent or more to the floor area of an existing structure within a five-year period, shall be issued unless plans to bring any nonconforming site development or building appurtenance into compliance with the standards of this title, or as near to compliance as is practically feasible, are approved by the Director. No certificate of occupancy shall be issued until such improvements are completed per the approved plans.

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§ 16.400.070. Nonconforming uses.

Nonconforming uses are those uses that were legally established but which are not currently listed as permitted, special or conditional uses in the district where they are located, or which currently require a special use and development permit or conditional use permit but at the time of their initiation did not require a special use and development permit or conditional use permit.

A. General Provisions for Nonconforming Uses

1. No nonconforming use shall be expanded or moved in whole or part to any portion of the lot or parcel or other structure other than that occupied by such use at the time it was established.
2. No nonconforming use may be changed to a different nonconforming use.

3. If a nonconforming use is discontinued for a period of 90 days or more, such nonconforming use shall not be re-established.

B. Abatement of Nonconforming Uses

Abatement of nonconforming uses may be initiated by the City. Any person may request the abatement of a nonconforming use by letter to the Planning Commission or the City Council. If the Planning Commission or the City Council decides to initiate the abatement, the following procedures shall be followed:

1. Planning Commission Hearing

- a. The matter shall be considered by the Planning Commission at their next available meeting after initiation of the abatement.
- b. The Planning Commission shall review the nonconforming use to determine if the use has adverse environmental impacts and is incompatible with the intent of this title and the General Plan. The Planning Commission shall announce its findings by formal resolution. The Planning Commission's recommendation shall be forwarded for consideration by the City Council.

2. City Council Decision

If the Council determines that the use has adverse environmental impacts and is incompatible with the intent of this title and the General Plan, the Council may require that, within five years after the Council's decision, the nonconforming use shall cease, or be modified to conform to this title, or where applicable, that any necessary permits be obtained.

3. Notice

The business owner and the owner of the property where the use is located shall be given written notice at least ten days in advance of any proceedings and deliberation of the Planning Commission and City Council.

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