



"Citrus Capital of the World"

City of Santa Paula

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RECONSTRUCTION OF DAMAGED LEGALLY NONCONFORMING SINGLE FAMILY RESIDENCES INVOLUNTARILY DAMAGED OR DESTROYED

A common question that the Planning Department receives is whether a legally non-conforming single-family residence could be rebuilt if it were damaged or destroyed by an "involuntary" action such as a fire, earthquake, or flood.

In general, legal non-conforming single-family residential structures may be rebuilt with the required permits following an involuntary action per Santa Paula Municipal Code Section 16.110 entitled "Nonconformities." The Code Section is attached for your additional information. The rebuilt structure must occupy the same footprint as the original structure or decrease the nonconformity of the structure, and be of no greater height than the original structure. In addition, the new structure must comply with the City's design standards to the extent feasible if more than 50% destruction has occurred.

In order for the Planning Department to issue a letter regarding a particular property, a code compliance review of the existing structure(s) will be necessary to determine whether the existing structures are legally nonconforming. To be legally nonconforming the original structure must have been lawfully constructed with all of the required building and zoning permits that existed at the time. If you would like to have the Planning Department research the files to determine the nonconforming status of the property, please submit a letter with the property address, the APN number, a dimensioned site plan and labeled floor plan, and a check in the amount of \$140 made out to the City of Santa Paula. Each case is different; some may require very little research, while others may require several hours of research.

If you have additional questions, please contact the Planning Department at 933-4214.

Chapter 16.110 - Nonconformities

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16.110.010. PURPOSE AND INTENT.

This chapter establishes regulations for legal nonconforming land uses, structures, and parcels. These are land uses, structures, and parcels within the city that were lawfully established, constructed, or subdivided before the adoption or amendment of this Code, but which would be prohibited, regulated, or restricted differently under the current terms of this Code or its amendments. This chapter is intended to encourage the city's continuing improvement by limiting the extent to which nonconforming structures and uses may continue to be used, expanded, or replaced, while improving the health, safety, and welfare of all residents without creating an economic hardship for individual property or business owners.

16.110.020. ESTABLISHMENT OF NONCONFORMING STATUS.

A. Applicability. Nonconforming uses, structures and lots within the city

may continue to be used, and may be maintained, altered, expanded, reconstructed, or replaced only as allowed by this chapter.

- B. This chapter does not apply to any nonconforming structures owned in whole or part by the city. Nothing in this chapter is intended to, nor can it, require the city to remove a publicly owned nonconforming structure or use.
- C. Effective date. Whenever a use, structure, or lot becomes nonconforming as a result of amending this code, the time period for eliminating the use established by this code is computed from the effective date of the amendment.
- D. Legal nonconforming use. An existing use, structure, or lot is deemed to be "legal nonconforming" if, prior to its establishment, such use, structure, or lot was established or created in full conformance with applicable regulations in effect at the time of such establishment or creation.

16.110.030. NONCONFORMING USES – CONTINUED USE AFTER DAMAGE OR DESTRUCTION.

- A. Unless otherwise provided by applicable law, a nonconforming residential use occupying a structure that is damaged or destroyed by fire, earthquake, or other calamity beyond the property owner's control may be re-established;
- B. Unless otherwise provided by applicable law, a nonconforming nonresidential use occupying a structure that is damaged or destroyed by fire, earthquake, or other calamity beyond the property owner's control may be re-established with a conditional use permit.

16.110.040. NONCONFORMING USE – VOLUNTARY DEMOLITION OF STRUCTURE.

A nonconforming use which occupies a structure that is voluntarily demolished or demolished because of a maintenance failure or other neglect can be replaced only with a use that complies with all applicable provisions of this Code.

16.110.050. NONCONFORMING USE – LACK OF CONDITIONAL USE PERMIT.

A use that is nonconforming because it lacks a conditional use permit may continue only to the extent that it previously existed (e.g., floor or

site area occupied by the use, hours of operation). Any change to such use requires a conditional use permit.

16.110.060. NONCONFORMING USE – ALLOWED ONLY BY CONDITIONAL USE PERMIT.

A nonconforming use previously allowed by a conditional use permit but is no longer permitted by the Code within the applicable zoning district can continue in operation, but only in compliance with all provisions of the original conditional use permit.

16.110.070. CONTINUATION AND MAINTENANCE.

A nonconforming nonresidential use, structure, or lot may continue to be used until such time it is required to be abated provided no alterations, expansions, or modifications of area or use are made, except as otherwise permitted by Chapters 16.110 through 16.118.

16.110.080. NONCONFORMING STATUS TIED TO PROPERTY.

Restrictions and conditions affecting nonconforming uses, structures, and lots apply to that use, building, and structures, and are not affected by ownership changes.

16.110.090. ABATEMENT.

Nonresidential nonconforming uses must be abated or brought into conformance with this Code in accordance with the following amortization schedule:

TABLE 110-1
Abatement of Nonconforming Nonresidential Uses

Zone or Use	Abatement Schedule
1. In any zone, a nonconforming non-residential use not occupying a structure.	1 year
2. In any zone, a nonconforming non-residential use located in a structure with less than 100 square feet of gross floor area.	3 years
3. Any zone – Use not permitted	5 years

16.110.100. NONCONFORMING USES – ALLOWABLE CHANGES.

- A. Enlargement or Expansion. A nonconforming use cannot be enlarged or increased to occupy a greater floor area or portion of the site than it lawfully occupied before becoming a nonconforming use. Alterations which do not increase or enlarge a nonconforming use may be approved.
- B. Extended Hours. The hours of business for a nonconforming use may be expanded to operate under extended business hours with a conditional use permit.
- C. No nonconforming use can be changed to a less restrictive nonconforming use.

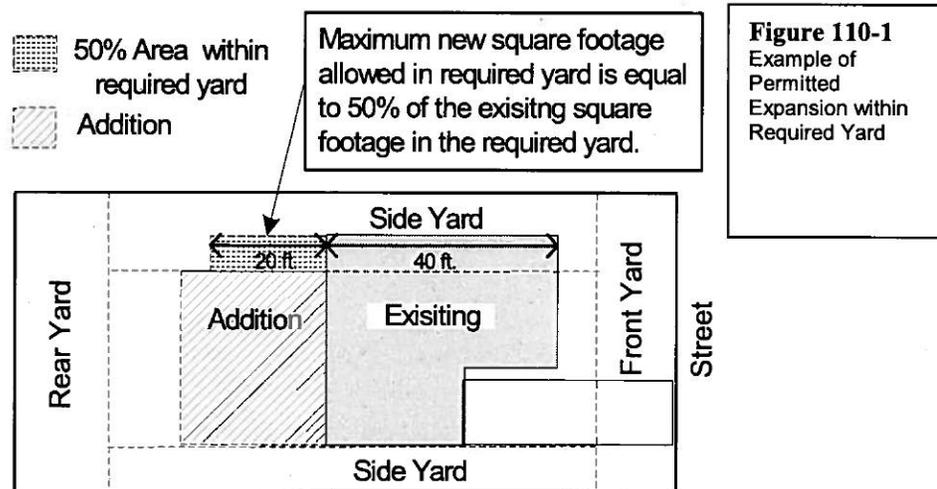
16.110.110. ABANDONMENT.

A nonconforming use that is voluntarily discontinued or ceased operations for a continuous period of 12 months or more cannot be re-established on the site. Any further use of an existing structure or site must be used in conformity with all applicable provisions of this Code.

16.110.120. NONCONFORMING STRUCTURES – GENERALLY.

- A. Expansions. A nonconforming structure cannot be expanded, except as required by law, unless such expansion results in elimination of the nonconformity.
- B. Maintenance, Repair, and Alterations. A nonconforming structure may be regularly maintained and repaired. Alterations without expansion are permitted if they improve the appearance or stability of the structure.
- C. A building or structure which does not conform to the yard regulations applicable to the zone in which such building or structure is located may be structurally altered only when:
 - 1. The alteration causes the building or structure to conform to the applicable yard regulations;
 - 2. The alteration or enlargement does not project into any required yard; or

3. The alteration or enlargement is an extension of that portion of the existing building or structure that encroaches into a required yard; provided, however, the alteration or enlargement cannot extend into the required yard farther than the existing portion and cannot have an area greater than 50% of the area of the existing portion within the required yard (see Figure 110-1). This allowance may only be utilized once on a property; future alterations or enlargements after the initial 50% allowance has been used on a property may not encroach into the required yard.



16.110.130. NONCONFORMING STRUCTURES – RECONSTRUCTION OF MULTI-FAMILY RESIDENTIAL STRUCTURES.

Except as otherwise provided by applicable law, a residential nonconforming structure containing two or more dwelling units that is damaged or destroyed by fire, earthquake, or other calamity beyond the property owner's control may be reconstructed in compliance with this Code as follows.

- A. The replacement structure contains at most the same number of dwelling units and floor area as the damaged structure;
- B. The replacement structure complies with all other applicable provisions of this Code to the maximum extent feasible;
- C. Reconstruction or rebuilding of the structure will not be detrimental or injurious to the health, safety, or general welfare of the persons residing or working in the neighborhood, or will not be detrimental or

injurious to the property and improvements in the neighborhood;

- D. A complete application for reconstruction is submitted within 12 months of the date of damage, and reconstruction is commenced within 180 days of land use permit approval; and
- E. Reconstruction, restoration, or rebuilding of a multi-family dwelling or duplex may be prohibited if the Planning Commission finds that the reconstruction, restoration, or rebuilding will be detrimental or injurious to the health, safety, or general welfare of persons residing or working in the neighborhood, or will be detrimental or injurious to property and improvements in the neighborhood.

16.110.140. NONCONFORMING STRUCTURES – RECONSTRUCTION OF SINGLE-FAMILY DWELLINGS AND NON-RESIDENTIAL STRUCTURES.

Except as otherwise provided by applicable law, a damaged single-family dwelling or non-residential structure that is damaged or destroyed by fire, earthquake, or other calamity beyond the property owner's control may be reconstructed in compliance with this Code as follows.

- A. **Less Than Fifty Percent Destruction.** A structure with 50 percent or more of the total length of its original exterior walls remaining in place after the damaging event, requiring no replacement, may be reconstructed provided that:
 - 1. The reconstructed structure occupies the same footprint or decreases the nonconformity of the structure, and is of no greater height than the original structure; and,
 - 2. A complete application demonstrating compliance with Title 15 for reconstruction is submitted within 12 months of the date of damage, and reconstruction is commenced within 180 days of land use permit approval.
- B. **More Than Fifty Percent Destruction.** A structure that is damaged so that more than 50 percent of the total length of its exterior walls must be replaced, may also be reconstructed, provided that:
 - 1. The reconstructed structure occupies the same footprint or decreases the nonconformity of the structure, complies with the city's design standards to the extent feasible, and is of no greater height than the original structure;

2. A complete application for reconstruction demonstrating compliance with Title 15 is submitted within 12 months of the date of damage, and reconstruction is commenced within 1 year from land use permit approval; and;
 3. The reconstructed structure must provide at least as much parking as previously existed and as much as determined by the Director to be feasible.
- C. **Replacement After Destruction of Nonconforming Residential Structures.** A nonconforming residential structure that is completely destroyed by fire, earthquake, or other calamity beyond the property owner's control may be replaced provided that:
1. The replacement structure occupies the same footprint or decreases the nonconformity of the structure, complies with the city's design standards to the extent feasible, and is of no greater height than the original structure; and
 2. A complete application for reconstruction demonstrating compliance with Title 15 is submitted within 12 months of the date of damage, and reconstruction is commenced within 1 year from land use permit approval.
- D. **Replacement After Destruction of Nonconforming Non-residential Uses.** A nonconforming non-residential structure that is completely destroyed by fire, earthquake, or other calamity beyond the property owner's control can be replaced only with a structure that complies with all applicable provisions of this Code.

16.110.150. NONCONFORMING FENCES AND WALLS.

Nonconforming fences and walls cannot be enlarged or altered unless they are altered to conform with this Code.

16.110.160. HISTORIC PROPERTIES.

Based upon substantial evidence, the Planning Commission can find that a national-, state-, or local-designated historic use or structure is nonconforming and exempt from this Chapter.

16.110.170. NONCONFORMING LOT.

- A. Allowed Use of a Nonconforming Parcel. A parcel that does not comply with the applicable requirements of this Code for minimum lot area, dimensions, or access, is considered to be a legal building site for the purposes of development or the establishment of a new land use only if:
 - 1. The parcel was previously a legal lot of record; or
 - 2. The parcel has a Certificate of Compliance.
- B. Development and Use Standards. Any proposed development or use of a nonconforming parcel must comply with all applicable requirements of this Code.
- C. Further Division Prohibited. A nonconforming parcel cannot be further subdivided, and its boundaries may be changed through lot line adjustment only if the extent of the nonconformity remains unchanged or is reduced.

16.110.180. NONCONFORMITY ABATEMENT – NOTICE.

- A. Upon determination by the Planning Director that a use on a given parcel of land is a nonconforming use and the permitted abatement period has lapsed, the Director must send a notice to the owner of the parcel, as shown on the last equalized assessment roll, identifying the requirement for abatement. Such notice must be sent by a method certifying delivery of the notice.
- B. The notice required by this section must state the following:
 - 1. The property in question contains a nonconforming use;
 - 2. The date the use became nonconforming; and
 - 3. The date of required abatement established in this Code.

16.110.190. PUBLIC HEARING.

- A. Within 30 days after the City issues a notice, the owner of the subject property may request a public hearing before the Planning Commission to consider the matter.

- B. The Planning Commission must receive written and oral testimony at such hearing with regard to abatement of the nonconformity.
- C. At the close of the public hearing, the Planning Commission must find and determine whether the nonconformity should be abated or whether a time extension should be granted. The Commission must base its decision as to the length of the permitted abatement period on evidence including, without limitation, the depreciation schedule attached to the owner's latest federal income tax return.
- D. The Planning Commission must also find and determine whether the nonconformity can economically be used in its present condition or if the nonconformity can be successfully modified for a purpose permitted by the zone in which it is located.

16.110.200. FINDINGS AND DECISIONS.

- A. The decision of the Planning Commission and the findings in support of the decision must be in the form of a written order and be served to the property owner personally or by a method certifying delivery within ten calendar days after the decision is rendered.
- B. Findings must be made as to whether or not the balancing of the public interest and the request by the owner for continuance complies with the intent of this Title 16.

16.110.210. APPEALS.

The decision of the Planning Commission may be appealed to the City Council in accordance with this Code.

16.110.220. EXTENSION OF TIME.

- A. In establishing the time periods for the termination of nonconforming uses, the city recognizes that there may be some uses which entail a substantial investment in time and money and which require a greater period of time for abatement of the investment than that set forth in the timetable. Any party may file a petition to the Planning Commission for an extension of time for the termination of a nonconforming use. The Planning Commission may direct the Planning Director to conduct a study of the specific use and prepare a report recommending the appropriate time for termination of the use.
- B. The Planning Commission, or the City Council on appeal, at its

discretion, may grant an extension of time for the abatement of nonconformity where it finds that an unreasonable hardship would otherwise be imposed on the property owner.

16.110.230. CITY REMOVAL.

If removal of a nonconforming use is not performed within the termination period determined by the Planning Commission in accordance with this Chapter, the city can remove the nonconforming use. Any cost of removal can be charged to the property owner or recorded as a lien on the subject property, in accordance with this Code.

(Ord. 1181, 2007)