

SECTION 24.17 NONCONFORMING USES AND STRUCTURES

24.17.110 PURPOSES

A. Uses

This Section is intended to limit the number and extent of nonconforming uses by prohibiting or limiting their enlargement, their re-establishment after abandonment, and the alteration or restoration after destruction of the structures they occupy.

B. Structures

While permitting the use and maintenance of existing nonconforming structures, this Section is intended to:

1. limit the number and extent of nonconforming structures by prohibiting their relocation, alteration, or enlargement in a manner that would increase the non-conformity; and
2. prohibit restoration of non-conforming uses and structures after destruction.

24.17.120 CONTINUATION AND MAINTENANCE

- A. A use lawfully occupying a structure or a site, that does not conform with the Use Regulations or the Performance Standards for the zone in which the use is located shall be deemed to be a non-conforming use and may be continued, except as otherwise provided in this Section.
- B. A structure, lawfully occupying a site, that does not conform with the Property Development Standards for front yard, side yards, rear yard, height, coverage, or distances between structures, for the zone in which the structure is located, shall be deemed to be a non-conforming structure and may be used and maintained, except as otherwise provided in this Section.
- C. Routine maintenance and repairs may be performed on a structure or site, the use of which is non-conforming, and on a non-conforming structure.

24.17.130 ALTERATIONS, & ADDITIONS TO EXISTING NON-CONFORMING USES, AND STRUCTURES

(Ord. 695, 02/05)

A. A non-conforming structure shall not be altered or reconstructed to increase the nonconformity for front yard, side yards, rear yard, height of structures, or distances between structures, or usable open space prescribed in the zone in which the structure is located. No nonconforming structure shall be moved or enlarged unless the new location or enlargement shall conform to the Property Development Standards for front yard, side yards, rear yard, height of structures, and distances between structures, or usable open space prescribed in the zone in which the structure is located.

B. A structure, the use of which is non-conforming, shall not be moved, altered, or enlarged, unless required by law, or unless the moving, alteration, or enlargement will result in the elimination of the nonconformity, except as permitted in this Section.

C. A non-conforming use may be enlarged or extended only within the structure in which the non-conforming use exists, provided no structural alterations, except those required by law are made.

D. A conforming use which fails to meet the Performance Standards of the zone in which it is located shall not be enlarged or extended or have equipment replaced that results in failure to meet Performance Standards unless the enlargement, extension, or replacement will result in elimination of nonconformity with Performance Standards.

E. An existing conforming residential use which is nonconforming as to side or rear yard setback requirements may be enlarged or extended through the granting of a variance, provided that the requirements of Sections 24.19.400 through 24.19.430 are met and that the following findings of fact are made:

1. That the subject residential use is located in the City's Town Core defined as that area south of Fifteenth Street, west of "M" Street, north of First Street, and east of La Brucherie Road; and

2. That the structural enlargement or extension will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and zone in which the property is located; and

3. That the structural enlargement or extension meets all other Property Development Standards of the zone in which it is located.

4. That the structural enlargement is only for the main residential structure. Accessory structures and secondary dwelling units, as defined in Section 24.01.180 of the City of Imperial Zoning Ordinance, may not be enlarged.

24.17.140 DISCONTINUATION OF NONCONFORMING USE

Whenever a nonconforming use has been discontinued or changed to a conforming use for a continuous period of one hundred-eighty (180) calendar days or more, the nonconforming use shall not be re-established, and the use of the structure or site thereafter shall be in conformity with the regulations for the zone in which it is located. Discontinuation shall include cessation of a use regardless of intent to resume the use, unless the Director of Planning is notified in writing of the intent to resume and has approved a schedule for resumption of said use.

24.17.150 RESTORATION OF A DAMAGED STRUCTURE

- A. Whenever a structure which does not comply with the Property Development Standards for front yard, side yard, rear yard, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the Performance Standards for the zone in which it is located, is destroyed by fire or other calamity, by the act of God, or by the public enemy to the extent of fifty (50) percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion. When the destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the Property Development Standards for the zone in which it is located and the nonconforming use shall not be resumed.
- B. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Official and shall be based on the minimum cost of construction in compliance with the Building Code.

24.17.160 ELIMINATION OF NONCONFORMING USES AND STRUCTURES

Nonconforming uses and structures shall be discontinued and removed from their sites, altered to conform, or altered as prescribed herein to decrease the degree of nonconformity, within the specified time after they become nonconforming. (EXCEPTIONS: Under certain conditions, some uses, when nonconforming, need not be removed and may be expanded provided that they shall be subject to the provisions of Section 24.17.140 [Discontinuation of Nonconforming Use] and Section 24.17.150 [Restoration of a Damaged Structure].

A. Uses

1. Any zone

A nonconforming use that does not occupy a structure or a use occupying a structure having an assessed valuation of less than \$500 shall be removed or made to conform within five (5) years from the date of notification as set forth in Section 24.17.195 herein.

Any zone, exception to elimination

A nonconforming residential use need not be removed, provided that the floor area shall not be enlarged and the number of dwelling units shall not be increased and shall be subject to the provisions of Section 24.17.150. (See also Section 24.03.110 Permitted and Conditional uses R zones)

2. R zones

A non residential use that is not a permitted use or a conditional use in a C1 zone shall be removed or made to conform within fifteen (15) years from the date of notification as set forth in Section 24.17.195 herein.

R zones, exception to elimination

A nonresidential use that is a permitted use or a conditional use in a C1 zone may be continued and a conditional use permit may be granted for expansion of the floor area or the site are occupied by the use by not more than a total of ten (10) percent in any five (5) year period. (Subject to Sections 24.17.140 & 24.17.150)

3. C2 zones

A use that is not either a permitted use of a conditional use in any C zone or an I zone shall be removed or made to conform within fifteen (15) years from the date of notification as set forth in Section 24.17.195 herein. (Section 24.05.120 for permitted and conditional uses).

C2 zones, exception to elimination

A use that is a permitted use or a conditional use in any C zone or any I zone may continued and a conditional use permit may be granted for expansion of the floor expansion of the floor area or the site are occupied by the use by not more than a total (10) percent in any five (5) year period. (Subject to Sections 24.17.140 and 24.17.150. (See Sections 24.05.120 and 24.07.120 for commercial and Industrial uses).

4. I zones

A use that is not either a permitted use or a conditional use in a C or I zone shall be removed or made to conform within fifteen (15) years from the date

of notification as set forth in Section 24.17.195 herein. (See Section 24.05.120 for permitted and conditional uses.)

B. Structures

1. A nonconforming structure having an assessed valuation of less than \$500 shall be removed or made to conform within five (5) years from the date of notification as set forth in Section 24.17.195 herein.

24.17.170 CHANGE TO ANOTHER NONCONFORMING USE

A use permit may be granted for conversion of a nonconforming use to another nonconforming use, provided that the Planning Commission make the following findings:

1. The proposed nonconforming use will not have a greater adverse impact on the surrounding area than the existing or former nonconforming use; and
2. The proposed nonconforming use shall be a use that would be permitted to continue in the zone in which it should be located as prescribed in Section 24.17.160.

24.17.190 TIME WHEN USE AND STRUCTURE BECOME NONCONFORMING

Whenever a use and/or a structure, become nonconforming because of a change of zone boundaries or a change of regulations for the zone in which it is located, the period of time prescribed in this article for the elimination of the use, and the removal of the structure, shall be computed from the effective date of the change of zone boundaries or regulation.

24.17.195 NOTICE OF ELIMINATION DATA FOR NONCONFORMING USE & STRUCTURE

When the Planning Director determines the existence of non-conforming uses listed in Section 24.17.160 and notifies the owner by certified or registered mail of the provisions and dates for compliance with the provisions of Section 24.17.160 the time periods prescribed shall commence. The first notification shall precede the date by which elimination is required by not less than the time periods prescribed in Section 24.17.160. Thereafter, notification shall be given annually in the same manner as the first notification. Notification of non-conformity shall be recorded with the county recorders office and/or on deed in case of change in ownership.