

PUBLIC REVIEW DRAFT (AUGUST 2023)
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 chapter (“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 chapter 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 a use is expanded or changed or a structure is improved or a site is 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.

- (A) So long as a nonconforming situation exists upon a lot, such situation may continue without any time limitation on its continued presence, provided that such nonconforming situation complies with all applicable provisions of this chapter.
- (B) No new use or structure may be constructed, established, or installed on a lot with a nonconforming situation except as allowed by this chapter.
- (C) In addition to the general requirements in §§ 155.387 through 155.390, properties with nonconforming situations are subject to the standards and procedures for each type of nonconforming situation that is applicable to that property.
 - 1) Nonconforming lots are subject to § 155.391.
 - 2) Nonconforming developments (except nonconforming signs) are subject to § 155.392.
 - 3) Nonconforming uses are subject to §§ 155.393 through 155.396.
 - 4) Nonconforming signs are subject to § 155.398.

§ 155.387 EXCEPTIONS TO THIS CHAPTER.

- (A) Public Utilities. The Director of Planning or designee, by written findings, 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 Code 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 under the current Zoning Ordinance provisions to have Conditional Use Permit approval, shall not be altered or enlarged in any way unless a Conditional Use Permit is first obtained as per Section 155.395.
 - (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 current Zoning Code regulations, may continue in compliance with the original Conditional Use Permit. Such use may be expanded or altered only in conformance with Section 155.395 with approval of a new Conditional Use Permit.

§ 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 chapter and must be removed immediately.
- (B) Nonconforming situations shall have the following meanings:
 - (1) A nonconforming lot means a lot that was lawfully established but does not meet the requirements of the zone in which it is located.
 - (2) A nonconforming development means a structure, building, or site improvement, such as an off-street parking facility, that was lawfully established in compliance with the applicable zoning regulations in effect at the time of construction but which no longer complies with the applicable development standards of the zone in which it is located, such as setbacks, buffers or yards, area, bulk, height, density, or parking. A structure, building, or site improvement shall be considered legally conforming, and not subject to this chapter, if the nonconformance is subsequently approved through a Conditional Use Permit procedure as per Section 155.395.
 - (3) A nonconforming use means a use of land or a structure that was lawfully established in compliance with the applicable zoning regulations in effect at the time it was established but which no longer

complies with the applicable regulations of the zone in which it is located. A use shall be considered legally conforming, and not subject to this chapter, if the nonconformance is subsequently approved through a Conditional Use Permit procedure as per Section 155.395 and such use has not ceased operation for a continuous period of one year.

- (C) When submitting a development application to alter or expand a nonconforming situation or otherwise establish 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. The City, at the request of the property owner or applicant, will provide the property owner or applicant with all records to the extent they are in the City's possession. Evidence that the situation was legally established shall depend upon the type of nonconforming situation, as follows.
- (1) For nonconforming lots, the property owner or applicant must document when the lot was lawfully created in accordance with § 155.391.
 - (2) 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.
 - (3) In addition, for nonconforming uses, the property owner or applicant must document that the use has been continually maintained the prior one (1) year; however, an extension of time to demonstrate that the use has not ceased may be granted by Planning Commission action or, upon appeal, City Council action. Evidence that a use has been maintained over time shall 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 lose its nonconforming status 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; and
- (B) Except as specified herein, a nonconforming situation must maintain compliance with any and all 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 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 the Zoning Code 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 chapter which 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.

§ 155.392 NONCONFORMING DEVELOPMENT.

- (A) Nonconforming Development, Generally. A nonconforming development may be maintained, repaired, improved, and continued, provided there is no physical change except as allowed by Section 155.395(D). A nonconforming development which houses one or more nonconforming uses shall also be subject to the provision of this chapter applicable to 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 the Zoning Code; and
 - (b) Causes the existing development to better comply with the applicable standards of the Zoning Code for which it is nonconforming (i.e., to move in the direction of conformity) and does not increase its nonconformity with the applicable standards of the Zoning Code, unless a Conditional Use Permit is granted in accordance with §155.395.
 - (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) Provided that any additions or enlargements must not encroach into the required distances between buildings to a greater extent than the existing structure;
 - (b) The encroachment of said additions or enlargements must not exceed one-half of the width of the required distances between buildings; and

- (c) Complies with all applicable requirements of the California Fire Code.
 - (3) Structures which 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 Code.
 - (4) For industrial and commercial developments which are nonconforming only as to the regulations relating to off-street parking and loading facilities, such uses may be continued in the same manner as if the parking and loading facilities were conforming, except as needed to comply with Americans with Disabilities Act (ADA) and any applicable state or local disability access statute. However, such parking and loading facilities as do exist may not be further reduced with respect to number provided, dimensions, and any other relevant requirement. No increase in the intensity of use of any building, structure, or premises through the addition of floor area, seating capacity, or other units of measurement specified in the Zoning Code shall be permitted except in accordance with the following requirements:
 - (a) The intensity of use may be increased up to 60% in terms of either floor area or truck traffic generation, as determined by the Director of Planning, 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 Code.
 - (b) The intensity of use may be increased by more than 60% in terms of floor area or traffic generation, as determined by the Director of Planning, provided that parking and loading facilities for the entire developed portion of the property are provided in conformance with all requirements of the Zoning Code.
 - (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 Code.
 - (6) A nonconforming development may be altered or enlarged so as to further decrease the difference between existing conditions and the current applicable development standards in this chapter if a Conditional Use Permit is obtained in compliance with Section 155.710 et seq.
- (C) Damage or Partial Destruction of a Nonconforming Development. When a nonconforming development is damaged or partially destroyed by fire or other causes not caused by an act or deliberate omission of a property owner or person acting on the owner's behalf, it may be rebuilt in-kind within the footprint of the damaged or destroyed improvement and any existing nonconforming use of the development may continue, provided:
- (1) The cost of repair or reconstruction does not exceed 75% of the replacement value of the building or structure. If the cost of repair or reconstruction exceeds 75% of the replacement value, the development may not be rebuilt, except in full conformance with the current provisions of the Zoning Code.
 - (2) Replacement Value Calculation. The extent of damage or partial destruction shall be determined by comparing the estimated cost of restoring the structure to its condition before the damage or partial destruction based on current building and fire code requirements to the estimated cost of duplicating the entire structure, also based on current building and fire code standards, as it existed before the

damage or destruction occurred. Estimates for this purpose shall be reviewed and approved by the Building Official.

- (3) Any reconstruction, restoration, or rebuilding undertaken pursuant to this section shall conform to all applicable building and fire code requirements, provided that a building permit is obtained within two years after the date of the damage or destruction, and the construction is diligently pursued to completion. This time period may be extended if the property owner can provide evidence, to the satisfaction of the Building Official, that delays due to insurance requirements or other circumstances beyond the control of the property owner, as verified by the Building Official, prevent meeting the two-year time frame.
 - (4) The replacement improvements shall 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.

§ 155.393 NONCONFORMING USES

- (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 regarding 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 pursuant to § 155.395.

§ 155.394 DISCONTINUATION OF NONCONFORMING USE.

- (A) Discontinuation. Except as provided in §§ 155.394(C) through (F) 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) A request for final reading of water and power meters is made to the applicable utility or the utility bill account indicates inactivity;
 - (4) The business has failed to make a required payment of a required business license and has failed to maintain a valid business license;
 - (5) The use ceases operation as a result of damage or destruction by fire or other causes and a building permit for the reconstruction or repair has not been obtained within 24 months after the date of destruction; and/or
 - (6) An event occurs similar to those listed in § 155.394(A)(1) – (6), above, as determined by the Director of Planning or designee.
- (B) Application of Criteria and Standards to Nonconforming Use. Once the Director of Planning or designee deems a nonconforming use discontinued pursuant to § 155.394(A) and issues such determination in writing, any subsequent use of the subject lot must conform to the current standards and criteria of the Zoning Code 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 chapter and subject to enforcement proceedings.
- (C) Adult Businesses. Nonconforming adult businesses are subject to the provisions in § 155.603.
- (D) 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.
- (E) Appeal. Any party that has been administratively ordered by the city to terminate a nonconforming use shall have the right of appeal to the Planning Commission if the party believes that such order is unreasonable or would cause undue hardship. Appeals shall be filed with the Planning Commission Secretary, including a statement and evidence provided by the appellant as to why the termination of a nonconforming use is not justified. The appeal shall be considered in accordance with the following:
- 1) The Planning Commission Secretary shall set the matter for hearing before the Planning Commission within 60 days of receiving the appeal. Notice of said hearing shall be given in accordance with applicable provisions of § 155.860 et seq.
 - 2) Based on evidence provided by the appellant, the Planning Commission may overturn or confirm the termination order or may extend the date upon which said nonconforming use must be terminated. Such decision shall be issued in writing.

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

Except for adult businesses, which are subject to § 155.396, expansion or change of 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 also consider the following in connection with 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 legally nonconforming use, whether by right or subject to a Conditional Use Permit.
- (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 shall have adequate capacity to accommodate the use, as determined by the Director of Public Works and/or Traffic Engineer following completion of 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 shall have 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; and
 - (9) Public services for water, sanitary sewer, stormwater, water management, and fire and police protection can serve the proposed use, as determined by the responsible city authorities.
- (D) Expansions in floor area shall be limited as follows:
 - (1) Expansions in floor area to provide space for nonconforming uses shall not exceed the following thresholds and shall require a Conditional Use Permit:

Existing Gross Floor Area	Maximum Percentage 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%

- (2) Expansions in floor area for nonconforming uses or structures may occur one time only, and the expansion must comply with current development standards for the zoning district in which the use or structure is located.
 - (3) Expansion of a nonconforming use onto another site shall be prohibited. In the event an abutting parcel is under the same ownership as the parcel supporting the nonconforming use, the nonconforming use may be expanded with approval of a Conditional Use Permit.
 - (4) Addition of new residential units to nonconforming residential use is prohibited unless otherwise 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 proposed expansion shall be designed and constructed to minimize the impact on the established residential character of the area, as determined by the Director of Planning. This determination shall be based on, but not limited to, the following factors:
- (1) Building scale and placement;
 - (2) Exterior building treatments;
 - (3) Parking area placement;
 - (3) Buffering and the potential loss of privacy to abutting residential uses;
 - (4) Location of loading and refuse storage/collection areas;
 - (5) Outdoor storage (where permitted); and
 - (6) Lighting and signs.

§ 155.396 NONCONFORMING ADULT BUSINESSES.

Nonconforming adult businesses may not be enlarged or reconstructed and are subject to the amortization and termination provisions in § 155.603.

§ 155.397 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.