

**ATTACHMENT NO. 2
EXHIBIT A****CHAPTER 17.610 - NONCONFORMING USES, STRUCTURES,
AND PARCELS**

Sections:

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17.610.005 - Purpose

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 Title, but which would be prohibited, regulated, or restricted differently under the current terms of this title or future amendments thereto.

It is the intent of this Chapter to encourage the continuing improvement of the City by limiting the extent to which nonconforming structures and uses may continue to be used, expanded, or replaced, while allowing for improvements in their appearance.

17.610.010 – Nonconforming Uses**A. Continuation of Use.**

1. Any nonconforming use, including a nonconforming use due to nonconforming density, may be maintained and continued, provided that there is no increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use. Alterations that do not increase or enlarge a nonconforming use may be approved.
2. Increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use shall include, but not be limited to, increase in height; square footage additions; additions to existing rooms; construction of new rooms; replacement construction of units or portions of units; and construction of additional units.

- B. Abandonment or Discontinuance of Use.** A nonconforming use, which has been abandoned or discontinued for a period of one year, shall not be reestablished, and any subsequent reuse or any new use established shall conform to the current provisions of this Title.

- C. Change of Use.** A nonconforming use that is changed to, or replaced by, a conforming use shall result in termination and subsequent abandonment of the nonconforming use.
- D. Nonconforming Oil Use.** Land that has been used for the drilling, production, or processing of oil, gas, or other hydrocarbons, may continue in that use, regardless of the applicable zoning district. The provisions of this Subsection shall not apply to gasoline service stations or other like uses, or to any oil well, oil well structures, or equipment that has been abandoned, or the use has been discontinued, for a period of at least one year
- E. Conditional Uses.**
- 1. Conformity of uses requiring Administrative Use Permits and Conditional Use Permits.** Any use existing at the time of adoption of this Title, in a zoning district that allows the use subject to the granting of an Administrative Use Permit or Conditional Use Permit, shall be deemed a legal nonconforming use, and may only continue to the same extent that it previously existed.
 - 2. Previous Administrative Use Permits or Conditional Use Permits in effect.** A use that was established with an Administrative Use Permit or a Conditional Use Permit, but which is no longer a use allowed by this Title within the applicable zoning district, may continue in compliance with the provisions and terms of the original permit. If the Administrative Use Permit or Conditional Use Permit specified a termination date, then the use shall terminate in compliance with the original permit.
- F. Nonconforming Private School Use in the IG District.** Notwithstanding the foregoing, a nonconforming private school use in the IG zoning district, which was originally established with a Conditional Use permit at a time when the private school use fully conformed with all then existing applicable provisions of this Title, may be modified and/or expanded, subject to the following:
- 1.** The modification and/or expansion shall require a modification of the existing Conditional Use Permit, subject to review and approval by the Commission in compliance with [Chapter 17.530](#) (Administrative Use Permits and Conditional Use Permits) and § [17.595.035](#) (Changes to an Approved Project).
 - 2.** The modification and/or expansion may only include property that is already part of the existing private school use or that is directly and physically abutting the existing school property.
 - 3.** Any application for a modification and/or expansion of an existing Conditional Use Permit shall include, but not be limited to, the following:
 - a.** The submittal of a master plan document, in form and substance as determined by the Director, which thoroughly outlines the extent of the proposed modification and/or expansion, including any proposed increase to student enrollment and/or staff;
 - b.** The submittal of an economic study, in form and substance as determined by the Director, which estimates the fiscal impacts of any modification and/or expansion on the City. Such study shall include, but not be limited to, a calculation of the economic and tax “opportunity cost” to the City of expanding the nonconforming private school use.

4. After considering the economic study and the fiscal impacts on the city from any modification and/or expansion of the existing private school use, the appropriate review authority may impose reasonable conditions to mitigate the fiscal impacts if it determines that such conditions will serve the public interest, health, safety, convenience or welfare of the City.
5. The total area of the property included in the school (as proposed to be expanded) may in no event exceed 3.5 acres.

17.610.015 - LOSS OF NONCONFORMING STATUS.

A. Termination by Discontinuance of Use.

1. If a nonconforming use of land or a nonconforming use of a conforming structure is discontinued for a continuous period of at least one year, the rights to a legal nonconforming status shall terminate.
2. The one-year period shall not apply, if the Director determines that legitimate and continual efforts to reuse or release the subject property have been made during the one-year period.
3. The determination of abandonment shall be supported by evidence satisfactory to the Director (such as the actual removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, the turning-off of the previously connected utilities, or where there are no business receipts/records available to provide evidence that the use is in continued operation).
4. Without further action by the City, further use of the site or structure shall comply with all of the current regulations of the applicable zoning district and all other applicable provisions of this Title.

17.610.020 - NONCONFORMING STRUCTURES

A. Alterations or Additions. The construction, enlargement, expansion, extension, or reconstruction of a nonconforming structure shall be subject to the following.

1. **Increase in area.** The work shall be allowed if it results in an increase or enlargement of the area, space, or volume of the structure only if the structure is nonconforming with respect to setbacks, height, distance between structures, architectural projections, staircase and landing area encroachments, and the requirements of the Uniform Building Code are met. New additions, and replacement structures or alterations shall meet the setback and height requirements of the zoning district in which the nonconforming structure is located except replacement structures required pursuant to Section 17.610.025 – Exemptions and Exceptions.
2. Improvements to nonconforming multiple-family and non-residential primary structure(s).
 - a. **Major improvement defined.** A **Major Improvement** is an improvement that will add 10% or more, with a minimum of 750 square feet, to the existing gross floor area of the

multiple-family or non-residential structure(s) on the site, as determined by the Building Official.

- b. Minor improvement defined.** If the City determines that the estimated value of the work for which the permit is requested is equal to 10% or more of the replacement value of the multiple-family or non-residential structure(s) on the site, but at least \$50,000 (to be adjusted annually each July 1st to reflect the increase in the Consumer Price Index for all Urban Consumers, Los Angeles/Riverside/Orange County Area, as established by the U.S. Department of Labor for the period from March of the preceding year through March of the current year), it shall be considered a **Minor Improvement**. In application of this Section, “work value” and “replacement value” shall be determined as follows.
- i. Work value.** Each permit shall indicate the value of the work to be performed. If the Building Official believes the work value estimate indicated on the permit is too low, the Building Official shall estimate the value of the proposed work for the purpose of this calculation.
 - ii. Replacement value.** The replacement value of an existing structure shall be determined using tables of reconstruction costs published by the International Conference of Building Officials. The type of construction is determined, and a cost per square foot is derived from the table. This cost is multiplied by the number of gross square feet in the structure to obtain the estimated reconstruction cost of the structure.
 - iii. Commercial revitalization area.** If the proposed minor improvements include exterior building facade improvements to an existing structure located within an area designated by the Council as a Commercial Revitalization Area, the portion of the work value devoted to exterior building facade improvements shall not be included in determining the 10% or \$50,000 enforcement threshold for minor improvements.
- c. Incidental improvements defined.** An improvement that does not qualify as a major or minor improvement shall be considered an **Incidental Improvement**.
- d. Requirements.** Whenever a permit for a major improvement or minor improvement to an existing nonconforming structure is requested, the Director shall not approve the application unless the requirements of Table 6-1 (Requirements for Major and Minor Improvements) are met.

Table 6-1 Requirements for Major and Minor Improvements		
Requirement	Major Improvement	Minor Improvement
1. The appropriate number of parking spaces shall be provided for the type of uses proposed for the site, in compliance with Chapter 17.320 (Off-Street Parking).	X	
2. Any sign on the subject site shall be in compliance with Chapter 17.330 (Signs).	X	X
3. All roof equipment screening shall be provided in compliance with § 17.300.035 (Screening).	X	X
4. All trash enclosures shall be provided, subject to the approval of the Sanitation Manager and the Director.	X	X
5. Parking lot landscaping, paving, screening, and striping shall meet all City requirements; provided, compliance with the requirements does not decrease the number of available parking spaces, in compliance with Chapter 17.320 (Off-Street Parking).	X	X
6. Fences, walls, and hedges shall comply with § 17.300.030 (Fences, Hedges, and Walls).	X	X
7. The project shall conform to the City's "Comprehensive Standard Conditions of Approval for Site Plan Review and Other Discretionary Planning and Zoning Applications," as adopted by the Commission.	X	X
8. Notwithstanding requirement 5 above, the addition of floor area to an existing structure shall not be allowed, unless there is additional parking to serve the newly-added floor area, in compliance with Chapter 17.320 (Off-Street Parking).		X

3. Improvements, reconstruction, and new construction to nonconforming single family, two family, and three family structure(s); accessory residential structures; and accessory dwelling units.

- a. Reconstruction or partial reconstruction of a nonconforming single family, two family, and three family structure; accessory residential structure; or accessory dwelling unit that is/are not subject to Section 17.610.025 – Exemptions and Exceptions, and that results in more than 50% demolition of the building footprint,

shall be completely reconstructed in conformance with current code required setbacks, height, and parking. Demolition shall include removal of full height exterior walls from grade to roof including removal of existing framing, exterior sidings, and interior sidings.

B. Nonconforming Due to Parking. A structure that is nonconforming due to the lack of compliance with off-street parking standards may undergo changes in compliance with this Section, subject to the following provisions.

- 1. Residential additions.** Additional parking spaces shall not be required for additions to single-family homes, duplexes or triplexes that result in no more than 4 bedrooms per unit. However, additions resulting in 5 or more bedrooms per unit shall provide the minimum parking required.
- 2. Multiple-family residential structures.** Additional parking spaces shall not be required, provided the change does not result in an increase in the number of dwelling units, nor the elimination of the only portion of the parcel that can be used for the required/existing vehicle parking or access.
- 3. Non-residential structures and uses.** Structures with parking space deficiencies shall be allowed to expand or accommodate a change of use, provided that:
 - a.** The expansion or new use has the same or lesser parking requirement as the existing or previous use or structure;
 - b.** The expansion or new use has a greater parking requirement than the existing or previous use or structure, and a sufficient number of additional parking spaces have been provided to accommodate the net increase of required spaces in the following manner:
 - i.** The net new parking spaces shall equal the number of spaces directly required by the change in use only;
 - ii.** The number of additional parking spaces shall equal the number of spaces directly required by the expansion area only;
 - iii.** Where there are 2 or more nonconforming structures on a site, but not all structures are proposed for additions, changes, or intensifications, parking nonconformities for the structures not proposed for additions, changes, or intensifications may remain as they are.

17.610.025 – Exemptions and Exceptions

Nonconforming structures damaged or destroyed due to an involuntary catastrophic event (e.g., fire, earthquake, or other calamity) may be reconstructed or replaced, provided:

- A. Development Standards.** The new structure(s) shall comply with the development standards (such as building envelope and footprint standards) in effect when the damaged or destroyed structure(s)

was originally constructed; provided, however, that the new structure(s) shall contain no more dwelling units and/or floor area than the damaged structure(s).

- B. Building and Fire Code Compliance.** All new construction shall comply with the current Building and Fire Code requirements; however, the Building Official may require compliance for areas other than the new construction, when deemed necessary.
- C. Time Limits.** A building permit for reconstruction must be obtained no later than 18 months after the date of destruction, and construction must be pursued diligently to completion.
- D. Current Requirements.** If the preceding requirements are not met, the replacement structure shall comply with all current requirements of this Title in effect on the date of application for the required building permit.
- E. Extensions.** If the applicant submits a written request before expiration of the 18 months, containing reasonable justification for an extension, the Director may extend the deadline for issuance of the building permit for up to an additional 18 months.

17.610.030 – Maintenance and Repair

- A. Maintenance and Repair.** A nonconforming structure may be continued, improved, and maintained, subject to the restrictions contained in this Chapter.
- B. Seismic Retrofitting/Building Code Compliance.** Repairs or alterations required by law shall be allowed. Reconstruction required to reinforce unreinforced masonry structures, or to comply with Building Code requirements, shall be allowed without cost limitations. The seismic retrofitting and Code compliance shall be limited exclusively to compliance with earthquake safety standards and other applicable Building Code requirements, including State law (such as Title 24 and the California Code of Regulations).

17.610.035 – Nonconforming Parcels

A nonconforming parcel of record that does not comply with the access, area, or width requirements of this Title for the zoning district in which it is located, shall be considered a legal building site, if it meets at least one of the criteria specified by this Section.

- A. Applicability.** It shall be the responsibility of the applicant to produce sufficient evidence to establish the applicability of one or more of the following:
 - 1. Approved subdivision.** The parcel was created through a subdivision approved by the City;
 - 2. Variance or lot line adjustment.** The parcel was approved through the Variance procedure, in compliance with [Chapter 17.550](#) (Variances and Administrative Modifications), or resulted from a lot line adjustment; or
 - 3. Partial government acquisition.** The parcel was created in compliance with the provisions of this Title, but was made nonconforming when a portion of the parcel was acquired by a governmental entity.

- B. Further Division or Reduction of Parcel - Prohibited.** Where structures have been erected on a nonconforming parcel, the area where structures are located shall not be later divided so as to reduce the building site area and/or frontage below the requirements of the applicable zoning district or other applicable provisions of this Title, or to make the use of the parcel more nonconforming.

17.610.040 - Unlawful Uses and Structures

Any use or structure, which did not comply with the applicable provisions of this Title or prior planning and zoning regulations when established, are violations of this Title and are subject to the provisions of [Chapter 17.650](#) (Enforcement). This Chapter does not grant any right to continue occupancy of property containing an illegal or unpermitted use or structure. The activity shall not be allowed to continue unless/until permits and entitlements required by this Title and the CCMC are first obtained.

17.610.045 – Public Nuisance Abatement

In the event that a nonconforming use or structure is found to constitute a public nuisance, appropriate action shall be taken by the Director in compliance with [Chapter 9.04](#) (Nuisances) of the CCMC. (Ord. No. 2005-007 § 1 (part))