

Chapter 18.46: Nonconforming Uses, Structures, Sites, and Parcels

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18.46.010 Purposes

This chapter establishes uniform provisions for the regulation of legal nonconforming uses, structures, sites, and parcels. Within zoning districts established by this code, there exist structures, land uses, site improvements, and parcels that were lawful prior to the adoption of this code, but which would be prohibited, regulated, or restricted differently under the use regulations and development standards of this code or future amendments. It is the intent of this chapter to discourage the long-term continuance of nonconformities that have resulted, or can be expected to result in, conflicts with surrounding conforming land uses, providing for their eventual elimination, but to permit other nonconformities to exist under limited conditions outlined in this chapter. This chapter also recognizes that the investments made in developed property can be substantial and that provisions for continuation of certain nonconforming uses may be desirable, particularly if it can be assured that the use does not negatively impact adjacent properties. Further, this chapter provides for the improvement of nonconforming structures and properties to reduce the blighting influence that can occur if abandoned structures cannot be reused for their designed purposes.

18.46.020 Nonconforming Uses

- A. **Continuation.** Legal nonconforming uses, including uses lacking permits or other entitlements, may be continued provided that such use shall not be materially modified or intensified or be expanded to occupy a greater area than that occupied by the use at the time it became nonconforming, unless a site development permit is approved by the Board of Administrative Review (BAR) in accordance with Chapter 18.13, Site Development Permits, of the Zoning Code.

- B. **Abandoned.** If the legal nonconforming use ceases for a continuous period of twelve months, it shall be considered abandoned, and the subsequent use of the land shall be in conformance with the regulations specified by this title for the districts in which the land is located unless a site development permit is granted in accordance with 18.13, Site Development Permits, of the Zoning Code.
- C. **Damage or Destruction.** If the use of a legal conforming structure associated with a nonconforming use is caused to cease through damage or destruction by fire or other cataclysmic occurrence to an extent of more than 50 percent of the replacement value thereof, the subsequent use of the land shall be in conformance with the regulations specified by this code for the district in which the land is located, unless a site development permit (BAR) is granted to continue the nonconforming use in accordance with Chapter 18.13, Site Development Permit, of the Zoning Code, except that residential uses may be reestablished provided that reconstruction does not increase any previously existing nonconforming site conditions or increase the number of dwelling units on a site; see Sections 18.46.060, Residential Structures in Office, Commercial, and 18.46.070, Nonconforming Multiple Family Dwellings.
- D. **Change of Use.** Legal nonconforming uses may be permitted to be changed to a different nonconforming use provided that the new use is of the same or a less intensive nature and provided that in each case a site development permit approved by the Board of Administrative Review shall first be obtained.
 - 1. **Exceptions:** No nonconforming use that involves the storage, use, or generation of hazardous materials, presses, products, or wastes or other activity that may be detrimental to public health or safety because of the potential to generate dust, glare, heat, noise, noxious gases, odor, smoke, vibration, or other conditions that would be incompatible with surrounding uses may be substituted for an existing nonconforming use even if the use is of the same or less intensive nature.

18.46.030 Nonconforming Structures

- A. **Continuation.** Legal nonconforming structures may remain provided that such structure shall not be enlarged or altered so as to increase the discrepancy between existing conditions and the development regulations and type of conforming structure typical of the Zoning District in which it is located, unless a site development permit is approved by the BAR, in accordance with Chapter 18.13, Site Development Permits, of the Zoning Code.
- B. **Abandoned.** If a legal nonconforming structure remains vacant for a continuous period of 12 months, it shall be considered abandoned and shall thereafter be removed or converted to a conforming structure with a conforming site and use unless a site development permit (BAR) is granted in accordance with Chapter 18.13, Site Development Permits, of the Zoning Code. The presumption of abandonment may be rebutted upon a showing, to the satisfaction of the Director, and appealable to the BAR that during such period, the owner of

the structure (1) has been maintaining it and did not intend to discontinue the use *and* (2) has been actively marketing the structure for sale or use *or* (3) has been engaged in other activities evidencing an intent not to abandon the use.

- C. ***Damage or Destruction.*** If a legal nonconforming structure is damaged or destroyed by fire, or other cataclysmic occurrence to an extent of more than 50 percent of the current replacement cost, as estimated by the Director, it may be not be restored except in full compliance with the regulations for the zone in which it is located, unless a site development permit (BAR) is granted in accordance with Chapter 18.13, Site Development Permits, of the Zoning Code.
- (1) ***Exceptions:*** See Section 18.46.060, Residential Structures in Office, Commercial, or Industrial Zones, and Section 18.46.070, Nonconforming Multiple Family Dwellings.
- D. ***Maintenance, Repairs, and Rehabilitation.*** Ordinary maintenance and repairs may be made to any legal nonconforming structure.

18.46.040 Nonconforming Sites

- A. ***Continuation.*** Legal uses or structures on legal nonconforming sites may continue provided that if the use or structure on the nonconforming site is enlarged, increased, or intensified, it does not increase the nonconformity or introduce a new nonconformity. Exception: An existing structure with a nonconforming corner side-yard setback of not less than 10 feet may be enlarged such that the length of the encroachment is increased. Such enlargement shall not encroach closer to the street property line than that of the existing structure.
- B. ***Abandoned.*** If the use of a legal nonconforming site ceases for a continuous period of 12 months, it shall be considered abandoned, and the subsequent use of the land shall require site modifications to be made to bring the site into conformance with the regulations specified by this title for the district in which the land is located unless a site development permit (BAR) is granted in accordance with Chapter 18.13, Site Development Permits, of the Zoning Code.
- C. ***Damage or Destruction.*** If a legal conforming structure on a legal nonconforming site is damaged or destroyed by fire or other cataclysmic occurrence, to an extent of more than 50 percent of the replacement value thereof, the restoration of such structure and site shall be in full compliance with the requirements of this title unless a site development permit (BAR) is granted to continue the nonconformity in accordance with Chapter 18.13, Site Development Permits, of the Zoning Code; or for residential structures, the provisions of Section 18.46.060, Residential Structures in Office, Commercial, or Section 18.46.070, Nonconforming Multiple Family Dwellings, apply. The BAR will consider the request in light of existing neighborhood characteristics, particularly the prevalence of similar nonconformities in the area.

D. **Change of Use.** Uses on legal nonconforming sites may be changed to a different use without bringing the site into compliance with this code provided that the degree of nonconformity is not increased.

1. **Exceptions:**

- a. Any nonconforming signage on the property shall be brought into compliance with this code.
- b. Any discretionary permit required for the increase in the floor area of a principal building on a site by 20 percent or more shall address existing nonconformance on the site, including, but not limited to, lack of screening of mechanical or other equipment; required landscape; lack of curb, gutter, or sidewalk; and/or nonconformance that have adverse impacts to adjacent properties. The approving authority may establish a schedule for elimination of the nonconformance and may also determine those nonconformance that need not be remedied because the location of existing structures or the configuration of the site make it infeasible.

E. **Maintenance, Repairs, and Rehabilitation.** Ordinary maintenance and repairs may be made to any legal structure or appurtenances on a nonconforming site provided that the work does not create greater nonconformance on the site.

18.46.050 Reserved

18.46.060 Residential Structures in Office, Commercial, or Industrial Zones

A. **Continuation.** Nonconforming residential structures in an office, commercial, or industrial zone may be continued as a residential use provided that no increase in the number of dwelling units or increase greater than 50 percent in the usable floor area occurs. Such residential uses are not subject to abandonment as provided elsewhere in this chapter.

B. **Use Ceased by Involuntary Damage or Destruction.** Nonconforming residential uses destroyed by fire or other cataclysmic occurrence may be reestablished provided that:

1. Reconstruction is consistent with building setback, height, and other development regulations of the district provided that if the building setbacks of the original structure did not conform to district regulations, the nonconforming setbacks may be maintained, but not expanded.
2. The use will not be detrimental to residents of the structure as determined by the Director.
3. A building permit for reconstruction is issued within 24 months of destruction.

If these standards cannot be met, a new residence may be reestablished subject to approval of a site development permit by the director.

- C. ***Use Ceased by Voluntary Demolition.*** Nonconforming residential uses voluntarily demolished for the purpose of reconstructing a new residence may be reestablished subject to approval of a site development permit by the Director and provided that:
1. Reconstruction is consistent with building setbacks, height, and other development regulations of the district.
 2. The use will not be detrimental to the residents of the structure as determined by the Director.
 3. Approval of the site development permit is sought prior to demolition of the existing structure(s).

18.46.070 Nonconforming Multiple Family Dwellings

Multiple-family dwellings or dwelling groups (2 or more attached or detached dwelling units on a lot) exceeding the allowable density of the district in which they are located that are involuntarily damaged and/or destroyed may be rebuilt with the same number of dwelling units provided that the following conditions are met:

- A. ***Two to four dwelling units.*** Preexisting site nonconformance shall not be increased beyond those existing prior to destruction of the dwelling(s).

Five or more dwelling units. Rebuilding conforms to the parking, height, setback, open space, and other provisions of this code. A site development permit is required if these standards cannot be met, but in no case shall any site nonconformities be increased beyond those that existed prior to destruction of the dwelling(s).

- B. ***A building permit for reconstruction is issued within 24 months of destruction.*** To facilitate implementation of the policies of the Housing Element of the General Plan, Multiple-family dwellings or dwelling groups exceeding the allowable density of a district in which they are located may be substantially reconstructed or may be voluntarily destroyed and rebuilt if such action is authorized under a City of Redding housing program for ownership or rental by persons of low or moderate income or if a site development permit is approved by the Director for reconstruction of the units. The provisions of Items "A" or "B" above shall be met for any reconstruction.

18.46.080 Nonconforming Parcels

A nonconforming parcel of record that does not comply with the access, area, or width requirements of 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. It shall be the responsibility of the applicant to produce sufficient evidence to establish the applicability of one or more of the following:

- A. **Approved Subdivision.** The parcel was created through a recorded subdivision map, or a certificate of compliance has been issued.
- B. **Individual Parcel Legally Created by Deed.** The parcel is under one ownership and of record and was legally created by a recorded deed prior to the effective date of the land use regulation that made the parcel nonconforming.
- C. **Variance or Lot Line Adjustment.** The parcel was approved through the variance procedure (Chapter 18.16, Variances) or resulted from a lot line adjustment in compliance with Title 17 (Subdivisions) of the Redding Municipal Code.
- D. **Partial Government Acquisition.** The parcel was created in compliance with the provisions of this code, but was made nonconforming when a portion of the parcel was acquired by a governmental entity.

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, setbacks, and/or frontage below the requirements of the applicable zoning district or other applicable provisions of this code or in any way that makes the use of the parcel more nonconforming.

Exception: Duplex and multiple-family parcels made nonconforming as to area and/or width by adoption of this code and the Zoning Map changed their zoning from "U" Unclassified, "R-2," or "R-3" to the "RM" District. Such parcels may be further divided if the division is consistent with the all the following:

- A. At least 50 percent of the lots on the block of the subject parcel are nonconforming as to area and frontage.
- B. After division, the resulting parcels have the following minimum characteristics:
 - 1. Interior lots—a minimum area of 6,000 square feet and minimum width of 60 feet.
 - 2. Corner lots—a minimum area of 7,000 square feet and a minimum width of 70 feet.
 - 3. The resultant lots will be of generally equivalent size and width as the predominant lots in the surrounding block.

- C. No more than one additional lot is created.
- D. The residential density established by the zoning of the property would not be exceeded if an additional residence was constructed on either of the lots, considering the total lot area prior to the division.

18.46.090 Conformity of Uses Requiring Use Permit

Any lawful use existing at the time of adoption or amendment of this code in any zoning district that allows the use subject to the granting of a site development permit or use permit shall be deemed a legal conforming use for purposes of this Chapter. Any expansion or change in the intensity of the use requires a site development permit or use permit as required by this code.

18.46.100 Previous Permits in Effect

Any use in existence by virtue of a permit issued in compliance with the regulations in effect at the time of application for any land use activity which, under the new regulations is not allowable, may continue, but only in compliance with the provisions and terms of the original permit.

18.46.110 Unlawful Structures and Uses

Structures and uses that did not comply with the applicable provisions of this code or the regulations in effect when the structures or uses were established are violations of this code. No right to continue occupancy of property containing an illegal structure or use is granted by this chapter.

18.46.120 Nuisance Abatement

In the event that a legal nonconforming structure or use is found to constitute a public nuisance, appropriate action may be taken by the City in compliance with Chapter 1.15, Abatement of Properties, Buildings, and Conditions, of the Redding Municipal Code.