

18.90.030 - Restrictions on Nonconforming Structures and Uses

A nonconforming land use and the use of a nonconforming structure may be continued, including transfers of ownership, provided any such continued use shall comply with the requirements of this Section. See Section [18.90.040](#) for exceptions regarding certain residential uses and structures.

A. Nonconforming use of land.

1. General rule. A nonconforming use of land may be continued, provided the use shall not be intensified, enlarged or increased, nor be extended to occupy a greater area of land than it lawfully occupied before becoming nonconforming, with the exception noted in 18.90.030.A.2. below.

2. Nonconforming use in a conforming structure. A nonconforming land use within a conforming structure may be expanded or replaced with Minor Use Permit approval, in the following manner:

a. Expansion of use. The nonconforming use of a portion of a structure may be expanded throughout the structure; and

b. Substitution of use. The nonconforming use of a structure may be changed to another nonconforming use of the same or more restricted nature; except that if a nonconforming use is changed to a conforming use, no nonconforming use may be resumed.

B. Nonconforming structure. A nonconforming structure may continue to be used in the following manner:

1. Changes to, or expansion of a structure. A nonconforming structure may be changed or expanded as follows.

a. Nonresidential structure. A nonconforming non-residential structure may be enlarged, expanded, reconstructed, or relocated, with Minor Use Permit approval, if the changes comply with all applicable provisions of this Development Code, provided the Review Authority first finds that the additional work is compatible with neighboring uses and would not adversely impact neighboring properties.

b. Single residential unit or multi-family. A single residential unit or multi-family development that is nonconforming with respect to setback requirements, height limits, or other development standards may undergo interior modifications in compliance with Building Code requirements without limitation by this Chapter. Exterior modifications that go beyond the prior building footprint may be allowed as follows:

i) The Director may approve any addition to a nonconforming single-family dwelling where the addition complies with applicable setback requirements; and

ii) An addition that encroaches into a required setback no further than an existing nonconforming portion of the structure may be allowed, provided that: 1) the expansion is not more than 150 square feet beyond the same physical dimensions of the existing structure; or 2) ,if larger than 150 square feet, Minor Use Permit approval is granted (limit to 25 percent larger).

2. Conversion of existing nonconforming structure to residential unit.

Single residential units and/or multi-family residential development with a nonconforming residential accessory structure, may be converted and/or replaced to create an accessory dwelling unit. A nonconforming residential accessory structure may be rehabilitated and expanded, provided that:

- a. The structure does not exceed eighteen (18) feet in height; and
- b. The conversion and/or expansion complies with Subsection B.1.b.

3. Ordinary maintenance and repair. Any nonconforming structure may undergo ordinary maintenance and repair.

4. Seismic retrofitting and Building Code compliance. Any nonconforming structure may undergo alterations, reconstruction, or repair to reinforce unreinforced masonry or to comply with Building Code requirements, provided that the work is exclusively to comply with applicable earthquake safety standards and the Building Code and does not change building footprint or height.

18.90.040 - Residential Exemptions

A. Reconstruction or replacement. An involuntarily damaged or destroyed single residential unit or multi-family nonconforming -use may be reconstructed or replaced with a new structure with the same footprint, height, and number of dwelling units, in compliance with current Building and Fire Code requirements.

B. Substantial rehabilitation/renovation. Substantial rehabilitation/renovation of, and additions to an existing dwelling unit in a zoning district where residences are a nonconforming use may be allowed with Minor Use Permit and Design Review approval, in compliance with Sections [18.71.060](#) and [18.71.050](#). (Housing Element Program H-1.1.4)

1. Substantial rehabilitation/renovation defined. Substantial rehabilitation/renovation of an existing dwelling unit occurs when at least 25 percent of the floor area of the existing structure is proposed to be added to the

structure and/or a Building Permit for construction valued at 50 percent or more of the assessed value of the structure before rehabilitation/renovation is requested.

2. Protection of community and neighborhood character. The Review Authority shall ensure that Minor Use Permit and Design Review approval for a substantial rehabilitation or renovation shall maintain public health, safety, and welfare, maintain of neighborhood character, and encourage mixed use development.