

Exhibit T
17.112 – Nonconforming Uses and Structures

17.112.010 - Purpose

The purpose of this Chapter is to establish regulations related to non-conforming uses and structures, which were legally established at the time of operation or construction under Title 17, but do not conform to the current or amended provisions of Title 17. It is the purpose of this Chapter to permit the continued operation of nonconforming uses and structures, while providing for the gradual elimination of the nonconforming uses and structures.

17.112.020 – Nonconforming Use

A nonconforming use is the use of a structure or land that was lawfully established (permitted) prior to the effective date of this Ordinance, but which does not conform to the current provisions of Title 17, Zoning.

- A. **Continued Use.** Any nonconforming use may be continued indefinitely, provided that the use remains in the same tenant space, there is no increase or enlargement of the area, the number of employees does not increase, there is no increase in the number of people served, and there is no change in the use that would bring it further out of compliance with the requirements of Title 17.
- B. **Maintenance.** Any structure or land in which a nonconforming use is located may be maintained and repaired as necessary to support the use.
- C. **Change of Ownership or Tenancy.** The change of ownership, business operator, or management of a nonconforming use shall not affect its nonconforming status.
- D. **Loss of Structure.** Any nonconforming use which is located within a nonconforming structure that is destroyed or damaged shall be allowed to resume the use upon repair of the structure as long as the repair or reconstruction value is no more than 75 percent of the structure's value, as discussed in Section 17.112.050.

17.112.030 – Loss of Nonconforming Use Status

A nonconforming use shall lose its ability to continue if any of the following apply:

- A. **Discontinuance.** If a nonconforming use has ceased for a period of 90 consecutive days or more, the use shall lose its nonconforming status and all rights to reestablish or continue the nonconforming use shall terminate.

- B. **Change in Use.** Any part of a building, structure or land that is changed from a nonconforming use to a conforming use shall not be used for a nonconforming use in the future.
- C. **Change in Operational Characteristics.** If a nonconforming use is relocated, enlarged or expanded in any way, the use shall lose its nonconforming status and shall be required to conform to the requirements of Title 17 in effect at that time.

17.112.040 Nonconforming Structures

A nonconforming structure is a structure that was lawfully permitted and constructed prior to the effective date of this Ordinance, but which does not conform to the current provisions of Title 17, Zoning.

- A. **Expansion of Nonconforming Structure.** Nonconforming structures shall not be expanded or otherwise increased in size.
 - 1. **Exception:** Nonconforming residential dwellings within the HO, R-1, R-M, R-H, R-OTM, and R-OTH zoning districts may be enlarged, provided that the number of dwelling units does not increase and that the nonconformity of the structure is not expanded. Additions to residential dwellings with a non-conforming setback may conform to the existing nonconforming setback but may not exceed the existing non-conformity. This exception shall not apply to additions or enlargements of nonconforming accessory structures in these zoning districts.
- B. **Use of Building.** The use of any nonconforming structure shall meet the requirements for uses for the zoning district in which the parcel is located, unless a legal nonconforming use exists within the building.

17.112.050 Nonconforming Structures Maintenance and Restoration

Replacement and maintenance of a nonconforming structure is permitted subject to the following requirements:

- A. **Maintenance.** Ordinary maintenance and repair of nonconforming structures is permitted.
- B. **Restoration of Multifamily Properties.** Any nonconforming multifamily structure(s) which are damaged or destroyed by any means, may be reconstructed to match the originally approved structure if the replacement of the damaged portion of the structure does not exceed 75 percent of the structure's market value, as determined by the county assessor on the last equalized assessment roll at the time of its destruction or damage. If replacement in kind exceeds 75 percent of the structure's assessed value, the structure may only be replaced in accordance with Government Code Section 65852.25(b).

- C. **Replacement of a Nonconforming Single Family Residence.** Any lawfully constructed single family residence which is damaged or destroyed by any means, may be reconstructed to match the originally approved structure.
- D. **Restoration of All Other Structures.** All other nonconforming structures which are damaged or destroyed by any means, may be replaced in kind if the replacement of the damaged portion of the structure does not exceed 75 percent of the structure's market value, as determined by the county assessor on the last equalized assessment roll at the time of its destruction or damaged. If replacement in kind exceeds 75 percent, the structure must be replaced with a structure and use that conforms with the provisions of the zoning district in which it is located.
- E. **Reconstruction Time Limits.** Reconstruction of a legal nonconforming structure shall commence within two (2) years after the catastrophe and shall be diligently pursued to completion. If construction does not commence within two (2) years or the building permit expires following the two (2) year period, the structure shall lose its legal nonconforming status and shall not be replaced.
- F. **Seismic Repairs.** Improvements or reconstruction required to reinforce an unreinforced masonry building or seismically unsafe nonconforming structure is permitted without cost limitations.

17.112.60 – Historic Structures

- A. Structures which are located on a property which is listed as a contributing building to the City's Historic District are not subject to the requirements of this Chapter and are considered to be legal structures.
- B. Nonconforming uses located within historic structures, with the exception of single-family residential, shall be treated as a nonconforming use in accordance with this Chapter. Single-family residential uses in a listed, contributing historic structure, are not subject to the requirements of this Chapter and are considered to be legal uses.

17.112.070 – Nonconforming Signs

No sign shall be considered nonconforming for the purposes of this chapter. All signs shall comply with the regulations in Chapter 17.20, Signs. Signs found to be out of compliance with the regulations of Title 17, Zoning, are declared a public nuisance and shall be subject to enforcement in accordance with Chapter 17.118 and Chapter 1.16 of the Hollister Municipal Code.

17.112.080 Illegal Structures and Uses

Nothing contained in this Ordinance shall be construed or implied so as to allow for the continuation of illegal nonconforming sign, structure, and/or use. Structures and uses which are not lawfully constructed or established shall be removed and/or discontinued immediately pursuant to Chapter 17.118, Enforcement.