

# NONCONFORMING STRUCTURES

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## General information

If a structure has been legally constructed but does not conform to the provisions of the Zoning Ordinance, such structure is declared to be nonconforming. For example, if an existing single-family residence does not comply with the setback and/or daylight plane currently required for its zoning district, but was legally built (e.g., it was constructed before the adoption of the Zoning Ordinance, or before the parcel's incorporation into the City), it is a nonconforming structure. Nonconforming structures are regulated by [Chapter 16.80 of the Zoning Ordinance](#). Nonconforming structures may continue to exist and may be maintained, repaired, altered and expanded. However, the following principles apply:

- Areas of new construction must comply with all current requirements.  
 For example, if an addition is proposed, it must adhere to the current setback regulations. There are no allowances for extending an existing nonconforming wall within the setback (except for the potential of a variance, described in a [separate handout](#)).
- Structural elements must remain if nonconformities are proposed to be retained.  
 For example, if an existing wall is located within a required setback, the cladding (e.g., Sheetrock/siding) may be removed/replaced (subject to Building Code and related requirements), but the wall framing must be retained. Depending on the specifics of any particular proposal, foundation elements and/or roof framing in nonconforming areas may or may not be able to be removed/replaced (please discuss with a planner as needed). However, there are no allowances for replacing eaves that extend beyond the permitted encroachment into required yards, and any new eaves must not extend beyond the permitted encroachment regardless of the location of nonconforming walls.
- The overall proposal may require Planning Commission use permit review, depending on the scope of the project.  
 This determination varies by the location (i.e., zoning district) and extent of development, as discussed in more detail below.

## Review process

The review process for development proposals involving nonconforming structures differs depending on the cost of the maintenance, repair, alteration, and/or expansion in any 12 month period, when expressed as a percent of the replacement cost of the existing structure. For example, if the final inspection for a permit occurs on June 1, the cost of any projects between June 1 and May 31 the following year would be calculated cumulatively. If the value of the proposed work is equal to or less than the following percentages, the proposal may go through the building permit process, without Planning Commission review. If the value of the proposed work exceeds the following percentages, a use permit must be granted by the Planning Commission before building permit issuance.

### Nonconforming structure use permit thresholds

Zoning district	Single-family development – single story	Single-family development – two-story	All other development
R-E, R-E-S, R-1-S, R-1-S (FG), R-1-U	75%*	50%	50%
R-1-U (LM)	100%	100%	NA
All other districts	50%	50%	50%

\* The 75% threshold only applies if all development on the parcel is single-story. For example, if a nonconforming one-story accessory building is located on a parcel with a two-story main residence, then the 50% threshold applies to work on the accessory building.

Please see the [Development Permit Application Submittal Guidelines](#) for more information about Planning Commission review, and discuss any such potential projects with a planner at an early stage.

## Value calculation

In order to calculate the replacement value and the proposed work cost for nonconforming structure projects, the Planning Division uses the attached spreadsheet established by the Building Division. The spreadsheet has been created to provide a consistent comparison of projects; it is not intended to reflect precise construction costs for any particular proposal, or correlate with a property's assessed value. The City may revise the spreadsheet as needed with new dollar values and/or new categories of work.

Submittal of a spreadsheet and accompanying block diagrams (for both existing and proposed scenarios) is required for all nonconforming structure development proposals, with the final calculation subject to Planning

Division staff review and approval. A schematic example diagram is attached. Applicants are encouraged to review draft value calculations and diagrams with a planner before submittal of any permit application. Please note:

- Calculations are conducted on a structure-by-structure basis, for only nonconforming structures. For example, if a site contains a nonconforming residence and a conforming detached garage, the spreadsheet would only evaluate the residence. If multiple structures are nonconforming and are all proposed to be modified, separate calculations would be done for each structure.
- The calculations are based primarily on floor area (including garage space) and do not include covered porches or similar open areas.
- New siding or stucco over the existing structure is calculated in addition to any interior remodeling, with the exception of new siding or stucco used to fill in the space of windows or doors that were removed, as discussed below.
- The addition, replacement, or removal of windows or exterior doors is included in areas with interior remodeling but such changes to rooms that are not being remodeled are calculated and added to the value of the proposed project as follows:
  - When there is a change in the size of the window or door, the area of the larger window or door is used to calculate the area.
  - When a window or door is removed and replaced by siding, the area of the window or door is used for the calculation. (As noted above, new siding or stucco beyond what is required to fill in the space for a window or door that was removed is counted in addition to interior remodeling.)
- Any new roof framing over existing square footage is also calculated in addition to the interior remodeled spaces. The area where new roof framing is attached to existing framing (i.e., California framing), reroofing, and roof eaves are not included in the calculation.
- Renovation areas are calculated on a room-by-room basis. If a project conducts interior modifications within a room (in particular, but not limited to, removal/addition/relocation of walls), the entire room is considered to be remodeled, with the following exceptions:
  - Staff will review plans and delineate areas with a clearly separate use from the rest of a larger room. For example, a kitchen within a larger living area, a portion of a garage outside of the rectangular area where cars are parked, or a closet may be counted as separate rooms.
  - The removal of exterior walls when they are replaced in the same location with new interior walls as part of an addition.
  - The replacement or removal of fireplaces.
  - Any areas that are proposed to be remodeled into Accessory Dwelling Unit (ADU) use should be given an Existing Development value of \$200/sf (even if the area is currently a garage), and neither the conversion of the ADU area nor any associated Category 3 work (roof structure, siding, etc.) should be included in the Proposed Development calculation. However, any ADU addition square footage and all non-ADU work should be factored into the Proposed Development calculation. For example, a proposal to convert an existing 400-square-foot detached garage into ADU use, and add 100 square feet onto it, could have the following calculation:

Existing development	Proposed development	Value comparison
400 sf @ \$200/sf	100 sf addition @ \$200/sf (400 sf ADU conversion not calculated)	25%
\$80,000	\$20,000	

**Other notes**

- In addition, please be advised:
- While an individual proposal may not require a use permit for work on a nonconforming structure, it could still require a use permit for other reasons (such as for construction on a substandard lot, excavation within a required yard, or to modify a previous use permit).
  - If a development is only nonconforming with regard to parking requirements (for example, a single-family residence that has only a one-car garage and no other compliant off-street parking spaces), the structure is not considered nonconforming for the purposes of the work value calculation. However, commercial properties that are nonconforming with regard to parking may require use permit review for changes of use.

Please see a planner for details on these and related requirements.

**Attachments**

1. New work value calculation spreadsheet ([XLS version also available](#))
2. Block diagram example

