

**Chapter 17.44**  
**NONCONFORMING USES**

## Sections:

- 17.44.010 Continuation, alterations and extensions.  
 17.44.020 Discontinuance.  
 17.44.0340 Replacement following Destruction.  
 17.44.0540 Completion of nonconforming structure.  
 17.44.0560 Termination of certain Prohibited nonconforming uses.  
~~17.44.070 — Owner's or occupant's responsibility to renew.~~

**17.44.010 Continuation, alterations and extensions.**

Subject to the provisions of this section, a nonconforming use or structure may be continued and maintained in reasonable repair but shall not be altered or extended, except that:

- A. The extension of a nonconforming use to a portion of a structure that was provided for the nonconforming use at the time the ordinance codified in this title was adopted shall be permitted provided the parking requirements pursuant to CMC Chapter 17.36, Off-Street Parking and Loading, are met.
- B. A structure conforming as to use but nonconforming with respect to height, setback or coverage may be altered or extended if the alteration or extension does not further deviate from the standards of this title.
- C. Any structure or use for which parking facilities do not meet the requirements of CMC Chapter 17.36 shall be considered a nonconforming use. Such nonconforming uses may continue, but no enlargement, expansion or increase in the number of businesses shall be made on the lot or within existing structures unless the entire parking requirements of CMC Chapter 17.36 for the expanded floor area or use intensification are met or an in-lieu parking fee can be applied in accordance with such title.

**17.44.020 Discontinuance.**

- A. If a nonconforming use is replaced by another use, the new use shall conform to this title.
- B. If a nonconforming use is discontinued for a period of 180 days, All future use shall conform to the current provisions of this title.

**17.44.0340 Replacement following Destruction.**

A. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 60 percent of fair market value as indicated by the records of the County Assessor, a future structure or use on the site shall conform to this title.

B. Notwithstanding the above, a nonconforming residential structure may be replaced, provided that:

1. The number of dwelling units is not decreased.
2. The replacement structure complies with all applicable development standards, unless a variance is approved.
3. A building permit for the replacement structure shall be applied for within two years of the former structure's destruction and construction shall be diligently pursued.

**17.44.0450 Completion of nonconforming structure.**

Nothing contained in this title shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of this title, or any amendment thereto, that caused the structure or use to become nonconforming. However, ~~if the building is nonconforming or is intended for a nonconforming use it such structure~~ shall be completed and in use within two years from the time the permit was issued.

**17.44.0560 ~~Termination of certain Prohibited~~ nonconforming uses.**

The following nonconforming uses are prohibited:

- A. A nonconforming use not involving a structure
- B. A nonconforming use ~~or one~~ involving a structure having an assessed value of less than \$1,000~~\$200.00 shall be prohibited.~~

**~~17.44.070 Owner's or occupant's responsibility to renew.~~**

~~The owner or occupant of any land or building classified as a nonconforming use under the provision of this title, excepting herefrom those nonconforming uses under Chapter 17.36 CMC, shall, upon notification by the Planning Commission, make application for a use and occupancy permit, and shall annually thereafter apply for renewal of said permit.~~

*Excerpt*  
**MINUTES**  
**CALISTOGA PLANNING COMMISSION**  
**September 9, 2015**

**A. ROLL CALL**

Commissioners present: Chair Jeff Manfredi, Vice Chair Carol Bush, Paul Coates, Tim Wilkes, Scott Cooper. Absent: None. Staff present: Planning & Building Director Lynn Goldberg, Senior Planner Erik Lundquist.

**G. PUBLIC HEARINGS**

2. **Zoning Code Amendment ZOA 2015-6:** Consider a recommendation to the City Council to rescind and replace Chapter 17.44, Nonconforming Uses, of the Zoning Code

Director Goldberg presented the staff report. The Council directed staff to initiate a Zoning Code amendment to allow nonconforming residences to be reconstructed if they are destroyed, in part because their owners often have problems obtaining insurance, loans and mortgages. The proposed amendments stipulate a few terms under which a nonconforming residential structure can be replaced. They also delete a provision that allows the Planning Commission to require the owner or occupant of any land or building classified as a nonconforming use to make application for a use and occupancy permit, and annually thereafter apply for its renewal. This requirement isn't feasible, since the land or building is a nonconforming use, it would not be possible for the owner or occupancy to apply for a use permit.

**Commissioner Wilkes** questioned whether 12 months is a sufficient period of time to obtain a building permit if an insurance settlement is required. He believes that a time extension should be automatically approved if that is the case.

**Commissioner Coates** is familiar with similar circumstances and agrees it often takes insurance companies a long time to settle claims.

It was the Commission's consensus to extend the maximum period to apply for a building permit to two years instead of one year.

A motion by **Commissioner Wilkes** and seconded by **Vice Chair Bush** to approve a resolution recommending that the City Council rescind and replace Chapter 17.44 Nonconforming Uses, as amended, was approved unanimously.