

## ORDINANCE NO. 844

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA Nonconforming Uses – Use Permit Procedure

**Deleting Section 17.58.010, Applicability; and adding Section 17.58.010 Purpose, to define the purpose of the Chapter; and amending Section 17.58.030, Reconstructing, restoring, and moving prohibited – Exceptions, to provide a process to restore residential use through a use permit; and amending Section 17.62.030, Application – Notice of hearing, to revise notification requirements; and amending Section 17.62.040, Hearing – Decision by Commission, to establish hearing time and delete denial provision; and amending Section 17.62.080, Effective date, to modify effective date for permit; and amending Section 17.62.100, Appeal to Council, to revise notification requirements; and Section 17.62.110, Revocation or modification, to allow modification request; and adding Section 17.62.111, Revocation, voluntary, to provide for a voluntary revocation process; and adding Section 17.62.112, Minor modifications, to allow the Community Development Director to approve minor modifications.**

The City Council of the City of Sonora does hereby ordain as follows:

SECTION ONE: Amend Section 17.58 Nonconforming Uses and Structures as follows:

**Sections:**

**17.58.010 Purpose.**

**17.58.020 Continuance of prior use.**

**17.58.030 Reconstructing, restoring and moving prohibited - Exceptions.**

**17.58.010 Purpose.**

The purpose of this Chapter is to declare uses and structures legally existing on the effective date of this Chapter as nonconforming uses and structures, and to encourage those that are nonconforming to be brought into conformity within a reasonable period of time. [Ord. 844, 2017] [Ord. 376 § 10-2-5(A), 1967.]

**17.58.020 Continuance of prior use.**

The lawful use of land or structure existing on the effective date of any provision of the ordinance codified in this title applicable to such land or structure may be continued as a lawful nonconforming use or structure, although such use or structure does not comply with the provisions of this title. [Ord. 376 § 10-2-5(B), 1967.]

**17.58.030 Reconstructing, restoring, and moving prohibited - Exceptions.**

Unless it is made to comply in its entirety with the provisions of this title, a nonconforming use may not be:

- A. Expanded or moved to another location, and the structure devoted to such use may not be structurally enlarged, altered, or moved to another location, but may be kept in good repair or may be structurally altered if necessary for public safety;
- B. Restored or rebuilt if damaged or destroyed for any reason to the extent of more than half its current replacement cost;
  - 1. Provided that residences that are 50 years or older may be restored or rebuilt within the footprint of the previous structure. The residential use may continue with no expansion of the structure permitted per this section unless approved under Section 17.58.030(C)(1); furthermore, the historical integrity of the restoration shall be maintained although newer building materials may be used;
  - 2. Commercial uses that have been in operation at the same location since 1960 or earlier (as proven through documentation based on the assessor's records, business licenses, historical records or other information which documents the date of the business at that location) may be continued within the previous footprint and intensity or use. Section 17.58.030 (C) shall apply in that documentation shall show continuance of use at said location without abandonment.
- C. Restored or rebuilt if abandoned for a period of one year or more.
  - 1. Provided that if the structure was originally constructed for residential use (as proven through documentation based on the assessor's records, historical records or other information which documents the structure's original use), then the residential use may be restored, subject to all code requirements with approval of a use permit. Said use permit shall be considered in the same manner as other use permits as per Chapter 17.62. Any expansion of the structure or use shall require modification of the use permit.
- D. In the event that the implementation of this section would create a hardship, the Planning Commission may, through a use permit, allow a preexisting, nonconforming use to continue on a property when demolished by fire or accident. If the use changes slightly, but not substantively in its burden on surrounding properties, the use may be continued by use permit. Said use permits shall be considered in the same manner as other use permits per Chapter 17.62. [Ord. 844, 2017] [Ord. 832, 11-16-15] [Ord. 515, 1978; Ord. 376 § 10-2-5(C), 1967.] [Ord.832 11-16-15 (part)]

SECTION TWO: Amend Section 17.62 Use Permit and Variance Procedure as follows:

- 17.62.010 Generally.**
- 17.62.020 Application - Filing.**
- 17.62.030 Application-Notice of hearing.**
- 17.62.040 Hearing - Decision by Commission.**
- 17.62.050 Conditions imposed.**
- 17.62.060 Expiration.**
- 17.62.070 Applies to land - Nontransferable.**
- 17.62.080 Effective date.**

- 17.62.090 Decision final - Exceptions.**
- 17.62.100 Appeal to Council.**
- 17.62.110 Revocation of modification.**
- 17.62.111 Revocation, voluntary.**
- 17.62.112 Minor modifications.**

**17.62.010 Generally.**

The granting of use permits and variances, referred to in this chapter as "permit," shall be in accordance with the procedure set out in this chapter. [Ord. 376 § 10-3-5 (part), 1967.]

**17.62.020 Application - Filing.**

Application for a permit shall be filed with the Community Development Department on a form furnished by said department, accompanied by a site plan and a fee as adopted by resolution of the City Council, no part of which may be refunded. When the applicant is not the owner of the property, written authorization of the owner shall accompany the application. The application shall not be accepted for filing by said department unless it conforms to the filing requirements established by the Planning Commission.

Requirements that the applicant for a use permit or variance be the owner of the property, or that written authorization be obtained from the owner, shall not apply to the public utility companies or other agencies with powers of "eminent domain." [Ord. 600 § 11 (part), 1985; Ord. 376 § 10-3-5(A), 1967.]

**17.62.030 Application - Notice of hearing.**

The Community Development Department shall give notice of application and hearing by publication in a newspaper of general circulation in the City and sent, by United States mail, to all property owners within 300 feet of the subject property, such publication and noticing to be completed not less than ten days before the date of hearing. The failure of any property owner to receive the notice shall not invalidate the proceedings. If the hearing is continued by the Commission, and the time and place announced publicly at the time of adjournment of the hearing, no further notice is required. [Ord. 844, 2017] [Ord. 376 § 10-3-5(B), 1967.]

**17.62.040 Hearing - Decision by Commission.**

The Planning Commission shall conduct a hearing on the application in accordance with this title and state law on the earliest reasonable time following acceptance of a complete application. [Ord. 844, 2017][Ord. 376 § 10-3-5(C), 1967.]

**17.62.050 Conditions imposed.**

The Commission may require such terms or conditions to the granting of a permit as the Commission may deem necessary. Noncompliance with these terms or conditions shall be a cause of revocation of such permit. Revisions to the terms or conditions of a granted permit shall require a new permit. [Ord. 376 § 10-3-5(D), 1967.]

**17.62.060 Expiration.**

All permits granted by the Commission shall expire and become null and void one year after the date of granting such permit, unless the authorized use is carried on, or a building

[Ord. 844, 2017][Ord. 600 § 11 (part), 1985; Ord. 418 § 1, 1971; Ord. 376 § 10-3-6, 1967.]

**17.62.110 Revocation or modification.**

The Commission, after a public hearing held in the manner required by this chapter governing permits, may revoke or modify any permit on any one or more of the following grounds:

- A. The approval was obtained by fraud.
- B. The use for which approval was granted has ceased to exist or has been suspended for one year or more.
- C. The use for which such approval was granted is not being exercised or the applicant is requesting a modification to the use permit
- D. The permit granted is being, or has been exercised contrary to the terms or conditions of any statute, ordinance, law or regulation.
- E. The use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.
- F. The continued exercise of the use for which approval was granted appears to be inimical to the public welfare. [Ord. 844, 2017 ] (Ord. 376 § 10-3-10, 1967.)

**17.62.111 Revocation, voluntary.**

An applicant may request in writing a revocation of a use permit. When the applicant is not the property owner, written authorization by the owner shall accompany the request. Request is to be submitted to the Community Development Director for his/her approval. Upon revocation, the property's use must comply with the regulations of the underlying zoning district. [Ord. 844, 2017]

**17.62.112 Minor modifications.**

The Community Development Director may approve minor modifications to existing Use Permits. Such minor modifications shall be approved only if it is found that such modifications substantially conform with the plans or standards approved by the Planning Commission and the modifications will not significantly adversely affect the surrounding properties. [Ord. 844, 2017]

This Ordinance shall take effect thirty (30) days after its passage and shall be published within (15) days after its final passage as required by law.

Said Ordinance was introduced at a regular meeting of the City Council of the City of Sonora held on December 4, 2017, and passed and adopted as an Ordinance of said City at a regular meeting of said Council held on December 18, 2017, by the following vote:

AYES: Connie Williams, Jim Garaventa, Matt Hawkins, Mark Plummer, George Segarini

NOES: None

ABSENT OR ABSTAIN: None



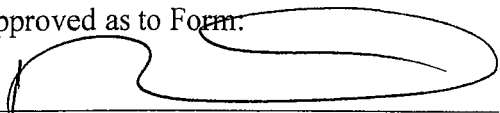
Connie L. Williams, Mayor

ATTEST:



Marijane Cassinetta, City Clerk

Approved as to Form:



Douglas L. White, City Attorney

Publish: The Union Democrat, Sonora  
Dec 27, 2017