

**Agenda Item
No.**

D-7

DATE SUBMITTED 12/27/2021
 SUBMITTED BY COMMUNITY DEVELOPMENT DIRECTOR
 DATE ACTION REQUIRED 1/5/2022

COUNCIL ACTION (X)
 PUBLIC HEARING (X)
 REQUIRED RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING (X)
 CITY CLERK'S INITIALS EM

**IMPERIAL CITY COUNCIL
AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: AMENDMENT TO MUNICIPAL ORDINANCE REGARDING RESTORATION OF A DAMAGED STRUCTURE FOR NON-CONFORMING USES 1. Approval to waive second reading in full and adopt Ordinance 813 amending Zoning Text Chapter 24 Section 24.17.150	
DEPARTMENT INVOLVED: COMMUNITY DEVELOPMENT DEPARTMENT	
BACKGROUND/SUMMARY: <p style="text-align: center;">See attached Staff Report</p>	
FISCAL IMPACT: N/A	ADMIN SERVICES SIGN INITIALS <u>[Signature]</u>
STAFF RECOMMENDATION: Staff recommends Adoption of Ordinance regarding restoration of damaged structure for non-conforming uses.	DEPT. INITIALS <u>EM</u>
MANAGER'S RECOMMENDATION: <u>approve</u>	CITY MANAGER'S INITIALS <u>[Signature]</u>
MOTION: SECONDED: AYES: NAYES: ABSENT:	
APPROVED () REJECTED () DISAPPROVED () DEFERRED () REFERRED TO:	



Staff Report

To: City of City Council

From: Othon Mora, Community Development Director

Date: December 27, 2021

Subject: Zoning Code Text Amendment- ZCTA #2102
Restoration of Damaged Structure for Non-Conforming Uses

Background

The purpose of the Non-Conforming Use Zoning Ordinance is to limit the number and extend of nonconforming structures by prohibiting their relocation, alteration, their re-establishment after abandonment, or enlargement in a manner that would increase the non-conformity and to prohibit the restoration after destruction.

Restoration of a damaged structure is currently as follows:

“24.17.150 RESTORATION OF A DAMAGED STRUCTURE

- A. Whenever a structure which does not comply with the Property Development Standards for front yard, side yard, rear yard, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the Performance Standards for the zone in which it its located, is destroyed by fire or other calamity, by the act of God, or by the public enemy to the extent of fifty (50) percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion. When the destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the Property Development Standards for the zone in which it is located and the nonconforming use shall not be resumed.”*

Staff has received numerous requests to amend the Zoning Code to allow Non-Conforming Uses to continue in case of a fire or other catastrophe. An amendment to the Zoning Ordinance is necessary due to the fact that property owners in the process of financing or refinancing the property no lender is willing to loan the money unless the City would allow to fully rebuild. Therefore, the City is requesting some regulatory relief. On November 10, 2021 the Planning

Commission reviewed and recommended the item regarding Restoration of Damaged Structure for Non-Conforming Uses. The first reading of Ordinance 813 Amending Zoning Text Chapter 24 Section 24.17.150 took place at the December 15, 2021 City Council meeting.

Discussion/Analysis

The following is the recommended amendment based on general comments from the public.

“24.17.150 RESTORATION OF A DAMAGED STRUCTURE

A. Whenever a structure which does not comply with the Property Development Standards for front yard, side yard, rear yard, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the Performance Standards for the zone in which it its located, is destroyed by fire or other calamity, by the act of God, or by the public enemy to the extent of fifty (50) percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion. When the destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the Property Development Standards for the zone in which it is located and the nonconforming use shall not be resumed. However, any residential structure(s), including multifamily, destroyed by a catastrophe, including fire and earthquake, may be reconstructed up to the original size, placement, and density, and the nonconforming use may be resumed. Reconstruction shall be started within one year and diligently pursued to completion.”

These minor adjustment to the Non-Conforming standards promotes opportunities and is in the interest of the community.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the Guidelines.

Public Notification

The public hearing scheduled for January 5, 2022 was duly noticed in the Holtville Tribune, a newspaper of general circulation on December 23, 2021.

Recommendation

Staff recommends the City Council conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends that the City Council approve the Zoning Text Amendment regarding Restoration of Damaged Structure for Non-Conforming Uses.

Attachments

- RESO PC2021-15
- ORDINANCE No 813

Respectfully submitted,



Othon Mora, MCM, CBO
Community Development Director

ORDINANCE NO. 813

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL
AMENDING SECTION 24.17.150 TO THE CITY OF IMPERIAL MUNICIPAL
CODE RELATING TO DEVELOPMENT STANDARDS FOR DETACHED
CANOPIES IN RESIDENTIAL ZONES**

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

SECTION 1: Section 24.17.150, “Restoration of a Damaged Structure” of the Imperial Municipal Code is hereby amended to read as follows:

“A. Whenever a structure which does not comply with the Property Development Standards for front yard, side yard, rear yard, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the Performance Standards for the zone in which it its located, is destroyed by fire or other calamity, by the act of God, or by the public enemy to the extent of fifty (50) percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion. When the destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the Property Development Standards for the zone in which it is located and the nonconforming use shall not be resumed. However, any residential structure(s), including multifamily, destroyed by a catastrophe, including fire and earthquake, may be reconstructed up to the original size, placement, and density, and the nonconforming use may be resumed. Reconstruction shall be started within one year and diligently pursued to completion.”

SECTION 2: This ordinance shall take effect thirty (30) days after its adoption. The City Clerk or his/her duly appointed deputy, shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published as required by law.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Imperial, this ____ day of _____, 2022.

Geoff Dale, City of Imperial Mayor

ATTEST:

City Clerk

RESOLUTION PC 2021-15

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
IMPERIAL RECOMMENDING AN AMMENDMENT OF THE ZONING
ORDINANCE SECTION 24.17.150(A) RELATING TO RESTORATION OF
DAMAGED STRUCTURE FOR NON-CONFORMING USES**

WHEREAS, a duly notified public hearing was held by the Planning Commission on November 10, 2021.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial to recommend the amendment of Section 24.17.150 (A) of the Imperial Zoning Ordinance as follows:

SECTION 1: Section 24.17.150 (A), "Restoration of a Damaged Structure" of the Imperial Municipal Code is hereby amended to read as follows:

24.17.150 RESTORATION OF A DAMAGED STRUCTURE

- A. Whenever a structure which does not comply with the Property Development Standards for front yard, side yard, rear yard, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the Performance Standards for the zone in which it is located, is destroyed by fire or other calamity, by the act of God, or by the public enemy to the extent of fifty (50) percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion. When the destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the Property Development Standards for the zone in which it is located and the nonconforming use shall not be resumed. However, any residential structure(s), including multifamily, destroyed by a catastrophe, including fire and earthquake, may be reconstructed up to the original size, placement, and density, and the nonconforming use may be resumed. Reconstruction shall be started within one year and diligently pursued to completion."

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 10 day of November 2021.


Stacy Mendoza
Planning Commission Chairman

ATTEST:



Planning Secretary