

DATE SUBMITTED 12/08/2021  
 SUBMITTED BY COMMUNITY DEVELOPMENT DIRECTOR  
 DATE ACTION REQUIRED 12/15/2021

COUNCIL ACTION (X)  
 PUBLIC HEARING REQUIRED (X)  
 RESOLUTION ( )  
 ORDINANCE 1<sup>ST</sup> READING (X)  
 ORDINANCE 2<sup>ND</sup> READING ( )  
 CITY CLERK'S INITIALS com

**IMPERIAL CITY COUNCIL  
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: AMENDMENT TO MUNICIPAL ORDINANCE REGARDING RESTORATION OF A DAMAGED STRUCTURE FOR NON-CONFORMING USES 1. Introduction and first reading by title only of Ordinance No. <u>813</u> Amending Zoning Text Chapter 24 Section 24.17.150 2. Provide direction to staff to prepare a summary of Ordinance No. <u>813</u> for publication purposes	
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>JS</u>
STAFF RECOMMENDATION: Staff recommends Adoption of Ordinance regarding restoration of damaged structure for non-conforming uses	DEPT. INITIALS <u>OM</u>
MANAGER'S RECOMMENDATION:	CITY MANAGER'S INITIALS <u>AB</u>
MOTION: SECONDED: APPROVED ( ) REJECTED ( ) AYES: DISAPPROVED ( ) DEFERRED ( ) NAYES: ABSENT: REFERRED TO:	



# Staff Report

**To:** City of City Council  
**From:** Othon Mora, Community Development Director  
**Date:** December 8, 2021  
**Subject:** Zoning Code Text Amendment- ZCTA #2102  
Restoration of Damaged Structure for Non-Conforming Uses

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## **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.

### **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 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.”*

These minor adjustments to the Non-Conforming standards promote opportunities and are 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 December 15, 2021 was duly noticed in the Imperial Valley Press, a newspaper of general circulation on December 5, 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 \_\_\_\_\_

Respectfully submitted,

Othon Mora, MCM, CBO  
Community Development Director

**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:

  
\_\_\_\_\_  
Alexis Brown  
Planning Secretary

ORDINANCE NO. \_\_\_\_\_

**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 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.”*

**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 \_\_\_\_ 2021.

\_\_\_\_\_  
Karin Eugenio, Mayor

ATTEST:

\_\_\_\_\_  
, City Clerk

**STATE OF CALIFORNIA)  
COUNTY OF IMPERIAL )  
CITY OF IMPERIAL )**

I, \_\_\_\_\_, City Clerk of the City of Imperial, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ had its 1<sup>st</sup> reading on \_\_\_\_\_, 2021 and was passed by the following roll call vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**MOTION CARRIED**

I, \_\_\_\_\_, City Clerk of the City of Imperial, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ had its 2<sup>nd</sup> reading on \_\_\_\_\_, 2021 and was passed by the following roll call vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**MOTION CARRIED**

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\_\_\_\_\_, CITY CLERK  
CITY OF IMPERIAL, CALIFORNIA