

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2018-21

3 INTRODUCED BY:

4
5 Councilor Renee D. Villarreal

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10 AN ORDINANCE

11 RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987;
12 AMENDING SECTIONS 14-10.2 AND 14-10.3 TO PROVIDE EXCEPTIONS FOR
13 LEGAL NONCONFORMING SINGLE FAMILY DWELLINGS; AND MAKING SUCH
14 OTHER CHANGES THAT ARE NECESSARY TO CARRY OUT THE PURPOSE OF
15 THIS ORDINANCE.

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17 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

18 Section 1. Section 14-10.2 SFCC 1987 (being Ord. No. 2011-37 § 1, as amended)

19 is amended to read:

20 14-10.2 - LEGAL NONCONFORMING USES

21 A *legal nonconforming use* may be continued subject to the following provisions:

22 (A) No Increase in Nonconformity

23 A *legal nonconforming use* shall not be enlarged, intensified, increased or extended to
24 occupy a greater area of land or *structure* than was occupied at the time the use became
25 *nonconforming* and a *structure* containing a *legal nonconforming use* shall be subject to the

[bracketed material] = delete
underscored material = new

1 provisions of Section 14-10.3 unless the *legal nonconforming use* of the *structure* is terminated.

2 **(B) No Relocation on Parcel**

3 A *legal nonconforming use* shall not be moved in whole or in part to any other portion of
4 the land occupied by that use at the time the use became *nonconforming* .

5 **(C) Termination of Nonconforming Use**

6 (1) Except as provided for in Subsection 14-10.2(C)(2), a *legal*
7 *nonconforming use* of land or use of a *structure* that ceases for any reason for a period of
8 more than three hundred sixty-five days or is replaced by a permitted use, may not be
9 resumed and any subsequent use of the land or *structure* shall conform to Chapter 14.

10 (2) A *legal nonconforming use* of land or use of a *structure* owned by a
11 federal, state, or local governmental entity and used by that entity for governmental
12 purposes, that ceases may resume. Such resumed uses may not be significantly enlarged
13 or intensified, except that in zoning districts where a special use *permit* is required, a
14 special use *permit* must be approved before the use is significantly enlarged or
15 intensified.

16 **(D) No Additional Structures**

17 Additional *structures* shall not be erected in connection with a *legal nonconforming use*
18 of land or *structure* ; and

19 **(E) Change of Use**

20 A *legal nonconforming use* may, as a special use *permit*, be changed to another *legal*
21 *nonconforming use* if the board of adjustment finds that the proposed use is equally appropriate or
22 more appropriate to the district than the existing *legal nonconforming use* and the new use does
23 not increase the level of nonconformity. In allowing such change, the board of adjustment may
24 require appropriate conditions and safeguards in accordance with the purposes of Chapter 14.

25 **(F) Exception for Single-Family Dwellings**

1 Notwithstanding the provisions of Subsections 14-10.2(A), (B), (C) and (D), a single-
2 family dwelling that is a legal nonconforming use and associated accessory uses may be expanded
3 if:

4 (1) The nonconforming dwelling and associated accessory uses are the only
5 uses on a legal lot of record.

6 (2) The combined gross floor area of the dwelling and accessory uses after
7 expansion does not exceed 2,500 square feet.

8 (3) The expansion will not cause or increase the degree or extent of
9 nonconformity with applicable development standards such as lot coverage, setbacks or
10 height.

11 (4) This Subsection 14-10.2(F) shall not permit the creation of a new
12 principal or accessory dwelling unit.

13 **Section 2. Subsection 14-10.3 SFCC 1987 (being Ord. No. 2011-37 §13) is**
14 **amended to read:**

15 **14-10.3 - LEGAL NONCONFORMING STRUCTURES**

16 *Legal nonconforming structures* may be maintained subject to the following provisions:

17 **(A) No Increase in Nonconformity**

18 A *legal nonconforming structure* shall not be enlarged or altered in a way that increases
19 the degree or extent of its nonconformity. This Section 14-10.3 is not intended to prohibit
20 *additions or alterations* that do not increase the nonconformity.

21 **(B) Reduction in Nonconformity**

22 A *legal nonconforming structure* that is modified in such a way as to eliminate or to
23 reduce the degree or extent of nonconformity, including the demolition or removal of a
24 *nonconforming* feature for any reason, shall not be reconstructed except in conformance with
25 Chapter 14.

1 **(C) Substantial Destruction of Legal Nonconforming Structure**

2 If a *legal nonconforming structure* is destroyed by any means to an extent of more than
3 sixty-six and two-thirds percent of the existing *building structure* and shell (exterior skin and
4 framing, excluding window assemblies and *exterior wall and roof coverings*), it shall not be
5 reconstructed except in conformity with the provisions of Chapter 14 and if any *structure*
6 containing a *legal nonconforming use* is similarly destroyed, the *legal nonconforming use* shall
7 not be resumed.

8 **(D) Relocation of Legal Nonconforming Structure**

9 If a *legal nonconforming structure* is moved for any reason for any distance whatever, it
10 shall thereafter conform to the regulations for the district in which it is located after it is moved.

11 **(E) Repairs and Alterations**

12 (1) Ordinary repairs and maintenance are allowed, including replacement of
13 *exterior wall and roof coverings*.

14 (2) Repair, maintenance or replacement of *interior nonstructural elements* ,
15 fixtures, wiring or plumbing, is allowed.

16 (3) *Alterations* to the legally nonconforming portions of the *building*
17 *structure* are not allowed except to bring the *structure* into conformance with the
18 provisions of Chapter 14.

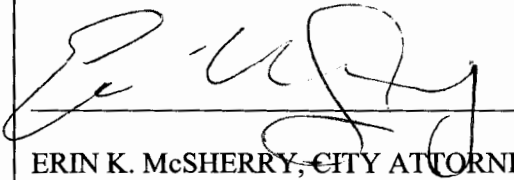
19 (4) Nothing in Section 14-10 prevents *alteration* or repairs necessary to
20 ensure the safety of a *structure* that has been declared to be unsafe by an official charged
21 with protecting public safety, on order of such official.

22 **(F) Exception for Single-Family Dwellings**

23 Notwithstanding the provisions of Subsections 14-10.3(A), (B), (C), (D) and (E), a
24 *single-family dwelling that is a legal nonconforming structure and associated accessory structures*
25 may be expanded as provided in Subsection 14-10.2(F).

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APPROVED AS TO FORM:



A handwritten signature in black ink, appearing to read 'Erin K. McSherry', is written over a horizontal line. The signature is cursive and somewhat stylized.

ERIN K. McSHERRY, CITY ATTORNEY