

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2018-26

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4
5 AN ORDINANCE

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

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

13 Section 1. Section 14-10.2 SFCC 1987 (being Ord. No. 2011-37 § 1, as amended)
14 is amended to read:

15 14-10.2 - LEGAL NONCONFORMING USES

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

17 (A) No Increase in Nonconformity

18 A *legal nonconforming use* shall not be enlarged, intensified, increased or extended to
19 occupy a greater area of land or *structure* than was occupied at the time the use became
20 *nonconforming* and a *structure* containing a *legal nonconforming use* shall be subject to the
21 provisions of Section 14-10.3 unless the *legal nonconforming use* of the *structure* is terminated.

22 (B) No Relocation on Parcel

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

25 (C) Termination of Nonconforming Use

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

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

11 **(D) No Additional Structures**

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

14 **(E) Change of Use**

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

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

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

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

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

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

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

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

10 **14-10.3 - LEGAL NONCONFORMING STRUCTURES**

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

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

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

16 **(B) Reduction in Nonconformity**

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

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

22 If a *legal nonconforming structure* is destroyed by any means to an extent of more than
23 sixty-six and two-thirds percent of the existing *building structure* and shell (exterior skin and
24 framing, excluding window assemblies and *exterior wall and roof coverings*), it shall not be
25 reconstructed except in conformity with the provisions of Chapter 14 and if any *structure*

1 containing a *legal nonconforming use* is similarly destroyed, the *legal nonconforming use* shall
2 not be resumed.

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

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

6 **(E) Repairs and Alterations**

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

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

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

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

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

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

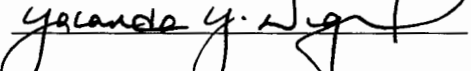
21 PASSED APPROVED and ADOPTED this 31st day of October, 2018.

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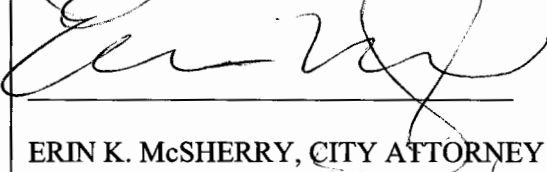
24 ALAN M. WEBBER, MAYOR
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1 ATTEST:

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4 YOLANDA Y. VIGIL, CITY CLERK

5 APPROVED AS TO FORM:

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7 _____
8 ERIN K. McSHERRY, CITY ATTORNEY

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25 *M/Legislation/Bills 2018/2018-26 Nonconforming Dwellings*