

Nonconforming Use Permit Requirements

A Nonconforming Use Permit (NCU) documents a use that legally existed prior to the adoption of the Zoning Ordinance, but has become prohibited or illegal by reason of new regulations or requirements.

The following information is needed for a NCU:

- Completed application form, including the legal description and UPC number of the property.
- Three (3) copies of a detailed site plan of the subject property, indicating the location of all buildings and structures, as well as the property dimensions and site conditions. The plan is to be drawn to scale and of sufficient clarity to convey the scope of the request.
- Three (3) notarized statements from neighbors or nearby property owners verifying the property was legally developed prior to 1973, and has been in continued use since that time. These statements must include:
 - The legal description and street address of the subject property; and
 - The printed name, signature, address and telephone number of the individual verifying the status of the property
- \$45.00 permit fee.

After the required documents have been submitted and the application has been accepted, the Zoning Office will perform a site inspection of the property, conduct all necessary research, and confirm the provided information.

The Zoning Administrator will then prepare a letter certifying the zoning designation of the property and referencing the nonconforming status of the site.

BERNALILLO COUNTY

Zoning, Building, Planning & Environmental Health
111 Union Square SE, Suite 100
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(505) 314-0350 Fax: (505) 314-0480



NONCONFORMING USE PERMIT

OWNER		PHONE
MAILING ADDRESS	CITY	ZIP

AGENT		PHONE
MAILING ADDRESS	CITY	ZIP

SITE ADDRESS		
DIRECTIONS		
LEGAL DESCRIPTION		
MAP #	CURRENT ZONE(S)	PROPERTY ACREAGE
UPC #	PROPOSED ZONE(S)	SUBDIVISION NAME
EXISTING BUILDINGS & USE		
PROPOSED BUILDINGS & USE		

SCOPE OF WORK

DETAILED INFORMATION

I hereby acknowledge that I have read this entire application and affirm that all of the provided information is correct. I agree to comply with the requirements of Bernalillo County and the State of New Mexico as outlined in all applicable laws, ordinances and regulations.

Printed Name _____

Signature _____

Date _____

What is a nonconforming use?

The Comprehensive Zoning Ordinance of Bernalillo County defines “nonconforming” as:
Any building or structure or portion thereof, or use of a building or land which does not conform to the zoning regulations and which lawfully existed on the effective date of those regulations with which it does not conform.

In other words, nonconformance relates to certain aspects of a property that do not meet the current standards as outlined in the Zoning Ordinance, but were established prior to the implementation of the ordinance (May 17, 1973). Sometimes referred to as a “grandfather clause” or “sunset provision”, nonconformance merely allows a temporary extension to the uses which pre-existed current zoning regulations.

Applicable Provisions

- Any building or structure nonconforming as to use shall be removed or converted to a conforming building or structure no later than May 17, 2033, unless otherwise noted.
- Any nonconforming building or structure may be maintained, repaired, or altered, provided that any building or structure nonconforming as to use shall not be structurally altered except as required by law.
- Any building or structure nonconforming as to use shall not be added to or enlarged unless such building or structure afterwards is converted to a conforming use. Nonetheless, the building or structure must be used residentially, located in a zone that permits residential uses, and will not increase the number of dwelling units on the lot or in the structure.
- If a lot is occupied by both a conforming and a nonconforming structure, detached accessory buildings may be built, provided they are clearly incidental to the conforming use and do not exceed 25 percent of the floor area of the conforming use.
- Any building or structure nonconforming only as to height regulations shall not be added to or enlarged unless such addition or enlargement conforms to all of the regulations of the zone in which it is located.
- Any building or structure nonconforming only as to yard requirements shall not be added to or enlarged except in compliance with certain requirements.
- Any nonconforming building or structure may be moved in whole or in part to another location on the lot, provided that every portion of such building or structure which is moved is made to conform to all of the regulations of the zone in which it is located, or in the event such moving will make it nonconforming to a lesser extent.
- Any nonconforming building or structure which is damaged by fire, flood, wind, earthquake, or other calamity or act of God or public enemy, may be restored, but not to an extent greater than the original floor area which existed at the time of the damage, provided such restoration shall be started within six months of the damage and shall be prosecuted diligently to completion.
- Any building or structure nonconforming as to use regulations that becomes vacant and remains unoccupied or is not used for a continuous period of one year or more shall not thereafter be occupied except by a conforming use.
- The use of any nonconforming building or structure may be changed to another use permitted in the same or more restrictive zone.