



Valencia County Planning & Zoning Department

Community Development Department

444 Luna Ave, Room 103 • P.O. Box 1119 Los Lunas, NM 87031

Phone (505) 866-2050 • Fax (505) 866-2424

www.co.valencia.nm.us

REQUEST FOR VERIFICATION OF LEGAL NON-CONFORMANCE

The existing structure or use of the property in the manner described below is hereby authorized pursuant to Section 4.5 of the 2004 Valencia County Comprehensive Zoning Ordinance.

Property Owner: _____ **Phone:** _____

Mailing Address: _____

Physical Address: _____

Legal Description of Property:

Current Zoning Designation of Property: _____

Present Use(s) of Property: _____

Has the present structure and/or use been in existence for 10 or more years prior to September 15, 2004?

Yes* _____ **No** _____

***All applicants must submit evidence to verify the existence of all structures and/or uses**

I attest that all statements made and information provided are true to the best of my knowledge.

Signed: _____ **Date:** _____

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| | |
|------------------------------|----------------------|
| Approved: _____ | Denied: _____ |
| Reason(s) for Denial: | |
| _____ | |
| _____ | |
| Signed: | Date: |
| _____ | _____ |

| | |
|----------------------------|--------------------|
| For Office Use Only | |
| Received by: _____ | Date: _____ |

***Application must be accompanied by a non-refundable Review Fee of \$100.**

Charles Eaton, Chair, District IV ♦ **Alicia Aguilar, Vice-Chair, District III** ♦

Mary Andersen, District I ♦ **Lawrence R. Romero, District III** ♦ **Jhonathan Aragon, District V**

VALENCIA COUNTY

STATE OF NEW MEXICO

POST OFFICE DRAWER 1119

LOS LUNAS, NEW MEXICO 87031



INTERIM COMPREHENSIVE ZONING ORDINANCE VALENCIA COUNTY, NEW MEXICO

ORDINANCE NUMBER 2004-05

Legislatively Adopting an Interim Comprehensive Zoning Ordinance, Zoning the Entire Unincorporated Area of Valencia County, Repealing the 1999 Comprehensive Zoning Ordinance and 1987 Zoning Ordinance and Amendments

Adopted by the Valencia County Board of County Commissioners

On September 15, 2004

Effective on October 20, 2004

Section 4.5. Nonconforming Uses

4.5.1. Purpose and Scope.

Within the zoning districts established by this Ordinance and amendments thereto, lots or parcels existing which were legally platted and recorded with the County Clerk as of January 1, 1988, but which would be prohibited or restricted under the terms of this Ordinance are hereby excepted from the requirements of Section 4.5. The general purpose of this section is to encourage the conversion of nonconforming uses to conforming uses. However, this section allows nonconforming uses and structures to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified in subsection 4.5.3. Nothing contained in this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of this Ordinance or any amendments thereto. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this section.

4.5.2. Definitions.

For the purpose of this section, the following words, terms and expressions shall be interpreted in accordance with the following definitions, unless the context requires otherwise.

- A. Alteration** - a change in structure, an increase in the number of structures, or a change of use. Where the term alteration is applied to a change of a structure, it is intended to be applied to any change, addition or modification in the structure, except for cosmetic changes such as painting, cleaning, etc. When the term alteration is applied to a change of use, it is intended to be applied to changes of use from one (1) business, trade, occupation or use to another, or from one (1) division of trade or use to another.
- B. Actual construction** - the placement of construction materials in a permanent position and fastened in a permanent manner. Where excavation, or demolition or removal of an existing structure has substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

4.5.3. Review Criteria.

- A.** The Department shall authorize alteration, restoration or replacement of a nonconforming use or structure pursuant to subsection 4.5., and subject to the Type A application procedure set forth in Section 5.1., when any of the following circumstances apply:
 - 1. The alteration is necessary to comply with any lawful requirements for alteration of said use or structure; or,
 - 2. Restoration or replacement is made necessary by fire, casualty, or natural disaster. Any restoration or replacement approved pursuant to this subsection shall be commenced within one (1) year from the occurrence of the fire, casualty or natural disaster, or be subject to the provisions of subsection 4.5.6.
- B.** In any other circumstance, the alteration, restoration or replacement of a nonconforming use or structure pursuant to subsection 4.5. may be authorized by the Department, subject to the Type A application procedure set forth in Section 5.1., and provided that the applicant demonstrates that the proposal satisfies the following criteria:
 - 1. That the alteration of use would result in a reduction in nonconformity of the use, or would have no greater adverse impact on the surrounding area than the existing nonconforming uses or than those uses permitted by this Ordinance.
 - 2. That the alterations of structures or physical improvements would result in a reduction in nonconformity of the structures or improvements or would have no greater adverse impact on the surrounding area than existing nonconforming structures or physical improvements or than those permitted by this Ordinance.

- C. A request to verify that a use or structure is legally nonconforming pursuant to Section 4.5. may be approved by the Department, subject to the Type A application procedure set forth in Section 5.1., and provided that the applicant submits evidence of the following:
1. The nature and extent of the use for at least ten (10) years from the adoption of this Ordinance prior to the date of application for verification of nonconformity;
 2. That the use or structure was in existence at least ten (10) years prior to the date the application for verification of nonconformity is submitted;
 3. That the use has continued uninterrupted, or the structure has been occupied continuously, for at least ten (10) years prior to the date the application for verification of nonconformity is submitted.

Section 5.1. Type A Procedure (Department).

The following procedure shall be used when county Ordinance requires Type A review of an application:

5.1.1. Pre-Application Conference.

Prior to or at the time of filing an application, the applicant or the applicant's authorized representative shall meet with the Department or an authorized representative of the Department of Planning and Zoning in a pre-application conference to review requirements and general concerns about the applicant's request.

5.1.2. Application and Fee Submittal.

The applicant shall submit an application to the Department on a form prescribed by the Department with the appropriate fee.

5.1.3. Application Review.

Within thirty (30) days of receipt of a complete application, or such longer period mutually agreed to by the Department and the applicant, the Department shall review the application and shall make a decision based on an evaluation of the proposal and on the applicable criteria in this Ordinance.

5.1.4. Decision.

The applicant shall be notified in writing of the Department's decision and of the reasons for the decision.

5.1.5. Appeal.

- A. Any decision of the Department may be appealed by any person with standing to the Commission if such an appeal is filed within 15 days from the date of the decision, pursuant to NMSA 1978, §3-21-8, as the same may be from time to time amended, and in accordance with Section 4.8. and any Resolution adopted by the Commission for its policies regarding any such appeal procedure.
- B. The P&Z may, on its own motion, initiate review of any decision of the Department made pursuant to the Type A application procedures and subject to Section 4.8. for appeals.

5.1.6. Effective Date of Approval.

Approval of any land use application, as provided for in this review procedure, shall not be effective, and no development permits shall be issued, until the appeal period has elapsed.
