



Chapter 26 Zoning

ARTICLE 5 NONCONFORMITIES

DIVISION 1 – GENERAL NONCONFORMING PROVISIONS [SOURCE: 26-181 THROUGH 26-189]

26-167 Purpose and Intent [Source: NEW]

This division establishes uniform provisions for the regulations of legal nonconforming land uses, structures and parcels. Within the zoning districts established by this Zoning Ordinance, there are existing land uses, structures, and parcels that were lawful before the adoption, or amendment of this Zoning Ordinance, but that would be prohibited, regulated, restricted differently under the terms of this Zoning Ordinance or future amendments. It is the intent of this Zoning Ordinance to discourage the long-term continuance of nonconformities, but to permit them to exist under the limited conditions outlined in this Article. This Article is intended to be administered in a manner that encourages the eventual abatement of nonconformities.

26-168 Establishment of Nonconforming Uses, Structures [Source: 26-181 – 26-185]

A nonconforming building, structure or other physical feature is a legally established building, structure or other physical feature which does not meet the standards of the Zoning District in which it is located. It can also be a building, structure or other physical feature for which an administrative use permit, variance or other similar permit is required but for which no such permit has been obtained because the building, structure, or other physical feature was established prior to the application of the existing zoning district due to rezoning, annexation or other change in the regulation of the Zoning Ordinance. Legally established nonconforming building, structures or other physical features shall be governed by the following regulations:

- (a) Nonconforming buildings, structures, or other physical features may be continued indefinitely subject to the provisions of this division.
- (b) A nonconforming building, structure, or other physical feature shall not be reconstructed, except as provided for in Division (4) of this Article, expanded, or enlarged unless the new work will be in conformance with the regulations and standards of the Zoning District in which is it located and the new provisions of the ordinance.
- (c) A nonconforming building, structure, or physical feature may be remodeled, rehabilitated or structurally altered if the new work does not increase the degree of the non-conformity.
- (d) A nonconforming, structure, or physical feature damaged or destroyed by any means except demolition or intentional removal, may be reconstructed to its original condition if the chief building inspector determines that the costs of reconstruction does not exceed fifty percent (50%) of the replacement construction value of the building or structure at the time of damage or destruction as determined by the Building Official. The Building Official shall conduct a review and may limit reconstruction of parts of the project that would create a health or safety issue. The Building Official review shall identify those items that, for reasons of health and safety, shall not be allowed to be



reconstructed to the dimensions, footprint, or use as they were prior to the damage, and shall provide for those items the required degree of compliance with the current code. Where the Building Official determines that the costs of reconstruction exceed fifty percent (50%) of the replacement construction value of the building at the time of its destruction or damage, a nonconforming building, structure or physical feature may be reconstructed to its original or other nonconforming condition only upon the approval of a variance by the Planning Commission pursuant to the provisions of Article VI, Division 4 applied for within one year of damage or deconstruction. The Planning Commission may require as a condition of approval that the building is thereafter devoted to a conforming use. The Planning Commission must make the following findings to approve such a use permit.

- (1) The proposed reconstruction of a nonconforming building, structure or physical feature will not be detrimental to any existing or potential permitted use, building or structure in the area in which the nonconforming use is located.
- (2) This finding shall be in addition to those required for the approval of a Variance contained in Article VI, Division 5.

26-169 Continuation and Maintenance [Source: 26-181 – 26-185]

Continuation of Nonconforming Uses and Structures

- (a) Except as otherwise provided herein, any structure or use legally established on the effective date of the Zoning Ordinance, may continue as a nonconforming parcel, structure or use.
- (b) Any structure or use legally established prior to the annexation of the property may continue as a nonconforming structure or use, respectfully.
- (c) A change in ownership or tenancy without any change in use, occupancy or development shall not affect any of the legal nonconforming rights, privileges, and responsibilities provided under this article.

Maintenance of Nonconforming Uses and Structures

- (a) Routine maintenance and repairs may be performed on a nonconforming parcel, use or structure provided such work does not involve structural alterations or any enlargement of the structure subject to the granting on building permits as required by the Building Official.

26-170 Continuation of Nonconformities [Source: 26-181 – 26-185]

Maintenance and Repairs allowed.

- (a) A nonconformity (i.e., parcel, sign, structure, or use) may be maintained and continued with customary maintenance and repair without any expansion or enlargement of area, space, or volume, except for improvements and expansions specified in subsections (a), (b) and (c) (Improvements and Expansions Allowed), below. A nonconformity may be maintained provided that no structural alterations shall be made to structural supporting members (i.e., bearing wall, column, beam, girder, rafter, joist), except as required for health and safety as determined by the Building Official.



Improvements and Expansions Allowed.

- (a) The addition of one accessory structure related to a conventional single-family dwelling provided that all structures shall comply with all other regulations of the zone (This does not apply to accessory dwelling units);
- (b) The addition of animal sheds or shades, hay barns, etc. for agricultural operations where there is no increase in animals, wastewater, or employees;
- (c) The continued use and expansion of certain nonconforming communications buildings and structures (including, but not limited to, radio towers, wireless facilities, and antennas) that directly or indirectly provide or support emergency services within the County (including, but not limited to, the broadcast of Emergency Alert System messages or public agency communications) may be allowed subject to the approval of a conditional use permit in compliance with Article VI, Division 4 and the following findings;
 - (1) That the improvement and/or expansion of the nonconformity is directly or indirectly related to the provision of emergency services within the County and will provide these services for the lifetime of the project;
 - (2) That the improvement and/or expansion of the existing nonconforming building or structure will not result in an increase of more than 100 percent of the original floor area of the nonconformity, not including the floor area of any previously approved expansions; and
 - (3) That the improvement and/or expansion of the nonconformity would not be detrimental to the public health, safety and general welfare.

DIVISION 2 – NONCONFORMING PARCELS [SOURCE: NEW]

26-171 Continuation of Nonconformities [Source: 26-181 – 26-185]

Continuation of Legal Nonconforming Parcels [Source: NEW]

The following shall apply to all nonconforming parcels existing at the effective date of this Zoning Ordinance or at the effective date of any subsequently adopted ordinance or regulation, unless said ordinance or regulation expressly provides otherwise.

- (a) Any improved nonconforming parcel may not be further developed with any additional structure. Any existing structures on a nonconforming parcel shall be considered a nonconforming structure and be subject to the provisions of this article.
- (b) Any lawfully created parcel that becomes nonconforming with regard to parcel area, street frontage, parcel width, parcel depth, or accessibility may continue indefinitely with such nonconformity and may be developed and use as if it were a conforming parcel.
- (c) Exemptions to the requirements of this section shall apply to parcels that are:
 - (1) Public utility parcels so long as said parcels are directly involved in providing public utility services.
 - (2) A parcel made nonconforming solely by reason of a dedication to or acquisition by the City or other governmental agency, directly or by eminent domain, for a public purpose; or



- (3) An undeveloped parcel which was lawfully created but by reason of any subsequently adopted ordinance or regulation does not allow to conform to the provisions of this code applicable to the zone in which the parcel is situated.

DIVISION 3 – NONCONFORMING SIGNS [SOURCE: NEW]

26-172 General

The following provisions shall apply to all identification signs, on-site commercial or industrial advertising signs, public or quasi-public directional signs, shopping center identification signs, shopping center directory signs, temporary real estate signs and temporary portable advertising signs in public parks, schools and playgrounds:

- (a) No lawful sign existing at the time of the passage of this Zoning Ordinance (Date Placeholder) shall be enlarged, altered, reconstructed or replaced unless the enlarged, altered, reconstructed sign or replacement sign conforms to all the provisions of this Zoning Ordinance; provided, however, reasonable repair and maintenance shall be permitted.
- (b) The foregoing provisions shall also apply to nonconforming signs in districts hereafter changed or established and any time limit for the suspension of a nonconforming sign shall date from the date of the enactment of this Zoning Ordinance or any amendment of district boundaries which may make the signs nonconforming.

DIVISION 4 – NONCONFORMING STRUCTURES [SOURCE: NEW]

26-173 Continuation of Legal nonconforming Structures [Source: NEW]

The following shall apply to all nonconforming structures existing at the effective date of this division, or at the effective date of any subsequently adopted ordinance or regulation unless said ordinance or regulation expressly provides otherwise.

- (a) Any nonconforming residential structure in any residential zone may be continued and maintained, except as otherwise provided in this section, provided there is no physical change in the structure except for such repairs and maintenance as may be necessary for the structural integrity and safety of the structure, or as may be required by law, the applicability of which shall be determined by the Community Development Director or their designee, and which do not enlarge the structure, and further provided:
 - (1) In the event of involuntary destruction of a nonconforming residential structure in a residential zone, the cost of reconstruction at the time of the involuntary destruction does not exceed 50% of the cost of replacing the entire structure, as determined by subsection (d)(6) of this division, except as provided in subsections (a)(2) and (3) below.
 - (2) In the event of involuntary destruction of a nonconforming residential structure as set out in division (a)(1) above, the structure may be rebuilt if the owner can demonstrate to the satisfaction of the Community Development Director or their designee, the following:
 - (i) Rebuilding will not enlarge the size of the structure nor increase the extent of non-conformance.



- (ii) The rebuilt structure will be appropriate to the site and be compatible with existing structures in the neighborhood; and
 - (iii) The structure was properly maintained, as required by health, safety and building codes and other titles of this Code and Zoning Ordinance, immediately prior to the destruction.
 - (iv) Plans for reconstruction shall be submitted for plan-check within one year from the date of destruction. The property owner shall remain active in pursuing the building permits. The building permits shall be obtained and construction commenced within 6 months of building plan-check approval.
- (3) Nonconforming residential structures located in any residential or mixed-use zone involuntarily destroyed in whole or in part shall be exempt from the provisions of this division, except that reconstruction or repair shall not increase the size nor alter the configuration of the nonconforming structure, nor increase the extent of any nonconformity.
- (4) In no case shall a nonconforming residential structure located in any residential or mixed-use zone involuntarily destroyed in whole or in part be required to comply with the development standards and other requirements of the zoning designation in which the residential or mixed-use structure is situated.
- (5) In no case shall the passage of time, in and of itself, cause the termination of any nonconforming residential structure in any multi-family residential zone, unless the City Council shall make a subsequent determination to the contrary.
- (6) Any part of a structure housing a nonconforming use which is changed to or replaced by a conforming use shall not thereafter be used nor occupied by any nonconforming use.
- (b) Nonconforming nonresidential structures in any residential zone may be continued and maintained, except as otherwise provided in this subsection, and provided there is no physical change to the structure except for such repair and maintenance as may be required for the structural integrity of the structure, or as may be required by law as determined by the Community Development Director or their designee, which do not enlarge the structure; and further provided:
- (1) The entire structure does not remain unoccupied for six consecutive months or more.
 - (2) In the event of involuntary destruction of the structure, the cost of reconstruction does not exceed 50% of the cost of replacing the entire structure, pursuant to subsection (d)(6) of this division.
 - (3) Any part of the structure occupied by a nonconforming use which is changed to or replaced by a conforming use shall not thereafter be used by a nonconforming use.
 - (4) In addition to the causes of termination set out in subsections (b)(1) and (2) of this division, a nonconforming non-residential structure in any residential zone shall be altered and converted to a conforming structure, or completely removed, when such structure has reached the age of 40 years, computed from the date the structure was constructed.
 - (5) Plans for reconstruction shall be submitted for plan-check within 6 months from the date of destruction. The property owner shall remain active in pursuing the building permits. The building permits shall be obtained, and construction commenced within 6 months of building plan-check approval.



- (c) Nonconforming structures in nonresidential zones may be continued and maintained except as otherwise provided in this subsection, and provided there is no physical change in the structure except for such repairs and maintenance as may be necessary for the structural integrity and safety of the structure, or as may be required by law, the applicability of which shall be determined by the Community Development Director or their designee, and which do not enlarge the structure, and provided that:
- (1) Any nonconforming structure in a nonresidential zone shall terminate if the entire structure is unoccupied for six consecutive months.
 - (2) In the event of involuntary destruction, the nonconforming structure shall terminate if the cost of reconstruction at the time of the involuntary destruction exceeds 50% of the cost of replacing the entire structure, pursuant to division (d)(6) of this section.
 - (3) Any nonconforming structure shall terminate if there is physical deterioration of the structure requiring more than ordinary repair as may be necessary for structural integrity or safety as determined by the Community Development Director or their designee.
- (d) General provisions which shall apply to any nonconforming structure in any zone, unless specifically excluded by other provisions of this subsection, shall include:
- (1) Any structure or part of a structure occupied by a nonconforming use which is changed to or replaced by a conforming use shall not thereafter be used or occupied by a nonconforming use.
 - (2) When a single project including, but not limited to, an apartment project, shopping center or mall, consists of two or more separate buildings or structures situated on one or more Parcels, the nonconformity of any single building pursuant to this subsection shall be considered the nonconformity of that entire single project and the entire project shall be governed by the applicable provisions of this subsection.
 - (3) Any reconstruction, maintenance, repair or alteration authorized or permitted by this subsection to any nonconforming structure must comply with all other applicable requirements of this code at the time such work is performed, and the extent of nonconformity may not be intensified, nor any other changes made in the size or configuration of the structure, except as specifically provided in this subsection.
 - (4) Any nonconforming structure shall terminate if there is physical change to the structure other than such repairs as may be necessary to maintain the structural integrity or safety of the structure, but do not enlarge, increase the total floor area or alter the structure, and such alterations as may be required by law, the applicability of which shall be determined by the Community Development Director or their designee.
 - (5) Any nonconforming structure involuntarily destroyed that is permitted to be reconstructed or repaired pursuant to this subsection, shall submit plans for reconstruction for plan-check within 6 months from the date of destruction. The property owner shall remain active in pursuing the building permits. The building permits shall be obtained, and construction commenced within 6 months of building plan-check approval. Otherwise, the legal nonconforming status of the structure shall be lost.
 - (6) Whenever a determination of the cost of replacing a structure or the cost of reconstruction is required to be made, that determination shall be made by the Community Development Director



or their designee, based on a current appraisal of the structure, provided at the owner's expense, by a California licensed and certified appraiser.

- (7) Repair or reconstruction of a damaged nonconforming structure shall not extend the specified termination date of the structure, nor of the existing use .
 - (8) A nonconforming structure may be remodeled provided:
 - (i) There is no increase in the total size, the height or the useable floor area of the structure;
 - (ii) There is no increase in the extent of nonconformity; and
 - (iii) There is no new nonconformity created.
- (e) Exemptions to the requirements of this subsection shall apply to structures that are:
- (1) Public utility structures so long as said structures are directly involved in providing public utility services; or
 - (2) A structure made nonconforming solely by reason of a dedication to or acquisition by the city or other government agency, directly or by eminent domain, for a public purpose.

DIVISION 5 – NONCONFORMING USES [SOURCE: NEW]

26-174 Continuation of Legal Nonconforming Uses [Source: NEW]

The following shall apply to all nonconforming uses existing at the effective date of this subchapter or at the effective date of any subsequently adopted ordinance or regulation, unless said ordinance or regulation expressly provides otherwise.

- (a) Any nonconforming use within in a conforming structure may be continued and maintained except as otherwise provided in this subchapter, and further provided:
 - (1) There is no enlargement, alteration, addition or expansion of any portion of the structure in which the nonconforming use is situated, except for such repair as may be necessary for structural integrity or safety, or such alteration as may be required by law, the applicability of which shall be determined by the Community Development Director or their designee.
 - (2) There is no addition to, nor intensification of, the nonconforming use.
 - (3) There is no addition to, nor change to, any other nonconforming use.
 - (4) The nonconforming use is maintained in compliance with the health and safety codes and other titles of the city code and ordinances.
 - (5) The nonconforming use shall terminate if it is discontinued for a period of 120 consecutive days or more.
 - (6) A nonconforming use may be changed to another use if the proposed use is permitted in the zone in which the existing nonconforming use is situated and all requirements of this code in effect at the time of the proposed change in use are satisfied. Once changed, said nonconforming use may not be reestablished.
 - (7) If the structure in which the nonconforming use is situated is involuntarily destroyed, in whole or in part, causing the involuntary discontinuance of the nonconforming use, the nonconforming



use shall terminate if it has not been reestablished within 120 days of completion of repair or reconstruction of the structure in which it was situated.

- (b) Any nonconforming use situated within a nonconforming structure may be continued and maintained, so long as it complies with the provisions of subsection A of this section, and as otherwise provided in this subsection, and further provided:
- (1) If the nonconforming structure in which the nonconforming use is situated in is involuntarily destroyed, in whole or in part, causing the involuntary discontinuance of the nonconforming use, the nonconforming use shall terminate if it has not been reestablished within 120 days of completion of repair or reconstruction of the structure in which it was situated.
 - (2) A nonconforming use located in a nonconforming structure may be changed to another use if:
 - (i) The proposed use is permitted in the zone in which the existing use is situated;
 - (ii) The proposed use will not require any enlargement nor alteration of the structure occupied by the proposed use; and
 - (iii) The parking requirements in effect at the time of the change for the proposed use are satisfied.
 - (3) The change of a nonconforming use situated in a nonconforming structure to a conforming use shall not extend the termination date of the nonconforming structure as provided in this subsection, nor in any subsequently adopted ordinance or regulation.
 - (4) The nonconforming use shall terminate if it is discontinued for a period of 120 consecutive days or more.

DIVISION 6 –ABATEMENT AND EXTENSION OF NONCONFORMING USES, STRUCTURES AND PARCELS [SOURCE: NEW]

26-175 Purpose and Intent [Source: NEW]

The abatement or extension of nonconforming uses, structures or parcel process is established to provide a means by which to establish the period within which a nonconforming use, structure or parcel must comply with current regulations of this title, and to allow for the extension of such abatement period.

26-176 Applicability and Permit Requirements [Source: NEW]

All uses, structures and parcels determined by the Community Development Director or their designee to be nonconforming shall require a hearing before the Planning Commission to establish the appropriate abatement period. Abatement periods may be extended by the Planning Commission. Early termination of a nonconformity may be initiated by order of the Planning Commission or City Council for public health, safety, and welfare purposes. Such actions shall be processed pursuant to standard procedures in this article and Zoning Ordinance.

26-177 Required Findings [Source: NEW]

Abatement and Extension



- (a) In establishing the amortization period for a nonconforming use, structure or parcel, the Planning Commission shall consider competent financial data such as the depreciation schedule attached to the owner's latest federal income tax return. Findings shall be made as to whether or not the balancing of the public interest and the request by the owner for continuance, alteration, or expansion of the nonconformity requires a deviation from the city's development standards.
- (b) To grant an extension to the abatement period for a nonconformity, the Planning Commission shall find that an unreasonable hardship would otherwise be imposed on the property owner if such an extension were not granted.

26-178 Conditions

The Planning Commission may impose conditions to ensure maintenance of an equitable balance of the public interest and the interests of the property owner.