

ARTICLE 13 – GENERAL PROVISIONS AND EXCEPTIONS

SECTION 1301 ADDITION OF PERMITTED USES

Upon receipt of an application, or on its own initiative, the Planning Commission may, by resolution, add a use to the lists of permitted uses and conditional uses prescribed in Articles 4 through 10 of this Code, if the Commission makes the following findings, as applicable:

- A. That the addition of the use to the list of permitted uses will be in accordance with the purposes of the district in which the use is proposed.
- B. That the use has the same basic characteristics as the uses permitted in the district.
- C. That the use reasonably can be expected to conform with the required conditions for the district.
- D. That the use will not be detrimental to the public health, safety or welfare, or adversely affect the character of any district in which it would be located.
- E. That the use will not create more vehicular traffic than the volume normally created by the uses permitted in the district.
- F. That the use will not create more odor, dirt, smoke, noise, vibration, illumination, glare unsightliness or any other objectionable influence than the amount normally created by any of the other uses permitted in the district.
- G. That the use will not create any greater hazard of fire or explosion than the hazards normally created by any of the uses permitted in the district.

When a use has been added to a list of permitted uses or conditional uses in accordance with the procedure prescribed in this section, the use shall be deemed to be listed as a permitted use in the appropriate section and shall be added to the text of that section of this ordinance when it is next published with a notation of the date when the use was added to the list.

SECTION 1302 COVERAGE – MEASUREMENT

The percent of the site area covered by structures shall be measured by dividing the number of square feet of horizontal floor area covered by structures, open or enclosed, by the total horizontal area within the property lines of the site.

SECTION 1303 YARD SPACES

- A. No yard space about any structure in compliance with the regulations for the district in which it is located shall be deemed to provide a yard for any other structure, and no yard on one (1) site shall be deemed to provide a yard space for a structure on another site.

- B. Where two (2) or more dwellings are located on the same lot, and any one of them has a door facing a side yard, such dwelling shall be located not less than ten (10) feet from the adjacent side lot line. A door shall be deemed to face a side yard if the wall in which the door set is located at an angle of forty-five degrees (45°) or less to the side yard.

SECTION 1304 YARD REQUIREMENTS – MEASUREMENT

Required yards shall be measured as the minimum horizontal distance from the property line of the site or street line to a line parallel thereto on the site, provided that when a precise street plan has been adopted by the City Council, required front yards shall be measured from the plan line, and no provision of this ordinance shall be construed to permit a structure or use to extend beyond such line. Where a site abuts on a street having only a portion of its required width dedicated or reserved for street purposes, site area and required yards shall be measured from a line representing the boundary of the additional width required for street purposes abutting the site. Where a site abuts a public alley, required yards shall be measured from the nearest line of the alley, except that garages and carports having access perpendicular from the alley right-of-way shall be located a minimum of twenty-seven (27) feet from the opposite alley right-of-way line.

SECTION 1305 YARD REQUIREMENTS – EXCEPTIONS

- A. Architectural features including sills, chimneys, fireplaces, cornices and eaves may extend into a required side yard, a required rear yard, or a space between structures not more than thirty-six inches (36”) and may extend into a required front yard not more than six (6) feet, provided that where an architectural feature extends more than twenty-four inches (24”) into a required side yard, said extension shall be protected by a minimum of one (1) hour fire resistant standard. No building or projection thereof, except a garden structure, may extend into a public easement.
- B. Open, unenclosed, uncovered metal fire escapes and depressed ramps or stair-ways may project into any required yard or space between buildings not more than four (4) feet; planter boxes attached to a building, may be extended into a required front yard by not more than three (3) feet.
- C. Fences, walls, hedges, garden structure walks, driveways and retaining walls may occupy any required yard or other open spaces, subject to the limitations prescribed in the district regulations, and except that the provisions of this ordinance shall not apply to a fence or wall necessary for public safety or as required by any law or regulation of the State of California or any agency thereof, and further that a chain link fence up to seven (7) feet in height may be located in any required front yard in conjunction with public and quasi-public uses.

SECTION 1306 THROUGH LOTS

A front yard shall be provided on each frontage of a through lot, except where a waiver-of-access had been dedicated to one of the frontage.

SECTION 1307 MAINTENANCE OF LANDSCAPED AREAS

A landscaped area provided in compliance with the regulations prescribed in this ordinance or as a condition of a site plan review, a use permit or variance shall be planted with live and healthy plant materials suitable for screening or ornamenting the site, whichever is appropriate, and plant materials shall be replaced as needed to screen or ornament the site. Landscaped areas shall be watered, weeded, pruned, fertilized, sprayed or otherwise maintained to assure compliance with the regulations requiring landscaped areas. Landscaped areas within sites subject to site plan review shall be watered by automatic systems.

SECTION 1308 MAINTENANCE AND ELIMINATION OF NON-CONFORMING SITES, USES, AND STRUCTURES

A. PURPOSES AND APPLICATION

1. A non-conforming use is a use of a structure or land which was lawfully established and maintained prior to the adoption of this ordinance, but which does not conform to the use regulations for the district in which it is located. This section is intended to limit the number and extent of non-conforming uses by limiting their enlargement and prohibiting their reestablishment after abandonment, and by prohibiting the alteration of the structures they occupy and their restoration after destruction.
2. A non-conforming structure is a structure which was lawfully erected prior to the adoption of this ordinance, but which does not conform to the standards of coverage, yard space, height of structures or distance between structures prescribed in the regulations for the district in which the structure is located. While permitting the use and maintenance of non-conforming structures, this section is intended to limit the number and extent of non-conforming structures by prohibiting their being moved, altered or enlarged so as to increase the discrepancy between existing conditions and the standards prescribed in this ordinance and by prohibiting their restoration after destruction, within a reasonable period of time.
3. Priorities for enforcement under this section shall be as follows, in descending order of importance:
 - a. Uses and structures listed under Section 1308 G.
 - b. Non-conforming uses.

B. CONTINUATION AND MAINTENANCE

1. A use lawfully occupying a structure or a site on the effective date of this ordinance or of amendments thereto which does not conform with the use regulations for the district in which the use is located shall be deemed to be a non-conforming use and may be continued, except as otherwise provided in this section.

2. A structure lawfully occupying a site on the effective date of this ordinance or of amendments thereto, which does not conform with the standards of coverage, front yard, side yards, rear yard or distances between structures prescribed in the regulations for the district in which the structure is located, shall be deemed to be a non-conforming structure and may be used and maintained except as otherwise provided in this section.
3. A sign or outdoor advertising display of any character lawfully occupying a site on the effective date of this ordinance or amendments thereto, which does not conform with the standards for subject matter, location, size, lighting, or movement prescribed for the district in which it is located, shall be deemed to be a non-conforming sign or outdoor advertising structure, and may be displayed and maintained except as otherwise provided in this section.
4. Routine maintenance and repairs may be performed on a structure or site, the use of which is non-conforming, on a non-conforming structure, and on a non-conforming sign or outdoor advertising structure.

C. ALTERATIONS AND ADDITIONS TO NON-CONFORMING USES AND SIGNS

Except as provided in Sections 1308 D through 1308 I, no structure, the use of which is non-conforming, and no non-conforming sign shall be moved, altered, or enlarged unless required by law or unless the moving, alteration or enlargement will result in the elimination of the non-conforming use. No structure partially occupied by a non-conforming use shall be moved, altered or enlarged in such a way as to permit the enlargement of the space occupied by the non-conforming use.

D. ALTERATIONS AND ADDITIONS TO NON-CONFORMING STRUCTURES

No non-conforming structure shall be altered or reconstructed so as to increase the amount of floor space or the discrepancy between existing conditions and the standard of coverage, front yards, side yards, rear yard, height of structure or distances between structures prescribed in the regulations prescribed for the district in which the structure is located, except as may be permitted through the granting of a Conditional Use Permit under the provisions of Article 14. The modest expansion of a non-conforming use which may be allowed within any zoning district under Conditional Use Permit procedures shall not exceed twenty-five percent (25%) of the existing floor area of the structure.

E. ABANDONMENT OF A NON-CONFORMING USE

Whenever a non-conforming use has been abandoned, discontinued or changed to a conforming use for a continuous period of one (1) year, the non-conforming use shall not be reestablished, and the use of the structure or site thereafter shall be in conformity with the regulations for the district in which it is located.

F. RESTORATION OF A DAMAGED STRUCTURE

1. Whenever a non-conforming use, or a non-conforming structure shall be destroyed by fire or other calamity, or by an act of God or by the public enemy to the extent of less than sixty percent (60%) the structure may be restored and the non-conforming use may be resumed, provided that restoration is started within six (6) months and diligently pursued to completion. The extent of damage to any structure shall be determined by the Building Official, and shall be based upon the ratio of the estimated cost of restoring the use or structure to its condition prior to such damage to the estimated cost of duplicating the entire structure as it existed prior thereto.
2. Whenever a non-conforming use or a non-conforming structure shall be destroyed by fire or other calamity, or by an act of God or by the public enemy to the extent of sixty percent (60%) or more, or shall be voluntarily razed or shall be required by law to be razed, the structure shall not be restored except in full conformity with the regulations of the district in which it is located, and the non-conforming use shall not be resumed.

G. ELIMINATION OF NON-CONFORMING USES AND STRUCTURES

1. The following non-conforming uses and structures shall be discontinued and completely removed or altered and converted to a conforming status within five (5) years after the effective date of this ordinance:
 - a. A non-conforming use which does not occupy a structure.
 - b. A non-conforming use occupying a structure having an assessed valuation of less than two hundred dollars (\$200.00).
 - c. A non-conforming outdoor advertising structure.
 - d. Abandoned or dilapidated signs in accordance with the provisions of Section 1204 D 10.
2. A non-conforming home occupation shall be discontinued within one (1) year of the adoption of this ordinance.
3. Uses permitted only within a R or RM District which are located in a C or I District, and uses permitted only within a C or I District which are located within a R or RM District shall be completely removed or altered and converted to a conforming status upon abandonment of the previous use for six (6) months or more. When a non-conforming use is removed, every future use shall be in conformity with the provisions of this ordinance. Repairs necessary to maintain a non-conforming use and other maintenance (excluding signs), not exceeding an assessed valuation of two thousand five hundred dollars (\$2,500.00), shall not be construed as lengthening the useful life of the non-conforming use.

4. Fences, walls and hedges which do not conform to the provisions of this ordinance governing the erection of fences, walls and hedges in relation to street intersections shall, within six (6) months of receipt of written notification by the Building Official be removed or made to conform.

H. TIME WHEN A USE, STRUCTURE OR SIGN BECOMES NON-CONFORMING

Whenever a use or structure becomes non-conforming because of a change of zoning district boundaries or a change of regulations for the district in which the site is located, the period of time prescribed in this section for the elimination of the use shall be computed from the effective date of the change of district or regulations, and the Building Official shall carry out the provisions of Section 1308 I in respect thereto.

I. RECORDS AND NOTIFICATION OF NON-CONFORMING STATUS

1. Within one (1) year after the effective date of this ordinance, and amendments thereto, the Building Official shall compile a list of all structures or uses which shall have become non-conforming by the adoption of this ordinance under the provisions of section 1208 H, together with a description of their locations and the names and addresses of all persons whose names appear on the latest adopted tax roll of Sacramento County as owning such non-conforming structures, uses or signs, which list shall be recorded in the office of the Sacramento County Recorder with copies placed on file with each title company operating within Sacramento County.
2. Within one (1) year after the effective date of this ordinance, the Building Official shall notify, in writing, the owners of all non-conforming structures, uses, signs and fences, walls and hedges, of the non-conforming status of their property and the date when such structure or use shall be removed or made conforming by said owners, if such removal or conformance is required by the provisions of this ordinance. An excerpt of this ordinance will be attached to said notice which excerpt shall include all of the provisions of Section 1308 of this article.

J. EFFECT OF EMINENT DOMAIN

If any land, right-of-way or easement be taken by eminent domain, or be granted to be condemned under actual threat of suit in eminent domain, the following provisions and exceptions shall apply:

1. If the area of a lot is reduced below the minimum requirement thereby, such lot shall be deemed to be a legal substandard lot under the provisions of Section 203 G and any existing building or structure thereon shall be deemed to be non-conforming.

2. If a required yard is reduced or eliminated thereby, any affected building or structure shall be deemed non-conforming; provided, however, that such building or structure may be structurally altered or enlarged as long as such alterations or enlargements comply with all other requirements of the zoning district.
3. If any required parking space on a lot is reduced or eliminated thereby, the provisions of Article 11 shall not be construed to require the replacement of the required parking space.

K. CHANGE OF NON-CONFORMING USE

Except as otherwise set forth in this section, the non-conforming use of a structure or site may be changed to another non-conforming use provided the change of use is approved by the Planning Commission in accordance with the following procedure:

1. An application for a change of use shall be made to the Commission on a form prescribed by the Commission, which form shall include the following data:
 - a. The name and address of the applicant;
 - b. A statement that the applicant is the owner of the property or is the authorized agent of the owner;
 - c. The address or description of the property; and
 - d. A statement of the precise nature of the existing or pre-existing non-conforming use, the proposed non-conforming use, and any other data pertinent to the findings prerequisite to the granting of the application as set forth in subsection 4 of this subsection, below.

The application shall be filed with the Planning Commission. Notice shall be given to the applicant of the time when the application will be considered by the Commission, and notice may be given of the time to any other interested party.

2. The Commission shall hold a public hearing on an application for a change of use. Notice of the hearing shall be given not less than ten (10) days, nor more than thirty (30) days, prior to the date of the hearing in the manner set forth in Article 14 of this code.
3. The City's Planner shall make an investigation of the application and shall prepare a written report thereon, which report shall be submitted to the Commission. The Commission shall consider the report of the Planner before taking action on the application.

4. The Commission may grant an application for a change of use if, on the basis of the application and the evidence submitted, the Commission makes the following findings:
 - a. That the proposed use is classified in a more restricted category than the existing or pre-existing use by the district regulations of this ordinance. The classification of a non-conforming use shall be determined on the basis of the district in which it is first permitted; provided, however, a conditional use shall be deemed to be in a less restrictive category than a permitted use in the same district;
 - b. That the proposed use will not more adversely affect the character of the district in which it is proposed to be located than the existing or pre-existing use;
 - c. That the proposed use will not create more vehicular traffic than the volumes created by the existing or preexisting use;
 - d. That the proposed use will not create more odor, dust, dirt, smoke, noise, vibration, illumination, glare, unsightliness, or any other objectionable influence than the amount created by the existing or pre-existing use; and
 - e. That the proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
5. The Planning Commission may grant an application for a change of use for a limited time period or subject to such conditions as the Commission may prescribe. The Commission may deny an application for a change of use.
6. An action of the Commission granting an application for a change of use shall become null and void six (6) months following the date of the action unless, prior to the expiration of six (6) months, a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the application. The action of the Commission may be made effective for an additional six (6) months if, within six (6) months of the original application, an application to continue the action in effect is made to the Commission. The Commission may grant or deny an application to continue its action in effect.
7. An action of the Commission granting an application for a change of use subject to conditions shall be revoked by the Commission for lack of compliance with any of the conditions.

8. Following the date of denial of an application for a change of use or the revocation of an action of the Commission granting an application, no application for the same, or substantially the same, structure or on the same, or substantially the same, site shall be filed within six (6) months of the denial of the application or the revocation of the action of the Commission.

L. USE OF NON-CONFORMING SITES

Except as otherwise provided in this section, a site having an area, frontage, width or depth, less than the minimum prescribed for the district in which the site is located, which is shown on a duly approved and recorded subdivision map, or for which a deed or valid contract of sale was of record prior to the adoption of this ordinance, and which had a legal area, frontage, width and depth at the time that the subdivision map, deed or contract of sale was recorded, may be used for any permitted use listed for the district in which the site is located, but shall be subject to all other regulations for such district.

SECTION 1309 CLARIFICATION OF AMBIGUITY; INTERPRETATION

- A. In the event of need for any clarification or interpretation of the provisions of this ordinance, the Planning Commission shall ascertain all pertinent facts and by resolution shall set forth its findings and transmit the resolution to the City Council. If approved by the Council, said clarifications or interpretation shall govern until modified by resolution adopted in like manner or by appropriate amendment to this ordinance.
- B. The authority of the Planning Commission and City Council prescribed by this section shall apply in all of the following cases:
 1. If ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this ordinance, subject to the requirements of Section 1301;
 2. If ambiguity exists with reference to matters of height, yard area, and other requirements;
 3. If uncertainty exists with reference to a zone district boundary;
 4. If an unforeseen condition arises or technological changes have been introduced which require interpretation of their impact on the provisions of this ordinance; and
 5. If ambiguity or uncertainty arises as to the meaning of any word or provision contained in this ordinance.

SECTION 1310 HEIGHT LIMITATIONS – MEASUREMENT AND EXCEPTIONS

- A. The height of a structure shall be measured vertically from the average elevation of the surface of the ground covered by the structure to the highest point of the structure; provided, however, the provisions of this section shall not apply to the height of any structure necessary for public safety or as required by any law or regulation of the State or an agency thereof.

- B. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain buildings, and fire and parapet walls, skylights, towers, spires, cupolas, road signs (where permitted), flagpoles, chimneys, smokestacks, television and radio masts, or similar structures, may be erected above the height limit but shall not be allowed for the purpose of providing additional floor space.

SECTION 1311 YARD SALES AND GARAGE SALES WITHIN RESIDENTIAL AREAS

The sale of personal possessions, whether within or outside of a dwelling within an R or RM zoning district shall be limited to no more than four such sales per year. Commonly referred to as “yard sales” or “garage sales”, such sales shall be conducted for periods no longer than three (3) days, and un-sold possession shall be removed from public view and stored within the premises. Materials to be sold shall be personal possessions. No materials shall be offered for sale which has been acquired solely for the purposes of the “yard sale” or “garage sale”. Possessions offered for sale shall be neatly displayed. The driveway, yard, or other space used for purposes of the sale shall be restored to its normal residential character at the conclusion of the sale.