



- Sec. 41-27. Bedroom.** A bedroom is any room or segment of a dwelling unit separated from other portions of such dwelling unit by walls or other partitions, which is designed or used as sleeping quarters, provided that in determining the number of bedrooms in a dwelling unit all such rooms or segments having an area in excess of eighty (80) square feet (exclusive of one (1) living room, one (1) dining room and all rooms clearly designed as kitchens, bathrooms, closets and hallways) shall be deemed bedrooms regardless of any description or use for purposes other than sleeping quarters, such as dens, family rooms or guest rooms.
- Sec. 41-126. Nonconforming use.** A nonconforming use is a use of land or of a building or structure which was initiated prior to July 20, 1960, or which was conducted in conformity with all applicable provisions of this chapter as they existed at the time such use was initiated, but which thereafter became nonconforming to any provision of this chapter due to the enactment or amendment of such provision or due to the acquisition by a public agency of real property through eminent domain or through a voluntary conveyance in lieu thereof.
- Sec. 41-127. Nonconforming building.** A nonconforming building is a building to which either of the following circumstances apply:
- (1) The building was constructed prior to July 20, 1960, and thereafter the building, or any of its appurtenances, or the site on which it is located became nonconforming to any provision of this chapter due to the enactment or amendment of such provision or due to the acquisition by a public agency of real property through eminent domain or through a voluntary conveyance in lieu thereof.
 - (2) The building and its appurtenances and the site on which it is located existed at one time in conformance with all applicable provisions of this chapter, and thereafter the building, or any of its appurtenances, or the site on which it is located became nonconforming to any provision of this chapter due to the enactment or amendment of such provision or due to the acquisition by a public agency of real property through eminent domain or through a voluntary conveyance in lieu thereof.
- Sec. 41-142.5. Rehabilitation.** Rehabilitation is the restoration or modification of an existing building which alters the aesthetic quality of the building, excluding normal maintenance.
- Sec. 41-157. Structural alteration.** Structure alteration is any change in the supporting members of a building such as bearing walls, columns, beams, girders, floor joists, roof joists, rafters, or changes in roof or exterior lines.

Sec. 41-166. Use. Use is the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

Sec. 41-679. Applicability of article. Nonconforming buildings and uses are subject to the regulations contained in this article.

Sec. 41-680. Maintenance of structure. A nonconforming building or structure may be maintained, said maintenance to consist of repair work necessary to keep a building or structure in sound condition.

Sec. 41-681. Enlargement or exterior structural alteration of building; conformance required; exceptions. No nonconforming building or building occupied by a nonconforming use shall be enlarged nor shall the exterior walls of such a building be structurally altered in any manner unless such building and the site on which it is located will thereafter conform to all applicable provisions of this chapter, except as otherwise provided in sections 41-681.1 through 41-681.4.

Sec. 41-681.1. Rehabilitation of nonresidential buildings—Sites of less than fifteen thousand square feet. Rehabilitation of any nonconforming building which is used for any nonresidential purpose and which is located on a site having less than fifteen thousand (15,000) square feet or gross area is subject to the following exceptions from section 41-681:

- (1)** Rehabilitation which is limited to structural alterations without any building expansion is permitted if all signage on the building and the site on which it is located is brought into conformity with the requirements of this chapter, except that, in the case of such alterations being undertaken by a tenant on a site having more than one (1) tenant, such alterations are permitted if all signage on the area leased by such tenant is brought into conformity with the requirements of this chapter.
- (2)** Rehabilitation which includes expansion of the building is permitted when the total floor area of all such expansions occurring in any five-year period does not exceed ten (10) per cent of the floor space of the building as it existed at the beginning of such time period, provided that the following conditions are satisfied:
 - a.** All signage on the building and the site on which it is located shall be brought into conformity with the requirements of this chapter.
 - b.** Off-street parking shall be provided in conformance with the requirements of this chapter. With regard to sites having more than one (1) business occupant, only the occupant undertaking the building expansion is required to achieve conformity with the applicable off-street parking requirements of this chapter.

- c. Landscaping shall be improved to bring the site on which the building is located into closer compliance with the landscaping requirements of this chapter, as deemed appropriate by the planning director.
- (3) Rehabilitation which includes expansion of the building is permitted when the total floor area of all such expansions occurring in any five-year period exceeds ten (10) per cent but does not exceed twenty-five (25) per cent of the floor space of the building as it existed at the beginning of such time period, if the building and the site on which it is located is brought into conformity with all of the requirements of this chapter except those pertaining to building setbacks (minimum yards), minimum lot size, and minimum street frontage. With regard to sites having more than one (1) business occupant, only the occupant undertaking the building expansion is required to achieve conformity with the applicable off-street parking requirements of this chapter.

Sec. 41.681.2. Same—Sites of fifteen thousand square feet or more. Rehabilitation of any nonconforming building which is used for any nonresidential purpose and which is located on a site having fifteen thousand (15,000) square feet or more of gross area is subject to the following exceptions from section 41-681:

- (1) Rehabilitation which is limited to structural alterations without any building expansion is permitted if all signage on the building and the site on which it is located is brought into conformity with the requirements of this chapter, except that, in the case of such alterations being undertaken by a tenant on a site having more than one (1) tenant, such alterations are permitted if all signage on the area leased by such tenant is brought into conformity with the requirements of this chapter.
- (2) Rehabilitation which includes expansion of the building is permitted when the total floor area of all such expansions occurring in any five-year period does not exceed ten (10) per cent of the floor space of the building as it existed at the beginning of such time period, provided that the following conditions are satisfied:
 - a. All signage on the building and the site on which it is located shall be brought into conformity with the requirements of this chapter.
 - b. Off-street parking shall be provided in conformance with the requirements of this chapter. With regard to sites having more than one (1) business occupant, only the occupant undertaking the building expansion is required to achieve conformity with the applicable off-street parking requirements of this chapter.

- c. Landscaping shall be improved to bring the site on which the building is located into closer compliance with the landscaping requirements of this chapter, as deemed appropriate by the planning director.

Sec. 41-681.3. Rehabilitation of multiple-family dwellings. Rehabilitation of a nonconforming building which is a multiple-family dwelling, including structural alteration and/or enlargement, is permitted subject to the following limitations:

- (1) There shall be no enlargement which would intrude into any required yard.
- (2) There shall be no enlargement which would result in a new nonconformity with the requirements of this chapter.
- (3) There shall be no increase in the number or size of bedrooms unless the site on which the building is located will be in conformance with the off-street parking requirements of this chapter.

Sec. 41-681.4. Rehabilitation of single-family and two-family dwellings.

- (a) Rehabilitation of a nonconforming building whose primary use is a single-family dwelling or a two-family dwelling is permitted:
 - (1) in a residential district or a Specific Development where residential is permitted; or
 - (2) in a P district where the continuance of the use is not barred by Section 41-683 and the building complies with the minimum yard requirements applicable to buildings located in the R2 district.
- (b) Structural alterations and additions may be made where the total floor area of all such expansions occurring in a five year period does not exceed forty (40%) percent of the floor space of the building as it existed at the beginning of said time, provided:
 - (1) the number of bedrooms is not increased;
 - (2) the number of dwelling units is not increased; and
 - (3) no new nonconformances with the requirements of this chapter are created.
- (c) Structural alterations and additions which exceed forty (40%) percent of the total floor area as it existed at the beginning of a five year period; include the creation of new bedrooms; or remodeling which involves the demolition of more than fifty (50%) percent of the building shall be permitted; provided:

- (i) the number of dwelling units is not increased;
 - (ii) the parking is brought into conformance with code provisions;
 - (iii) no new nonconformities with the requirements of this chapter are created; and
 - (iv) a minimum of one thousand two hundred (1,200) square feet of usable, continuous, non-front yard open-space, excluding driveways and parking areas is provided. Any open space with a minimum dimension of fifteen (15) feet by fifteen (15) feet shall be deemed continuous open space.
- (d) Where rehabilitation of a building involves more than fifty (50%) percent of a building wall which encroaches into a front or side yard setback is demolished or is structurally altered, the remainder of the building wall shall be demolished. Any subsequent building wall shall conform to all provisions of this chapter.
- (e) For the purpose of this section, an existing two car garage with a minimum dimension of eighteen (18) feet by eighteen (18) feet exterior dimension shall be considered conforming.
- (f) For the purpose of this section, remodel shall mean to reconstruct, or to make over in structure or style, but shall exclude re-roof, window replacement, exterior finish replacement and repair or similar modifications.

Sec. 41-682. Restoration of damaged buildings. A nonconforming building or a building occupied by a nonconforming use which is damaged or partially destroyed by fire, flood, wind, earthquake, explosion or similar occurrence, may be restored and the nonconforming use continued, provided that the cost of repair or restoration does not exceed the building's fair market value prior to the date of the damage. In the repair or restoration of such building, there shall be no enlargement of such building nor any increase in the area of a nonconforming use within such building.

Sec. 41-683. Discontinuance of nonconforming building or use. Except as provided in section 41-683.5, if a nonconforming use is discontinued, or if a nonconforming building is vacant, unused or unoccupied for a period of twelve (12) consecutive months, any subsequent use must conform in every respect to the provisions of this chapter, and a nonconforming building may not thereafter be used or occupied until it conforms in every respect to the provisions of this chapter.

Sec. 41-683.5. Discontinuance of nonconforming use of building used for sale of alcoholic beverages. If a nonconforming use of a building for the sale of alcoholic beverages for either on-site or off-site consumption is discontinued for a period of six (6) consecutive months, any subsequent use of the building must conform in every respect to the provisions of this chapter. Any such use,

whether primary or incidental, which does not have a required permit shall be deemed a nonconforming use within the meaning of this section.

Sec. 41-684. Expansion of a nonconforming use. A nonconforming use of land or buildings shall not be expanded on the same or nearby property. A nonconforming use of part of a building shall not be expanded or extended into any other part of such building.

Sec. 41-685. Change of a nonconforming use.

- (a) Except as provided in subsections (b) and (c) of this section, and subject to the provisions of section 41-685.5, a nonconforming use may be changed to another nonconforming use if and only if the new use is unconditionally permitted in the district in which said use is situated and the new use complies with the off-street parking requirements of this chapter.
- (b) The conversion of a residence in any commercial or industrial district to a use permitted in that district shall conform in every respect to all requirements and conditions set forth for such new use by this chapter.
- (c) Except as specified in section 41-685.5, a commercial use in the M1 or M2 district which is a nonconforming use by reason of the absence of a conditional use permit may be changed to another commercial use without the necessity of obtaining a conditional use permit.

Sec. 41-685.5. Intensification of use.

- (a) A nonconforming use shall not be changed to another nonconforming use and a use in a nonconforming building shall not be changed to another use if an intensification of use would result.
- (b) As used herein, "intensification of use" means a change of use of land or buildings where more off-street parking spaces are required for the new use than were required for the previous use and/or where the new use would have greater adverse environmental effects than the previous use.
- (c) The determination of whether a change of use would result in an intensification of use shall be made by the planning director. Any person aggrieved by a determination of the planning director that the new use would have greater adverse environmental effects than the previous use shall be entitled to have such issue submitted to the planning commission for final determination. Otherwise, the decision of the planning director shall be final.

Sec. 41-686. Additional uses on lots of nonconforming use or building. While a nonconforming use or building exists on any lot, no other use, including, but not limited to, off-premises commercial advertising signs, shall be permitted even though such other use would otherwise be conforming. This section does not apply to wireless communication facilities.

Sec. 41-687. Nonconforming junk and auto salvage yards.

- (a) All junk or salvage yards situated in residential, commercial or light industrial districts shall be screened from adjacent properties and public streets by a solid wall or fence with solid gates to a height of not less than eight (8) feet, nor more than ten (10) feet. Further, the storage of wrecked vehicles and salvage materials shall not be piled higher than the wall or fence around such storage or work area.
- (b) All junk or salvage yards in the heavy industrial district shall be screened from adjacent properties and public streets by a solid wall or fence with solid gates to a height of not less than eight (8) feet, nor more than twelve (12) feet. Further, the storage of wrecked vehicles and salvage materials shall not be piled higher than the wall or fence within the front twenty-five (25) feet of the yard along adjacent properties and public streets, and stacks elsewhere on the site shall be no higher than fifteen (15) feet.
- (c) Solid fences or walls shall be constructed of any combination of masonry, brick, metal or wood with the approval of the planning department and shall be continuously maintained.
- (d) No salvage materials, wrecked automobiles or automobiles purchased for salvage shall be permitted to remain outside the solid fences or walls surrounding the junk and auto salvage yards.
- (e) All legal but nonconforming junk and auto salvage yards may continue, provided that they conform to the operational standards required in this section within six (6) months from the effective date of this section.

Sec. 41-688. Late-night eating establishments. From and after the date occurring two (2) years after the date of adoption of the ordinance adding this section to the municipal code [Jan. 18, 1994], no eating establishment which is a nonconforming use by reason of being open for business at any time between the hours of 12:00 a.m. and 5:00 a.m. shall continue to operate during such hours unless a conditional use permit to do so has been granted to such establishment.

Sec. 41-689. Nonconforming service stations. When a nonconforming service station is rehabilitated or intensified, or a use is changed on the premises, the fifteen-foot street frontage setback requirement may be reduced, provided that an equivalent area of landscaping is provided at a location on-site in the view of the public street and approved by the planning manager.

Sec. 41-690.1. Amortization of non-conforming transient/residential hotels. Any use of real property existing on June 7, 1999, which is a transient/residential hotel as defined in section 41-139 of this Code, but which was constructed, operated, and maintained in compliance with all regulations and design and development standards adopted by the city, shall be regarded as a

nonconforming use which may be continued until July 1, 2004. On or before such date, all such nonconforming uses shall be terminated unless an extension of time has been approved in accordance with the provisions of section 41-690.4 below.

- (a) *Abandonment.* Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as a transient/residential hotel for a continuous period of one (1) year shall result in a loss of legal nonconforming status of such use.
- (b) *Amortization—annexed property.* Any transient/residential hotel which was a legal use at the time of annexation of the property and which is located in the city, but which does not conform to the regulations and design and development standards for transient/residential hotels shall be terminated by July 1, 2004 or within one (1) year of the date of annexation, whichever comes later, unless an extension of time has been approved in accordance with the provisions of section 41-690.4.

Sec. 41-690.2. Reducing long-term occupancies in nonconforming transient/residential hotels.

- (a) Nonconforming transient/residential hotels with existing long-term occupancies shall notify such guests of the pertinent provisions of this chapter. Such notice shall be provided to current long-term guests at least thirty (30) days prior to January 1, 2002 and to new long-term guests established after July 1, 2001 at the time of occupancy.
- (b) The provisions of this section shall not be interpreted nor used to avoid the application of any rights of occupants pursuant to California Civil Code section 1940.1.
- (c) Nonconforming transient/residential hotels shall not re-rent units for subsequent long-term occupancies after such units are vacated by long-term guests after July 1, 2001, unless and until either:
 - (1) The hotel/motel no longer meets the definition of a transient/residential hotel; or
 - (2) The transient/residential hotel has been placed in a SP (Specific Plan) or SD (Specific Development) district and has obtained a conditional use permit.
- (d) For the purposes of this section, the phrase "long-term guest" or "long term occupancy" shall be a guest or occupancy with a stay exceeding twenty-eight (28) consecutive days or twenty-eight (28) days in any sixty (60) consecutive day period.

Sec. 41-690.3. Annual self-audit of all hotels/motels.

- (a) The operator or a hotel/motel shall keep written records of the name and permanent address of all persons renting a unit, together with the dates of occupancy, length of stay and room rate.
- (b) Annually, commencing January 31, 2001, each hotel/motel shall submit to the City Planning and Building Agency a report or statement of the average number of long-term guests at the hotel/motel on the following four days of the prior year: January 1, April 1, June 1, and September 1.
- (c) Each self-audit report or statement shall be subject to audit and verification by the city or its authorized agents, who are hereby authorized to examine, audit and inspect such books and records as may be necessary in their judgment to verify and determine the accuracy of the self-audit report or statement. The self-audit report or statement [shall] not be binding nor conclusive, nor shall the filing or failure to file such report or statement preclude the city from conducting an audit.
- (d) Every operator of a hotel/motel shall keep and preserve for a period of not less than four (4) years all records as may be necessary to determine the percentage of long-term guests at the hotel/motel, which records shall be made available to the city or its agents at all reasonable times for purposes of conducting an audit. Each operator shall permit an examination of such books and records at a location within the city. In the event such books and records cannot be made available within the city, the operator shall reimburse the city for the cost of all transportation, lodging, meals, portal-to-portal travel time and other incidental costs reasonably incurred by the city in conducting the audit. Appropriately identified confidential or proprietary information furnished to the city as part of an audit shall remain confidential, unless they are furnished to the city as part of an application pursuant to section 41-690.4, civil action or criminal prosecution.
- (e) For the purposes of this section, the phrase "long-term guest" or "long term occupancy" shall be a guest or occupancy with a stay exceeding twenty-eight (28) consecutive days or twenty-eight (28) days in any sixty (60) consecutive day period.

Sec. 41-690.4. Extension of time for termination of nonconforming use. The owner or operator of a nonconforming transient/residential hotel as defined in section 41-139 may apply under the provisions of this section for a one-time only extension of time within which to terminate the nonconforming use.

- (a) *Time and manner of application.* An application for an extension of time within which to terminate a use made nonconforming by the provisions of section 41-139, may be filed by the owner of the real property upon which such use is operated, or by the operator of the

use. Such an application must be filed with the Planning and Building Agency at least six (6) months but no more than eighteen (18) months prior to the time established in section 41-690.1 for termination of such use.

- (b) *Content of application; fees.* The application shall fully state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the schedule of fees established by resolution from time to time by the city council.
- (c) *Hearing procedure.* The planning commission shall hear the application at a duly noticed public hearing to be held not later than forty-five (45) days of receipt of the application. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness.
- (d) *Approval of extension; findings.* An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the planning commission makes all of the following findings or such other findings as are required by law:
 - (1) The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to a conforming use; and such investment was made prior to July 1, 2001; and
 - (2) The applicant will be unable to recoup said investment as of the date established for termination of the use; and
 - (3) The applicant has made good faith efforts to recoup the investment; and
 - (4) Despite the applicant's good faith efforts, significant numbers of long-term hotel guests who have continuously been hotel guests prior to July 1, 2001, have not checked out.
- (e) *Appeal of decision.* Any interested person may appeal the decision approving or denying such an extension pursuant to the provisions of Chapter 3 of this Code. The decision rendered by means of the provisions of Chapter 3 shall be final and subject to judicial review pursuant to Code of Civil Procedure section 1094.6.