

## Article 94. Nonconforming Uses.

### Sec. 26-94-010. Continuance.

The lawful use of land existing on the effective date of the ordinance codified in this chapter although such use does not conform to the regulations specified by this chapter for the district in which such land is located, may be continued but shall not be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use at the time of the adoption of said ordinance, and that if any use ceases, the subsequent use of such land shall be in conformance with the regulations specified by this chapter for the district in which such land is located provided that:

- (a) A legal nonconforming use may be replaced by a use of the same or less intensity upon obtaining a use permit or a use permit waiver;
- (b) Pursuant to policy LU-1f of the general plan, a legal nonconforming use may be expanded one time not to exceed ten percent (10%) of the total existing floor area for any structures subject to lot coverage and setback requirements and to all other applicable requirements of the this code, and provided that such structures are not located within a designated redevelopment project area;
- (c) A legal nonconforming use consisting of a mobile home may be replaced with a newer and larger mobile home in the same location, subject to Article 82.

(Ord. No. 4643, 1993.)

### Sec. 26-94-020. Reconstruction.

If at any time any commercial or industrial use in existence on the effective date of the ordinance codified in this chapter, which does not conform to the regulations for the district in which it is located, is damaged or destroyed by fire, explosion, Act of God, tortious conduct of a third party, or act of the public enemy, to the extent of more than fifty percent (50%) of the replacement value of the structure, the land shall be subject to all the regulations specified by this chapter or the district in which such land is located. Any legal nonconforming agricultural or residential structure so damaged may be rebuilt on the original foundation footprint. Additional floor area may be added to the structure in accordance with Section 26-94-010(b). "Replacement value," as used in this section, is equal to the cost of the labor and materials which would be necessary to construct the structure.

(Ord. No. 4643, 1993.)

### Sec. 26-94-030. Termination of use.

If the actual operation of a legal nonconforming use ceases for a continuous period of one (1) year, unless the legal owner can establish valid proof to the contrary, such cessation of the legal nonconforming use shall be considered termination; then without further action by the planning commission the use of the land shall be subject to all the regulations specified by this chapter for the district in which such land is located.

(Ord. No. 4643, 1993.)

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**Sec. 26-94-040. Repairs and maintenance.**

- (a) Remodeling, ordinary maintenance and repairs may be made to any legal nonconforming industrial or commercial structures to the extent of twenty percent (20%) of the appraised value of the structure during any calendar year period; provided, that foundation work shall be exempt from the twenty percent (20%) calculation. Remodeling, ordinary maintenance and repairs to any legal nonconforming agricultural or residential structure shall not be limited except as otherwise required by this article or by other provisions of law.
- (b) Nonconforming historic structures shall be exempt from the twenty percent (20%) calculation provided that they are either: (1) included in an historic combining district; or (2) are listed as an historic resource in a specific plan or coastal plan; and (3) have been certified to be an historic resource by the Sonoma County historic landmarks commission, or state of California or in the Federal Register of Historic Places; and (4) repair or reconstruction is an authentic replica of the original structure.

(Ord. No. 4643, 1993.)

**Sec. 26-94-050. Waiver of covered parking.**

The director of planning may waive the requirement for covered parking when a nonconforming structure is proposed for rehabilitation if topography, lot size or existing building location renders the requirement of covered parking unreasonable.

(Ord. No. 4643, 1993.)

**Sec. 26-94-060. Construction beginning prior to effective date of ordinance.**

Nothing contained in this chapter shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the effective date of the ordinance codified in this chapter. "Actual construction" is defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner; provided, that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved.

(Ord. No. 4643, 1993.)

**Sec. 26-94-070. Nonconforming uses created by change in districts.**

The foregoing provisions of this article shall also apply to nonconforming uses in districts hereafter changed.

(Ord. No. 4643, 1993.)

**Sec. 26-94-080. Outdoor advertising structures and signs.**

All outdoor advertising structures, outdoor advertising signs, appurtenant signs and directional signs existing on or prior to December 5, 1957, or the effective date of a change in land use classification, whichever is later, which do not conform to the provisions of this chapter relating to the district in which such outdoor advertising structures, outdoor advertising signs, appurtenant signs and directional signs are located shall be considered nonconforming uses. Subject to the limitations set forth in the State Outdoor Advertising Act, such nonconforming uses shall be removed without compensation within thirty (30) days after the expiration of the amortization period set forth in Business and Professions Code Sections 5412.1 and 5412.2. The amortization period for signs which may be

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amortized pursuant to Sections 5412.1 and 5412.3 shall commence after the adoption of the ordinance codified in this chapter and the giving of notice to the affected property owner. Wherever, by reason of the spacing limitations of this chapter, a greater number of outdoor advertising structures, outdoor advertising signs, appurtenant signs or directional signs exist in the R, LIA, LEA and DA districts than this chapter permits, the board of zoning adjustments shall determine the date of establishment of each such outdoor advertising structure, outdoor advertising sign, appurtenant sign or directional sign and determine which such signs are nonconforming and subject to amortization pursuant to Business and Professions Code Sections 5412.1 and 5412.3. Outdoor advertising signs and structures that were defined as general service boards and granted a use permit prior to the adoption of this ordinance shall become a nonconforming use, if they do not meet the provisos of this chapter.

(Ord. No. 4643, 1993.)