

PART II - THE CODE
CHAPTER 36 - ZONING
ARTICLE III. - GENERAL REGULATIONS, SPECIAL PROVISIONS, EXCEPTIONS AND INTERPRETATIONS
DIVISION 3. NONCONFORMING USES AND STRUCTURES

DIVISION 3. NONCONFORMING USES AND STRUCTURES

SEC. 36.06.60. Nonconforming uses and structures.

SEC. 36.06.65. Continuing existing uses.

Except as hereinafter specified, any use, building or structure lawfully existing at the time of the enactment of this chapter, may be continued even though such use, building or structure may not conform with the provisions of this chapter for the district in which it is located; provided, however, that this section does not apply to any use, building, or structure established in violation of any zoning ordinance previously in effect.

(Ord. No. 18.13, § 1, 12/10/13.)

SEC. 36.06.70. Nonconforming uses and nonconforming structures.

Existing uses and structures which do not conform to the regulations of the district where they are located shall be subject to these specific regulations in addition to the general regulations of the particular district in order to ensure that such uses and structures are not detrimental to the community, and to provide for their gradual elimination or improvement in order to further the general plan and overall goals of the city for orderly community development.

(Ord. No. 18.13, § 1, 12/10/13.)

SEC. 36.06.75. Nonconforming uses of land.

The nonconforming use of land not involving any building or structure except minor structures, such as fences and signs, or buildings less than four hundred (400) square feet in area, may be continued for a period of five years from the date the use becomes nonconforming, at the end of which period such nonconforming use shall cease or shall be changed to a conforming use.

Where a nonconforming use on a lot has ceased for six (6) months or more, such lot shall not again be used for a nonconforming use. Nonconforming use of land as used in this section shall include the use of either unimproved land or land containing minor structures such as fences, signs or buildings less than four hundred (400) square feet in area.

(Ord. No. 18.13, § 1, 12/10/13.)

SEC. 36.06.80. Nonconforming uses of structures or buildings.

- a. The nonconforming use of any commercial, industrial or office building located in an "R" district, or in an area designated for residential use in the Mountain View general plan shall be terminated within forty (40) years of the date the use became nonconforming, unless a conditional use permit is obtained from the zoning administrator in accordance with the provisions of Sec. 36.48 (Conditional Use Permit) to authorize the continuation of such use.

In considering whether or not such a permit may be issued, in addition to procedures and criteria contained in Sec. 36.48 (Conditional Use Permit), the following criteria shall be applied:

1. The degree to which the use serves a need, which is directly related or complementary to permitted uses of the property;
 2. The degree to which the nonconforming use creates parking, traffic or congestion problems;
 3. The degree to which the nonconforming use can be assured not to be detrimental to the habitability of adjacent properties throughout the period of its continued use; and
 4. The degree to which the general appearance will not detract from the neighborhood character or desirability.
- b. The use of a nonconforming residential building or mobile home, located in a "C" or "M" district, shall be allowed to continue for the structural life of the building.
- c. The nonconforming use of a conforming building or structure may be continued for a period of five (5) years from the date the use becomes nonconforming, at the end of which period such nonconforming use shall be changed to a conforming use or be terminated.
- d. No existing building, structure or land devoted to a nonconforming use shall be enlarged, extended, reconstituted or substituted, or substantially altered, unless the use thereof is changed to a permitted use in the district in which such building, structure or land is located, except as follows:
1. When authorized by the zoning administrator and in accordance with the provisions of Sec. 36.48 (Conditional Use Permit), a nonconforming use may be changed to a use of the same or more restrictive nature.
 2. When authorized by the zoning administrator and in accordance with the provisions of Sec. 36.48 (Conditional Use Permit), a nonconforming use of a building may be extended throughout those parts of the building which were manifestly designed or arranged for such use prior to the date when such use or such building became nonconforming, if no structural alterations, except for those required by law, are made therein.
 3. When authorized by the zoning administrator and in accordance with the provisions of Sec. 36.48 (Conditional Use Permit), minor alterations to nonconforming residential developments may be authorized which do not exceed four hundred (400) square feet or twenty-five (25) percent of the floor area of the residential structure when it became nonconforming, whichever is less, and are only intended to increase the habitability of the residential unit.
 4. Repairs and maintenance may be made to a legal nonconforming use of buildings or structures as required to keep it in safe condition provided no structural alteration or replacement shall be made except as required by law or ordinance, or for seismic retrofit (as approved by the chief building official or his/her designee) related to soft-story buildings. For purposes of this provision, a "soft-story" building shall be a wood frame building, including a multi-unit residential building, constructed before January 1, 1978, where the ground-floor portion of the structure contains parking or other similar open floor space that causes soft, weak or open-front wall lines.

Seismic retrofit means either structural strengthening or providing the means necessary to modify the seismic response that would otherwise be expected by an existing building during an earthquake, to significantly reduce hazards to life and safety while also providing for the substantial safe ingress and egress of the building occupants immediately after an earthquake.
- e. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

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- f. If the nonconforming use of a building, structure or premises ceases for a period of six (6) months or more, said use shall be considered abandoned; and said building, structure or premise shall thereafter be used only for uses permitted in the district in which it is located.
 - g. Where a structure or building containing a nonconforming use is damaged or destroyed by any natural disaster or accident and repair or replacement exceeds fifty (50) percent of the cost of construction of a comparable new building (as determined by the chief building official), it shall not be reconstructed to accommodate a nonconforming use. It may only be restored and used in conformity with the provision of the district.
 - h. All uses nonconforming at the time of adoption of this chapter, by reason of noncompliance with the performance standards stipulated, shall adopt necessary measures and conform within three (3) years of the adoption of this chapter or shall be discontinued.
 - i. All uses, nonconforming by reason of noncompliance with the provisions related to private swimming pools, shall be made to conform therewith prior to April 1, 1971.

(Ord. No. 18.13, § 1, 12/10/13; Ord. No. 21.16, § 2, 12/13/16.)

SEC. 36.06.85. Nonconforming structures or buildings.

- a. Any nonconforming commercial, industrial or office building located in an "R" district or in an area designated for residential uses in the Mountain View general plan shall be removed within forty (40) years of the date the building or structure became nonconforming unless a conditional use permit is obtained from the zoning administrator in accordance with the provisions of Sec. 36.48 (Conditional Use Permit), to authorize the continuation of the building or structure.
- b. Any nonconforming residential building, structure or mobile home located in a "C" or "M" district shall be allowed to continue for the structural life of the building, structure or mobile home.
- c. Any expansion of a nonconforming building or structure must comply with the latest applicable property development standards of the district and not increase the degree of nonconformity which exists on the property.
- d. Repairs and maintenance may be made to a legal nonconforming building or structure as required to keep it in safe condition provided no structural alteration or replacement shall be made except as required by law, ordinance or for seismic retrofits (as approved by the chief building official or his/her designee) of soft-story buildings. For purposes of this provision, a "soft-story" building shall be a wood frame building, including a multi-unit residential building, constructed before January 1, 1978, where the ground-floor portion of the structure contains parking or other similar open floor space that causes soft, weak or open-front wall lines.
- e. An existing nonconforming building or structure which is damaged by natural disaster or accident and the cost of restoration does not exceed fifty (50) percent of the cost of construction of a comparable new building (as determined by the chief building official) may be restored and used as before, provided that such restoration be completed within one (1) year of such happening. Where damage exceeds fifty (50) percent, such building may only be restored or replaced in accordance with the latest applicable property development standards of the district except as provided in subsection 36.06.80.f.
- f. If a nonconforming residential development located in any residential district is destroyed by any natural disaster or accident by more than fifty (50) percent of the cost of construction of a comparable new building (as determined by the chief building official), the building or structure may be reconstructed within one (1) year of such happening with the same number of units, provided that the reconstructed portions conform to the latest property development standards of the district applicable to the total number of units on the site

at the time of reconstruction (e.g., R3 development standards must be complied with of any development having three (3) or more units).

- g. When authorized by the zoning administrator in accordance with the provisions of Sec. 36.48 (Conditional Use Permit), minor alterations to nonconforming residential developments may be authorized which do not exceed four hundred (400) square feet or twenty-five (25) percent of the floor area of the residential structure when it became nonconforming, whichever is less, and are only intended to increase the habitability of the residential unit.
- h. When a development does not meet development standards of the zone, modifications which bring the development more into conformance with the zone may be permitted with development review approval.
- i. If an existing nonconforming structure in the R1 district is expanded such that the expanded structure is more than twice the size of the original structure, the entire structure must comply with the latest applicable property development standards of the district.

(Ord. No. 18.13, § 1, 12/10/13; Ord. No. 21.16, § 3, 12/13/16.)

SEC. 36.06.90. Development of a remnant parcel.

A nonconforming remnant parcel or parcels, as defined in Sec. 36.48 (Conditional Use Permit), which is merged with a contiguous developed parcel, may, after merger of these parcels, be developed or redeveloped at a density equal to the legal nonconforming density of the previously developed parcel. Except as specifically exempted herein, such development of the remnant parcel shall comply with all other applicable sections of this chapter. The development shall not result in an overall reduction of existing landscaping, amenities or parking.

(Ord. No. 18.13, § 1, 12/10/13.)

SEC. 36.06.95. Nonconforming signs.

All signs, billboards or commercial advertising structures except window signs which do not conform to the requirements of this chapter may be continued five (5) years from the date it becomes nonconforming, at which time such nonconforming signs shall be modified to conform to the requirements of this chapter or shall be removed.

All signs, billboards or commercial advertising structures in a planned community (P) district which do not conform to the provisions of the precise plan applicable thereto shall be removed or modified to conform to the provisions of such precise plan by the date, if any, specified in such plan or five (5) years from the date such sign, billboard or commercial advertising structure became nonconforming, whichever is later. Any modification of the standards applicable to a sign, either by ordinance change or by imposition or amendment of the sign standards in a precise plan, shall not be construed as extending the amortization period of any sign which was nonconforming prior to such modification.

Any sign, billboard or commercial advertising structure not removed or brought into conformity with the requirements of this chapter, or any applicable precise plan, by the date specified above, is hereby declared to be a public nuisance and may be abated by the city attorney or other appropriate city official.

(Ord. No. 18.13, § 1, 12/10/13.)