

## ARTICLE 17. GENERAL PROVISIONS AND EXCEPTIONS

### Sec. 1701. 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 parcel or subdivision map, 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 parcel or subdivision map, deed or contract of sale was recorded, may be used for any permitted use, but shall be subject to all other regulations for the district in which the site is located.

Two (2) or more adjoining vacant sites with continuous frontage, each having an area, width or frontage less than the minimum prescribed for the district in which the sites are located, in a single ownership, as of the date of adoption of this ordinance or subsequent thereto, shall be subject to all regulations for the district in which the site is located, including minimum area, width and frontage requirements, as if the site constituted a single parcel of real property, except that in the R-1-6, R-1-8, PO and T Districts where such sites are shown on a duly approved and recorded parcel or subdivision map as having a width less than that required for such district under the provisions of this ordinance such sites may be divided as indicated on the recorded parcel or subdivision map, provided that in no case shall such divided sites have less than fifty (50) feet of width, and further provided that there are no structures or improvements on such sites which require their continued combination for compliance with the provisions of this ordinance or other development regulations of the county.

For the purpose of this section, the term "vacant site" shall mean that the site is not developed with a building for which a permit has been issued pursuant to the provisions of Chapter 5 of the Code of Ordinances of the county.

(Ord. No. 269.3, § 25, 5-6-69; Ord. No. 269.18, § 20, 9-5-78)

### Sec. 1702. Coverage; measurement.

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

### Sec. 1703. Yard spaces.

No yard spaces provided about any structure in compliance with the regulations for the district in which the structure is located shall be deemed to provide a yard space for any other structure, and no yard on one site shall be deemed to provide a yard space for a structure on any other site.

### Sec. 1704. 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 where a precise street plan has been adopted by the Board of Supervisors, required 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; and provided further that where a site abuts on a street having only a portion of its required width dedicated or reserved for street purposes, required yards shall be measured from a line drawn on the boundary of the additional width required for street purposes abutting the site.

On a site which is not rectangular or approximately rectangular in shape, required yards shall be measured in the manner prescribed by the County Planning Commission.

### Sec. 1705. Yard requirements; exceptions.

Architectural features including sills, chimneys, cornices and eaves may extend into a required side yard or a space between structures not more than twenty-four (24) inches and may extend into a required front or rear yard not more than six (6) feet.

Support posts for open porch covers may extend into the front yard area up to six (6) feet, but not into the side or rear yard areas. No building or projection thereof may extend into a public utility easement.

Open, unenclosed, uncovered metal fire escapes may project into any required yard or space between buildings not more than three (3) feet. Planter boxes attached to the building may extend into the required front yard by not more than three (3) feet.

Fences, walls, hedges, walks, driveways and retaining walls may occupy any required yard or other open spaces, subject to the limitations prescribed in the district regulations.

(Ord. No. 269.56, § 53, 9-10-03)

**Sec. 1706. Height limitations; measurement.**

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.

**Sec. 1707. Height limitations; exceptions.**

Towers, spires, cupolas, chimneys, penthouses, water tanks, flagpoles, monuments, scenery lofts, radio and television aerials, transmission towers, fire towers and similar structures and necessary mechanical appurtenances covering not more than ten per cent (10%) of the ground area covered by the structure may be erected to a height not more than twenty-five (25) feet above the height limit prescribed by the regulations for the district in which the site is located. Public utility communication equipment buildings and utility poles and towers shall not be subject to the height limits prescribed in the district regulations.

**Sec. 1708. Maintenance of landscaped areas.**

A landscaped area provided in compliance with the regulations prescribed in this ordinance or as a condition of a use permit or variance shall be planted with 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 with an automatic irrigation system, weeded, pruned, fertilized, sprayed, or otherwise maintained to assure compliance with regulations requiring landscaped areas.

**Sec. 1709. Non conforming uses and structures.**

**A. Purposes:**

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, under this ordinance, does not conform with the use regulations for the district in which it is located. This section is intended to limit the number, extent, and duration of non conforming uses and to serve their gradual elimination by prohibiting their enlargement and their re-establishment after abandonment and by prohibiting the alteration of the structure they occupy and their restoration after destruction.

A non conforming structure is a structure which was lawfully erected prior to the adoption of this ordinance but which, under this ordinance, does not conform with the standards of coverage, yard spaces, height of structures or distances 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 and duration of non conforming structures and to service their gradual elimination 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.

**B. Continuation and maintenance:**

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, as provided in this section.

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, height of structures 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 as provided in this section.

Routine maintenance and repairs may be performed on a structure or site, the use of which is non-conforming, and on a non conforming structure.

**C. Alterations and additions to non conforming uses:**

No structure, the use of which is non conforming, 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, except that a structure housing a non conforming residential use may be moved, altered or enlarged, provided that the number of dwelling units is not increased.

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.

No non conforming use shall be enlarged or extended in such a way as to occupy any part of the structure or site of another structure or site which it did not occupy on the effective date of this ordinance or of the amendment thereto which caused it to become a non conforming use or in such a way as to displace any conforming use occupying a structure or site.

**D. Alterations and additions to non conforming structures:**

No non conforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between existing conditions and the standards of coverage, front yard, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located.

**E. Change of non conforming use:**

Except as otherwise prescribed in this section, the non conforming use of a structure or site may be changed to another non conforming use provided that the change of use is approved by the planning commission in accord with the following procedure:

1. Application for a change of use shall be made to the commission on a form prescribed by the commission which shall include the following data:
  - a. Name, address, and signature of the applicant, and the property owner as shown on the latest equalized assessment roll if the applicant is not the property owner. Signatures shall be Notarized when filing is done by mail or not witnessed by Planning Department representatives.
  - b. A signed statement on the application or attached to it, that the applicant is the owner of the property or is the authorized agent of the owner. If the applicant is not the property owner, the owner must also sign and date the application, and indicate that the applicant is authorized to make an application on that property. The owner's signature shall be Notarized when filing is done by mail or not witnessed by Planning Department representatives.
  - c. A public utility company or other agency with powers of eminent domain may make an application without the owner's authorization.
  - d. Address or description, and Assessor's Parcel Number (APN) of the property.
  - e. Statement of the precise nature of the existing or preexisting non conforming use and the proposed non conforming use and any other data pertinent to the finding prerequisite to the granting of an application prescribed in paragraph 3 of this section.

The application shall be filed with the zoning administrator, who shall give notice to the applicant and the property owner of the time when the application will be considered by the planning commission, and may give notice of the time to any other interested party.

2. The zoning administrator shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the planning commission. The report shall include the results of the investigation pertaining to the conformance of the structure for the proposed use. The commission shall consider the report of the zoning administrator before acting on the application.
3. The planning 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 preexisting 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 that a conditional use shall be deemed to be in a less restricted 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 preexisting use.
  - c. That the proposed use will not create more vehicular or rail traffic than the volumes created by the existing or pre-existing 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 amounts created by the existing or pre-existing use.
  - 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.
4. 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.
5. Following the date of denial of an application for a change of use or revocation of an action of the planning 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 denial of the application or revocation of the action of the commission, provided, however, that an application for a change involving another use for the same structure or site may be filed at any time following said denial or revocation.

**F. Public hearing, notice:**

The county planning commission shall hold a public hearing on each application for a change of non conforming use. Such hearing shall be held within forty-five (45) days of the date when the application is complete. An application shall not be deemed complete until the public review requirements pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000, et seq. have been completed.

Notice of the public hearing shall be given as set forth in Section 1803.

**G. Public hearing; procedure:**

At the public hearing, the county planning commission shall review the application, the statement, and drawing submitted therewith, and the report of the zoning administrator and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings prescribed in section 1709 E, paragraph 3.

**H. Notice of commission action:**

Within five (5) days of the commission decision, a record of the action taken shall be submitted to the clerk of the board of supervisors and to the applicant.

**I. Review by board of supervisors:**

Within eight (8) days following the date of a decision by the planning commission on a change of non conforming use or on an application for extension of a change of non conforming use permit, or on the revocation of a change of non conforming use permit, the board of supervisors, on its own motion, may initiate proceedings to review the decisions of the planning commission.

The clerk of the board shall give notice of the time and place when the decision of the planning commission will be reviewed by the board of supervisors. Notice will be given in the same manner as provided in section 1709 J of this ordinance for notice of hearing on appeal, except that where the review is of a decision of the planning commission concerning the revocation of a change of non conforming use permit, and in that case, notice shall be required to be given only to the holder of the change of non conforming use permit.

**J. Appeal to the board of supervisors:**

Within eight (8) days following the date of a decision of the Planning Commission on a change of non conforming use application or an application for extension of change of non conforming use permit, the decision may be appealed to the Board of Supervisors by the applicant or any other interested party. An appeal shall be filed with the Clerk of the Board of Supervisors and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Planning Commission or wherein its decision is not supported by the evidence in the record. Within five (5) days after the filing of an appeal from a decision of the Planning Commission on a change of non conforming use application, the Zoning Administrator shall transmit to the Clerk of the Board of Supervisors the change of non conforming use application, the scale drawing of the site and all other data filed therewith, the minutes of the public hearing, if any, the report of the Zoning Administrator, the findings of the Commission and their decision on the application.

Where an appeal is from a decision of the Planning Commission on an application for a extension of a change of non conforming use permit application, the Zoning Administrator shall transmit to the Clerk of the Board of Supervisors within five (5) days after the filing of an appeal, in addition to the above, the application for extension, the report of the Zoning Administrator on the extension application, the minutes of the public hearing, if any, and the findings and the decision of the Commission on the extension application.

Notice of the hearing of the appeal shall be given by the Clerk of the Board of Supervisors not less than ten (10) days prior to the time when the appeal will be considered by the Board, by mailing, postage prepaid, a notice of the time and place of the hearing, to the applicant and to the appellant (if the applicant is not the appellant) and to all persons whose names appear on the latest adopted tax roll of Kings County as owning property immediately adjacent to the boundaries of the area occupied or to be occupied by the use which is the subject of the appeal.

**K. Action of the board of supervisors:**

When a decision of the Planning Commission on a change of non conforming use application or an application for extension of a change of non conforming use permit, or on the revocation of a change of non conforming use is brought before the Board of Supervisors, either on appeal or on its own motion, the Board of Supervisors may affirm, reverse or modify the decision of the Planning Commission, provided, however, that the Board of Supervisors may not reverse a decision of the Planning Commission denying an application for a change of non conforming use or an application for a extension of a change of non conforming use, nor may the Board of Supervisors modify a decision of the Planning Commission granting a change of non conforming use or an application for a extension of a change of non conforming use, unless the Board of Supervisors shall, on the basis of the record transmitted by the Zoning Administrator and on the basis of such additional evidence as may be submitted, be able to make the findings prerequisite to the granting of a change of non conforming use, as prescribed and set forth in Section 1709.E. Paragraph 3.

A change of non conforming use application or an application for extension of a change of non conforming use which has been the subject of an appeal to the Board of Supervisors, shall become effective three (3) days after the date on which the application for the change of non conforming use or the application for extension of the change of non conforming use is granted and approved by the Board of Supervisors.

The revocation of a change of non conforming use which has been the subject of an appeal to the Board of Supervisors or which has been the subject of review by the Board shall become effective three (3) days after the decision of the Board of Supervisors to revoke the change of non conforming use.

The Clerk of the Board of Supervisors shall within three (3) days after the date of the decision of the Board of Supervisors, give written notice of the decision, by mail, to the applicant and/or appellant (if the applicant is not the appellant) and to the Zoning Administrator.

**L. Building permit:**

Before a building permit shall be issued for any building or structure proposed as part of the approved change of non conforming use application, the zoning administrator shall certify that the proposed building location is in conformity with the site plan and conditions approved by the planning commission or board of supervisors.

Before a building may be occupied, the building official shall certify that the site has been developed in conformity with the site plan and conditions approved by the planning commission or board of supervisors. Such certification shall be made within twenty-four (24) hours from the time of final building inspection.

**M. Lapse of change of non conforming use permit:**

A change of non conforming use permit shall lapse and shall become void one hundred eighty (180) days following the date on which the permit became effective unless by conditions of the permit a greater or lesser time is allowed as prescribed in accordance with section 1709.E. paragraph 4, of this article, or unless prior to the expiration of one hundred eighty (180) days, a building permit is issued by the building official and construction is commenced and diligently pursued toward completion on the site which was the subject of the change of non conforming use application.

**N. Extension of change of non conforming use permit:**

A change in non conforming use permit which has been granted may be extended for an additional period of one hundred eighty (180) days provided that prior to the expiration of one hundred eighty (180) days from the date when the permit originally became effective, an application for extension of the permit is filed with the county planning commission. An application for extension of a change of non conforming use permit shall be filed and processed in the manner set forth in Article 17 of this ordinance which governs the filing and processing of application for change of non conforming uses. The planning commission may grant an application for extension of a change of non conforming use if it is able to make the findings prerequisite to the granting of a change of non conforming use application as prescribed and set forth in section 1709.E. paragraph 3, of this ordinance. The application for extension of change of non conforming use shall be denied if such findings cannot be made.

Within eight (8) days following the date of a decision of the planning commission on an application for extension of a change of non conforming use, the decision may be appealed to the board of supervisors. If no appeal is filed within said eight-day period and if the board of supervisors within said eight-day period does not initiate proceedings to review the decision of the planning commission as provided herein, the decision of the planning commission shall be final and conclusive.

**O. Revocation:**

When any applicable provision of this ordinance or when any condition or conditions of a change of non conforming use permit have not been complied with, the zoning administrator shall notify the holder of the permit and shall give said person a reasonable period of time within which to comply with said ordinance or condition or conditions. If the holder of the permit fails to comply with the ordinance or with said condition or conditions within such period of time, the zoning administrator shall submit a report to the planning commission and the planning commission shall on its own motion give written notice to the holder of the permit that a hearing will be held by the planning commission on the matter of the revocation of the change of non conforming use.

Notice of said hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by either personal service of a copy of said notice on holder of the permit or by sending a copy of the notice by certified or registered mail, return receipt requested, to said holder of the permit. The notice shall state the reason or reasons why action is being taken for revocation of the permit.

At said hearing the planning commission shall hear all relevant testimony concerning the change of non conforming use permit and the provisions of the ordinance which allegedly have not been complied with and the condition or conditions which were imposed. If the planning commission finds that any of the applicable provisions of the ordinance have not been complied with or that the condition or any of the conditions imposed have not been complied with, then the change of non conforming use permit shall be revoked.

If the change of non conforming use permit is revoked by the planning commission, the holder of such permit may within eight (8) days following the date of the decision of the planning commission, appeal the decision to the board of supervisors. Upon the making of the decision by the planning commission to revoke the change of non conforming use, said permit shall be automatically suspended. If an appeal is filed or if the board of supervisors initiates a review of the decision to revoke the permit the suspension shall remain in effect during the course of appeal or review. If within said eight (8) days, no appeal is filed and the board of supervisors does not initiate proceedings to review the decision of the planning commission as provided in section 1709.I. of this ordinance, the decision of the planning commission shall be final and conclusive.

The appeal shall be filed with the clerk of the board of supervisors and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the planning commission or wherein the decision is not supported by the evidence in the record.

Within five (5) days after the filing of an appeal, the zoning administrator shall transmit to the clerk of the board of supervisors the change of non conforming use permit application, the minutes of the public hearing on the application, if any, the report of the zoning administrator, the findings and decision of the commission, the report of the zoning administrator on the failure of the appellant to comply with the provisions of the ordinance or with the condition or conditions of the permit, the minutes of the hearing on the matter of revocation and the findings and decision of the planning commission on the matter of revocation of the use permit.

Notice of the hearing of the appeal shall be given by the clerk of the board of supervisors not less than ten (10) days prior to the time when the appeal will be considered by the board, by mailing, postage prepaid, a notice of the time and place of the hearing, to the appellant.

**P. Notation on zoning map:**

A change in non conforming use permit shall be indicated on the zoning map by a number location on the site of the conditional use.

**Q. New application:**

Following the denial of a change of non conforming use permit application or the revocation of a change of non conforming use permit, no application for a permit for the same or substantially the same change of non conforming use on the same or substantially the same site shall be filed within one (1) year from the date of denial or revocation of the permit.

**R. Permit to run with the land:**

A change in non conforming use permit granted pursuant to the provisions of this article shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the permit application.

**S. Abandonment of non conforming use:**

Whenever a non conforming use has been abandoned, discontinued or changed to conforming use for a continuous period of six (6) months, the non conforming use shall not be re-established and the use of the structure or site thereafter shall be in conformity with the regulations for the district in which it is located.

**T. Restoration of a damaged structure:**

Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with the standards of coverage, front yard, side yards or rear yard, height of structures, or distances between structures prescribed in the regulations for the district in which the structure is located, shall be destroyed by fire or other calamity, or by an act of God or by the public enemy to the extent of fifty per cent (50%) or less, the structure may be restored and the non conforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion.

Whenever a structure, the use of which does not conform with the regulation for the district in which it is located, or a structure which does not comply with the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located, shall be destroyed by fire or other calamity, or by act of God or by the public enemy to a greater extent than fifty per cent (50%), 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 for the district in which it is located, and the non conforming use shall not be resumed.

The extent of damage to any structure shall be determined by the Building Official.

**U. Elimination of non conforming uses:**

1. The following non conforming uses and structures shall be discontinued and removed from their sites within three (3) years from 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 five hundred dollars (\$500.00), except that in R Districts where a use complies with all requirements of Section 1601.A. with the exception that such use is conducted in a detached structure, such use shall not be required to be eliminated.
  - (c) A non conforming sign or outdoor advertising structure.
2. Uses permitted only in a C or M District which are located in an R or RM District and uses permitted only in an MH District which are located within a C District shall be completely removed or altered and converted to a conforming status in accordance with the following schedule:

**TYPE OF CONSTRUCTION**

| <u>Uniform Building Code<br/>(Latest Adopted Edition)</u> | <u>Period of<br/>Amortization</u> |
|---|-----------------------------------|
| Type I and II   | 40 years                          |
| Type III and IV   | 30 years                          |
| Type V  | 25 years                          |

The period of amortization shall begin on the date the use first became non-conforming on or after the effective date of this Ordinance. The time schedule is deemed to provide for the amortization of the affected uses.

When said non conforming use is removed, at or before the end of the amortization period, every future use shall be in conformity with the provisions of this Ordinance. Repairs necessary to maintain a non conforming use shall not be construed as lengthening the amortization period set forth by this section.

3. 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 three (3) Years after the effective date of this Ordinance, be removed or made to conform.

**V. Time when use or structure 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 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.

**W. Records and notification of non conforming status of a building, structure or use:**

1. Within one hundred fifty (150) days after the effective date of amendment to the zone district boundaries of this ordinance, the zoning administrator shall notify, in writing, the owners of all non conforming structures or uses, affected by the change, of the non conforming status of their property and the date when such structures or uses shall be removed or made conforming by said owners. An excerpt of this ordinance shall be attached to said notice, which excerpt shall include all of the provisions of section 1709 of this article.

(Ord. No. 269.1, § 24, 6-21-66; Ord. No. 269.18, § 21, 9-5-78; Ord. No. 269.33, § 36, 9-21-82; Ord. No. 269.44, § 35, 7-29-97; Ord. No. 269.63, §§ 33 through 36, 4-25-06; Ord. No. 269.65, § 125, 10-28-08)

## **Sec. 1710. Review of utility towers.**

### **A. Application:**

The provisions of this ordinance shall not be construed as to limit or interfere with the construction, installation, operation and maintenance of any use coming under the jurisdiction of the public utilities commission, which uses are related to the public utility purposes of water and gas pipes, mains and conduits, telegraph and telephone lines, pole mounted repeaters, telephone booths, sewers and sewer mains, electric light and power distribution and transmission lines, except as provided in paragraph B, of this section.

### **B. Procedure:**

The routes of proposed overhead electric transmission lines shall be submitted to the zoning administrator for his review and recommendations. The zoning administrator shall confine his review to the route, placement and height of such towers and the effect on land use.

1. Power transmission lines shall be those lines which are intended to transmit electrical energy from:
  - (a) The source of such energy to a receiving substation.
  - (b) A receiving substation to a distribution substation.

Prior to the acquisition of rights-of-way, the following plans and information shall be submitted to the zoning administrator for his or her review and recommendation:

1. The location of the proposed route.
2. Type of towers and transmission lines.
3. Approximate height of towers.
4. Width of rights-of-way.
5. Other pertinent data.

The zoning administrator may, when in the public interest, recommend such modifications as he or she deems necessary to protect the public health, safety and welfare.

The zoning administrator shall complete his or her review and make his or her findings within thirty (30) days after the filing of said plans and data.

### **C. Appeals:**

The recommendations of the zoning administrator may be appealed to the board of supervisors within fifteen (15) days of the completion of the review and findings. Such appeal shall be processed in the manner prescribed in Article 19, for appealing conditional use permits.

This appeal procedure is for the purpose of allowing the affected public utility to have its plans reviewed further by the board of supervisors and does not imply that said public utility must follow the recommendations of the zoning administrator if it fails to appeal.

(Ord. No. 269.56, § 54, 9-10-03)

## **Sec. 1711. General exceptions.**

- A. Nothing in this ordinance pertaining to non conforming structures and uses shall be construed or applied so as to require the termination, discontinuance or removal or so as to prevent the expansion, modernization, replacement, repair, maintenance, alteration, reconstruction, or rebuilding and continued use of public utility buildings, structures, equipment, and facilities, provided that there be no change of use nor enlargement of those areas so used.
- B. The provisions of this ordinance shall not apply to a fence or wall necessary for the public safety as required by any law or regulation of the State of California or any agency thereof.
- C. Animal feeding operations.

1. The provisions of this article shall not require the elimination of bovine and goat dairies, calf and heifer raising facilities, animal sales and stock feeding yards, other commercial animal feeding operations, or commercial poultry keeping and raising operations within the AG-20, AG-40, AX and AL-10 zone districts, which were legally established prior to the effective date of the ordinance, provided however, that expansions to said uses may be permitted only upon granting of a conditional use permit for poultry operation and bovine dairies in the AL-10 zone district, or issuance of a site plan review for bovine dairies in the AG-20, AG-40, and AX zone districts. Dairies, dairy calf and heifer raising facilities, animal sales and stock feeding yards, or poultry keeping and raising operations located within AG-20, AG-40, AX and AL-10 zones may discontinue operations for a period of time not to exceed two (2) years and reactivate operations at the same herd or flock size and in the same facility without first obtaining a conditional use permit or site plan review.
2. Notwithstanding Section 1709.C., an addition to, or expansion of, an existing bovine dairy facility or site which is non-conforming solely due to its status as a dairy that was built and operated prior to this Ordinance's requirement for zoning permits, or a dairy that has had a zoning permit issued prior to the adoption of the Dairy Element of the Kings County General Plan may be allowed without bringing the existing portion of the dairy facility or site into compliance with the Dairy Element standards. However, all new additions and the expanded areas of the dairy shall conform to the Dairy Element standards.

D. The provisions of this zoning ordinance intended to implement the Surface Mining and Reclamation Act of 1975 shall not be construed so as to apply to:

1. Excavations or grading conducted for the purpose of establishment or expansion of percolation basins, recharge basins, or similar uses, or conducted for farming or on-site construction, or for the purposes of restoring land following a flood or natural disaster.
2. Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand (1,000) cubic yards in any one location of one acre or less.
3. Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose.
4. Such other surface mining operations which the California State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.

E. **Discontinued or abandoned uses and zoning permits:**

1. The provisions of this article shall not require a new site plan review or conditional use permit for the change in operation within a structure or at a site for the same or similar activity, unless the original activity has discontinued operations and vacated the site, or abandoned the use, for more than six (6) months and/or a change of occupancy classification has occurred. The zoning administrator's interpretation of whether a new use or operation of an activity is the same or a similar use or activity is final unless modified by the County Planning Commission or the Board of Supervisors. Challenges to the zoning administrator's interpretation shall be processed as conditional use permits.

F. **Change of use and change of occupancy requires new zoning permit:**

1. If the change in operation within a structure or at a site constitutes a change of occupancy classification under the California Building Code, a new site plan review/conditional use permit shall be required regardless of the period of time which has passed since the previous permitted use has ceased operation.
2. A change in operation within a structure or at a site for the purposes of determining the requirement for a new site plan review or conditional use permit shall be through the use of a Change of Use/Compliance Inspection processed through the Kings County Building Department. Each time that a use which has been previously permitted through a conditional use permit or through a site plan review, a change of use/compliance inspection shall be required to document the change in the permitted use, to determine whether or not a change of occupancy classification will occur and/or if a new zoning permit is required for the new use.
3. If the Planning Agency determines that all of the conditions or requirements of the current zoning permit were not complied with or requirements contained in the zoning ordinance have changed significantly, the Zoning

Administrator, at his/her discretion, may require a new zoning permit regardless of change of occupancy classification.

(Ord. No. 269.18, § 22, 9-5-78; Ord. No. 269.20, § 4, 7-3-79; Ord. No. 269.26, § 1, 9-30-80; Ord. No. 269.54, § 9, 7-30-02; Ord. No. 269.56, § 55, 9-10-03; Ord. No. 269.65, §§ 126 and 127, 10-28-08)

**Sec. 1712. Flood hazard reduction.**

Before any approval granted pursuant to the zoning ordinance is effective, any compliance requirements with Chapter 5A (Flood Damage Prevention) of the Kings County Code of Ordinances must be completed or obtained.

(Ord. No. 474, § 5, 2-7-89)

**Sec. 1713. Adjustment of nonconforming sites, site area.**

The property line(s) between two or more contiguous parcels, where at least one of the parcels contain less than the minimum parcel area required for that zone district, may be adjusted so that territory may be transferred between parcels if all of the following findings can be made by the Zoning Administrator:

- A. No additional non-conforming parcels will result from the adjustment.
- B. Where individual water supply or individual sewage waste disposal systems are to be utilized on the sites, the smallest parcel shall not be diminished to less than one (1) acre in area.
- C. No other health or safety problems are likely to occur from the transfer.
- D. The transfer of the territory from one parcel to another parcel is accomplished pursuant to the *Kings County Subdivision Ordinance* (Chapter 21 of the *Kings County Code of Ordinances*) and the Subdivision Map Act (beginning at Section 66410 of the California Government Code).
- E. If one or more of the parcels are within an agricultural preserve and subject to a *California Land Conservation (Williamson) Act of 1965* contract, the resulting restricted parcels will still comply with the provisions of the “Williamson” Act and the contract.
- F. Reserved.

(Ord. No. 269.45, § 5, 6-23-98; Ord. No. 269.49, § 8, 12-7-99; Ord. No. 269.65, § 126, 10-28-08)

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