

ORDINANCE NO. 2007-072

Adopted by the Sacramento City Council

September 4, 2007

AMENDING SECTIONS 17.24.050 AND 17.88.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO NONCONFORMING USES (M06-060)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote (13) of section 17.24.050 is amended to read as follows:

13. Residential Uses in the C-4, M-1, M-1 (S), M-2, and M-2(S) Zones.

Residential uses are not allowed in this zone except as provided below:

a. Property zoned C-4, M-1, M-1(S), M-2, or M-2(S) on which a building or structure had been previously used for lawful residential purposes may be restored to a residential use pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

b. Property located within the central city and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for residential purposes pursuant to a special permit issued by the zoning administrator in accordance with the requirements of Chapter 17.212.

c. Property located within a quarter-mile radius of a light rail station (measured from the center of the platform, as determined by the planning director, to the edge of the parcel closest to the station) and zoned C-4, M-1, M-1 (S), M-2, or M-2(S) may be used for apartments, duplexes, or halfplexes pursuant to a special permit issued by the planning commission in accordance with the requirements of Chapter 17.212. Notwithstanding the provisions of Chapter 17.64, projects that incorporate both residential uses authorized by this subsection (13)(c) and commercial retail or commercial service uses may have the required off-street parking for the ground floor commercial retail or service use waived by fifty (50) percent or less by a zoning administrator's special permit or by more than fifty (50) percent by a planning commission special permit, in accordance with the requirements of Chapter 17.212.

B. Except as specifically amended by the amendments to footnote 13, Section 17.24.050 shall remain unchanged and in full force and effect.

SECTION 2. Section 17.88.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The Nonconforming Regulations Chart set out in Section 17.88.030 is amended to read as follows:

	Nonconforming Building or Structure	Nonconforming Use
Maintenance of a	1	1
Additions, enlargements or relocations of a	2	2
Repair or reconstruction of a damaged or destroyed by disaster	3	3
Repair or reconstruction of a removed or demolished not by disaster	4	4
Change in ordinance or policy that results in a	5	5
Change in zone that results in a	6	6
Reconstruction, enlargement or alteration of building, structure or use that required a special permit or plan review	7	7
Change from to a conforming use	N/A	8
Change from to another nonconforming use	N/A	9
Discontinuance of a	N/A	10
Nonconforming adult entertainment use	N/A	11
.... converted to an artist's live/work space	N/A	12
Nonconforming hazardous waste facility	N/A	13
.... located in the Alhambra Corridor SPD	14	14
Listed historic structure that is a or is proposed to be a	15	15

B. Footnote (3) of section 17.88.030 is amended to read as follows:

3. Repair or Reconstruction of a Nonconforming Building, Structure or Use Damaged or Destroyed by Disaster.

a. Definitions.

i. For purposes of this section, "disaster" means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

ii. For purposes of this subsection, "replacement cost" means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

b. Cost of Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction Permitted.

A nonconforming building or structure, or any building or structure devoted to a nonconforming use, that is damaged or partially destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building, structure, or part thereof, that lawfully existed at the time of its damage or partial destruction, may be continued, provided that the cost of repair or reconstruction is less than fifty (50) percent of the replacement cost of the building or structure. This subsection applies without limitation to accessory buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

ii. Time for Application for Building Permit-Prosecution of Work.

An application for a building permit for the repair or reconstruction authorized by this subsection shall be filed not later than six months following the date of the damage or partial destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or partial destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iii. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection for nonconforming residential buildings or structures or a building or structure devoted to a nonconforming residential use if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

c. Cost of Repair or Reconstruction is Fifty Percent or Greater Than Replacement Cost.

i. Non-residential Buildings or Structures, Nonresidential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is damaged or destroyed by a disaster and the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

ii. Multiple Family Residential Uses.

(A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming multiple family residential building or structure, or any building or structure devoted to a nonconforming multiple family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost for the building or structure, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies to accessory residential buildings, structures, or uses including without limitation garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Time for Application for Special Permit.

An application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the damage or destruction. If an application is not filed within six months following the date of the damage or destruction, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(C) Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

Notwithstanding the provisions of section 17.212.100 to the contrary, the zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

iii. Single Family and Two Family Residential Uses.

(A) Repair or Reconstruction Permitted.

A nonconforming single family or two family residential dwelling, or any building or structure devoted to a nonconforming single family or two family residential use, that is damaged or destroyed by a disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its destruction may be continued, even though the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost for the building or structure, as long as the repair or reconstruction does not project beyond

the three dimensional form of the building or structure as it existed at the time of its damage or destruction. This subsection applies to accessory residential buildings, structures, or uses including without limitation garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Design Review.

Repair or reconstruction under this subsection of a non-conforming single family or two family residential dwelling, or any building or structure devoted to a nonconforming single family or two family residential use that is not otherwise subject to design review shall be subject to design review for ministerial projects under section 17.132.180.

(C) Time for Application for Building Permit-Prosecution of Work.

An application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of the damage or destruction, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of the damage or destruction, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction Work—Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

C. Footnote (4) of section 17.88.030 is amended to read as follows:

4. Repair or Reconstruction of a Nonconforming Building, Structure or Use Removed or Demolished Other than by Disaster.

a. Definitions.

i. For purposes of this section, “disaster” means a fire, flood, wind, earthquake, or other calamity or destruction by the public enemy.

ii. For purposes of this subsection, “replacement cost” means the cost at the time of the application to replace the building or structure as it existed immediately prior to the damage or partial or complete destruction with a building or structure of like kind and quality. The determination(s) as to the cost of repair or reconstruction and the replacement cost shall be made by the zoning administrator or his or her authorized representative. Any person dissatisfied with the determination of the zoning administrator may appeal that decision to the city planning commission within the time period and pursuant to the procedures set forth in Section 17.200.030(A) of this title.

b. Cost of Repair or Reconstruction Is Less Than Fifty Percent of the Replacement Cost.

i. Repair or Reconstruction with Zoning Administrator’s Special Permit.

A nonconforming building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming use that is removed or demolished other than by disaster may be repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its removal or demolition may be continued, provided, that the cost of repair or reconstruction is less than fifty percent (50%) of the replacement cost of the building or structure, upon issuance of a zoning administrator’s special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies without limitation to accessory buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

ii. Time for Application for Special Permit.

An application for a zoning administrator’s special permit pursuant to this subsection shall be filed not later than six months following the date of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iii. Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction authorized by this

subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

iv. Time for Repair or Reconstruction Work—Residential Buildings or Structures, Residential Uses--Extension of Time—Appeal.

The zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection for nonconforming residential buildings or structures or a building or structure devoted to a nonconforming residential use if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to begin or complete the work is attributable to factors not reasonably within the applicant's control including without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

c. Cost of Repair or Reconstruction Is Fifty Percent or Greater of the Replacement Cost.

i. Non-residential Buildings or Structures, Non-residential Uses.

If a nonconforming nonresidential building or structure, or any building or structure devoted to a nonconforming nonresidential use, is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or more of the replacement cost of the building or structure, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

ii. Residential Buildings or Structures, Residential Uses.

(A) Repair or Reconstruction with Zoning Administrator's Special Permit.

A nonconforming residential building or structure, or any portion thereof, or a building or structure lawfully used for a nonconforming residential use that is removed or demolished other than by disaster, and the cost of repair or reconstruction is fifty percent (50%) or greater of the replacement cost of the building or structure may be

repaired or reconstructed and the occupation or use of that building or structure that lawfully existed at the time of its removal or demolition may be continued, upon issuance of a zoning administrator's special permit pursuant to and subject to the findings required by Chapter 17.212. This subsection applies without limitation to accessory residential buildings, structures, or uses including garages, storage sheds, or pools. Any repair or reconstruction of any building or structure under the provisions of this subsection shall be in accordance with the Sacramento building code existing at the time of repair or reconstruction.

(B) Time for Application for Special Permit.

(i) Except as provided in subsection (ii) immediately following, an application for a zoning administrator's special permit pursuant to this subsection shall be filed not later than six months following the date of the removal or demolition. If an application is not filed within six months following the date of the removal or demolition, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(ii) Within the central city, for projects of up to four residential units, located within a residential zone, an application for a special permit pursuant to this subsection shall be filed not later than two years following the date demolition commenced on the building or structure.

(C) Time for Application for Building Permit-Prosecution of Work.

Notwithstanding the provisions of section 17.212.100 to the contrary, an application for a building permit for the repair or reconstruction work authorized by this subsection shall be filed not later than six months following the date of issuance of the special permit, the repair or reconstruction work shall begin not later than six months following issuance of the building permit, and the work shall be diligently prosecuted to completion. If an application is not filed within six months following the date of issuance of the building permit, or the work is not begun or diligently prosecuted to completion within the times specified, no repairs or reconstruction shall be made unless every portion of the building or structure and its use are made to conform to all requirements of this title for the zone in which it is located.

(D) Time for Repair or Reconstruction—Extension of Time—Appeal.

Notwithstanding the provisions of section 17.212.100 to the contrary, the zoning administrator may approve a single, one year extension of the period for commencement and prosecution of the repair or reconstruction work authorized by this subsection if substantial and diligent progress towards commencement and completion of the work has been made or if the delay in or inability to complete the work is attributable to factors not reasonably within the applicant's control including

without limitation weather or the unavailability of necessary building materials. Any person dissatisfied with the decision of the zoning administrator concerning the extension of time may appeal pursuant to the procedure set forth in Section 17.200.030(A) of this title.

D. Footnote (7) of section 17.88.030 is amended to read as follows:

7. Reconstruction, Enlargement or Alteration, of Buildings, Structures or Uses that Required a Special Permit or Plan Review.

a. Except as provided in subsection (b) of this footnote 7, and notwithstanding any other provisions of this title, a building, structure, or use which currently requires a special permit or plan review, but which was lawfully established at a time when no such special permit or plan review requirement existed, shall be considered to have a special permit or plan review. Such a building, structure, or use may be reconstructed, enlarged, or altered pursuant to the special permit modification or plan review modification procedures established in Section 17.212.070 of this title and Section 17.220.050 of this title respectively. This provision shall only apply to uses that are consistent with the use requirements established by this title at the time the modification is sought. This provision may apply to uses on property which were lawfully established at the time of the annexation or consolidation of that property with the city.

b. If a nonconforming residential building or structure, or any building or structure devoted to a nonconforming residential use, is considered to have a special permit or plan review under this footnote 7 and is damaged or destroyed in whole or in part by a disaster, the building or structure may be repaired or reconstructed and the occupation or use of that building, structure, or part thereof that lawfully existed at the time of its destruction, may be continued as provided in subsections (3)(b) and (3)(c) of this section. No special permit modification or plan review modification shall be required under this footnote 7.

E. Except as specifically amended by the amendments to the Nonconforming Regulations Chart and footnotes 3, 4, and 7, Section 17.88.030 shall remain unchanged and in full force and effect.

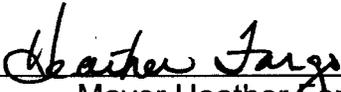
Adopted by the City of Sacramento City Council on September 4, 2007 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: None.



Mayor Heather Fargo

Attest:



Shirley Concolino, City Clerk

Passed for Publication August 21, 2007

Published August 20, 2007

Effective October 4, 2007