

16.28.040 Channel area (-CHA) overlay district.

A. **Purpose.** The channel area (-CHA) overlay district is intended to secure and maintain the orderly and harmonious construction of buildings, signs, and other structures within the Stockton Channel Area as defined in Division 8.

B. **Applicability.** The -CHA overlay zoning district may be combined with any zoning district established by Section [16.16.020](#) (Zoning districts established) within the district boundaries. The provisions of this section shall govern the -CHA overlay district. In the event of any perceived conflict between the provisions of this section and any other provision of this Development Code, this section shall control.

C. **Use Permit Required.** Within the -CHA overlay zoning district, no structure shall be added to, constructed, erected, or enlarged; no use shall be enlarged, extended, or intensified; no new use of premises shall be introduced; and no former use shall be re-established without a Commission use permit in compliance with Chapter [16.168](#) (Use Permits). (Prior code § 16-240.040)

D. Marine Commercial Subarea. The Marine Commercial Subarea (MCS) is located within the north shore of the -CHA overlay district, along the south side of West Fremont Street, between the Interstate 5 bridge and North Harrison Street, **bounded by the Stockton Channel.** The MCS is intended to ensure the retention and continuation of certain marine facilities within the overlay district. Parcels located within the MCS do not require a Use Permit to enhance or expand existing marine-related uses, including facilities for yacht and boat sales and rentals, maintenance, storage, and supportive marine-related uses. The MCS also permits the following uses with the approval of a Commission Use Permit (CUP). Consistent with the General Plan Commercial designations for the subarea, industrial use operations shall be kept indoors. All operations and accessory outdoor uses shall be screened consistent with SMC section 16.28.070.D (Development Standards).

<u>Land Use</u>	<u>Permit Required</u>
<u>Animal services- Kennel and boarding facilities</u>	<u>CUP</u>
<u>Auto/vehicle services- Major repair/bodywork</u>	<u>CUP</u>
<u>Electronics, equipment & appliance manufacturing</u>	<u>CUP</u>
<u>Furniture and fixtures manufacturing</u>	<u>CUP</u>
<u>Manufacturing- Light</u>	<u>CUP</u>
<u>Metal products fabrication, machine/welding shops</u>	<u>CUP</u>
<u>Warehouses</u>	<u>CUP</u>

16.228.060 Loss of nonconforming status.

The nonconforming status shall no longer apply to a use or structure in the following circumstances:

A. **Exemptions.** The following uses and structures shall maintain their nonconforming status if they are involuntarily damaged, demolished, or destroyed:

1. **Residential Dwelling Units.** Residential dwelling units (e.g., single- and multifamily, duplexes, triplexes, and townhouses) and their ancillary parking structure and other accessory structures are exempt from the requirements of this section and may be rebuilt provided:

- a. The original structure(s) is legally nonconforming;
- b. The extent of the nonconformity is not increased in compliance with the following:
 - i. The structure(s) may be rebuilt using the same development standards applied to the damaged, demolished, or destroyed structure(s) (e.g., building envelope, density, height, and number of dwelling units), and
 - ii. The structure(s) shall be rebuilt in the same footprint (location and size) as the damaged, demolished, or destroyed structure(s), except if relocating the structure(s) would allow the same sized structure(s) to meet current setback requirements;
- c. Reconstruction begins within 12 months of the structure(s) being damaged, demolished, or destroyed and is diligently pursued to completion; and
- d. The new structure(s) meets all current applicable building, health, and safety standards.

2. **Nonresidential Structures Deemed Nonconforming as a Result of a Street Widening.** Nonresidential structures deemed nonconforming as a result of a street widening may be rebuilt provided all of the following criteria are met:

- a. The only reason for the nonconformity is that:
 - i. The setback requirements are not met due to the widening of the street; and/or

- ii. The requirements for parking or landscaping are not met due to the widening of the street;
- b. The structure is reconstructed within its original nonconforming setback;
- c. Reconstruction begins within 12 months of the structure being damaged or destroyed and is diligently pursued to completion; and
- d. The new structure meets all current building, health, and safety standards.

B. **Termination by Change of Use.** Changing a nonconforming use to a conforming use.

C. **Termination by Discontinuance.** Except when extended in compliance with this chapter or the provisions of Chapter [16.168](#) (Use Permits), discontinuance of a nonconforming use or structure, nonconforming due to use, shall result in the use or structure losing its nonconforming status if the use is ceased or discontinued for a continuous period of at least ~~180 days~~one-year from:

- 1. **Voluntary.** The date the use is voluntarily ceased or discontinued; or
- 2. **Involuntary.** The date the owner is notified of the requirement to reestablish the involuntarily discontinued use.

3. **Extension.** The owner may request a one-year extension if evidence shall be submitted to the Community Development Department indicating the owner has made a "good faith" effort to continue the nonconforming use. Evidence can include leasing agreements, occupancy or building records, and marketing brochures. Only one extension can be granted and will be based on the *Voluntary* or *Involuntary* date as shown above.

D. **Termination by Destruction.** A nonconforming structure(s), or a conforming structure(s) used for a nonconforming use, involuntarily damaged, demolished, or destroyed may be repaired or rebuilt and re-occupied only as follows:

- 1. **Cost of Repair—Not Exceeding 50 Percent.** If the cost of repairing or replacing the damaged portion of the structure(s) does not exceed 50 percent of its market value as determined on the last equalized assessment roll at the time of destruction or by an appraisal which was prepared within the last 12 months by a licensed appraiser, whichever is greater, the structure may be restored and the use continued, provided the following conditions are met:

- a. **Building Code.** The reconstruction meets current Building Code requirements; and

- b. **Commencement Within 12 Months.** Reconstruction begins within 12 months of the date of damage, unless otherwise allowed by the Director, and is diligently pursued to completion.
2. **Cost of Repair—Exceeding 50 Percent.** If the cost of repairing or replacing the damaged portion of the structure(s) does exceed 50 percent of its market value as determined on the last equalized assessment roll at the time of destruction or by an appraisal which was prepared within the last 12 months by a licensed appraiser, whichever is greater, the structure may not be restored and the use continued, except as otherwise provided in this chapter. (Ord. 023-07 C.S. § 132; prior code § 16-750.060)