Owners Comments for Rules & Regulations Update Task Force

Comments received since November 12

Received December 2

After reviewing the homeowner directory, task force roster, and board/committee representation, I noted that approximately half of the listed task force participants have homes identified in the Sunriver homeowner directory. Of those, none appear to reside near areas with unique livability challenges—areas near SROA and Sunriver Resort operational facilities or higher-impact commercial activity.

As a full-time resident living near one of these facilities, I believe the draft Rules and Regulations do not yet equitably address the impacts faced by homeowners in these locations. Several sections apply only to homeowners and guests, while omitting standards for SROA entities, Sunriver Resort operations, and contractors—all of whom significantly affect homeowners' quality of life in these specific neighborhoods.

My comments and recommendations are outlined below.

Key Issues

1. Double Standard in Enforcement

The Rules and Regulations consistently enforce standards and apply fines to homeowners and guests, while SROA departments, Sunriver Resort operations, contractors, and employees clearly are not held to these same standards. This creates an inequitable system where residents are penalized for violations while organizational entities are excluded.

2. Excessive and Disruptive Noise Levels

Noise generated by equipment exceeding 60–65 dB is considered disturbing. However:

- Landscaping, tree removal, construction contractors, SROA Public Works, and other operational departments regularly generate noise in the 69–112 dB range.
- Such levels qualify as noise pollution under widely accepted standards.
- Current construction and operation hour guidelines are inconsistent with accepted industry standards and across SROA documents.

Homes located near facilities such as Public Works, SR Utilities, storage areas, SR resort operations and maintenance or the Village experience significant and frequent noise impacts that are not addressed equitably.

3. Unequal Application of Maintenance, Appearance, and Structural Rules

Sections such as 4.02 Maintenance/Appearance A.1 and related Design Manual provisions apply only to homeowners and guests. Yet, SROA and Sunriver Resort buildings, storage areas, structures, and perimeter spaces are excluded.

4. Storage, Screening, and Enclosures

Sections 4.02, Design Manual 3.15, and related provisions again apply only to homeowners. Many unscreened items, equipment, and materials stored on SROA or resort properties negatively affect visual quality and neighborhood character.

Requests and Recommended Revisions

1. Eliminate Double Standards

- Clearly define that all SR and SROA entities, employees, contractors, homeowners, guests, outside visitors, must comply with the Rules and Regulations.
- Apply fines or take corrective actions equally to all parties that violate standards.

2. Consistent Noise and Work-Hour Standards

- Establish one universal start time of 7:30 AM for all noise-generating activity near residential homes.
- Set an earlier than 7 pm shutdown time (i.e. typical stop time 5pm) for loud equipment near homes.
- Limit exceptions strictly to emergencies and seasonal snow removal.
- Add a "Be a Good Neighbor" provision: no loud exterior work on weekends and holidays near homes.

3. Apply Structural, Landscape, and Maintenance Standards Equally

- Extend all requirements to residential homeowners, SROA \ SR resort facilities and buildings, as well as all businesses throughout Sunriver.
- Improve transparency by clarifying and posting inspection frequency and scheduling.
- Adopt Deschutes County's landscape standard: "to be continuously maintained, kept alive and attractive."
- Include removal of all noxious weeds is required.

4. Improve Storage, Screening, Enclosures, and Firewood Standards

- Apply all standards consistently to homeowners, SROA, Sunriver Resort and all SR businesses operations.

-Cross reference the design committee manual to improve clarity and transparency.

- Require screening for visible storage of equipment, machinery, supplies, materials and storage structures.

- Disallow portable window A/C units for homeowners, SR\SROA entities and SR businesses.

- Firewood: follow defensible space guidelines. Storing firewood near any structure is prohibited. No exceptions. If covering firewood, use brown tarps only to blend in with the natural environment. No other colors allowed.

Conclusion

Homeowners fund the majority of SROA operations and expect high, consistently applied standards for everyone operating within the SR community. A fair, transparent, and equal Rules and Regulations document protects quality of life and preserves Sunriver's character for all residents\guests.

–Lori Menalia

Received December 9

The Sunriver Rules and Regulations Update Task Force is meeting to revise current outdated regulations. The goal of this task force is to revise the regulations to make them "relevant to current community operational desires and appropriate behaviors that affect livability, safety and community function". Among the dozen topics suggested by the SROA staff to address includes, "Sprinter vans as compared to typical RV's [sic]".

I am writing in support of exempting travel vans and Class B vehicles from the current RV parking prohibition.

Current rules regarding **motor homes and camper** parking are found beginning on page 7, Section 2.02 "Parking", headings **E** (mislabeled F in current document) and **F**. This Rule determines that recreational and utility vehicles may be parked or stored only temporarily in front of a home, not to exceed 48 hours within a seven-day period, and otherwise parked elsewhere (storage yard or enclosed structure). Sprinter-type conversion vans (to my knowledge) have not been subject to this rule.

As noted above, the **stated intent** of the Rule is to "prohibit long-term, unenclosed storage of recreational vehicles". The current rule does not provide an unambiguous definition of "recreational vehicle" (and does not limit a definition, under section E):

> E. Recreational and utility vehicles and related equipment include, but are not limited to, motor homes, trailer homes, campers, boats, boat trailers, utility trailers, snowmobiles, motorized dirt bikes and trailers.

Section E opens the possibility that any vehicle used for "recreation" might be parking-limited under the Rule. There is a more specific description of recreational vehicles under the definitions for Oregon Statute 650.300 to 650.480:

> "Recreational vehicle" means a vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, including but not limited to a travel trailer, trailer towed with a fifth wheel hitch, camper, camping trailer, fold-up camping trailer, pop-up, tent camper, truck camper and motor home."

Under this definition, RVs would include typical large bus-like motor homes and RVs built on heavy duty truck or van chassis, pick-up mounted campers, and towable RVs **dedicated to temporary** recreational or seasonal use. Because of ambiguity in Section 2.02, the SROA prohibition might also include vehicles **not solely designed** for recreational or seasonal use, including: compact camper vans (e.g., Westfalia Volkswagen and Toyota minivan-based vehicles); the (increasingly common) trucks and SUVs adorned with rooftop or popup tents; and pickup trucks with hard shell canopies. This also includes conversion vans and "camper" vans based on Mercedes Benz Sprinter, Ford Transit, or Dodge Ram Promaster vehicles. Owners of these hybrid vehicles set up for recreational use also typically use these vehicles for **regular daily use** (so not intermittently or "temporarily" as defined by the ORS definition).

What is the prevalence of van ownership in Sunriver? Implementation of a stringent parking rule by SROA for these vehicles in Sunriver would cause significant harm to those owners who own these vehicles and use them regularly as a primary, daily means of transportation. In a canvass of Sunriver neighborhoods (early November 2025), I found about 20 conversion vans, 17 based on Sprinter, Transit or Ram vans, 2 based on GMC, standard Chevrolet or Ford vans, and 2 minivans. I am aware of an additional 3 families (part-time residents) that travel to their homes in Sprinter (type) conversion vans. The prevalence therefore may be higher among part-time owners, and incidence may increase with the influx of visitors during both summer and winter seasons, particularly due to the popularity of these vehicles.

What is the implied intent of the Rule? The current Rule is extraordinarily vague as to the vehicles that are prohibited from parking, referencing "motor homes" or "campers" primarily under the heading. The specific aim is apparently to prevent long-term storage of large, dedicated RVs within the neighborhoods of Sunriver, and this seems a reasonable limitation. The Rule however, should be modified to allow for parking of vehicles (vans, SUVs, and pick-up trucks outfitted for recreational use) that are reasonably suited, and used, for regular daily driving.

An Alternative Rule? Utilization of an industry definition (devised for sales) might be useful in defining the goals of this parking regulation, minimizing ambiguity. **Class A and C** motorhomes comprise larger footprint vehicles that have a limited or exclusive use as recreational vehicles. **Class A** motorhomes are bus-like, built on a commercial truck or bus chassis and may be up to 45 feet in length. **Class C** motorhomes are also typically large, built on a heavy-duty truck or cutaway van chassis. These vehicles are not particularly maneuverable and not reasonably suited for daily use. Revised rules could specify Class A and C vehicles, as well as towable recreational vehicles and "toy haulers" as restricted to parking on a temporary basis. Vans (and vehicles falling under the broad **Class B**), minivans and rooftop adorned SUVs and canopied trucks that are suited for daily use should also be excluded from this Rule.

What problem would be solved by application of a restrictive Rule to these vehicles? We have owned two homes in Sunriver for over 25 years. We purchased a Sprinter van in 2016 and used it exclusively for travel from our primary residence in the Portland area to our home in Sunriver until we relocated permanently in 2022. The van is my sole daily-use vehicle after selling our SUVs last year. Sprinter vans can be parked in a normal parking space, maneuver as easily in traffic as our SUVs, and has proven suitable for transporting our dogs, running errands in Bend, shuttling bikes to trailheads, and for daily trips to Mount Bachelor for skiing in the winter. Conversion vans to date have not been subject to this Rule. Limiting these vehicles in Sunriver would deter visitors and home buyers alike at a time when the attractiveness of Sunriver as a destination is waning. The popularity of these vehicles among younger active families is evidenced by the typical presence of dozens of Sprinter vans in local parking lots, at ski areas, and at trailheads.

Imposition of a restriction on the parking of travel or conversion vans would disproportionately harm those of us who use them as our primary vehicles. There are relatively few vans in Sunriver and vanishingly few homeowners, if any, would find a van in a driveway offensive. Prohibiting the parking of these daily use vehicles in front of homes in Sunriver will have essentially no positive effect on Sunriver livability in general, and make it unlivable for those of us that use our vans for daily use.

–James Lundblad

Received December 10

I am writing this letter to express my concern about the Sunriver Rules and Regulations Task Force regarding changing current regulations.

First, I would appreciate you spending some time describing the problem as you perceive it. I am not aware of any problem regarding motor homes and camper parking-and who is to say or determine what is "outdated?" I am curious if you consider this a widespread problem throughout Sunriver or more of an isolated incident or personal issue neighborhood issue?

Sunriver, Oregon has been known as a four-season recreational vacation destination since 1968. Year-round fun with sunshine, river access, biking trails, and proximity to Mt. Bachelor-and all of those activities will attract both residents and visitors with larger vehicles that haul

families and their gear. Making a parking ban on, for example, Sprinters, Ford Transit, Dodge vans and sport utility trucks in Sunriver would be ridiculous given the hundreds of thousands of visitors visiting each year.

It is common that when purchasing a home in the Sunriver area one is aware of the rules and regulations outlined by the Sunriver Homeowners Association. One makes a choice at that time if the rules and regulations stipulated will work for their lifestyle. Banning my right to park my Sprinter van in my own driveway for not longer than 48 hours is absurd-it's not financially feasible and it's a rule that would be a deal-breaker for me if I were someone considering new residency here now. I am a full-time resident and use my Sprinter van as a daily driver.

My initial impression of this matter, without you providing more detail about the issue, is that this is a classic example of a solution in search of a problem. If certain, individual board members or residents desire a more exclusive lifestyle (and more restrictive covenants), perhaps they should consider moving elsewhere.

Again, without more information, my opinion at this point is to keep things as they are and spend more time and energy focusing on creating positive growth for the community, not more needless rules and restrictions.

–Diana Law

Received December 10

One of the rules under review relates to recreational vehicles and parking limitations. In the past, camper van conversions have been excluded from that rule and permitted to remain onsite since they are often used for daily transportation, unlike larger vehicles and trailers. I think this approach has worked well for Sunriver in maintaining livability while addressing the fact that those vehicles are used for daily transportation. I encourage you to alter the wording of the regulation to clarify and establish that. Of course the prohibition of anyone sleeping in a vehicle should remain for all vehicles

I've owned a home in Sunriver for the past 50 years, the last 30 of which has been full time. For most of those past 30 years I've owned RVs of varying sizes. When I've had a larger RV, it was stored in the Sunriver Storage lot as it should, but the two vans were parked in my driveway. To my knowledge, no neighbor has ever found it offensive - and I've asked most of them.

Our van serves as a second car since the length and width are about the same as a Chevy Suburban. It can be parked in a normal parking space, and is as comfortable and easy to drive as that Suburban. I would guess that 80 - 90% of our use of the van is for daily transportation. Much of the justification for owning it is due to this dual use. It would be a huge problem for us to not have it immediately available as we would need to buy and insure another car which we neither need nor want. Most if not all the other van owners I know who live here full time also use their van as a second car and I know several part timers who almost always drive their van when they come to Sunriver since a converted van is the ultimate travel vehicle.

What we've done for at least the past 50 years has worked well and needs no change other than to be clarified in the regulations.

–Joe Maley

Received December 10

I am submitting the following comment concerning the proposed revisions to firewood provisions. I recommend that light tan colored tarps/covers be added as an allowed color. Light Tan tarps blend nicely into the natural grasses and pine needles and offer an enhanced visual "invisibility" characteristics as compared to dark brown, green or black. I am not proposing that the currently proposed colors be deleted but that the color of light tan be added. This is especially true when wood piles are near the Deschutes national forest land and SROA common areas.

Thank you for taking this comment into consideration.

Dave Moyano

Received December 10

I am a resident of Sunriver since 2013. We own a 20 foot Ford Econoline Van which is outfitted as an Class B RV. I rent a storage space for it in the north RV Storage Lot. From time to time, we use it for transportation. During those times, it is parked at my home. One reason we like our van so much is that it can be parked in regular spots all over and is allowed in National Parks because it is not one of those huge RV's.

I urge you to adapt the regulations regarding 20 ft or smaller Class B vans like mine so that they can be allowed at homes in Sunriver. No one wants a 40 foot RV parked on the street, but these vans are much smaller and look line regular vans. In fact, one of my neighbors owns a similar size van but it is not outfitted as an RV. I can't imagine you would desire to tell him he cannot transport his family to Sunriver in his vehicle. The only difference between his and mine is that mine has a bed inside. Restricting mine and not his is the current "letter" of the law but certainly not the "spirit" of the intention of the regulation.

–Tom Kelley

Received December 16

I have been an owner at Sunriver for 40 years and have lived here full time for 4 years. I have read the comments about pets and understand concerns about dogs running freely, however, I would like to see some provisions for dogs who can be controlled by voice and electronic collars to be considered. I agree that while walking your dog on a Sunriver path, it should be on a leash for everyone's safety. The paths can get crowded with walkers, runners, and bikes. Dogs need to be closely guided while on the paths. However, if dogs can be controlled by voice, electronic fences or electronic collars they should be allowed to be off leash while on your property or in common areas, including Fort Rock Park. Many owners and their dogs enjoy Ft Rock Park to play and fetch with others daily. I've never seen problems with dogs being off leash at the park. It is a very nice experience for owners and their dogs and has grown to be a robust community. It works well as is and would be a significant negative change for the pet owner community. Please don't restrict the control of dogs to leashes only as electronic fences and collars are also very effective in open spaces. In summary:

1. Require owners and visitors to pick up feces and dispose of appropriately, in all areas of Sunriver
2. Require owners and visitors to use a leash on all paths.
3. Allow dogs to be off leash on the owner's property and common areas when controlled by voice or electronic collars/devices.
4. Require owners to inform renters of Rules and Regulations. The owner should be responsible for violations and any associated fees.

Violations.

When SROA becomes aware of a violation of the rules, please contact the owner to discuss the problem rather than send a ticket with no explanation. If the problem persists, then send a ticket. As owners we deserve a conversation before a ticket or reprimand is issued.
–Cynthia Longley Gahlsdorf

Received December 17

My family has owned property in Sunriver from the very first year it was developed. We have enjoyed watching the growth of this unique community. We have raised several kids and grandkids here…along with many dogs. The open areas, access to the rivers and development of parks have been enjoyed by all…including our dogs. I rarely find out of controlled dogs along the way….most owners seem to respect the need of safety and control. Please don't put more restrictions on our community.

–Chris Hodes

Received December 17

I am writing to let you know that I agree with my neighbor's email that was sent to the SROA about pets. I feel that if we are an owner with an underground fence or control collars on our dogs, we should not have to have them on a leash in our own yard. Thank you for your time.

–Debby Fisler

Received December 17

Section 3.01D – Suggest changing to "Pets shall not be permitted to run lose unattended outside of the residence (removing "or be left"). If the pet is attended and under effective voice or electronic leash control, why shouldn't I be able to throw the ball for my pet in the circle or common area? Other comments that reference using the dog park off of Cottonwood have either never used it or do not own dogs. The dog park was ill conceived when it was designed with a base of dirt and bark chips. I am much more likely to run my dog at Fort Rock Park or the SHARC grassy area (while the dog is under effective voice or electronica control, and the area is not crowded) versus taking him to the dog park and having to deal with dirt and bark chips.

Section 3.01E – We are strongly against adding the physical leash requirement. Rarely do we see others walking their dogs off leash on the paths and those dogs being out of control. I would suggest that most of the violators are those that are here on vacation. Right now, there is no enforcement of the leash or effective voice control rule so how likely is it that if you change the rule, it will be effectively enforced? Furthermore, if I am correct and most of the violators are non-residents, how likely is it that they either read the rules or follow them? If there is no budging on the leash, then I would suggestion wording such as "leash their dogs with physical or electronic leash." If the leash rule is put in place and in the unlikely event that we are stopped in the future, my contention will be that my dog is on a leash because the beeper collar constitutes an electronic version of a leash.

Section 3.01F – Suggest deleting the section about being required to remove pets permanently. How would you enforce this? Has legal counsel reviewed this sentence? The first time you tried to enforce this, I see a lawsuit coming. I know personally, if you tried to enforce this against my pet, I would have no problem engaging an attorney and fighting this until the end which would be a waste of SROA legal resources.

Section 3.02B – This version is different than Section 3.01F because it is a safety issue for all residents and guests.

Section 4.01B (1)(b)- The escalating fines seem a little over the top considering I can walk almost anywhere in common areas maintained by SROA and find noxious weeds. Like what another owner commented, how practical is it to enforce your 30-day rule if my property backs to a common area that may have numerous noxious weeds growing on it? We get a decent amount of wind here and it doesn't take much for the wind to blow spores onto private property. I don't see how you can demand this from homeowners and fine them when there is no way that SROA can completely eradicate the noxious weeds on the property they maintain.

Section 4.02D(2)(b) – Storage and covers for Outdoor Articles, Covers & Tarps – Add black to allowable colors for outdoor furniture colors. First, I have never seen a BBQ cover that was not black and often you can only find patio furniture colors in black. Unless they are some bright offensive colors, why even have this rule? A lot of this furniture is only covered during the winter months and additionally, no one is going to enforce it

–Eric Mauss

Received December 31, 2025

By Paul Conte

Re: Adding a new Section 1.05 to the ***Sunriver Rules & Regulations***

— Addressing Permitted Nonconforming Uses

EXECUTIVE SUMMARY

Purpose of the New Section

The proposed new Section 1.05 in Exhibit A establishes clear rules for **Permitted Nonconforming Uses**—uses that were lawful when they began but later became nonconforming due to amendments to the *Sunriver Rules & Regulations* (R&R). Informally, this is often referred to as a "grandfather" right.

Adding this section would fill a significant void in the R&R and ensure fairness to owners. The proposed section would also provide predictable enforcement standards, and alignment of Sunriver's governance with widely accepted legal principles.

Why the Amendment Is Needed

The R&R regulate many types of property uses (parking, signage, vegetation, lighting, commercial activities, noise, temporary accommodations, etc.) but contain no provisions addressing how previously lawful uses should be treated when rules change. This gap creates:

- **Uncertainty** for owners with long-standing uses
- **Inconsistent enforcement** when staff must informally decide whether a use is "grandfathered"
- **Inequity** between owners with similar historical uses but different documentation or staff interactions

A formal nonconforming use section would resolve these issues and harmonize the R&R with the *Design Manual*'s treatment of nonconforming development.[1]

Key Features of the Proposed Section

- Protects uses that were lawful when they began
- No record of approval is required
- Allows continuation of such uses
- Prohibits expansion, intensification, relocation, or change to a non-permitted use

[1] The current *Design Manual* has a provision for "Nonconforming Development (Section 2.02) which attempts to address previously lawful development. However, the current text is seriously flawed and a separate communication to the Design Committee will recommend amendments consistent with the proposed new R&R section.

- Defines abandonment (12-month discontinuance or removal of a dependent physical element)
- Lists clear conditions under which nonconforming use status is lost
- Includes a reserved section for adding mandatory-compliance uses
- Integrates with existing enforcement authority (Community Development and Natural Resources Departments)

Legal and Policy Foundations

1. Fifth Amendment Principles — Protection of Vested Rights

Owners have a vested interest in uses that were lawful when established. Retroactively prohibiting such uses risks interfering with reasonable investment-backed expectations. Courts have long recognized the need to protect pre-existing lawful uses (e.g., *Village of Euclid v. Ambler Realty*; *Penn Central*; *Lucas*).

2. Fourteenth Amendment Due Process — Clarity and Non-Arbitrary Enforcement

Due process principles require clear, predictable rules. Without a formal framework, enforcement may become *ad hoc* and inconsistent. Courts emphasize the need for clear standards to prevent arbitrary application (e.g., *Grayned*; *Morales*).

3. Fourteenth Amendment Equal Protection — Consistent Treatment

A formal nonconforming use section prevents unequal treatment of similarly situated owners. Courts have invalidated inconsistent or irrational distinctions between property owners (e.g., *Olech*).

4. Alignment With Established Land-Use Doctrine

Zoning and land-use systems nationwide protect lawful nonconforming uses while limiting expansion and defining abandonment. (See **ORS 215.130**, **Deschutes County Code 18.80.058 Non-Conforming Uses**.) Courts consistently uphold these frameworks as reasonable and necessary (e.g., *Gage*; *Parrillo's*; *Austin*).

Benefits to Sunriver

- Protects owners' reasonable expectations
- Ensures fair, consistent, and predictable enforcement
- Reduces disputes and administrative burdens
- Aligns Sunriver with national best practices
- Strengthens the SROA's regulatory authority
- Harmonizes the R&R with the *Design Manual*

Conclusion

Adding **Section 1.05 — Permitted Nonconforming Uses** would be a prudent, legally grounded improvement that enhances fairness, clarity, and enforceability within the *Sunriver Rules & Regulations*. Adopting this section would protect owners while preserving the SROA's ability to regulate future uses and maintain community standards

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DISCUSSION

I. Purpose of the Amendment

This memorandum provides the legal and policy justification for adding a new section to the *Sunriver Rules & Regulations* (R&R) establishing a framework for **Permitted Nonconforming Uses**. The proposed section in Exhibit A would ensure that owners may continue uses that were lawful when they began, while preserving the SROA's authority to regulate future uses and prevent expansion or intensification of nonconforming conditions.

The amendment promotes fairness, predictability, and consistent enforcement, and aligns Sunriver's governance with long-standing constitutional principles and widely accepted land-use doctrine.

II. Background and Need for the Amendment

The R&R regulate a wide range of property uses, including parking, signage, vegetation, lighting, commercial activities, noise, temporary accommodations, and other conditions. However, the R&R currently contain **no provisions** addressing how uses that were lawful under prior rules should be treated when the rules change.

This gap creates three problems:

1. **Uncertainty for owners** who's long-standing uses may suddenly become noncompliant.
2. **Inconsistent enforcement** when staff must decide informally whether a use should be "grandfathered."
3. **Potential inequity** between owners with similar historical uses but different documentation or staff interactions.

A clear, formal section on permitted nonconforming uses resolves these issues and aligns the R&R with the Design Manual's parallel treatment of nonconforming development.

III. Constitutional Principles Supporting Protection of Nonconforming Uses

Although the SROA is not a governmental entity, the **Fifth and Fourteenth Amendments** provide widely recognized standards for fairness and protection of vested rights. Courts routinely apply these principles to private associations when evaluating reasonableness, notice, and consistency in rulemaking.

A. Fifth Amendment: Protection of Vested Property Rights

Owners acquire a vested right in uses that were lawful when established. Retroactively prohibiting such uses can resemble a regulatory taking because it destroys or diminishes an established property interest.

Courts have long held that lawful pre-existing uses cannot be extinguished without compensation or clear statutory authority:

- ***Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926)** — Recognized the legitimacy of zoning but emphasized protection of pre-existing lawful uses.

- ***Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978)** — Established that interference with reasonable investment-backed expectations is a key factor in takings analysis.
- **Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992)** — Reinforced that regulations eliminating all economically beneficial use require compensation.

While HOAs are not governments, these cases articulate the principle that **retroactive elimination of lawful uses is disfavored** and must be handled with care.

A permitted nonconforming use framework protects owners' reasonable expectations while preserving the SROA's regulatory authority.

B. Fourteenth Amendment: Due Process — Clarity, Predictability, and Non-Arbitrary Enforcement

Due process principles require that rules affecting property be:

- Clear
- Predictable
- Non-arbitrary
- Applied consistently

Courts have repeatedly invalidated regulations that lack clear standards or rely on discretionary, undocumented decision-making:

- ***City of Chicago v. Morales*, 527 U.S. 41 (1999)** — Struck down vague standards that allowed arbitrary enforcement.
- ***Grayned v. City of Rockford*, 408 U.S. 104 (1972)** — Emphasized the need for clear rules that give fair notice and prevent arbitrary application.

A formal nonconforming use section:

- Provides clear notice to owners
- Establishes objective criteria for continuation and loss of status
- Prevents inconsistent or ad hoc enforcement
- Reduces disputes and appeals

C. Fourteenth Amendment: Equal Protection — Consistent Treatment of Similarly Situated Owners

Equal protection principles require that similarly situated individuals be treated alike. Without a formal nonconforming use framework, owners with identical historical uses may be treated differently depending on:

- Whether staff informally "grandfathered" a use
- Whether documentation exists
- Whether a complaint was filed
- Which staff member handled the issue

Courts have repeatedly held that inconsistent treatment of similarly situated property owners violates equal protection principles:

- ***Village of Willowbrook v. Olech*, 528 U.S. 562 (2000)** — Recognized "class of one" equal protection claims where a property owner was treated differently without rational basis.
- ***Sioux City Bridge Co. v. Dakota County*, 260 U.S. 441 (1923)** — Invalidated unequal treatment of similarly situated property owners.

A clear nonconforming use section ensures uniform treatment and reduces the risk of arbitrary distinctions.

IV. Alignment with Established Land-Use Doctrine

Across the United States, zoning and land-use systems universally recognize and protect **nonconforming uses** that were lawful when established. Courts have consistently upheld such frameworks as reasonable and necessary:

- ***City of Los Angeles v. Gage*, 274 P.2d 34 (Cal. 1954)** — Affirmed that nonconforming uses may continue but cannot be expanded or intensified.
- ***Town of Belleville v. Parrillo's, Inc.*, 416 A.2d 388 (N.J. 1980)** — Held that a change in the nature or intensity of a nonconforming use terminates its protected status.
- ***Austin v. Older*, 648 S.W.2d 137 (Mo. 1983)** — Recognized abandonment as a valid basis for loss of nonconforming use status.

The proposed R&R section mirrors these well-established principles:

- Continuation of lawful uses
- No expansion or intensification
- Loss of status upon abandonment
- Clear, objective standards

This alignment strengthens the defensibility and legitimacy of Sunriver's regulatory framework.

V. Benefits of Adopting Section 1.05

Adopting the proposed section will:

- Protect owners' reasonable expectations
- Provide clear, predictable rules
- Reduce disputes and enforcement inconsistencies
- Align Sunriver with national best practices
- Harmonize the R&R with the Design Manual's treatment of nonconforming development
- Strengthen the SROA's regulatory authority by grounding it in well-recognized legal principles

VI. Conclusion

Adding **Section 1.05 — Permitted Nonconforming Uses** is a necessary and prudent improvement to the Sunriver Rules & Regulations. It would protect owners' vested rights, ensures fair and consistent enforcement, and align Sunriver's governance with long-standing constitutional principles and established land-use doctrine. The amendment provides clarity for owners, staff, and the Design Committee, and strengthens the SROA's ability to regulate uses going forward.

EXHIBIT A. Proposed New Section 1.05 Permitted Nonconforming Uses

SECTION 1.05 — PERMITTED NONCONFORMING USES

1.05.01 Purpose

The purpose of this section is to establish fair, predictable, and consistent rules governing uses of property that were lawful when they began but have become nonconforming due to subsequent amendments to these Sunriver Rules & Regulations. This section ensures that such uses may continue under defined conditions while maintaining the SROA's ability to regulate future uses and protect community standards.

1.05.02 Definition

A **Permitted Nonconforming Use** is a use of land, a structure, or an improvement that:

1. Was lawful and in compliance with the Rules & Regulations in effect at the time the use began;
2. Became nonconforming solely because of later amendments to these Rules & Regulations; and
3. Has continued without abandonment as defined in Section 1.05.05.

No record of prior approval is required for a use to qualify as a Permitted Nonconforming Use.

1.05.03 Continuation of Permitted Nonconforming Uses

A Permitted Nonconforming Use may continue, subject to the limitations and requirements of this section. Continuation is allowed only to the extent the use existed at the time it became nonconforming.

1.05.04 Limitations on Nonconforming Uses

A Permitted Nonconforming Use shall not be:

1. Expanded beyond the scope, scale, or area of the use as it existed when it became nonconforming;
2. Intensified in frequency, duration, or impact;
3. Relocated to another portion of the property, where location is relevant to the nature of the use; or
4. Changed to any use that is not permitted under current Rules & Regulations.

Any such action results in the immediate loss of nonconforming use status.

1.05.05 Abandonment

A Permitted Nonconforming Use is deemed abandoned when:

1. The use is discontinued for a period of twelve (12) consecutive months; or
2. The use is voluntarily discontinued by the owner; or
3. The use depends on a physical element (such as a sign, enclosure, or similar feature) that is removed and not replaced in substantially the same form within sixty (60) days.

Upon abandonment, the use may not be reestablished except in full compliance with current Rules & Regulations.

1.05.06 Loss of Nonconforming Use Status

A Permitted Nonconforming Use loses its status and must thereafter comply with current Rules & Regulations if any of the following occur:

1. Expansion of the use;
2. Intensification of the use;
3. Relocation of the use, where location is relevant;
4. Change to a non-permitted use;
5. Abandonment as defined in Section 1.05.05; or
6. Removal of supporting improvements, but only where the use logically depends on such improvements for its existence.

Once nonconforming use status is lost, the use may not be resumed except in full compliance with current Sunriver Rules & Regulations.

1.05.07 Mandatory Compliance Uses (Reserved)

Certain uses may be designated by the Board of Directors as requiring compliance with current Rules & Regulations regardless of nonconforming status. This subsection is reserved for future designation by SROA Executive Board adoption.

1.05.08 Enforcement

The Community Development Department and the Natural Resources Department, acting as representatives of the Design Committee, are authorized to administer and enforce this section in conformance with these Sunriver Rules & Regulations and any applicable provisions of the Design Committee Manual of Rules and Procedures.