

# **ARTICLE 6**

## **NONCONFORMING BUILDINGS, STRUCTURES, USES, LOTS, AND SIGNS**

---

### **SECTION 6.0 - PURPOSE**

It is the purpose of this Article to provide regulations governing buildings, structures, signs, and uses of parcels, lots, buildings and structures which were legal before this Ordinance was adopted or amended. The lawful uses of land, buildings, structures, and signs in effect at the date of adoption of the Ordinance may be continued. Such uses, buildings, structures, lots and signs shall be designated as “Nonconforming”. It is the intention of this Ordinance that all nonconforming uses will either be eliminated or changed to conforming uses over a period of time. The Ordinance and actions by the Planning Commission are intended to encourage the elimination of nonconformities and to discourage anything that extends the normal useful life of a nonconformity. If a structure or use is nonconforming because of height, floor area, parking or loading space provisions of this Ordinance, it may be extended, enlarged, altered, remodeled or modernized to comply with these provisions. Once in compliance, no structure or use shall again become nonconforming in these categories. The regulations contained in this Article are designed to ensure that such uses will be properly regulated so as to result in a minimum of disharmony between themselves and the districts in which they are located.

### **SECTION 6.1 - NONCONFORMING BUILDINGS AND STRUCTURES**

#### **A. MAINTENANCE OF NONCONFORMING BUILDINGS AND STRUCTURES**

Nothing in this Ordinance shall prevent such necessary repairs and incidental alterations of a nonconforming building existing on the effective date of this Ordinance as may be necessary to secure a reasonable advantageous use thereof during its natural life.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Official.

#### **B. COMPLETION OF NONCONFORMING BUILDINGS AND STRUCTURES**

Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure if the construction of such building or structure has been substantially under way on the effective date of this Ordinance.

#### **C. DAMAGED OR TOTAL DESTRUCTION OF NONCONFORMING BUILDING OR STRUCTURE**

Any building or structure, whether it be nonconforming because of the building itself or the lot on which it is located, may be reconstructed to its original configuration in the event it is destroyed or partially destroyed by explosive, fire or other acts of God. An applicant for rebuilding of such a nonconforming building or structure shall make every attempt to rebuild the building to conform to current regulations if possible. Such rebuilding shall require Planning Commission approval.

**D. ALTERATIONS OF A NONCONFORMING BUILDING OR STRUCTURE**

1. Structural alterations or extensions which do not increase the nonconformity of the building or structure shall be permitted.
2. Nothing in this Ordinance shall prevent the modification of a building when doing so is required in order to comply with barrier-free requirements and the Americans with Disabilities Act.

**E. MOVING OF A NONCONFORMING BUILDING OR STRUCTURE**

No such nonconforming building or structure shall be moved in whole or in part to any other portions of the lot or parcel occupied, other than to correct or lessen the nonconforming conditions.

**SECTION 6.2 – NONCONFORMING USES**

The lawful use of any premises existing at the time of the adoption of this Ordinance may be continued, although such use does not conform to provisions of this Ordinance. All nonconforming uses shall be maintained in good condition.

**A. ABANDONMENT OF A NONCONFORMING USE**

If a property owner has the intent to abandon a nonconforming use of land and in fact abandons a nonconforming use of land for a period of one (1) year or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

1. Whether utilities such as water, gas, and electricity to the property have been disconnected.
2. Whether the property, buildings, and grounds have fallen into disrepair.

3. Whether signs or other indications of the existence of the nonconforming use have been removed.
4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

#### **B. CHANGE OF NONCONFORMING USE**

No nonconforming use shall be changed to other than a conforming use, nor shall any use be reverted to a former non-conforming use after said use has been changed to a conforming use.

#### **C. EXTENSION OF NONCONFORMING USE**

Nonconforming uses shall not be expanded nor increased in intensity of use. For the purpose of this Section, increases in the intensity of use shall include, but shall not be limited to, such activities as the addition of one or more dwelling units, the provision of additional manufacturing or selling area, or by the addition of facilities which would allow expansion of the nonconforming use or the establishment of another nonconforming use.

### **SECTION 6.3 - NONCONFORMING LOTS OF RECORD**

Except as provided in §6.4, any nonconforming lot of record may be used for any purpose authorized by the district in which it is located. Any required variances may be requested pursuant to the procedures and standards of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership as of the date of adoption of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

### **SECTION 6.4 – NONCONFORMING CONTIGUOUS PARCELS**

If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots

or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance.

## **SECTION 6.5 – NONCONFORMING SIGNS**

- A. Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this Zoning Ordinance may be continued.
- B. No person shall increase the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.
- C. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Zoning Ordinance or as allowed in **§6.5 (D)**.
- D. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all provisions of this Zoning Ordinance. The remnants of the former sign structure not usable for a new conforming sign shall be cleared from the land. For purposes of this section, a nonconforming sign is considered destroyed if it is damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value of the sign so damaged.
- E. Subject to the other provisions of this section, nonconforming signs may be repaired, maintained, serviced or repainted so long as the cost of such work does not exceed, within any twelve (12) month period, fifty (50) of the value of such sign.
- F. If a nonconforming sign, other than an off-premise sign, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed by the owner of the sign, the owner of the property where the sign is located, or the party having control over such sign within thirty (30) days after such abandonment
- G. If a nonconforming off-premise sign remains blank for a continuous period of one hundred eighty (180) days, that off-premise sign shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this Zoning Ordinance or be removed by the owner of the sign, the owner of the property where the sign is located, or the persons having control over such sign. For purposes of this section, a sign is “blank” if:

1. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted;
2. The advertising message it displays becomes illegible in whole or substantial part; or
3. The advertising copy that either has been paid for by a party other than the sign owner or promotes an interest other than rental of the sign has been removed.

### **SECTION 6.6 – ZONING BOARD OF APPEALS VARIANCE**

Although it is the intent of this Ordinance to restrict the expansion and perpetuation of nonconforming uses of land and/or buildings or uses, the Zoning Board of Appeals, subject to a hearing, may allow an expansion or enlargement, provided that it is conclusively shown that such expansion or enlargement:

- A. Will not further reduce the value or otherwise limit the lawful use of adjacent properties
- B. Will essentially retain the character and environment of abutting premises.
- C. Will not materially increase or perpetuate the nuisance aspects of the use upon adjacent uses (noise, glare, traffic, congestion, land over-crowding and related).