

ARTICLE 6 – NONCONFORMITIES AND LAWFULLY EXISTING USES

Division 1. General

Section 6-101. Purpose and applicability.

The purpose of this Article is to provide for the continuation, modification or eventual elimination of nonconforming uses, structures and signs in accordance with the standards and conditions in this Article. While nonconformities may continue, the provisions of this Article are designed to encourage the improvement or elimination of nonconformities in order to better achieve the purposes of these regulations.

Division 2. Nonconforming uses

Section 6-201. Continuation of nonconforming uses.

Except as may be provided for elsewhere in these regulations, a non-conforming use may be continued subject to the standards and conditions of this Division.

Section 6-202. Extension or expansion of nonconforming use.

A nonconforming use shall not be extended or expanded.

Section 6-203. Change from one nonconforming use to another nonconforming use.

- A. In general, a nonconforming use may be changed to:
 - 1. A more restrictive nonconforming use; or
 - 2. A conforming use.
- B. When a nonconforming use is changed to a more restrictive nonconforming use, the new nonconforming use shall not be permitted to change to a less restrictive nonconforming use.
- C. Notwithstanding Section 6-203(A), an industrial use located in a residential district shall not be changed, except if changed to a conforming use.

Section 6-204. Nuisances and hazards prohibited.

A nonconforming use shall not be continued if it produces odors, noxious fumes, smoke, noise or other external impacts that become a nuisance to residents.

Section 6-205. Discontinuance of nonconforming use.

Whenever a nonconforming use of property has been discontinued for a period of six (6) months or more, such non-conforming use shall not thereafter be re-established, and the future use of the property shall be in conformity with the provisions of these regulations. A use shall be deemed discontinued if the property is not open for business on an ongoing and continuous basis during a six (6) month period.

Section 6-206. Upgrading of nonconforming use.

In the event of a change in ownership or substantial renovation of a nonconforming use, any nonconforming use located in a C, CL, MXD or I District shall be brought into compliance with the following provisions of these regulations to the maximum extent practicable as determined by the Development Review Official:

- A. Perimeter buffer requirements of Article 5, Division 11.
- B. Sanitation requirements of Article 5, Division 17.

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C. Standards for nighttime uses in Article 4, Division 3, if applicable.

Division 3. Nonconforming structures

Section 6-301. Continuation of nonconforming structures.

Except as may be provided for elsewhere in these regulations, a non-conforming structure may be continued subject to the standards and conditions of this Division.

Section 6-302. Destruction of nonconforming structures.

Except as provided in this Code in Section 3-1112 and in this Section 6-302, a nonconforming structure or nonconforming portion of a structure that is destroyed to an extent exceeding fifty (50%) percent of its replacement cost at the time of its destruction shall not be reconstructed except in conformity with these regulations. All residential structures (including accessory uses and structures) located in a residential district may be reconstructed if destroyed to any extent, provided that such reconstruction does not increase the extent of the nonconformity (ies) existing prior to destruction.

Section 6-303. Alterations to nonconforming structures.

A structure that is nonconforming as to parking, height, setback, ground area coverage, floor area ratio, or other requirements other than use, shall not be altered or enlarged in a way that increases the extent of any nonconformity. Normal maintenance and repair is permitted.

Division 4. Nonconforming signs

Section 6-401. Continuation of nonconforming signs.

- A. All signs issued sign permits, or that were otherwise lawfully existing at the time of adoption of this Article, but which are not in conformance with the requirements of Article 5, Division 19, may continue as nonconforming signs, subject to the standards and conditions of this Division.
- B. Any sign lawfully existing as of February 26, 1985, may be continued provided such sign shall not be replaced or structurally altered unless such sign is made to comply with all applicable provisions of Article 5, Division 19.

Section 6-402. Alteration or relocation of nonconforming signs or buildings or structures upon which they are mounted.

- A. No nonconforming sign shall be enlarged, increased, relocated, nor extended to occupy a greater area than was permitted on the effective date of these regulations.
- B. If a sign is removed from a wall or facade of a building, the sign shall not be replaced unless it is made to comply with the provisions of this ordinance; providing, however, that this provision shall not prevent routine maintenance or repair to either the sign or the wall or facade on which it is mounted.

Section 6-403. Nonconforming signs on contributing historic structures.

Nonconforming signs that were installed at the time of a building's or structure's initial construction, but were removed or altered, and such building or structure is classified as contributing historic structure may be restored or replicated subject to Historic Preservation Department and Historic Preservation Board review and approval.

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Section 6-404. Discontinuance of nonconforming signs.

- A. Nonconforming signs shall be removed if:
1. For any reason, any use to which a sign relates ceases for a period of more than twelve (12) months;
 2. A preponderance of the evidence demonstrates that the sign has been abandoned; or
 3. They are destroyed such that the cost of repair exceeds fifty (50%) percent of the current replacement value of the sign.
- B. After a nonconforming sign is removed, any subsequent sign shall conform to the regulations specified herein.

Section 6-405. Destruction of nonconforming signs.

Nonconforming signs that are damaged by any cause may be repaired if the cost of the repair does not exceed fifty (50%) percent of the current cost of replacement of the sign. Such repairs shall be limited to routine painting, repair and replacement of electrical components. Change of copy shall not be permitted.

Section 6-406. Nuisances and hazards prohibited.

The City Commission may require a nonconforming sign to be brought into immediate conformity with all or part of the provisions contained herein or be removed when competent substantial evidence is presented by City Staff that indicates the sign to be hazardous to the public or to have been abandoned by its owners. All costs associated with bringing the sign into conformity with this code or with removing the sign may be assessed to the current property owner of record.

Division 5. Nonconforming accessory uses and accessory structures

Section 6-501. Termination after termination of principal use or structure.

No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use or accessory structure conforms to the standards for the zoning district in which it is located.

Section 6-502. Substantial improvement to principal use or structure.

Except as provided for in Section 6-302, any nonconforming accessory use or accessory structure shall be brought into conformity with these regulations whenever a substantial improvement (as determined by the Development Review Official), addition to, or change in the principal use or structure on the property is proposed and approved.

Division 6. Termination of status as a nonconformity: Lawfully existing uses

Section 6-601. General.

A nonconforming use or structure shall be deemed to be in conformity with these regulations, and may thereafter be allowed to continue and to expand as a lawfully existing use or structure, if such use or structure is granted conditional use approval in accordance with the provisions of this Section and the procedures in Article 3, Division 4.

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Section 6-602. Standards for terminating nonconforming status.

Conditional use approval shall not be granted to terminate status as a nonconforming use or structure if the nonconformity is improved according to the following requirements:

- A. Perimeter buffers conforming to the requirements of Article 5, Division 11 shall be installed.
- B. Off-street parking shall be improved to meet the landscaping standards established in Article 5, Division 14.
- C. Any nonconforming sign, outdoor lighting or other accessory structure or accessory use located on the building site lot shall be terminated, removed or brought into conformity with these regulations.