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ARTICLE 6 - NONCONFORMITIES

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 2.

Section 6-202. Extension or expansion of nonconforming use. A nonconforming use shall not be extended or expanded, but an increase in the level of activity of a nonconforming use in any portion of a building that was arranged or designed for such nonconforming use shall not be considered to be an extension or expansion of a non-conforming use.

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

- A. In general, a non-conforming use may be changed to:
 - 1. A more restrictive non-conforming use; or
 - 2. A conforming use.
- B. When a nonconforming use is changed to a more restricted nonconforming use, the new nonconforming use shall not be permitted to change to a less restricted 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 non-conforming 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 non-conforming 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.

Section 6-206. Upgrading of nonconforming use. Within twenty four (24) months after adoption of these regulations or within twelve (12) months of a change in ownership 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:

- A. Perimeter buffer requirements of Article, Division 11.
- B. Sanitation requirements of Article 5, Division 17.
- C. Standards for nighttime uses in Article 4, Division 3, if applicable.

1 **Division 3 Nonconforming structures.**

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3 **Section 6-301. Continuation of nonconforming structures.** Except as may be provided for elsewhere
4 in these regulations, a non-conforming structure may be continued subject to the standards and
5 conditions of this Division 3.

6
7 **Section 6-302. Destruction of nonconforming structures.** A nonconforming structure or
8 nonconforming portion of a structure that is destroyed to an extent exceeding fifty (50%) percent of its
9 replacement cost at the time of its destruction shall not be reconstructed except in conformity with these
10 regulations.

11
12 **Section 6-303. Alterations to nonconforming structures.** A structure that is nonconforming as to
13 height, setback, ground area coverage, floor area ratio, or other requirements other than use, shall not be
14 altered or enlarged in a way that increases the extent of any nonconformity. Normal maintenance and
15 repair is permitted.

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18 **Division 4. Nonconforming signs.**

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20 **Section 6-401. Continuation of nonconforming signs.**

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22 A. All signs issued sign permits, or that were otherwise lawfully existing at the time of adoption of this
23 Article, but which are not in conformance with the requirements of Article 5 Division 23, may continue
24 as non conforming signs, subject to the standards and conditions of this Division 4.
25
26 B. Any sign lawfully existing as of February 26, 1985, may be continued provided such sign shall not be
27 replaced or structurally altered unless such sign is made to comply with all applicable provisions of
28 Article 5, Division 23.

29
30 **Section 6-402. Alteration or relocation of nonconforming signs or buildings or structures upon
31 which they are mounted.**

- 32
33 A. No nonconforming sign shall be enlarged, increased, relocated, nor extended to occupy a greater
34 area than was permitted on the effective date of this Article.
35
36 B. If a sign is removed from a wall or facade of a building in order to substantially renovate, enlarge,
37 and/or structurally alter such wall or facade, the sign shall not be replaced unless it is made to comply
38 with the provisions of this ordinance; providing, however, that this provision shall not prevent routine
39 maintenance or repair to either the sign or the wall or facade on which it is mounted.
40

41 **Section 6-403. Nonconforming signs on contributing historic structures.** Nonconforming signs that
42 were installed at the time of a building's or structure's initial construction, but were removed or altered,
43 and such building or structure is classified as contributing historic structure may be restored or replicated
44 subject to Historic Preservation Department and Historic Preservation Board review and approval.
45

46 **Section 6-404. Discontinuance of nonconforming signs.**

- 47
48 A. Nonconforming signs shall be removed if:
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50 1. For any reason, any use to which a sign relates ceases for a period of more than twelve (12)
51 months;
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53 2. A preponderance of the evidence demonstrates that the sign has been abandoned; or
54
55 3. They are destroyed such that the cost of repair exceeds fifty percent (50%) of the current
56 replacement value of the sign.

1
2 B. After a nonconforming sign is removed, any subsequent sign shall conform to the regulations
3 specified herein.
4

5 **Section 6-405. Destruction of nonconforming signs.** Nonconforming signs that are damaged by any
6 cause may be repaired if the cost of the repair does not exceed fifty percent (50%) of the current
7 replacement value of the sign. Such repairs shall be limited to routine painting, repair and replacement of
8 electrical components. Change of copy shall not be permitted.
9

10 **Section 6-406. Nuisances and hazards prohibited.** The City Commission may require a
11 nonconforming sign to be brought into immediate conformity with all or part of the provisions contained
12 herein or be removed when evidence is presented by City Staff that indicates the sign to be hazardous to
13 the public or to have been abandoned by its owners. All costs associated with bringing the sign into
14 conformity with this code or with removing the sign may be assessed to the current property owner of
15 record.
16

17 18 **Division 5. Nonconforming accessory uses and accessory structures.**

19
20 **Section 6-501. Termination after termination of principal use or structure.** No nonconforming
21 accessory use or accessory structure shall continue after the principal use or structure is terminated by
22 abandonment, damage, or destruction unless such accessory use or accessory structure conforms to the
23 standards for the zoning district in which it is located.
24

25 **Section 6-502. Substantial improvement to principal use or structure.** Any nonconforming
26 accessory use or accessory structure shall be brought into conformity with these regulations whenever a
27 substantial improvement to, addition to, or change in the principal use or structure on the property is
28 proposed and approved.
29

30 31 **Division 6. Termination of status as a nonconformity.**

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33 **Section 6-601. General.** A nonconforming use or structure may be deemed to be in conformity these
34 regulations, and may thereafter be allowed to continue and to expand as a lawfully existing use or
35 structure, if such use or structure is granted conditional use approval in accordance with the provisions of
36 this Section and the procedures in Article 3 Division 4.
37

38 **Section 6-602. Standards for terminating nonconforming status.** Conditional use approval shall not
39 be granted to terminate status as a nonconforming use or structure unless the nonconformity is improved
40 according to the following requirements:
41

- 42 A. Perimeter buffers conforming to the requirements of Article 5, Division 11 shall be installed.
43
44 B. Off-street parking shall be improved to meet the landscaping standards established in Article 5,
45 Division 14.
46
47 C. Any nonconforming sign, outdoor lighting or other accessory structure or accessory use located on
48 the lot shall be terminated, removed or brought into conformity with these regulations.
49
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51 **Division 7. Non-permitted enclosed garages.**

52
53 **Section 6-701. Purpose.** The purpose of these compliance provisions is to enable and encourage
54 property owners cited by the City, or voluntarily submitted for compliance for non-permitted enclosed
55 residential garages constructed in single-family district prior to January 1, 2000 to comply with life safety
56 and other requirements under the provisions of these regulations. These provisions are intended to allow

1 the conversion of enclosed garages for the purpose of storing vehicle(s), or modifications to the enclosed
2 structure necessary to meet all applicable Florida Building Code requirements, as amended, and/or the
3 construction of a new garage or carport to meet the parking requirements for single-family residential
4 properties in these regulations.
5

6 **Section 6-702. Limited compliance period.** Property owners who have been cited by the City for a
7 non-permitted enclosed residential garage who satisfy the following conditions shall be eligible for
8 compliance provisions:
9

- 10 A. One (1) year from the adoption date of these provisions for all properties with existing pending
11 citations for non-permitted enclosed garages constructed prior to January 1, 2000, subject to
12 completion of final inspection for all required construction within the one-year period.
13
14 B. One (1) year from the date of issuance of citation of violation by the City for all future violations for
15 non-permitted enclosed garages constructed prior to January 1, 2000, subject to the completion of
16 final inspection for all required construction within the one-year period.
17

18 Properties failing to satisfy all applicable Florida Building Code provisions and the requirements of these
19 regulations, and successfully completing the final inspection for required work within the one (1) year
20 compliance period, shall be required to submit all permitting and other City fees, and shall be subject to
21 penalties and prosecution as provided for in Article 7 of the regulations.
22

23 **Section 6-703. Requirements and conditions.**
24

- 25 A. Enclosed garages that were constructed without a lawful permit after January 1, 2000 shall not be
26 eligible for the compliance provisions contained in this Division.
27
28 B. Waiving of fees and a description of required work to be completed, must be submitted in writing and
29 approved by the Building and Zoning Director prior to submittal of plans for permit.
30
31 C. "As Built" plans of the non-permitted garage enclosure must be provided by property owner. These
32 plans must be prepared by a registered architect and/or structural engineer, and must include all
33 existing structural, electrical, plumbing, heating, A/C and other information as determined and
34 requested the Building and Zoning Director.
35
36 D. The property owner must provide written proof and documentation that the non-permitted garage was
37 constructed prior to January 1, 2000. Confirmation and approval of construction date is required by
38 Building and Zoning Director.
39
40 E. Property owners with non-permitted enclosed garages applying for permit to retain enclosed garage
41 as habitable space must meet all Florida Building Code and regulation requirements and provide the
42 minimum one (1) on-site parking space as required by these regulations.
43
44 F. One (1) dedicated parking space with a minimum size of 9'x18', located entirely on the property, and
45 a driveway approach across public swale, may be provided in lieu of the requirement for the provision
46 of a minimum one (1) parking space consisting of either a garage or carport for each single-family
47 residence, for properties with a maximum size of the property's primary structure, including enclosed
48 garage, of 1,500 square feet. The dedicated parking space shall not count towards or be included in
49 the calculation of the subject property's minimum landscaped open space as required by these
50 regulations.
51
52 G. All proposed modifications, renovations and/or new construction shall be required to be reviewed and
53 approved by the Board of Architects. At that time, the Board of Architects shall determine and require
54 any exterior architectural modifications to the residence necessary to maintain the single-family
55 residential character of the structure and property.
56

- 1 H. A restrictive covenant shall be prepared and filed by the property owner for City Attorney's review and
2 approval when a dedicated parking space is provided in lieu of a required garage or carport in
3 subsection F of this Section that complies with the following:
4
5 1. Restricts the parking of any vehicle prohibited by these regulations.
6
7 2. Requires that if further additions, modifications or new construction results in the primary
8 structure exceeding 1,500 square feet, the property must come into compliance with these
9 regulations and provide either a garage or carport.
10
11 3. Requires any existing accessory or auxiliary storage structures, or the construction of new
12 accessory or auxiliary storage structures on the subject property shall satisfy all applicable
13 regulation requirements.
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