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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~~ restrictive nonconforming use, the new nonconforming use shall not be permitted to change to a less ~~restricted~~ 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 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 ~~one year~~ 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, MX 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 5, Division 11.
- B. Sanitation requirements of Article 5, Division 17.
- C. Standards for nighttime uses in Article 4, Division 3, if applicable.

1
2 | **Division 3. Nonconforming structures.**
3

4 **Section 6-301. Continuation of nonconforming structures.** Except as may be provided for elsewhere
5 in these regulations, a non-conforming structure may be continued subject to the standards and
6 conditions of this Division 3.
7

8 | **Section 6-302. Destruction of nonconforming structures.** Except as provided in this section, Aa
9 nonconforming structure or nonconforming portion of a structure that is destroyed to an extent exceeding
10 fifty (50%) percent of its replacement cost at the time of its destruction shall not be reconstructed except
11 in conformity with these regulations. All designated historic structures and any residential structure
12 located in a residential district may be reconstructed if destroyed to any extent, provided that such
13 reconstruction does not increase the extent of the nonconformity existing prior to destruction and provided
14 that such destruction was involuntary. If located within a designated historic district, or an historic site,
15 the repairs or rehabilitation shall comply substantially with the Secretary of Interior Standards for
16 Rehabilitation and Guidelines for Rehabilitating Historic Structures, as amended, as well as the Certificate
17 of Appropriateness Criteria in Article 3, Division 11 of these Land Development Regulations. If the repair
18 or rehabilitation of a contributing structure conflicts with any of these regulations, the property owner shall
19 seek relief from the applicable building or life safety codes.
20

21 **Section 6-303. Alterations to nonconforming structures.** A structure that is nonconforming as to
22 | parking, height, setback, ground area coverage, floor area ratio, or other requirements other than use,
23 shall not be altered or enlarged in a way that increases the extent of any nonconformity. Normal
24 | maintenance and repair is permitted.
25

26
27 **Division 4. Nonconforming signs.**
28

29 **Section 6-401. Continuation of nonconforming signs.**
30

- 31 A. All signs issued sign permits, or that were otherwise lawfully existing at the time of adoption of this
32 Article, but which are not in conformance with the requirements of Article 5 Division 23, may continue
33 as non conforming signs, subject to the standards and conditions of this Division 4.
34
35 B. Any sign lawfully existing as of February 26, 1985, may be continued provided such sign shall not be
36 replaced or structurally altered unless such sign is made to comply with all applicable provisions of
37 | Article 5, Division ~~23~~19.
38

39 **Section 6-402. Alteration or relocation of nonconforming signs or buildings or structures upon**
40 **which they are mounted.**
41

- 42 A. No nonconforming sign shall be enlarged, increased, relocated, nor extended to occupy a greater
43 | area than was permitted on the effective date of ~~this Article~~ these regulations.
44
45 B. If a sign is removed from a wall or facade of a building in order to substantially renovate, enlarge,
46 and/or structurally alter such wall or facade, the sign shall not be replaced unless it is made to comply
47 with the provisions of this ordinance; providing, however, that this provision shall not prevent routine
48 maintenance or repair to either the sign or the wall or facade on which it is mounted.
49

50 **Section 6-403. Nonconforming signs on contributing historic structures.** Nonconforming signs that
51 were installed at the time of a building's or structure's initial construction, but were removed or altered,
52 and such building or structure is classified as contributing historic structure may be restored or replicated
53 subject to Historic Preservation Department and Historic Preservation Board review and approval.
54

55 **Section 6-404. Discontinuance of nonconforming signs.**
56

- 1 A. Nonconforming signs shall be removed if:
2
3 1. For any reason, any use to which a sign relates ceases for a period of more than twelve (12)
4 months;
5
6 2. A preponderance of the evidence demonstrates that the sign has been abandoned; or
7
8 3. They are destroyed such that the cost of repair exceeds fifty percent (50%) of the current
9 replacement value of the sign.
10
11 B. After a nonconforming sign is removed, any subsequent sign shall conform to the regulations
12 specified herein.
13

14 **Section 6-405. Destruction of nonconforming signs.** Nonconforming signs that are damaged by any
15 cause may be repaired if the cost of the repair does not exceed fifty percent (50%) of the current
16 replacement value of the sign. Such repairs shall be limited to routine painting, repair and replacement of
17 electrical components. Change of copy shall not be permitted.
18

19 **Section 6-406. Nuisances and hazards prohibited.** The City Commission may require a
20 nonconforming sign to be brought into immediate conformity with all or part of the provisions contained
21 herein or be removed when evidence is presented by City Staff that indicates the sign to be hazardous to
22 the public or to have been abandoned by its owners. All costs associated with bringing the sign into
23 conformity with this code or with removing the sign may be assessed to the current property owner of
24 record.
25

26
27 **Division 5. Nonconforming accessory uses and accessory structures.**
28

29 **Section 6-501. Termination after termination of principal use or structure.** No nonconforming
30 accessory use or accessory structure shall continue after the principal use or structure is terminated by
31 abandonment, damage, or destruction unless such accessory use or accessory structure conforms to the
32 standards for the zoning district in which it is located.
33

34 **Section 6-502. Substantial improvement to principal use or structure.** Any nonconforming
35 accessory use or accessory structure shall be brought into conformity with these regulations whenever a
36 substantial improvement to, addition to, or change in the principal use or structure on the property is
37 proposed and approved.
38

39
40 **Division 6. Termination of status as a nonconformity.**
41

42 **Section 6-601. General.** A nonconforming use or structure may be deemed to be in conformity with
43 these regulations, and may thereafter be allowed to continue and to expand as a lawfully existing use or
44 structure, if such use or structure is granted conditional use approval in accordance with the provisions of
45 this Section and the procedures in Article 3, Division 54.
46

47 **Section 6-602. Standards for terminating nonconforming status.** Conditional use approval shall not
48 be granted to terminate status as a nonconforming use or structure unless the nonconformity is improved
49 according to the following requirements:
50

- 51 A. Perimeter buffers conforming to the requirements of Article 5, Division 113 shall be installed.
52
53 B. Off-street parking shall be improved to meet the landscaping standards established in Article 5,
54 Division 146.
55

1 C. Any nonconforming sign, outdoor lighting or other accessory structure or accessory use located on
2 the lot shall be terminated, removed or brought into conformity with these regulations.
3 |

4
5 **Division 7. Non-permitted enclosed garages.**
6

7 **Section 6-701. Purpose.** The purpose of these compliance provisions is to enable and encourage
8 property owners cited by the City, or voluntarily submitted for compliance for non-permitted enclosed
9 residential garages constructed in a single-family district prior to January 1, 2000 to comply with life safety
10 and other requirements under the provisions of these regulations. ~~Compliance provisions may be granted~~
11 ~~for properties located in single-family districts. [A limited one (1) year compliance period] as specified in~~
12 ~~this Section waives applicable City fees and penalties, and is~~ These provisions are intended to allow the
13 conversion of enclosed garages for the purpose of storing vehicle(s), or modifications to the enclosed
14 structure necessary to meet all applicable Florida Building Code requirements, as amended, and/or the
15 construction of a new garage or carport to meet the parking requirements for single-family residential
16 properties in these regulations.
17

18 **Section 6-702. Limited compliance period.** Property owners who have been cited by the City for a
19 non-permitted enclosed residential garage who satisfy the following conditions shall be eligible for
20 compliance provisions:
21

22 A. One (1) year from the adoption date of these provisions for all properties with existing pending
23 citations for non-permitted enclosed garages constructed prior to January 1, 2000, subject to
24 completion of final inspection for all required construction within the one-year period.
25

26 B. One (1) year from the date of issuance of citation of violation by the City for all future violations for
27 non-permitted enclosed garages constructed prior to January 1, 2000, subject to the completion of
28 final inspection for all required construction within the one-year period.
29

30 C. Properties failing to satisfy all applicable Florida Building Code provisions and LDR ~~the~~
31 of these regulations, and successfully completing the final inspection for required work within the one
32 (1) year compliance period, shall be required to submit all permitting and other City fees, and shall be
33 subject to penalties and prosecution as provided for in Article 7 of these se regulations.
34

35 **Section 6-703. Requirements and conditions of enclosed garages.**
36

37 A. Enclosed garages that were constructed without a lawful permit after January 1, 2000 shall not be
38 eligible for the compliance provisions contained in this Division.
39

40 B. Waiving of fees and a description of required work to be completed, must be submitted in writing and
41 approved by the Building and Zoning Director prior to submittal of plans for a permit.
42

43 C. "As Built" plans of the non-permitted garage enclosure must be provided by property owner. These
44 plans must be prepared by a registered architect and/or structural engineer, and must include all
45 existing structural, electrical, plumbing, heating, AVC air conditioning and other information as
46 determined and requested the Building and Zoning Director.
47

48 D. The property owner must provide written proof and documentation that the non-permitted garage was
49 constructed prior to January 1, 2000. Confirmation and approval of construction date is required by
50 Building and Zoning Director.
51

52 E. Property owners with non-permitted enclosed garages applying for a permit to retain the enclosed
53 garage as habitable space must meet all Florida Building Code and regulation requirements and
54 provide the minimum one (1) on-site parking space as required by these regulations.
55

- 1 F. One (1) dedicated parking space with a minimum size of 9'x18', located entirely on the property, and
2 a driveway approach across public swale, may be provided in lieu of the requirement for the provision
3 of a minimum one (1) parking space consisting of either a garage or carport for each single-family
4 residence, for properties with a maximum size of the property's primary structure, including enclosed
5 garage, of 1,500 square feet. The dedicated parking space shall not count towards or be included in
6 the calculation of the subject property's minimum landscaped open space as required by these
7 regulations.
8
- 9 G. All proposed modifications, renovations and/or new construction shall be required to be reviewed and
10 approved by the Board of Architects. At ~~the~~ that time of review, the Board of Architects shall determine
11 and require any exterior architectural modifications to the residence necessary to maintain the single-
12 family residential character of the structure and property.
13
- 14 H. A restrictive covenant shall be prepared and filed by the property owner for City Attorney's review and
15 approval when a dedicated parking space is provided in lieu of a required garage or carport in
16 subsection F of this Section that complies with the following:
17
 - 18 1. Restricts the parking of any vehicle prohibited by these regulations.
 - 19
 - 20 2. Requires that if further additions, modifications or new construction results in the primary
21 structure exceeding 1,500 square feet, the property must come into compliance with these
22 regulations and provide either a garage or carport.
 - 23
 - 24 3. Requires any existing accessory or auxiliary storage structures, or the construction of new
25 accessory or auxiliary storage structures on the subject property shall satisfy all applicable
26 regulation requirements.
27
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