

ARTICLE VI NON-CONFORMING LOTS, STRUCTURES, AND USES

SECTION 6-1 PURPOSE

The general public and the Council are to take note that non-conformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, wherever and whenever possible, except when necessary to preserve property rights established prior to the date this ordinance became effective as to the property in question, and when necessary to promote the general welfare and to protect the character of surrounding property. It shall be the responsibility of the Council to achieve this goal. As necessary, the Council shall from time to time on its own motion or upon cause presented by interested property owners inquire into the existence, continuation or maintenance of any non-conforming use within the City.

SECTION 6-2 NON-CONFORMING LOTS

A. Continuance of Non-Conforming Lots

Subject to all limitations herein set forth, any non-conforming lot may continue without change in boundaries and may be utilized or developed provided that the uses and development are otherwise authorized by this ordinance. No new structure shall be placed thereon except in conformity with the applicable Development Controls of the zoning district in which the lot is located.

B. Discontinuance of Non-Conforming Lots

Any lot which is made conforming by combining with other lots for purpose of sale or development, or by subdividing or resubdividing, thereafter shall be recognized as a conforming lot and shall comply in full with the provisions of this ordinance.

SECTION 6-3 NON-CONFORMING STRUCTURES

A. Limitation on Regulations

No structure, otherwise in accordance with the provisions of this ordinance or an amendment hereto, shall be rendered or be deemed a non-conforming structure solely for a failure to comply with the provisions of this ordinance, or an amendment hereto, relating to Signs, Off-Street Parking Regulations or Off-Street Loading Regulations.

B. Continuance of Non-Conforming Structures

Subject to all limitations herein set forth any non-conforming structure may be occupied and operated and maintained in a state of good repair, but no non-conforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this ordinance established for structures in the district in which the non-conforming structure is located. Sec. 6-1

C. Accidental Damage to Building

If a building occupied by non-conforming uses is destroyed by fire or the elements, it may not be reconstructed or rebuilt except to conform with provisions of this ordinance. In the case of partial destruction by fire or other causes, not exceeding fifty (50) percent of its value, the Zoning Official may issue a permit for reconstruction. If greater than fifty (50) percent and less than total, the Council may grant a permit for repair but for no enlargement or refurbishing of the building.

D. Obsolescence of Structure

The right to operate and maintain any non-conforming structure shall terminate and shall cease to exist whenever the non-conforming structure becomes obsolete or sub-standard under any applicable ordinance of the Town and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the replacement cost of such structure on the date that the Zoning Official determines that such structure is obsolete or sub-standard.

E. Determination of Replacement Cost

In determining the replacement cost of any non-conforming structure there shall not be included therein the cost of land or any factors other than the non-conforming structure itself.

F. Prior Permits

Nothing herein shall require any change in the plans, construction or designated use of a building for which a legal building permit has been heretofore issued, provided such construction shall have been started and shall be diligently prosecuted to completion within six (6) months following the date of issuance of such permit.

G. Repairs and Alterations

Repairs and alterations may be made to a non-conforming building or structure; provided, however, no structural alterations shall be made except those required by law or ordinance, unless the building is changed to a conforming use; and provided that no additional dwelling units shall be added where the non-conforming use results from there being more dwelling units on the lot than is permissible in the district in which the building is located. The Council may grant as a special exception, an application to extend or enlarge a building occupied by a non-conforming use on the lot occupied by such building provided such grant does not prevent the return of such property to a conforming use.

SECTION 6-4 NON-CONFORMING USES

A. Continuance of Non-Conforming Use

Any non-conforming use may be continued in operation on the same land area and on the same floor area in a structure or structures which were occupied by the non-conforming use on the effective date of this ordinance or on the effective date of any amendment by which the use became non-conforming, but such land area or floor area shall not be increased, except that such limitation shall not apply to farming uses.

B. Registration of Non-Conforming Use

It shall be the right of the joint tenants and owners of a non-conforming use to register same by securing a Certificate of Occupancy as provided in Section 3-1.

C. Changing a Non-Conforming Use

- 1) To a Conforming Use: Any non-conforming use may be changed to a use conforming with the regulations herein established for the district in which the non-conforming use is located; provided, however, that a non-conforming use so changed shall not thereafter be changed back to a non-conforming use.
- 2) To Another Non-Conforming Use: The following, and no other, non-conforming uses may be changed to another non-conforming use; provided, however, that a non-conforming use changed to another non-conforming use as hereinafter provided, shall not thereafter be changed back to the former non-conforming use.
 - (a) A non-conforming use which is permitted as a Principal Use in a given Residential District may be changed to any other Principal Use which is also permitted in said given Residential District.
 - (b) A non-conforming use which is permitted as a Principal Use in only one or more of the Business or Industrial Districts and which is more restricted in terms of the listing of Principal Uses than the particular Business or Industrial District in which the non-conforming use is a Principal Use, may be changed to any use which is a Principal Use in any one of the Business Districts which is more restricted.

Sec. 6-4:A,B,C