

CHAPTER 6. NONCONFORMING USES, STRUCTURES AND LOTS

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CHAPTER 6. NONCONFORMING USES, STRUCTURES AND LOTS

§ 6.1 APPLICABILITY

- A. **General.** The provisions of this Chapter shall apply to uses, structures (except signs) and lots that were legally existing as of the effective date of this Code, February 1, 2000, but that become nonconforming as the result of the application of this Code to them or from reclassification of the property under any subsequent amendments to this Code.
- B. **Signs.** For provisions applicable to nonconforming signs, see Chapter 8.

§ 6.2 PURPOSE

It is the general policy under this Code to allow nonconforming uses, structures or lots to continue to exist and to be put to productive use. The limitations of this Chapter are intended to recognize the interests of property owners in continuing to use their property but to reasonably control expansions, reestablishment of discontinued uses and the reestablishment of nonconforming buildings and structures that have been substantially destroyed.

§ 6.3 CONTINUATION OF NONCONFORMING USES OR STRUCTURES

- A. **Authority to Continue.** Nonconformities shall be allowed to continue in accordance with the requirements of this Chapter.
- B. **Repairs and Maintenance.** Repairs and normal maintenance required to keep nonconforming uses and structures in a safe condition shall be permitted, provided that no alterations shall be made except those allowed by this Chapter or required by law or ordinance.
- C. **Alteration/Extension of Nonconforming Uses and Structures.**
 - 1. *Alteration/Extension of Nonconforming Uses Prohibited.* Subject to the provisions of this Chapter, a nonconforming use shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was built for the nonconforming use at the time of adoption of this Code is not an extension of a nonconforming use.
 - 2. *Alteration/Extension of Nonconforming Structures Limited.* Except as allowed in §6.3.C below, a structure conforming as to use, but nonconforming as to height, setback or coverage, may be altered or extended, provided that the alteration or extension does not result in a new violation of this Code or increase the degree or extent of the existing nonconformity. (See §3.6, "Variances"; a variance may be sought to permit alterations or extensions to a nonconforming structure not otherwise allowed by this Chapter.)
- D. **Nonconforming as to Parking.**
 - 1. Nonconformity as to off-street parking or loading shall not subject the use to the conditions of this Chapter.
 - 2. A use that is nonconforming as to off-street parking or loading shall not be changed to another use requiring more off-street parking or loading unless the additional required parking or loading is provided.
 - 3. The Board of Adjustment may permit a nonconforming use to provide required off-street parking or loading on a lot other than the lot on which the use is located.

§ 6.4 CHANGE OF NONCONFORMING USE

- A. A. If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the zoning district and, after the change, it shall not be changed back again to a nonconforming use.
- B. B. A nonconforming use may be changed to a conforming use in phases over time, provided that such phasing is in accordance with a development plan approved pursuant to the procedures set forth in §3.8 of this Code.

§ 6.5 DISCONTINUANCE OF NONCONFORMING USE

If a nonconforming use is abandoned or discontinued for a period of twelve (12) consecutive months, further use of the property or structure shall be for a conforming use and its nonconforming status shall terminate.

§ 6.6 DAMAGE TO OR DESTRUCTION OF A NONCONFORMING STRUCTURE OR STRUCTURE CONTAINING A NONCONFORMING USE

If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by fire, flood, wind, explosion or act of God, the nonconforming structure or use may continue, but restoration shall be started within one (1) year of such calamity and shall be completed within three (3) years of initiating restoration.

§ 6.7 ZONING DISTRICT CHANGES

Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one (1) district to another district of a different classification, this Chapter shall apply to any nonconforming uses existing therein.

§ 6.8 USES ALLOWED ON NONCONFORMING LOTS

- A. **Nonconforming Lots in Residential Zoning Districts.** In all residential zoning districts, a lot that is nonconforming as to area or dimension as of the effective date of this Code may be occupied by a single-family detached residential use, subject to all other applicable zoning district and development standards unless a variance is granted by the Board of Adjustment.
- B. **Nonconforming Lots in Nonresidential Zoning Districts.** In all nonresidential zoning districts, a lot that is nonconforming as to area or dimension as of the effective date of this Code may be occupied by any use permitted by right in the zoning district, provided that a by-right accommodations use shall not be developed on a lot with an area less than:
 - 1. Forty thousand (40,000) square feet in the A zoning district, or
 - 2. Fifteen thousand (15,000) square feet in the A-1 zoning district.

Such uses shall be subject to all other applicable zoning district and development standards unless a variance is granted by the Board of Adjustment.

(Ord. 18-02 #1, 12/10/02)