

**Article 6.
NONCONFORMITIES**

Division 1. General.

Section 6-101 Purpose and Applicability. The purpose of this Article 6 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 LDRS.

~~Nothing contained in this Article 6 validates any non-conforming use that is not permitted to continue by the terms of this Article 6.~~

Division 2. Nonconforming Uses.

Section 6-201. Continuation of Nonconforming Uses. Except as may be provided for elsewhere in these LDRs, 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.

Nonconforming use and structure provisions from Article 7 of existing code, substantially reorganized. Section headings and minor edits were added for clarification. Nonconforming signs provisions are from Sec. 18-26 of the existing code.

Existing § 7-1, adapted for new organization and edited to add concept of "upgrading".

Existing § 7-1(f), deleted as being unnecessary.

Existing § 7-1, adapted for new organization.

Existing § 7-1(a), with clarification.

Existing § 7-1(c), first clause, with clarification.

Existing § 7-1(b), with clarification.

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.

Existing § 7-1(c), second clause, with clarification and change of district terminology.

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 in adjoining residential districts.

Existing § 7-1(d), with clarification and change of district terminology

Section 6-205. Discontinuance of Nonconforming Use. Whenever a non-conforming use of property has been discontinued for a period of one year 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 LDRs.

Existing § 7-1(e), expanded to include use of the entire property (some nonconforming uses could theoretically take place outside). Former section provided: "Whenever a non-conforming use of a building has been discontinued for a period of one year or more, such non-conforming use shall not thereafter be re-established, and the future use shall be in conformity with the provisions of this code."

Division 3 Nonconforming Structures.

Section 6-301. Continuation of Nonconforming Structures. Except as may be provided for elsewhere in these LDRs, a non-conforming structure may be continued subject to the standards and conditions of this Division 3.

Existing § 7-1, adapted for new organization.

Section 6-302. Destruction of Nonconforming Structures. 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 LDRs.

Existing § 7-1(g), with clarification.

Section 6-303. Alterations to Nonconforming Structures. A structure that is nonconforming as to 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.

Existing § 7-1(h), with clarification.

Division 4. Nonconforming signs.

Section 6-401. Continuation of Nonconforming Signs.

Existing § 18-26 and 18-19, adapted for new organization.

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 23, may continue as non conforming signs, subject to the standards and conditions of this Division 4.

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 23.

Existing § 18-26(a), adapted for new organization.

Section 6-402. Alteration or Relocation of Nonconforming Signs or Buildings or Structures Upon Which They Are Mounted.

Existing 18-26(d) and 18-19

A. No nonconforming sign shall be enlarged, increased, relocated, nor extended to occupy a greater area than was permitted on the effective date of this Article.

B. If a sign is removed from a wall or facade of a building in order to substantially renovate, enlarge, and/or structurally alter such wall or facade, 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.

Modification of the existing §§ 18-26(b) and (c), with clarifications. Abandonment is added in order to reflect what appears to be the intent of the existing § 18-26(e).

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;

Existing § 18-26(c).

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 percent (50%) 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 percent (50%) of the current replacement value 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 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.

Any nonconforming accessory use or accessory structure shall be brought into conformity with these LDRs whenever a substantial improvement to, addition to, or change in the principal use

Existing § 18-26(e), with clarification. The City may wish to authorize the City Manager to repair or remove signs that create imminent danger and leave the rest to code enforcement.

This is an entirely new division regarding accessory uses which requires nonconforming accessory uses and structures to be brought into compliance when the principal use is destroyed.

or structure on the property is proposed and approved.

Division 6. Termination of Status as a Nonconformity.

Section 6-601. General. A nonconforming use or structure may be deemed to be in conformity these LDRs, 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 5.

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

- A. Perimeter buffers conforming to the requirements of Article 5, Division 13 shall be installed.
- B. Off-street parking shall be improved to meet the landscaping standards established in Article 5, Division 16.
- C. Any nonconforming sign, outdoor lighting or other accessory structure or accessory use located on the lot shall be terminated, removed or brought into conformity with these LDRs.

Division 7. Non-permitted enclosed garages.

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

This division 6 is entirely new – it allows an existing nonconforming use or structure to terminate its status as “nonconforming” which can hinder financing and discourage maintenance and repair, in exchange for review and approval by P & Z through the conditional use process (allowing imposition of conditions appropriate for the particular use or structure) and certain minimum improvements.

Existing Ordinance 0-2003-17 slightly edited.

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

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

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

Section 6-703. Requirements and Conditions.

- A. Enclosed garages that were constructed without a lawful permit after January 1, 2000 shall not be eligible for the compliance provisions contained in this Division.
- B. Waiving of fees and a description of required work to be completed, must be submitted in writing and approved by the Building and Zoning Director prior to submittal of plans for permit.
- C. "As Built" plans of the non-permitted garage enclosure must be provided by property owner. These plans must be prepared by a registered architect and/or structural engineer, and must include all existing structural, electrical, plumbing, heating, A/C and other information as determined and requested the Building and Zoning

Director.

- D. The property owner must provide written proof and documentation that the non-permitted garage was constructed prior to January 1 2000. Confirmation and approval of construction date is required by Building and Zoning Director.
- E. Property owners with non-permitted enclosed garages applying for permit to retain enclosed garage as habitable space must meet all Florida Building Code and LDR requirements and provide the minimum one (1) on-site parking space as required by these LDRs.
- F. One (1) dedicated parking space with a minimum size of 9'x18', located entirely on the property, and a driveway approach across public swale, may be provided in lieu of the requirement for the provision of a minimum one (1) parking space consisting of either a garage or carport for each single-family residence, for properties with a maximum size of the property's primary structure, including enclosed garage, of 1,500 square feet. The dedicated parking space shall not count towards or be included in the calculation of the subject property's minimum landscaped open space as required by these LDRs.
- G. All proposed modifications, renovations and/or new construction shall be required to be reviewed and approved by the Board of Architects. At that time, the Board of Architects shall determine and require any exterior architectural modifications to the residence necessary to maintain the single-family residential character of the structure and property.
- H. A Restrictive Covenant shall be prepared and filed by the property owner for City Attorney's review and approval when a dedicated parking space is provided in lieu of a required garage or carport in subsection F of this Section that complies with the following:
 - 1. Restricts the parking of any vehicle prohibited by these LDRs.
 - 2. Requires that if further additions, modifications or new construction results in the primary structure exceeding 1,500 square feet, the property must come into compliance with these

LDRs and provide either a garage or carport.

3. Requires any existing accessory or auxiliary storage structures, or the construction of new accessory or auxiliary storage structures on the subject property shall satisfy all applicable LDR requirements.