

## **6.6 NONCONFORMING USES AND STRUCTURES**

- A.** Any use or structure which does not conform with the regulations of the zoning district in which the use or structure is located shall be deemed a nonconforming use or structure when:
  - 1.** The use or structure was in existence and lawfully operating prior to September 23, 1957, and since that date has been continuously operating (in the case of the use) or in existence (in the case of the structure).
  - 2.** The use or structure was in existence and lawfully operating prior to February 24, 1969 and since that date has been continuously operating (in the case of the use) or in existence (in the case of the structure).
  - 3.** The use or structure was in existence and lawfully operating prior to the effective date of this zoning ordinance and since that date has been continuously operating (in the case of the use) or in existence (in the case of the structure).
  - 4.** The use or structure was in existence at the time of annexation into the City and has been in regular and continuous use (in the case of the use) or existence (in the case of the structure) since the date of annexation.
- B.** Any nonconforming use of land may be continued for definite periods subject to regulations the Board of Adjustment may adopt for immediate preservation of the adjoining property prior to the ultimate removal of the nonconforming use.
- C.** The Director may grant a change of occupancy from one nonconforming use to another, provided the use is within the same, or higher or more restricted classification as the original nonconforming use.
- D.** In the event a nonconforming use is changed to another nonconforming use which is more restrictive, it shall not later be changed to a less restrictive classification of nonconforming use and the prior less restrictive classification shall be considered to have been abandoned
- E.** Any nonconforming use of property may be changed to a permitted use. When a nonconforming use of property is changed to a permitted use, the property may no longer be used for the prior non-conforming use.
- F.** If a non-conforming structure is damaged or destroyed by fire, the elements or other cause such that the cost of reconstruction of the structure to substantially its condition prior to the event causing the damage or destruction exceeds 50% of the appraised value of the non-conforming structure prior to the event resulting in such damage or destruction, the structure may not be rebuilt except in compliance with the provisions of this zoning ordinance.
- G.** If a nonconforming structure is damaged such that the cost of reconstruction of the structure to substantially its condition prior to the event causing the damage or destruction does not exceed 50% of the appraised value of the non-conforming structure prior to the event resulting in such damage or destruction, the non-conforming structure may be reconstructed subject to the following:

1. If the nature of the non-conformity relates to the location of the structure to one or more of the required setbacks on the property, and the structure can be rebuilt in a manner that (a) maintains the floor area of the structure prior to the damage and (b) eliminates the non-conformity, the structure shall be rebuilt in such a manner as to reduce the non-conforming nature of the structure as much as reasonably possible; and
  2. The reconstruction of the building shall not increase the prior non-conformity or create a new basis for the structure being non-conforming.
- H.** No nonconforming use may be expanded or increased beyond the lot or tract upon which such nonconforming use was located as of the date such use became non-conforming except, however, to provide off-street parking or off-street loading space upon approval of the Board of Adjustment.
- I.** When the use of property for a nonconforming use is abandoned or discontinued, all rights to continue the use of the property for such nonconforming use shall cease and the use of the property thereafter shall conform to this zoning ordinance. Abandonment shall involve the intent of the user or owner to discontinue a nonconforming operation and the actual act of discontinuance. Any nonconforming use which is discontinued for a period of six months shall be deemed to have been abandoned.
- J.** In the I-RU zoning district, no nonconforming use may be expanded, except as otherwise provided. Prior to the issuance of any permit for an addition or modification to the site or building, the Director shall determine if the proposed modification will expand the nonconforming use and/or if the modification will adversely impact surrounding properties. If it is determined that the proposed modification will expand the nonconforming use or have an adverse impact on adjacent properties, the nonconforming use shall be brought into a legal conforming status as a condition of granting any building permit.
- K.** Notwithstanding anything in this Section 6.6 to the contrary, a one-family or two-family dwelling constructed prior to August 24, 1970, which does not provide the number of off-street parking spaces required by Section 4.3, the one-family or two-family dwelling structures shall be considered a conforming structure for all purposes under this zoning ordinance.

## **6.7 PENALTY FOR VIOLATIONS**

Any person violating any of the provisions of this zoning ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$2,000 for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs.