

CHAPTER 6

NON-CONFORMING USES

SECTION:

10-6-1: Continuation

10-6-2: Change or Extension of Non-Conforming Use 10-6-3: Abandonment or Discontinuance

10-6-4: Repairs, Maintenance and Alteration 10-6-5: Restoration

10-6-1: CONTINUATION:

A. Any lawful building, structure, or use existing at the time of the enactment of this Title may be continued, even though such building, structure, or use does not conform to the provisions of this Title for the district in which it is located, and whenever a district shall be changed hereafter, the then existing lawful use may be continued (subject to the provisions of Chapter 6).

B. Any legal non-conforming building or structure may be continued in use provided there is no physical change other than normal maintenance and repairs, except as otherwise permitted herein.

C. Any building for which a permit has been lawfully granted prior to the effective date of this Title, or of amendments hereto, may be completed in accordance with the approved plans; provided construction is started within ninety (90) days and diligently prosecuted to completion. Such building shall be thereafter deemed to be a lawfully established building.

10-6-2: CHANGE OR EXTENSION OF NON-CONFORMING USE:

A. A non-conforming use shall not be extended, but the extension of a conforming use to any portion of a non-conforming building shall not be deemed the extension of such non-conforming use.

B. A non-conforming use shall not be changed to a use of the same or greater non-conformity with the district regulations of the district in which it is located, and when so changed to a use of greater conformity; however, in the I- Industrial District, a non-conforming use shall not be changed to any non-conforming use shall not be changed to any non-conforming residential use.

C. A non-conforming use shall not be altered, extended or restored so as to displace any conforming use.

D. In a manufacturing or industrial plant in an I- District, if it is necessary in order for the expansion of plant capacity to extend a non-conforming use, such non-conforming use may be extended only to such degree as is necessary to expand the facilities of the existing conforming use.

E. Public or private utility facilities may be expanded or modified as necessary within the limits

of the property presently containing non-conforming facilities.

10-6-3: ABANDONMENT OR DISCONTINUANCE:

A. Any non-conforming use of a building or premises which has been abandoned shall not thereafter be resumed and any future use on the premises shall be in conformity with the provisions of this Title.

B. When any non-conforming use has been discontinued for a period of twelve (12) consecutive months, regardless of any intent to resume operations, such use shall not thereafter be resumed and any future use of the premises shall be in conformance with the provisions of this Title.

10-6-4: REPAIRS, MAINTENANCE AND ALTERATION:

A. Ordinary repairs and maintenance of a non-conforming building shall not be deemed an extension of such non-conforming building and shall be permitted.

B. No structural alteration shall be made in a building or other structure containing a non-conforming use, except in the following situations:

1. When the alteration is required by law;
2. When the alteration will actually result in elimination of the non-conforming use.
3. When a building in a residence district containing residential non-conforming uses may be altered in a way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.

10-6-5: RESTORATION: If a building or other structure containing non-conforming use is damaged or destroyed by any means to the extent of fifty percent (50%) or more of its value at the time the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district in which it is located. In the event the damage or destruction is less than fifty percent (50%) of its value, based upon prevailing costs, the building may then be restored to its original condition and the occupancy or use of such partial destruction. In any event, restoration or repair of the building or other structure must be started within a period of six (6) months from the date of damage or destruction and diligently prosecuted to completion. Provided, however, that when located entirely within the lot of a plant in an I- District if a structure containing a non-conforming use is intentionally demolished or dismantled with intent to build a new building or structure to carry on such use or if such structure containing a non-conforming use is intentionally demolished or dismantled with intent to build a new building or structure to carry on such use or if such structure containing a non-conforming use is intentionally demolished or dismantled with intent to build a new building or structure to carry on such use or if such structure is damaged or destroyed in excess of fifty percent (50%) of its value, then such building or structure entirely within the boundaries of a lot of a manufacturing or utility company within an Industrial District may be restored and/or extended. Further provided, that the complete restoration of a damaged or destroyed non-conforming structure may be made when such is necessary for continued or resumption of utility services. (Ord. 776; 5/12/1971)