

ARTICLE XVII

NON-CONFORMING USES

SECTION 1. STATEMENT OF INTENT.

Subsection A. Within the various Districts established by this Ordinance or by amendments that may later be adopted, there exist structures, use of land, use of structures or use of land and structures in combination, which were lawful prior to the adoption of this Ordinance but which would be prohibited, regulated or restricted under the provision of this Ordinance. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that such non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same District.

Subsection B. To avoid undue hardship, nothing in this Article shall be deemed to require a change in the plans, construction or designated use of any building on which construction was lawfully begun prior to the effective date of adoption or amendment of this Article and upon which substantial improvements have been made.

Subsection C. Any use in existence at the time of adoption of this Article which was not an authorized "non-conforming use" under the previous Zoning Ordinance shall not be authorized to continue as a non-conforming use pursuant to this Article, or amendments thereto.

SECTION 2. NON-CONFORMING STRUCTURES.

Subsection A. Where a structure exists at the effective date of the adoption or amendment of this Article which could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way which increases its non-conformity.

(2) Should such structures be destroyed by any means to any extent of sixty (60) percent or more of its replacement costs at the time of destruction, exclusive of the foundation, it shall not be reconstructed except in conformity with the provisions of this Ordinance. If the structure is less than sixty (60) percent destroyed above the foundation, it may be reconstructed provided this is done within six (6) months of such destruction.

SECTION 3. NON-CONFORMING USE OF LAND.

Subsection A. The lawful use of land upon which no building or structure is erected or constructed, which becomes non-conforming under the terms of this Ordinance as adopted or amended, may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

(2) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel which was not occupied by such use at the effective date of adoption or amendment of this Ordinance.

(3) If any such non-conforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the District regulation for the District in which such land is located.

SECTION 4. NON-CONFORMING USE OF STRUCTURES.

Subsection A. If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of the adoption or amendment of this Ordinance, that would not be allowed in the District under the terms of this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1)** No existing structure devoted entirely or in part to a use not permitted by this Ordinance in the District in which it is located shall be enlarged, extended, reconstructed, moved or structurally altered except when required by law, unless the use is changed to a use permitted in the District in which such structure is located.
- (2)** Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance. No such use shall be extended to occupy any land outside such building.
- (3)** If no structural alterations are made, a non-conforming use of a structure may be changed to another non-conforming use of a similar nature within the same or a more restrictive zoning classification. Whenever a non-conforming use has been changed to a more restrictive zoning use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.
- (4)** No non-conforming use of a structure, land or structure and land in combination which remains idle or unused for a continuous period of one (1) year, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the District in which such building or land is located.
- (5)** The casual, intermittent, temporary or illegal use of structure, land or structure and land in combination shall not be sufficient to establish the existence of a non-conforming use and the existence of a non-conforming use on the part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot or tract.
- (6)** Any structure devoted to a use made non-conforming by this Ordinance that is destroyed by any means to an extent of sixty (60) percent or more of its replacement cost at the time of destruction, exclusive of the foundation, shall only be reconstructed and used in conformance with the regulations of the District in which such building and land is located. If the structure is less than sixty (60) percent destroyed above the foundation, it may be reconstructed and used as before provided this is done within six (6) months of such destruction.

SECTION 5. REPAIRS AND MAINTENANCE.

Subsection A. All non-conforming structures may be repaired for normal maintenance. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition any building declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 6. ZONING COMPLIANCE.

Subsection A. A Certificate of Zoning Compliance shall be required of all non-conforming uses when discovered. Application for a certificate for non-conforming uses shall be filed with the Zoning Administrator accompanied by affidavits of proof that such non-conforming use was legally established prior to the effective date of the adoption or amendment of this Ordinance.