

Section 6
NON-CONFORMING BUILDINGS AND USES

- 6.01 Purpose
- 6.02 Nonconforming Lots
- 6.03 Residential Districts
- 6.04 Business, ORI and Manufacturing Districts
- 6.05 Two or More Lots in Common Ownership
- 6.06 Nonconforming Structures
- 6.07 Nonconforming Uses Occupying a Structure
- 6.08 Nonconforming Use of Land

6.01 PURPOSE

The requirements imposed by this Zoning Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures and uses of land or structures that do not conform to the requirements of the district in which they are located impede appropriate development. The regulations of this Section 6 are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.

6.02 NONCONFORMING LOTS

Any vacant lot that does not conform to 1 or more of the lot size (area, dimensions) requirements of the district in which it is located, may be used in the manner indicated in this Zoning Code if such vacant lot:

1. Is lot of record on the date of the adoption or amendment of this Zoning Code; and
2. Has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by any applicable zoning or other ordinance; and
3. Is at least 50 feet wide.

6.03 RESIDENTIAL DISTRICTS

In any residential district, 1 principal building and related accessory structures, but no other use, may be erected on any vacant nonconforming lot of the type described above provided all other bulk and yard regulations of the particular district are observed.

6.04 BUSINESS, ORI AND MANUFACTURING DISTRICTS

In the manufacturing district, ORI and in any business district, any structure permitted in the particular district may be erected on any vacant nonconforming lot of the type described above if all other bulk and yard requirements of that district are met.

6.05 TWO OR MORE LOTS IN COMMON OWNERSHIP

If 2 or more lots or combinations of lots and portions of lots with continuous frontage were in common ownership on the effective date of this Zoning Code, and if 1 or more of those lots does not meet the minimum lot width, depth and area requirements of the district in which it is located, the land involved

shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Zoning Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Zoning Code.

6.06 **NONCONFORMING STRUCTURES**

Any lawful structure which exists on the effective date of this Zoning Code but which could not be erected under the terms of this Zoning Code because of restrictions on lot size, height, setbacks or other characteristics of the structure or its location on the lot may lawfully remain subject to the following provisions:

1. Relocation: No such structure shall be relocated unless it will conform to all the regulations of the district in which it is relocated.
2. Reconstruction: No such structure which is destroyed or damaged by any means shall be reconstructed if the Zoning Administrator determines that the cost of such reconstruction exceeds 50 percent of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the administrator determines the estimated cost of reconstruction is less than 50 percent of the structure's market value at the time of loss, repairs or reconstruction shall be permitted provided such work starts within 6 months from the date the damage occurred and is diligently prosecuted to completion.

The Zoning Administrator may require that the reconstruction cost estimate be made by a bona-fide construction contractor and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Zoning Administrator.

3. Repairs, Maintenance and Alterations: Ordinary repairs, normal maintenance and non-structural alterations may be made to a nonconforming building, structure or building containing a nonconforming use, provided that the repairs, maintenance work or nonstructural alterations do not extend or intensify the nonconforming use. *Ord. 03-1-8*

Structural alterations may be made to a nonconforming building, structure or building containing a nonconforming use only in the following situations:

- a. When the alteration is required by law .
 - b. When the alteration will actually result in eliminating the nonconforming use.
 - c. When the alteration is made to improve livability in a residential nonconforming structure, provided that no structural alteration shall be made which would increase the number of dwelling units, or the number of bedrooms or the height, or bulk of the buildings.
4. Additions and Enlargements: A nonconforming building or structure, or use within a nonconforming building or structure, shall not be added to or enlarged in any manner unless such nonconforming building or structure and use thereof, including all additions and enlargements thereto, is made to conform to all the regulations of the zoning district in which it is located. *Ord. 03-1-8*

6.07 **NONCONFORMING USES OCCUPYING A STRUCTURE**

If any lawful use occupying a structure exists on the effective date of this Zoning Code but would not be allowed under the terms of this Zoning Code, such use may lawfully continue subject to the following provisions:

1. Maintenance: Any structure housing a nonconforming use may be maintained through ordinary repairs.
2. Enlargement, Alteration, Reconstruction, Relocation: No structure housing a nonconforming use shall be enlarged, structurally altered, reconstructed or relocated unless the use of the structure is changed to a permitted use.
3. Extension of Use: No nonconforming use may be extended to any part(s) of the structure not intended or designed for such use, nor shall the nonconforming use be extended to occupy any land outside such structure.
4. Yard and Bulk: A building which is nonconforming with respect to yards, floor area ratio or any other element of bulk regulated by this Zoning Code shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.
5. Change of Use: A nonconforming use occupying a structure shall not be changed except to a use permitted under the applicable district regulations.
6. Discontinuance of Use: When a nonconforming use of a structure or of a structure and premises in combination is discontinued for 12 consecutive months or for 18 months during any 3-year period, the nonconforming use shall not thereafter be resumed.

6.08 NONCONFORMING USES OF LAND

Any lawful use of land existing on the effective date of this Zoning Code that would not be permitted under the terms of this Zoning Code may lawfully continue subject to the following provisions:

1. Intensification or Extension of Use: A nonconforming use of land shall not be intensified or extended to occupy a greater area of land than was occupied by such use on the effective date of this Zoning Code.
2. Relocation: No nonconforming use of land shall be moved in whole or in part unless such use upon relocation will conform to all pertinent regulations of the district in which it is proposed to be located.
3. Change of Use: A nonconforming use of land shall not be changed except to a use that is permitted under the applicable district regulations.
4. Discontinuance: When a nonconforming use of land is discontinued for a period of 12 consecutive months, it shall not thereafter be resumed. Any subsequent use of such land shall conform to the applicable district regulations.

pjh:Marengo.Zone\Section06.NonConforming