

ARTICLE IV

SCOPE OF REGULATIONS

This ordinance is primarily designed to control the establishment of future land and building areas, however, such uses in existence at the time of adoption of the ordinance or subsequent amendments to the ordinance shall also be regulated as set out in this article.

4.1 Existing Building Permits

If a building permit has been issued prior to the effective date of this ordinance or amendments thereto, and provide that construction is begun within six (6) months of the date of issuance and construction is diligently pursued to completion, the building may be occupied for the use intended at the time of permit subject to the regulations of this ordinance as applied to non-conforming buildings.

4.2 New Uses of Existing Buildings

No building or structure or part thereof shall be reconstructed, enlarged, relocated or structurally altered for a use or occupancy except as permitted by the regulations of this ordinance and amendments thereto for the zoning district in which such building or structure is located.

4.3 Existing Special Uses

If a use or occupancy lawfully existed as a conditional use at the time of adoption of this ordinance or any amendment thereto, such use shall continue as a special use. However, a further special use authorization shall be required for new construction, enlargement, relocation or structural alteration of any building occupied for such special use. If a special use is abandoned for a period of more than eighteen (18) months, the special use shall become void.

4.4 Granted Special Uses and Variations

Where a special use or variation is granted under the terms of this ordinance, such special use or variation shall become void unless construction for occupancy is substantially in progress within twelve (12) months of the date of the issuance of the special use or variation, except in the case of a Planned Unit Development. Authorization for a Planned Unit Development shall become null and void according to the terms of the ordinance granting such authorization.

In the event that the ordinance granting authority for a Planned Unit Development does not establish any time for commencement and completion, said authority shall expire three (3) years from the date of the grant of authority or the effective date of this

ordinance, whichever is later. Planned Unit Development authority shall expire if work is not substantially commenced within the applicable period of authorization and diligently prosecuted. Upon written application and for good cause shown, the corporate authorities may, in their sole discretion, grant extensions of time not to exceed one year each.

4.5 Existing Non-Conforming Uses

A lawfully existing non-conforming use of all or part of a building or structure which is designed or intended for a use permitted in the district in which it is located may be continued only in accordance with the following regulations:

1. If a lawfully existing non-conforming use is discontinued for a period of six (6) consecutive months, it shall not thereafter be renewed and any subsequent use of the building or structure must conform to the use regulations of the district in which it is located.
2. No non-conforming use shall be changed to another non-conforming use.
3. Whenever a non-conforming use is changed to or replaced by a use conforming to the provisions of this ordinance, such premises shall not thereafter be used or occupied by a non-conforming use.
4. The non-conforming use of part of a building or structure shall not be expanded or extended into any other portion of such building or structure.
5. A building or structure occupied in whole or in part by a lawful non-conforming use may be repaired, altered or structurally changed provided said repairs, alterations or structural changes conform to the requirements of the district in which the building is located.

4.6 Existing Conforming Buildings

Except as may otherwise be provided, no building, or structure or part thereof shall be reconstructed, enlarged, relocated or structurally altered except in accordance with the provisions of this ordinance and subsequent amendments thereto and the requirements of the district in which such building is located.

4.7 Existing Non-Conforming Buildings

A non-conforming building or structure including a building or structure designed or intended for a use not permitted in the district in which it is located, which existed lawfully at the time of adoption of this ordinance or amendments thereto and which remains non-conforming or any such building or structure which shall become non-conforming upon adoption of this ordinance or any amendment thereto may continue to be used only in accordance with the following regulations:

1. Ordinary repairs and improvements may be made to a non-conforming building, however, no non-conforming building shall be enlarged or relocated unless it is made to conform to the regulations of the district in which it is located. However, if a building is non-conforming only as to bulk, it may be added to or enlarged if such additions and enlargements conform all the regulations of the district in which the building is located. A building in a residential district containing non-conforming residential units or uses may be repaired or altered to improve living and health conditions provided that the alterations do not result in an increase in either the bulk of the building or the number of dwelling units.
2. A non-conforming building or structure, or portion thereof, which is damaged or destroyed by fire, casualty or act of God to the extent that the cost of restoration will exceed 50% of the cost of replacement of the entire building or structure shall not be restored, except as required by law or in conformance with the regulations of the district in which said building or structure is located. The extent of damage and the cost of restoration shall be determined by a panel consisting of a representative of the municipality, a representative of the owner and a third person acceptable to both parties. In the case of damage or destruction of a building or structure located in the Central Business District, required loading berths may be omitted from the restored building or structure. Provided, however, the forty percent (40%) floor area ratio provided for in this ordinance shall not be applicable to the reconstruction of any residence which is the subject of this section provided that all or any part of the residence was constructed pursuant to a building permit issued on or prior to October 17, 1989.

Provided further, however, the floor area ratio of the reconstructed residence shall not exceed the floor area ratio of the residence immediately prior to its destruction.

3. A non-conforming building or structure, or portion thereof which is damaged by fire, casualty or act of God to the extent that the cost of restoration is less than 50% of the cost of replacement of the entire building or structure may be repaired or reconstructed only if such restoration is commenced within eighteen (18) months from the date of the partial destruction and is diligently pursued to completion. For good cause and upon petition of the owner of such non-conforming building the corporate authorities may grant an extension of time in which to commence restoration. The extent of damage and the cost of restoration shall be determined as set forth in Section 4.7.2. Provided, however, the forty percent (40%) floor area ratio provided for in this ordinance shall not be applicable to the reconstruction of any residence which is the subject of this section provided that all or any part of the residence was constructed pursuant to a building permit issued on or prior to October 17, 1989. Provided further, however, the floor area ratio of the reconstructed residence shall not exceed the floor area ratio of the residence immediately prior to its destruction.

4.8 Non-Conforming Use of Land

The non-conforming use of land not involving a building or structure, or in connection with which any building or structure thereon is incidental may be continued subject to the following provisions:

1. Discontinuance of a Non-Conforming Use

If a non-conforming use of land is discontinued for a period of six (6) consecutive months, it shall not thereafter be renewed, and any subsequent use of land shall conform to the regulations of the district in which the land is located.

2. Expansion of a Non-Conforming Use

A non-conforming use of land shall not be expanded or extended beyond the area it occupies.

3. Change to a Conforming Use

Whenever a non-conforming use of land is changed to or replaced by a conforming use of land, such premises shall not thereafter be used or occupied by a non-conforming use.