

ARTICLE XII NONCONFORMING USES AND STRUCTURES

Sec. 27-251 - Nonconforming uses and structures.

- (a) Within the districts established by this chapter, there exist structures and uses of land and structures which were lawful at the time this chapter or subsequent amendment becomes effective, but which would have been prohibited under the terms of this chapter or future amendment, such structures or uses of land and structures shall be designated as nonconforming. Such uses and structures are declared by this chapter to be incompatible with permitted uses in the districts involved, and it is the intent of this ordinance to permit these nonconformities to continue subject to the terms of this article, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged, expanded nor extended, nor be grounds for adding other structures or uses prohibited elsewhere in the same district.
- (b) A nonconforming structure, a nonconforming use of land, or a nonconforming use of a structure shall not be extended or enlarged by attachment of additional signs to a building, or the placement of additional signs or display devices on the land, or by the addition of other uses, if such additions are of a nature which would be prohibited generally in the district involved.

Sec. 27-252. Nonconforming use of land.

- (a) The nonconforming use of land shall be discontinued and cease within three (3) years from the date such use becomes nonconforming, in each of the following cases:
 - (1) Where no buildings are employed on the premises in connection with such use.
 - (2) Where the only buildings employed are accessory to such use and have a replacement value of two thousand dollars (\$2,000.00) or less.
 - (3) Where such use is accessory to and maintained in connection with a building conforming as to use, provided that this requirement shall not apply to off-street parking accessory to a building conforming as to use.
- (b) The nonconforming use of land which is accessory or incidental to the nonconforming use of a building shall be discontinued on the same date that the nonconforming use of the building is discontinued.
- (c) A nonconforming use of land which has in connection therewith incidental or accessory buildings have a value in excess of two thousand dollars (\$2,000.00) shall be deemed to be a nonconforming structure and shall be subject to the appropriate provisions of this article.

Sec. 27-253 - Nonconforming use of land as a pet cemetery.

- (a) The pet cemetery and animal carcass crematorium now existing within the Plantation Acres area of Plantation as a nonconforming use by virtue of the annexation of the Plantation Acres into the city, shall continue as a nonconforming use but shall be henceforth operated and controlled in accordance with the provisions of this article.
- (b) All existing records of animal interment and the location of said animal remains shall be delivered to the office of the city clerk of Plantation upon application for renewal of existing local business tax receipt for said pet cemetery and crematorium, and on each successive application for local business tax receipt the licensee shall submit additional records of additional interment of animal remains within the said pet cemetery, being specific as to the name and address of the owner of said deceased animal, the location of the burial site of the deceased animal and such other particulars, including the monies paid licensee for burial and perpetual care of such burial sites by such deceased animals' owners.
- (c) The local business tax receipt for the conducting of this nonconforming use of land shall neither be assignable or transferable without the prior consent of the city council which shall in part be dependent upon submission of sufficient financial reports and information as needed to satisfy the city council that such applicant for transfer or assignment of the local business tax receipt has the ability to properly maintain said nonconforming use of land as a pet cemetery and pet crematorium.
- (d) Upon the sale and disposition or abandonment of this property with the cessation of its continuing use as a pet cemetery and a pet crematorium, the then owner shall be required prior to the approval of such sale and any license or permit for the use of the land or the erection of any structure or renovation permit thereon which would bring the use of the land into conformity with the then permitted uses under the zoning use district then in effect for the land, such owner shall have all animal remains which have been previously interred within the pet cemetery, removed and reburied in a location as close as possible to the present nonconforming use location within South Florida where pet cemeteries are permitted at the expense of the owner who shall otherwise assign such perpetual care payments or other financial arrangements which he or his predecessors had made with the owners of the animal remains to the operator of the substitute pet cemetery. It being understood that the owner shall first attempt to contact the owners of the animal remains and offer to reassign any such perpetual care financial arrangements or consideration to the pet cemetery of the owner's choice within South Florida and remove the remains from where now buried and cause same to be reinterred at such pet cemetery of the owner's choice within South Florida at no additional cost or expense to the owner. As used in this portion of this article, the term "South Florida" applies to a land south of an imaginary line running from east to west across the State of Florida, parallel to the nearest latitude which would intersect the northernmost edge of Lake Okeechobee.
- (e) During the continued operation of the pet cemetery and pet crematorium as a nonconforming use of land, the licensee shall maintain same in a neat, attractive appearance, so as to

minimize any emotional stress on the owners of the animal remains which have given financial consideration for the perpetual care of their deceased pets in the cemetery as well as to avoid said cemetery lapsing into such disrepair as to create a vexatious nuisance or threat to the health, safety and welfare of the adjacent homes within Plantation Acres and further the pet crematorium shall be operated as a continuing nonconforming use of land in such a manner as to not create any undue noxious odors, smoke emissions or air pollution of adjacent residences with the pet crematorium to be used only and exclusively for the cremation of animal carcass remains. Failing to so maintain the premises, the city shall have the same privilege of enforcing these restrictions or undertaking such maintenance of said premises with attendance lien rights for the costs therein incurred as now exist generally for the clearance and assessment by the city for the removal of weeds and brushes and garbage and trash in codified form in chapter 10, which section, as to the assessment and maintenance procedures and standards followed by the city, is fully incorporated herein by reference as if set forth verbatim deleting only therefrom the requirements that such land be located within five hundred (500) feet of a dwelling house, commercial or public structure.

Sec. 27-254 - Nonconforming structures.

Structures that are nonconforming under the terms of this article by reason of restrictions on area, lot coverage, height, yards, design or other characteristics or the structure or its location on the lot may be continued except as provided in section 27-785, so long as they remain otherwise lawful, subject to the following provisions:

- (a) No nonconforming structure shall be enlarged or structurally altered unless such structure shall, after enlargement or alteration, conform to the provision of the ordinance. A single-family dwelling which is nonconforming only as to setbacks may be enlarged provided such addition conforms to the setback requirement established by this chapter and provided the total ground area covered does not exceed the maximum lot coverage established by this chapter.
- (b) If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, and the cost of restoring the structure to its condition immediately prior to the event does not exceed 50 percent of the cost of replacing the entire structure, then the structure may be restored to its original nonconforming condition, provided that a building permit is secured and reconstruction is started within 180 days from the date of the damage, and such reconstruction is diligently prosecuted to completion without the expiration of building permits.
- (c) If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, and the cost of restoring the structure to its condition immediately prior to the event exceeds 50 percent of the cost of replacing the entire structure, then the structure shall not be restored unless the structure as restored, and the use thereof, will thereafter conform to all requirements of the zoning district in which it is located.

- (d) A nonconforming structure shall not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements for the district to which such structure is moved. The moving of the structure also shall comply with the requirements of applicable city regulations.

Sec. 27-255 - Extending a nonconforming use to other parts of a building or land.

- (a) The nonconforming use of a building may be extended throughout any part of a building manifestly arranged or designed for such use, but not so used on February 10, 1966.
- (b) Any conforming use which occupies a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building, nor may it be extended to occupy any land outside the building, nor any additional building on the same plot not used for such use February 10, 1966.
- (c) The nonconforming use of land shall not be extended to any additional land not so used on February 10, 1966.
- (d) No conforming structure used for a nonconforming use shall be enlarged, extended, reconstructed or structurally altered, unless the use is changed to one which complies with the provisions of this chapter.

Sec. 27-256. Change of nonconforming use.

- (a) In any residential district ("R" districts) any change in a nonconforming use shall be to a conforming use.
- (b) In a nonresidential district a nonconforming use, where no structural alterations are involved, may be replaced by a new use permitted in the same zoning district as the original use or in a more restricted district provided the board of adjustment, after public hearing and the same notice as is required for variances, finds that the new or different use will be less detrimental to the surrounding neighborhood than the old use, and approves the new use as being in accordance with the spirit and purpose of this chapter.
- (c) There may be a change of tenancy, ownership or management of a nonconforming use provided there is no change in the nature of character of such use except as may be permitted by this chapter.
- (d) Any change of a nonconforming use of land shall be to a conforming use.

Sec. 27-257 Discontinuance or abandonment of nonconforming use.

- (a) If for any reason a nonconforming use of land ceases or is discontinued for a period of thirty (30) days or more, the land shall thereafter be used only for a conforming use.
- (b) If, for any reason, a nonconforming use of a conforming or nonconforming building ceases or is discontinued for a period of six (6) months or more, it shall be considered abandoned, and such building shall not again be occupied by a nonconforming use.
- (c) Any part of a building or land occupied by a nonconforming use which is changed to or occupied by a conforming use shall not thereafter be used or occupied by a nonconforming use.

Sec. 27-258 Nonconforming use in residential districts.

In any residential district ("R" districts), any nonconforming use of a conforming building, which use is permissible only in a nonresidential zoning district (i.e., business, commercial, industrial, office park, institutional educational, community facility, golf course, etc.) or for a use permissible in a residential district different than that assigned to the land on which the building or structure is located, shall be discontinued within five (5) years of February 10, 1966, or within five (5) years of the date the use became nonconforming by reason of amendment to the chapter. This five-year time limitation shall be extended for fifteen (15) years (for a total of twenty (20) years) for the following types of nonconforming uses of conforming buildings: daycare centers, day nurseries, private elementary schools, after school care for children up to twelve (12) years of age, and summer camps.

Sec. 27-259 Nonconforming accessory buildings and structures in residential districts.

- (a) In all single-family residential districts ("R" districts), any accessory building or structure which is found to be in violation under the terms of the city's zoning ordinance by reason of restrictions on, height, or setbacks, may be retained if it meets the following criteria:
 - (1) It has existed on the property for five (5) years or more, no violation or complaint has been discovered by, related to or filed with the city as to its existence within that period and the owner has presented competent and substantial evidence to the city showing the duration of such existence;
 - (2) It does not exceed the coverage square footage limits for the following zoning districts:

<u>District</u>	<u>Maximum Coverage</u>
<u>RS-1EP</u>	<u>600</u>

<u>RS-1A</u>	<u>500</u>
<u>RS-2B</u>	<u>400</u>
<u>RS-2K</u>	<u>144</u>
<u>RS-3C</u>	<u>168</u>
<u>RS-3D</u>	<u>168</u>
<u>RS-3F</u>	<u>168</u>
<u>RS-3G</u>	<u>168</u>
<u>*RS-3K</u>	<u>120</u>
<u>RS-3K</u>	<u>144</u>
<u>RS-4G</u>	<u>168</u>
<u>RS-4J</u>	<u>120</u>
<u>RS-4K</u>	<u>120</u>
<u>RS-5G</u>	<u>168</u>
<u>RS-5H</u>	<u>144</u>
<u>RS-5I</u>	<u>120</u>
<u>RS-5J</u>	<u>168</u>
<u>RS-5K</u>	<u>144</u>
<u>*RS-5K</u>	<u>120</u>

<u>Planned Residential</u>	<u>Two (2) percent or less of the square foot portion of the lot or parcel which is otherwise not occupied by buildings or structures</u>
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*This district contains lots which were platted under county specifications. These lots are permitted a rear setback of five (5) feet from screen enclosure of pools. Screen enclosures without pools will be governed by the normal structural setback lines.

- (3) The combined area occupied by all buildings and structures does not exceed the applicable maximum lot coverage requirement for the district wherein the property is located; and,
- (4) It meets (or can with little expense, be made to comply) with the otherwise applicable requirements of the South Florida Building Code Edition in effect when the accessory building or structure was built or the South Florida Building Code Edition dated five (5) years from the date the determination is made, whichever edition is most current.

Any such building or structure shall be deemed to be nonconforming, subject, however, to the requirements of section 27-784 (1), (2), and (3), governing enlargement or alteration, destruction and relocation, respectively of a structure, which provisions shall apply to both residential accessory buildings as well as residential accessory structures for purposes of this section.

- (b) The owner of any such building or structure which qualifies to remain shall, however, be obligated to obtain a building permit, pay the permit fee otherwise applicable, and have such building or structure approved pursuant to the appropriate South Florida Building Code Edition. A building or structure for which a permit cannot be issued under the appropriate edition of the South Florida Building Code, or which cannot be approved, shall not qualify for the relief afforded in this section.
- (c) Despite any provision to the contrary in this section, the city reserves the right to require any unlawful residential accessory building or structure to be removed or otherwise brought into compliance with all applicable codes, subject to the right of the owner to exhaust available administrative remedies, such as the filing of a request for a variance.
- (d) The provisions of this section shall apply to any accessory building or structure which exists and otherwise qualifies for retention under this section as of the date of adoption of this section.

Sec. 27-260. District or regulation change.

The provisions of this article shall also apply to buildings, structures, land, premises or uses which hereafter become nonconforming due to a change or reclassifications of a district, or due to a change in district regulations. Where a period of time is specified in this article, such period shall be computed from February 10, 1966, for those building structures and uses made nonconforming by the provisions of this chapter, and from the effective date of the amendment for those buildings, structures or uses made nonconforming by any subsequent change in these regulations.

Sec. 27-261. Illegal use.

The casual, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use or to create any rights in the continuance of such use.

Sec. 27-262. Other authorized uses.

Where a building or use exists on nonresidentially zoned land adjacent to arterial roads which are in excess of one hundred (100) feet in width and which by virtue of annexation of the lands within Plantation would otherwise be deemed nonconforming, the city council may authorize improvements to be made on such use or buildings which would be in full compliance with the present conditions of this comprehensive zoning ordinance, except for the comprehensive landscape ordinance, chapter 13 and, in such event, the city council may impose such additional landscape requirements upon said land for which conforming development permits or zoning was sought by the property user as the city council finds proper, reasonable and economically justified by the desired improvements, alterations or changes sought by the property user to otherwise bring said use or building into full conformity with the city's comprehensive zoning ordinance, and based on such city council authorization and waiver of remaining landscape requirements, such building or use shall no longer be classified as nonconforming and may continue to exist so long as it remains otherwise lawful and complies with the terms of such authorization.

Sec. 27-263 - Nonconforming lots of record.

- (a) *Use as permitted.* Notwithstanding limitations imposed by other sections of the LDR's, any nonconforming lot of record which was in single and separate ownership on the date of adoption of the LDR's may be used as permitted by the district regulations for the district in which the lot is located. This section shall apply even though such lot of record fails to meet the requirements for width or area or both that are generally applicable to it, provided that all yards and other requirements not involving lot width or area shall conform to the regulations for the district in which the lot is located.
- (b) *Subdivision of nonconforming lots.* When two or more contiguous, vacant, nonconforming lots of record are in a single ownership, such lots shall be subdivided in such manner as will make them conforming. If this is impossible or impractical, the Planning and Zoning Board

may grant such variance from this requirement in conformance with the requirements of this Code.

Sec. 27-260 - Community enhancement.

- (a) Community enhancement. The owner of an existing structure located along the State Road 7 corridor, south of Sunrise Boulevard and North of Peters Road (Plantation Gateway Overlay District) who is contemplating site improvements may request community enhancement approval in cases where it is impossible to meet current code requirements. Conditions may arise when normal compliance is impractical or impossible, or where maximum achievement of the city's objectives can only be obtained through the standards detailed in the community enhancement guidelines. These standards may be utilized by owners of nonconforming sites to bring said sites as close as possible to meeting current zoning requirements. The standards are intended to foster site improvements that are economically viable and aesthetic in nature, while encouraging creative solutions to existing site development problems. A written request with a proposed site plan must be filed with the planning, zoning and economic development department.

The city council may grant approval of community enhancement requests only after the applicant shows that:

- (1) The strict application of this Article would prohibit site improvements to bring nonconforming sites as close as possible to meeting current zoning requirements;
- (2) The need for the proposed enhancement arises from some condition peculiar to the specific property involved;
- (3) The proposed enhancement would improve the quality and/or safety of the property and not diminish the use nor value of the neighborhood;
- (4) The proposed enhancement meets the requirements of the Land Development Regulation.

The City Council may condition the approval of community enhancement improvements upon any contingencies or commitments by the applicant which furthers the goals, objectives and policies of the comprehensive plan and land development regulations. The granting of this relief will not necessarily nor automatically mean that a requirement is reduced without mitigation. For example, granting a reduced setback may be mitigated for by planting additional landscape material.

The use of community enhancement provisions shall be limited to the specific project or request under consideration and shall not establish precedents for acceptance in other cases.