

Article 6. Administration

6.1 BOARD OF ADJUSTMENT

A. Organization

1. The Board of Adjustment shall consist of five members, each to be appointed by the Mayor and subject to confirmation by the City Council for a term of two years and removable for cause by the appointing authority upon written charges and after public hearing.
2. Board members shall be appointed on a staggered annual basis. Three full members shall be appointed one year and two full members shall be appointed the following year.
3. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause, in the same manner as the original appointment was made.
4. Appointed members shall serve until the end of their appointments, resignations, or removals and afterwards each member reappointed or each new appointee shall serve for a full term of two years unless removed as provided above. Provided, however, that the Mayor and the City Council may appoint two alternate members of the Board of Adjustment who shall serve in the absence of one or more of the regular members when requested to do so by the Chairman of the Board, or their appointed representative, as the case may be, so that all cases to be heard by the Board of Adjustment will always be heard by a minimum number of four members. The alternate members, when appointed, shall serve for the same two-year time period as the regular members, and any vacancy shall be filled in the same manner and they shall be subject to the same removal provisions as regular members.

B. Procedure

1. The Board of Adjustment shall adopt rules to govern its proceedings consistent with this zoning ordinance or statutes of the State of Texas.
2. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board may determine.
3. The Chairman, or in the absence of the Chair, the Vice-Chair, or other person elected by the remainder of the Board to serve as Acting Chair, may administer oaths and compel the attendance of witnesses.
4. Except for closed (executive) meetings held in accordance with the Texas Open Meeting Act, all meetings of the Board of Adjustment shall be open to the public and subject to the Texas Open Meetings Act, as amended.
5. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record.

C. Appeals

1. Appeals to the Board of Adjustment can be taken by any person aggrieved, or by an officer, department or board of the municipality affected by the decision of the Building Official.
2. Appeals shall be taken within 15 days after the decision has been rendered by the Building Official, by filing with the Director and with the Board of Adjustment, a notice of appeal specifying the grounds on which the appeal is based. The Director shall then transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
3. An appeal shall stay all proceedings of the action appealed from unless the Building Official certifies to the Board of Adjustment, after the notice of appeal shall have been filed with the Director, that by reason of facts stated in the certificate, a stay would, in the Building Official's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise, than by restraining order that may be granted by the Board of Adjustment or by a court of record on application on notice to the Building Official and due cause shown.
4. The Board of Adjustment shall fix a reasonable time for the hearing of an appeal, give the public notice by posting such notice in the mail addressed to all owners of real property located within 200 feet of property on which the appeal is made and by publishing notice of such hearing in a newspaper of general circulation in the City. Both the posted and published notice shall be given at least ten days prior to the date set for the hearing. Upon the hearing, any party may appear in person or by attorney or by agent.

D. Jurisdiction

When in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases, after public notice and public hearing, and subject to appropriate conditions and safeguards, authorize the following special exceptions to the regulations:

1. Permit the reconstruction, extension or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use and permit the expansion of off-street parking and off-street loading for a nonconforming use.
2. Permit modifications of the height, yard, lot area coverage, floor area, minimum access, parking regulations as may be necessary to secure appropriate development of a parcel of land that differs from other parcels in the district by being of such restricted area, shape or slope, that it cannot be appropriately developed without modification.
3. Require the discontinuance of nonconforming uses of land or structure under any plan where the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of this zoning ordinance. All actions to discontinue a nonconforming use of land and

structure shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of property. The Board of Adjustment shall from time to time, on its own motion or upon cause presented by interested property owners or upon request of the City Council, inquire into the existence, continuation or maintenance of any nonconforming use with the City.

E. Actions of the Board

1. In exercising its powers, the Board of Adjustment may, in conformity with the provisions of Texas Local Government Code §§211.009 and 211.010, as amended, revise or reform, wholly or partly, or may modify the order, requirement, decisions, or determinations of the Director appealed from and make such order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken including the power to impose reasonable conditions to be complied with by the applicant.
2. The concurring vote of four members of the Board of Adjustment shall be necessary to revise any order, requirement, decision or determination of the Director, or to decide in favor of the applicant on any matter upon which it is required to pass under this zoning ordinance or to affect any variance to this zoning ordinance.
3. An appeal of a decision of the Board of Adjustment may be made in accordance with Texas Local Government Code §211.011, as amended.

6.2 MAP AMENDMENT

A. Authority

Any person or corporation having a legal or equitable ownership interest in any real property may petition the City Council for a change or amendment of the Zoning District Map or the regulations relating to a specific tract of land located within the City, or the Commission may on its own motion or on request from the City Council institute study and proposal for such changes and amendments in the public interest.

B. Procedure

- 1.** The City Council may, from time to time, amend or change by ordinance the boundaries of the various zoning districts or the use and development regulations relating to a specific property in accordance with the manner provided by state law.
- 2.** Before taking action on any proposed amendment or change, the City Council shall submit the proposed amendment to the Commission for its recommendation and report.
- 3.** The Commission shall hold a public hearing on any application for any map amendment or change prior to making its recommendations and report to the City Council.
- 4.** Written notice of all public hearings before the Commission on a proposed amendment or change to the Zoning District Map, including an amendment or change to the use and development regulations governing a specific tract of land, shall be sent to all owners of real property lying within 200 feet of the property regarding which the change is requested. Notice shall be given not less than ten days before the date set for the hearing by posting such notice properly addressed and postage-paid to each taxpayer as the ownership appears on the last approved City tax roll.
- 5.** A public hearing shall be held by the City Council before adopting any proposed map amendment or development regulation change relating to a specific tract of land. Notice of such hearing shall be given by publication in the City's official publication stating the time and place of such hearing, which time shall not be earlier than 15 days from the date of publication.
- 6.** If a written protest against such change is submitted in accordance with Section 6.2.E by the owners of 20% or more of either (i) the area of the lots or land covered by the proposed change or (ii) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area, such map amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Council.
- 7.** In computing the percentage of land area under Subsection 6, above, the area of streets and alleys shall be included.

C. Public Notification Signage

1. Any person, firm or corporation requesting a change in zoning from one zoning classification to another zoning classification on a specific site or other amendments to the use and development regulations governing such property shall erect and maintain a sign, provided by the City upon said property. Such sign shall be:
 - a. Located within 15 feet of the closest, adjacent, most heavily traveled thoroughfare;
 - b. Located perpendicular to the street so as to be clearly visible and both sides of the sign are clearly readable from the thoroughfare and not obstructed in any manner;
 - c. Located so as not to create a hazard to traffic on, entering or leaving public rights-of-way abutting the property; and
 - d. Erected on the subject property at least 10 days prior to the hearing of such request by the Commission, and to remain continuously on said property until final action by the City Council or withdrawal of the request by the applicant. Removal of the required public notification sign, by the applicant, prior to final action of the City Council shall constitute a withdrawal of the request.
2. It shall be unlawful for anyone to remove, destroy, deface or obstruct the view of a required sign which gives notice that a zoning hearing has been requested, however, it shall be an affirmative defense to prosecution of the underlying zoning request has been finally approved or denied by the City Council or if such request has been withdrawn by the applicant.
3. In the event the applicant should fail to erect or maintain any required sign in accordance with any appropriate standard in this section, then the public hearing before the Commission and/or City Council shall be postponed to a date in the future that should allow time for compliance.
4. The sign shall be two-sided and state that a zoning change is requested and shall list a phone number of an appropriate City department that may be contacted for information regarding this request.
5. There shall be a cost attributed to the receiving of each sign by the applicant and such cost shall be determined by resolution of the City Council.
6. Failure to comply with the posting of the signs required by this Section 6.2.C. or to otherwise strictly comply with the manner in which such signs are posted, shall not invalidate any public hearing or action taken by either the Commission or the City Council relating to a request to amend the zoning regulations relating to the property.

D. Site Plan Public Hearing Process for Local Government Public Facilities

New development or substantial expansion of Local Government Public Facilities shall require site plan review by the Commission and approval by City Council. Such site plans shall require public hearings following the procedure outlined below:

1. The Commission shall hold a public hearing to review the proposed site plan prior to making a recommendation to City Council. Written notice of this public hearing shall be sent to all owners of real property located within 200 feet of the development site. Such notice shall be given not less than ten days before the date set for the hearing by posting such notice properly addressed and postage paid to each taxpayer as the ownership appears on the last approved City tax roll.
2. A public hearing shall be held by the City Council before approving the proposed site plan. Notice of such hearing shall be given by publication in the official publication of the City of Farmers Branch stating the time and place of such hearing, which time shall not be earlier than 15 days from the date of publication.
3. City-owned park improvements, public safety facilities and public utility facilities shall be exempt from this public hearing process.

E. Written Protests Procedures

1. Purpose.

- a. State law expressly enables the governing body of a municipality to establish procedures for adopting and enforcing zoning regulations and district boundaries. Pursuant to that authority, the City Council enacts this Section 6.2.E governing the receipt of written protests submitted for the purpose of requiring the favorable vote of three-fourths of all members of the City Council to effect a change in a zoning district classification or boundary.
- b. This Section 6.2.E. is not intended to conflict with state law; it is being enacted at a time when the state law does not explicitly provide how, when, or where a written protest must be filed. The City Council expressly recognizes that this Section 6.2.E. may be partially or completely preempted at any such time that state law is amended to explicitly provide how, when, or where a written protest must be filed.
- c. This Section 6.2.E. is intended to accomplish the following listed objectives that, in the opinion of the city council, are fully in keeping with the purposes, spirit, and intent of the state law:
 - i. To allow city staff sufficient time to accurately calculate the land area percentages that determines the voting requirement;
 - ii. To protect the rights of all parties by establishing minimum criteria to assure the reliability of written protests received;
 - iii. To protect the rights of those protesting by establishing procedures and deadlines which are not unduly burdensome or restrictive; and
 - iv. To promote order and maintain the integrity of the zoning process.

2. Form of protest.

- a. A protest must be in writing submitted on a form prepared by the city secretary and, at a minimum, contain the following information:
 - i. A description of the zoning case at issue;
 - ii. The printed or typewritten names of all persons signing the protest of the proposed change in zoning district classification or boundary;
 - iii. A description of the area of lots or land owned by the protesting parties that is either covered by the proposed change or located within 200 feet of the area covered by the proposed change;

- iv. The mailing addresses of all persons signing the protest;
 - v. The date and time the protest is signed; and
 - vi. If signing the protest on behalf of the owner of property pursuant to a power of attorney, so indicate on the protest and submit a copy of the power of attorney with the protest.
- b. The protest must bear the original signatures of all persons required to sign under Section 6.2.E.3, below.
 - c. The return of the notice provided to an owner pursuant to Section 6.2.B.3 shall not constitute a written protest pursuant to this Section 6.2.E.
- 3. Who must sign.**
- a. A protest must be signed by the owner of the property in question, or by a person authorized by power of attorney to sign the protest on behalf of the owner. If the property is owned by two or more people, the protest must be signed by a majority of the owners, or by a person authorized by power of attorney to sign the protest on behalf of a majority of the owners, except that in the case of community property, the city shall presume the written protest of one spouse to be the protest of both.
 - b. In the case of property owned by a corporation, the protest must be signed by the president, a vice-president, or by an attorney in fact authorized to sign the protest on behalf of the corporation. In the case of property owned by a general or limited partnership, the protest must be signed by a general partner or by an attorney in fact authorized to sign the protest on behalf of the partnership. In the case of property owned by a trust, the protest must be signed by the trustee(s) authorized under the trust agreement to perform actions with respect to the property.
 - c. Lots or land subject to a condominium regime are presumed to be commonly owned in undivided interests by the owners of all condominium units and under the control of the governing body of the condominium. For such lots or land to be included in calculating the lots or land area protesting a proposed rezoning, the written protest must state that the governing body of the condominium has authorized a protest in accordance with procedures required by its bylaws, and that the person signing the protest is authorized to act on behalf of the governing body of the condominium. A written protest signed by the owner of an individual condominium unit shall not be accepted unless the filing party produces legal documents governing the condominium which clearly establish the right of an individual owner to act with respect to his or her respective undivided interest in the common elements of the condominium.
 - d. For purposes of this subsection, the "owner" of the property for which a protest is being submitted shall be determined to be the owner of the property shown in the records of the Dallas Central Appraisal District as of the date of delivery of the protest to the city secretary. A person with only a leasehold or easement interest in property is not an "owner" for purposes of filing a protest pursuant to this subsection.
 - e. A person who is not named on the records of the Dallas Central Appraisal District as the owner of the property may submit additional information to the

city attorney indicating that the person is the current record owner of the property identified in the protest. The determination of the city attorney as to the sufficiency of such information and whether or not the person should be considered the record owner of the property for purpose of filing the protest is final. Any additional information submitted pursuant to this paragraph (e) must be submitted by the deadline required for submission of the protest.

4. *Filing deadline.*

- a. A written protest must be filed with the city secretary before noon of the business day immediately preceding the date advertised for the Commission or City Council public hearing in the statutory notice published in the official newspaper of the City. A protest sent through the mail must be received by the city secretary before the deadline.
- b. Before the public hearing on the case, the filing deadline is automatically extended whenever the public hearing is re-advertised in the official newspaper of the city pursuant to statutory notice requirements.
- c. After the public hearing has begun, and
 - i. the public hearing is concluded with no action being taken on the zoning amendment at the same meeting and a subsequent public hearing and advertising that public hearing in the official newspaper of the city pursuant to statutory notice requirements; or
 - ii. the public hearing is continued to a date certain as otherwise allowed under the Texas Open Meetings Act;
 - iii, the filing deadline may be extended to noon of the working day immediately preceding the newly advertised public hearing date or the date to which the public hearing is continued, as the case may be.
- d. Written protests may be filed electronically by emailing the written protest as an attachment in .pdf format to the city secretary or by sending via facsimile transmission to the published facsimile telephone number for the office of the city secretary.
- e. For purposes of determining compliance with the filing deadline, the date and time the city secretary's office actually receives the written protest is solely determinative.

5. *Withdrawals of protests filed.* Withdrawals of protests filed must be in writing and filed with the city secretary before the filing deadline for protests. The provisions of this subsection governing the form and filing of protests apply equally to withdrawals.

6. *Presumptions of validity.*

- a. In all cases where a protest has been properly signed pursuant to this subsection, the city shall presume that the signatures appearing on the protest are authentic and that the persons or officers whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented.
- b. In cases of multiple ownership, the city shall presume that a properly signed protest which on its face purports to represent a majority of the property owners does in fact represent a majority of the property owners.

- c. The presumptions in subparagraphs (1) and (2) above are rebuttable, and the city attorney may advise the city council that a presumption should not be followed in a specific case based on extrinsic evidence presented.
- 7.** *Conflicting instruments.* In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time execution controls.

6.3 TEXT AMENDMENT

A. Authority

Any person or corporation having a legal or equitable ownership interest in any real property located in the City may petition the City Council for a text amendment to the provisions of this zoning ordinance, or the Commission may on its own motion or on request from the City Council institute a study and proposal for changes and amendments in the public interest.

B. Procedure

1. The City Council may, from time to time, amend, supplement, or change by Ordinance this zoning ordinance as provided by state law.
2. Before taking action on any proposed text amendment, the City Council shall submit the proposed amendment to the Commission for its recommendation and report.
3. The Commission shall hold a public hearing on any application for any text amendment or change prior to making its recommendations and report to the City Council.
4. A public hearing shall be held by the City Council before adopting any proposed text amendment. Notice of such hearing shall be given by publication in the City's official publication stating the time and place of such hearing, which time shall not be earlier than 15 days from the date of publication.

6.4 CERTIFICATE OF OCCUPANCY AND COMPLIANCE

No building erected, converted or structurally altered shall be used, occupied or changed in use, no land may be used, nor shall any basic change of use in land or structure be made until a certificate of occupancy and compliance has been issued stating that the building or proposed use of land or building complies with the provisions of this zoning ordinance and other applicable City ordinances.

- A. A certificate of occupancy and compliance shall be applied for coincident with the application for a Building Permit and will be issued not later than ten days after the completion of the erection, alteration or conversion of such building or land provided such construction or change fully complies with the provisions of this zoning ordinance. A certificate of occupancy permit shall be considered evidence of the legal existence of a nonconforming use as contrasted to an illegal use and violation of this zoning ordinance.
- B. A certificate of occupancy and compliance shall state that the building or proposed use of a building or land complies with all building or health laws or ordinances and with the provisions of this zoning ordinance. A record of all certificates shall be kept on file in the office of the Building Official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the land or building affected except where providing such copies is prohibited by law.
- C. Notwithstanding anything herein to the contrary, neither the Director nor any other officer or employee of the City shall be authorized to grant a certificate of occupancy and compliance for a building which fails to comply fully with this zoning ordinance

unless the Director or other officer or employee of the City has been granted express authority by this zoning ordinance to grant a variance or special exception with respect to the regulation for which compliance has not otherwise been obtained. The City reserves the right to withdraw and/or terminate a certificate of occupancy and compliance which was issued to commence use of a property which is not fully compliant with this zoning ordinance at the time the certificate was originally issued.

6.5 SPECIFIC USE PERMIT

A. Procedure

1. The City Council after public hearing and proper notice asd required by state lawand after receipt and consideration of the recommendations of the Commission may authorize the issuance of Specific Use Permits for the uses indicated by "S" in the use table in Section 2.4C.
2. The Commission, in considering and determining its recommendations to the City Council on any request for a specific use permit, may require from the applicant plans, information, operating data and expert evaluation concerning the location and function and characteristics of any building or use proposed. The City Council may, in the interest of the public welfare and to assure compliance of this zoning ordinance, establish conditions of operation, location, arrangement, and construction of any use for which a specific use permit is authorized. In authorizing the location of any of the uses listed as specific use permits, the City Council may impose such development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property from excessive noise, vibration, glare, offensive view or other undesirable or hazardous conditions.
3. All specific use permits approved in accordance with the provisions of this zoning ordinance in its original form or as hereafter amended shall be referenced on the Zoning District Map and a list of such permits shall be maintained in Appendix B of this zoning ordinance.

B. Interim Use

Upon application by any person or corporation having a legal or equitable interest in real property located within the City, the City Council, after public hearing and proper notice to all parties as required by state alw and after recommendations by the Commission may authorize the issuance of specific use permit -interim use for the uses of such property indicated by "S" in the use table, Section 2.4C.

1. The application for a Specific Use Permit - Interim Use shall include the following:
 - a. The nature and extent of the proposed use;
 - b. The nature and extent of all expenditures and capital improvements to the property contemplated by the applicant for the implementation of such use, and the applicant's best estimate of the cost;
 - c. The applicant's best estimate of the period of time required to recover such investment;

- b. If applicable, the 30th day after the order of termination pursuant to Section 6.5B.6.
 - c. It shall be unlawful for any person or entity to use the property for any use or purpose not permitted by the zoning applicable to the property on such date, excluding the uses permitted by the Specific Use Permit - Interim Use.
8. Each Specific Use Permit - Interim Use approved in accordance with the provisions of this zoning ordinance, in its original form or as amended shall be referenced as such on the Zoning District Map.
 9. An applicant for a Specific Use Permit pursuant to Section 6.5, whose application is denied, may, notwithstanding any policies or procedures of the Commission to the contrary, amend said application to apply for a Specific Use Permit - Interim Use pursuant to Section 6.5B, at any time after said denial.
 10. Upon granting of a Specific Use Permit - Interim Use, and as a condition to the effectiveness, a notice containing the information set forth in Section ~~(a)a.i.1.e~~(a)a.i.1.e, signed and acknowledged by the applicant, any other person or corporation having a legal or equitable ownership interest in the property and the holder or holders of all liens and encumbrances against the property, shall be recorded in the Official Public Records of Dallas County, Texas.

C. Termination of Specific Use Permits

1. If new construction is required to comply with a Specific Use Permit or to be able to use property for the use for which a Specific Use Permit is granted, a building permit for the property described in the Specific Use Permit shall be obtained from the City not later than six months after the effective date of the ordinance granting the Specific Use Permit provided, however, the Director may authorize one or more extensions of such deadline for a period totaling not more than an additional one year after the original deadline. A specific use permit and the ordinance granting same shall terminate and be of no further effect if (i) a required building permit has not been issued within the time required by this section, or. (ii) if a building permit has been issued but has subsequently expired.
2. If no new construction is required to comply with a Specific Use Permit or to make the property usable for the use for which a Specific Use Permit is granted, the specific use permit and the ordinance granting same shall expire and be of no further effect if a certificate of occupancy is not obtained and use of the property for which the Specific Use Permit granted has not commenced within six months after the effective date of the ordinance granting the specific use permit unless such ordinance grants a longer period of time to commence such use.
3. If for a period in excess of 180 days (i) a building or property subject to a Specific Use Permit is vacated, or (ii) a building or property, though still occupied, is not being used for the purpose for which the Specific Use Permit was granted, the Specific Use Permit shall terminate and the use of the building or property described in the Specific Use Permit shall thereafter conform to the

regulations of the original zoning district of such property unless a new and separate Specific Use Permit is granted for continuation of the use for which the original Specific Use Permit was granted.

- 4.** The provisions of this Section 6.5.C. shall also apply to a Specific Use Permit –Interim Use.

6.6 NONCONFORMING USES AND STRUCTURES

- A.** Any use or structure which does not conform with the regulations of the zoning district in which the use or structure is located shall be deemed a nonconforming use or structure when:
 - 1.** The use or structure was in existence and lawfully operating prior to September 23, 1957, and since that date has been continuously operating (in the case of the use) or in existence (in the case of the structure).
 - 2.** The use or structure was in existence and lawfully operating prior to February 24, 1969 and since that date has been continuously operating (in the case of the use) or in existence (in the case of the structure).
 - 3.** The use or structure was in existence and lawfully operating prior to the effective date of this zoning ordinance and since that date has been continuously operating (in the case of the use) or in existence (in the case of the structure).
 - 4.** The use or structure was in existence at the time of annexation into the City and has been in regular and continuous use (in the case of the use) or existence (in the case of the structure) since the date of annexation.
- B.** Any nonconforming use of land may be continued for definite periods subject to regulations the Board of Adjustment may adopt for immediate preservation of the adjoining property prior to the ultimate removal of the nonconforming use.
- C.** The Director may grant a change of occupancy from one nonconforming use to another, provided the use is within the same, or higher or more restricted classification as the original nonconforming use.
- D.** In the event a nonconforming use is changed to another nonconforming use which is more restrictive, it shall not later be changed to a less restrictive classification of nonconforming use and the prior less restrictive classification shall be considered to have been abandoned
- E.** Any nonconforming use of property may be changed to a permitted use. When a nonconforming use of property is changed to a permitted use, the property may no longer be used for the prior non-conforming use.
- F.** If a non-conforming structure is damaged or destroyed by fire, the elements or other cause such that the cost of reconstruction of the structure to substantially its condition prior to the event causing the damage or destruction exceeds 50% of the appraised value of the non-conforming structure prior to the event resulting in such damage or destruction, the structure may not be rebuilt except in compliance with the provisions of this zoning ordinance.
- G.** If a nonconforming structure is damaged such that the cost of reconstruction of the structure to substantially its condition prior to the event causing the damage or destruction does not exceed 50% of the appraised value of the non-conforming structure prior to the event resulting in such damage or destruction, the non-conforming structure may be reconstructed subject to the following:

1. If the nature of the non-conformity relates to the location of the structure to one or more of the required setbacks on the property, and the structure can be rebuilt in a manner that (a) maintains the floor area of the structure prior to the damage and (b) eliminates the non-conformity, the structure shall be rebuilt in such a manner as to reduce the non-conforming nature of the structure as much as reasonably possible; and
 2. The reconstruction of the building shall not increase the prior non-conformity or create a new basis for the structure being non-conforming.
- H.** No nonconforming use may be expanded or increased beyond the lot or tract upon which such nonconforming use was located as of the date such use became nonconforming except, however, to provide off-street parking or off-street loading space upon approval of the Board of Adjustment.
- I.** When the use of property for a nonconforming use is abandoned or discontinued, all rights to continue the use of the property for such nonconforming use shall cease and the use of the property thereafter shall conform to this zoning ordinance. Abandonment shall involve the intent of the user or owner to discontinue a nonconforming operation and the actual act of discontinuance. Any nonconforming use which is discontinued for a period of six months shall be deemed to have been abandoned.
- J.** In the I-RU zoning district, no nonconforming use may be expanded, except as otherwise provided. Prior to the issuance of any permit for an addition or modification to the site or building, the Director shall determine if the proposed modification will expand the nonconforming use and/or if the modification will adversely impact surrounding properties. If it is determined that the proposed modification will expand the nonconforming use or have an adverse impact on adjacent properties, the nonconforming use shall be brought into a legal conforming status as a condition of granting any building permit.
- K.** Notwithstanding anything in this Section 6.6 to the contrary, a one-family or two-family dwelling constructed prior to August 24, 1970, which does not provide the number of off-street parking spaces required by Section 4.3, the one-family or two-family dwelling structures shall be considered a conforming structure for all purposes under this zoning ordinance.

6.7 PENALTY FOR VIOLATIONS

Any person violating any of the provisions of this zoning ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$2,000 for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs.