

ORDINANCE NO.

3587

AN ORDINANCE OF THE CITY OF SWEETWATER CITY COMMISSION ADOPTING A ZONING ORDINANCE ESTABLISHING THE "UNIVERSITY CITY DISTRICT" BY AMENDING ARTICLE II OF THE CITY OF SWEETWATER LAND DEVELOPMENT CODE; ESTABLISHING THE UNIVERSITY CITY DISTRICT BOUNDARIES; PROVIDING THE UNIVERSITY CITY LAND USE REGULATIONS; PROVIDING FOR DEVELOPMENT APPROVAL PROCESS; PROVIDING FOR NON-CONFORMITY; PROVIDING FOR THE REZONING OF PROPERTIES TO IMPLEMENT THE EVALUATION AND APPRAISAL REPORT (EAR) BASED COMPREHENSIVE PLAN AMENDMENTS; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Sweetwater (hereinafter, the "City") shares its southern border with Florida International University (the, "University"), one of the nation's fastest growing, academic research institutions with an enrolled student population which exceeds 45,000 students; and

WHEREAS, the University continues on an aggressive growth trajectory base of students and transform itself from a commuter campus to a campus where students live, learn, work and play; and

WHEREAS, the City has long-sought to further integrate its local economy with that of the University to reap a portion of the aforementioned economic benefits; and

WHEREAS, the establishment of the University City District within the City will permit development that will further integrate the economies' of the City and University by allowing for a series of uses critical to servicing the University's existing and future needs; and

WHEREAS, the City desires to implement the Evaluation and Appraisal Report (EAR) based Comprehensive Plan amendments by rezoning properties that are included in the University City District as well as other properties within the City; and

WHEREAS, the Mayor and City Commission find that this Ordinance is in the best interest and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMISSION OF THE CITY OF SWEETWATER, FLORIDA AS FOLLOWS:

Section 1. That the recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. That the City Commission hereby amends the City Land Development Code by the creation of the University City District as further provided for in Exhibit "A."

Section 3. That the City Commission hereby amends the Official Zoning Map of the City, as shown on Exhibit "B," in order to implement the Evaluation and Appraisal Report (EAR) based Comprehensive Plan amendments.

Section 4. That all ordinances or portions of the City Code in conflict with the provisions of this Ordinance shall be repealed upon the effect hereof.

Section 5. That if any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. That this Ordinance shall become effective upon its adoption by the City Commission and approval by the Mayor or if vetoed upon its reenactment by the City Commission as provided by the Charter of the City of Sweetwater, except that the effective date of rezoning and land use regulations approved by this Ordinance shall be the date a final non-appealable order is issued by the Department of Community Affairs or Administration Council finding the City's EAR based plan amendments in compliance with Section 163.3184, Florida Statutes, whichever occurs earlier. The Department of Community Affairs notice of intent to find the plan amendments in compliance shall be deemed to be a final order if no timely petition challenging the plan amendments is filed.

PASSED on first reading this 3rd day of October, 2011.

PASSED AND ADOPTED on second reading this 7th day of November, 2011.



MANUEL MAROÑO, MAYOR



JOSE M. DIAZ, COMMISSION VICE PRESIDENT

ATTEST:



MARIE O. SCHMIDT, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



RALPH VENTURA, CITY ATTORNEY

Ord # 3587

EXHIBIT "A"

Part II – City of Sweetwater Land Development Regulations

Article II – Zoning

Sec. 2.05.00. University City District and Regulations

2.05.01. *Intent and Applicability.*

1. The City's Comprehensive Plan (the "CP") contains goals, policies and objectives which call for the creation of mixed-use corridors in high traffic areas of the City which are highly accessible via multiple modes of transportation. The intent of these regulations is to guide development within these mixed-use corridors in order to promote high density, intense development and to encourage quality residential and academic living facilities with direct access to shopping, recreation, entertainment, commercial and employment that will serve to further integrate the City's economy with that of Florida International University (the "University"). It is further intended that dormitory residential occupancy in this area be promoted and encouraged in combination with office and neighborhood serving retail and service uses.

2. The regulations contain in this Article and Chapter 18-A, Code of Miami-Dade County, Florida, shall apply except as otherwise added to or modified herein.

3. The boundaries shown in Figure 1 shall constitute the University City Mixed-Use District ("University City District").

Ord # 3587

2.05.02. **Definitions.** Words/terms not herein defined shall have the meaning ascribed to them in Sec. 1.02.00 of this code. For the purpose of the University-City District, the following words/terms shall have the following meaning:

1. *Campus* shall mean the Florida International University Modesto A. Madique Campus.

2. *Colonnade* shall mean a roofed structure, extending over a private walkway, open to the street and sidewalk except for supporting columns and piers.

3. *Department* shall mean the City's Planning & Zoning Department.

4. *Director* shall mean the Department Director.

5. *Floor area* shall equal the floor area within the inside perimeter of the outside walls of the building with no deduction for hallways, stairs, closets, thickness of interior walls, columns or other features. Where the term "area" is used in this Section, it shall be understood to be gross area unless otherwise specified. In theaters, assembly halls and similar occupancies, balconies, galleries, stages and mezzanine floors which are not enclosed shall be considered as adding to floor area.

6. *Floor area, non-residential.* Non-residential floor area is the sum of areas for non-residential use on all floors of buildings, measured from the outside faces of the exterior walls, including interior and exterior halls, lobbies, enclosed porches and balconies used for non-residential uses.

The following areas, however, shall not be counted as non-residential floor area:

- a. Parking and loading areas within buildings;
- b. Open terraces, patios, atriums or balconies;
- c. Stairways, elevator shafts, mechanical rooms; or
- d. Floor areas specifically excluded from floor area limitations by special provisions of these regulations.

7. *Floor area, residential.* The sum of areas for residential use on all floors of buildings, measured from the outside faces of the exterior walls or windows, including interior and exterior halls, lobbies, enclosed porches and private enclosed balconies and floor areas below floodplain.

The following areas, however, shall not be counted as residential floor area:

- a. Open terraces, patios, atriums, or balconies;
- b. Special purpose areas for common use of occupants, such as recreation rooms or social halls;
- c. Stairways, elevator shafts or mechanical rooms; and

d. Parking and loading areas within buildings.

8. *Government Use* shall mean public administration buildings, fire and police stations, and the like, excluding, however, jails, public work or general services facilities, solid waste transfer facilities and the like.

9. *Gross lot area* shall be equal to the net lot area, except that lots which front a public street shall include 50% of the right-of-way width of said streets.

10. *Loading space, off-street*. An area in which goods and products are moved on and off a vehicle, including the stall or berth and apron or maneuvering room incidental thereto.

11. *Transient Dwelling/Lodging*. A Use consisting of units available for lease or rent by transient guests for a period of typically not more than 30 days. Such use includes hotels, motels, and the like.

12. *University* shall mean Florida International University.

13. *University Housing*. A use consisting of fully furnished dwelling units made available for lease or rent to undergraduate, graduate, and/or faculty and staff of Florida International University for a period of typically not more than a university semester or academic year.

2.05.03. **Uses.** No land, body of water, or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, structurally altered, or maintained for any purpose within the University City District, except as provided for in these regulations.

A. Permitted Uses

1. *Mixed Uses*. The vertical or horizontal integration of residential, business, hotels, government and office uses shall be permitted as provided herein. Vertical integration shall consist of any combination of primary Uses, with business and/or office Uses typically located on the ground floor and office and/or residential Uses on the upper floors. Horizontal integration shall consist of any combination of parcels with different primary Uses within the same block.
2. *Principal Uses*. The following Uses shall be permitted within the University City District:
 - a. Multiple-family residential dwelling units;
 - b. Transient Dwelling/Lodging Use;
 - c. University Housing;
 - d. Government Use such as administration buildings, fire and police stations, and the like.
 - e. Banks, credit unions and similar financial institutions.
 - f. Retail establishments, limited to the following:

- i. Antique stores;
- ii. Art stores and commercial art galleries;
- iii. Book and stationary stores open to the general public;
- iv. Card and gift shops;
- v. Housewares stores
- vi. Home improvement stores;
- vii. Drugstores;
- viii. Florist;
- ix. Food stores, including bakeries, confectioneries, delicatessens, fruit and vegetable markets, meat and fish markets, ice cream stores, and groceries;
- x. General merchandise and furniture stores;
- xi. Jewelry stores;
- xii. Leather goods and luggage shops;
- xiii. Newstands;
- xiv. Office supply stores;
- xv. Liquor and package stores (without drive-through facilities);
- xvi. Photo supply stores;
- xvii. Sporting good and bicycle stores;
- xviii. Electronics stores;
- xix. Variety and sundry stores; and
- xx. Clothing, apparel, and shoe stores.

Such facilities may provide incidental repair, maintenance, alteration, or adjustment services as appropriate, but facilities, operation and storage for such services shall not be visible from the street or pedestrian walkway.

- g. Service establishments including the following:
 - i. Barber and beauty shops;
 - ii. Custom tailoring, dressmaking and millinery shops, except where products are made for off-premises sale;
 - iii. Duplicating and business centers;
 - iv. Photographic studios;
 - v. Shoe repair stores; and
 - vi. Dry-cleaning services.
- a. Art galleries, museums, and libraries.
- b. Restaurants and cafes.
- c. Theaters, other than drive-in.
- d. Health studios, spas, and personal fitness establishments.
- e. Educational facilities offering business and professional certification/training programs and post-secondary public or private educational facilities.
- f. Private clubs, lodges, fraternities, and sororities.
- g. Health clinics and laboratories.

- h. Studios (other than dance).
- i. Travel agencies.
- j. Adult daycare facilities.
- k. Parking garages, provided that there shall be no access to such facilities from primary pedestrian pathways.
- l. Drive through facilities for restaurants and financial institutions (located at the rear of the buildings).
- m. Any other use that the Planning & Zoning Director or his designee deems similar to or consistent with this Article.

2.05.04. Location of Buildings. Pedestrian comfort should be a primary consideration for the design of the public realm fronting adjacent thoroughfares. Buildings in the University City District shall be located towards the front of the property with driveway entrances for parking and services located towards the rear. There shall be no driveway connections to SW 109th Avenue, unless access to the Lot shall be otherwise rendered impossible.

2.05.05. Minimum Lot Requirements. There shall be no specific dimensional requirements for any Lots. Lots shall be of sufficient size to conform with the requirements and limitations of these regulations.

2.05.06. Floor Area. The maximum floor area for any building shall be calculated by taking the floor area ratio and multiplying it by the Gross Lot Area, as defined in Sec. 2.05.02. All permitted Uses within the University City District shall be permitted a maximum floor area ratio of 3.8. In order to encourage pedestrian friendly, mixed-use development, ground floor commercial space not to exceed .2 floor area ratio with direct access to the sidewalk and street frontage shall not count against the floor area.

2.05.07. Height. The maximum height of any building within the University City District shall not exceed 15 stories.

2.05.08. Density. The maximum density for residential uses shall not exceed 180 units per acre. for the purposes of density calculation, Transient Dwelling /Lodging and University Housing units shall be considered as equivalent to one-half (0.50) of a dwelling unit. Density shall be based on net lot area. The maximum occupancy for University Housing units leased to undergraduate and graduate University students shall be limited to a maximum of four (4) students, faculty or staff per unit.

2.05.09. Setbacks.

1. Front: 10 feet or 0 feet if Colonnades are provided to a height of 15 feet.
Buildings may be constructed above Colonnades. Colonnades shall be 10 feet in depth.

The front setback requirement shall be applied to all frontages for properties located along SW 109th Avenue and SW 7th Terrace.

2. Side: 5 feet.
3. Rear: 20 feet.

2.05.10. Open/Recreation Space.

- A. *Open Space.* Ground level open space shall be 10% of the net lot area. Open space shall be landscaped and shall not contain any non-pervious areas.
- B. *Recreation Space.* Fifty percent (50%) of the ground level open space may be achieved by providing recreation spaces anywhere within the building (i.e. pool decks, roof gardens, etc.). The recreation open space must be open to all residents, employees, and invited guests of residents. Recreation open spaces shall be shaded and their ground surface shall be a combination of paving materials, lawn or ground cover.

2.05.11. Landscape. Except as provided herein, landscape shall be by Chapter 18A of the Miami-Dade County Code. Within the University City District, the following landscape requirements shall specifically apply:

1. Street trees shall be planted to a maximum of 25 feet average on center, with a minimum 4-inch diameter at breast height.
2. Street trees shall not be required when colonnades are provided.
3. For all permitted Uses, a minimum of sixteen (16) trees shall be required per net lot area. In addition to placement of the required trees on the Lot, required trees may be placed in greens, squares, plazas, and medians within the University City District, subject to the approval of the Planning & Zoning Director or his designee.

2.05.12. Off-Street Parking.

A. Required Parking by Permitted Use.

1. Multi-family residential. A minimum of 1.5 parking spaces shall be provided for each dwelling unit. One additional parking space shall be provided for every ten (10) dwelling units for visitor parking.
2. Transient Dwelling/Lodging. A minimum of one (1) parking space for every two guest rooms.
3. University Housing. A minimum of 1.5 parking spaces for every dwelling unit.
4. Office and other non-residential Uses. A minimum of one (1) space per three hundred and fifty (350) square feet of gross floor area.

5. Adult daycare. One (1) off-street parking space shall be required for the owner/operator and one (1) space for each employee. In addition to providing off-street parking, such establishments shall provide safe and convenient facilities for the loading and unloading of clients, including one (1) unloading space for every ten (10) clients cared for.
6. Childcare. One (1) parking space for the private owner/operator and one (1) space for each employee. In addition to providing off-street parking, such establishments shall provide safe and convenient facilities for loading and unloading children including one (1) unloading space for every ten (10) children cared for.
7. Restaurants and cafes. One (1) space for every 200 square feet of patron space (including outdoor dining areas).
8. All buildings shall have a designated area for bicycle and motorcycle parking. This area shall be in addition to the required off-street parking.

2.05.13. Off-Street Loading. All buildings in excess of twenty-five thousand (25,000) square feet shall provide off-street loading berths, with a minimum dimension of twelve feet (12') by thirty-five feet (35') in size. University Housing providing furnished units for occupancy shall be permitted to provide off-street loading berths with a minimum dimension of ten feet (10') by twenty feet (20'). All off-street loading berths shall be provided in accordance with the following requirements:

1. Buildings with a gross building area of not greater than fifty thousand (50,000) gross square feet shall provide not less than one (1) berth;
2. Buildings with a gross building area greater than fifty thousand (50,000) gross square feet but not greater than one hundred thousand (100,000) gross square feet shall provide not less than two (2) berths; and
3. All buildings with a gross building area greater than one hundred thousand (100,000) gross square feet shall provide not less than three (3) berths.

2.05.14. Service Areas. All services areas shall be screened and located at the rear of the property and shall be located so as to not be visible from adjacent properties or from the street.

2.05.15. Structured Parking. Structured parking shall not be counted toward the floor area calculation, but shall count towards the height. All facades of a parking structure facing a street shall be lined with a habitable liner, architectural treatment, or a combination of the two. Any architectural treatment used to line such a facade shall be approved by the Planning & Zoning Director. The intent of this section is to screen the activities within the parking structure from view from the street.

2.05.16. Review Procedure/Administrative Site Plan & Architectural Review. All applications for development approval within the University City District that are not otherwise permitted as nonconforming Uses or structures shall comply with the requirements of this Article and with the site plan and architectural review criteria outlined herein. Developments shall be processed and approved administratively as follows:

- A. Administrative site plan & architectural plan review process. The Department shall review plans, including the exhibits listed below for completeness and compliance with the provisions of this article, and for compliance with the site plan review criteria provided herein. Additionally, all applications shall be reviewed by the following departments of the City of Sweetwater and other public entities for potential impacts on infrastructure and other services resulting from the applications: Public Works Department, Miami-Dade County Department of Environmental Resources Management, Fire-Rescue Department, Police Department, and Miami-Dade County Public Schools. In the event the application indicates impact on service and infrastructure provided by any of the foregoing, the applicant shall meet with the affected department or entity to discuss potential mitigation of the impacts and shall submit evidence to the Department of such discussion.

The Director shall issue a final decision within 30 days of the date of submission of the completed application. The applicant shall have the right to extend the 30-day period by an additional 30-days upon timely written request to the Department. The Department shall have the right to extend the 30-day period by written notice to the applicant that additional information is needed.

Denials shall be in writing and shall specifically set forth the grounds for the denial. Any final decision of the Director may be appealed in accordance with the procedures established by this Chapter for appeals of administrative decisions.

As part of the review process, the Director may require a Unity of Title or a Declaration of Restrictive Covenants in Lieu of Unity of Title in a form acceptable to the City Attorney.

- B. Submittal requirements. Applications for administrative site plan and architectural review shall be accompanied by exhibits prepared by registered architects and landscape architects which shall be submitted to the Department and shall include the following:

1. Site plan(s) including:
 - a. Location;
 - b. Street layouts;
 - c. Locations, shape, size, and height of any existing buildings;
 - d. Indication of street vistas;
 - e. Lot lines, setbacks and build-to-lines;
 - f. Location of on-street and off-street parking, loading facilities, and waste collection areas;
 - g. Indication of signage; and
 - h. Indication of any site or building design methods used to conserve energy.

2. Landscape plans, including specifications of species of plant material, location, and size in accordance with this Article and Chapter 18A of the Miami-Dade County Code.
3. Street cross-sections, including adjacent buildings and open space.
4. Floor plans and elevations, and sections of all buildings, including total gross square feet of area for each floor and all dimensions relating to the requirements of this Article.
5. Figures indicating the following:
 - a. Gross and net acreage;
 - b. Total square footage for each type of Use;
 - c. Total number of dwelling units;
 - d. Amount of passive and active open spaces in square feet; and
 - e. Such other design data as may be needed to evaluate the project's compliance with the requirements of this Article and Chapter.

2.05.17. Zoning Relief from Certain Requirements. Relief from the following requirements of this Article shall be permitted only pursuant to the standards and requirements of Sec. 7.01.00 of this code:

1. Required liner buildings used to screen parking;
2. Colonnade regulations, including minimum horizontal and vertical clearances;
3. Requirements for street trees, greens, plazas, squares and medians;
4. Signage;
5. Open Space and Recreation Space requirements;
6. Location of service areas; and
7. Parking.

2.05.18. Relief/Appeals. Relief and/or appeals of the Director's decision shall be in accordance with Sec. 9.08.01 and pursuant to the standards and requirements of Sec. 9.08.05.

2.05.19. Conflicts with other Chapters and Regulations. This Article shall govern in the event of conflicts with other zoning subdivision, or landscape regulation of the code.

2.05.20. Non-conformities: Structures & Uses.

A. Generally.

1. *Definition.* A non-conformity as used in this Code is an existing Use or structure that is in compliance with the zoning regulations that were applicable at the time when the Use or structure was established, and for which all required permits were issued, but which does not conform in whole or part to the regulations of this Code. Such nonconformity is legal and may continue except as regulated by this section.
 - a. A non-conformity may also be created where the lawful Use of eminent domain or an order of a court of competent jurisdiction has affected the lawfully existing Use or structure, in a way so that the property does not comply with this Code. In this instance, the non-conformity is legal and may continue except as regulated by this section.
 - b. A change in tenancy, ownership, or management of a non-conforming Use or structure shall not be construed to create a non-conformity, provided the change is otherwise lawful and in compliance with this Code.
1. *Intent concerning non-conformities generally.* It is the intent of this Code that non-conformities may continue, but are not encouraged to expand or enlarge, and once they cease they may not be reestablished, except under the terms of Secs. 2.05.20.B. and 2.05.20.C.
2. The temporary or illegal Use of property shall not be sufficient to establish the existence of a non-conformity or to create rights in the continuation of a non-conformity until it shall come into compliance with the regulations of this Code.
3. If at any time a non-conforming structure, or any structure containing a non-conforming Use, becomes unsafe or unlawful by declaration of the City of Sweetwater, Miami-Dade County Unsafe Structures Board, or other government agency having jurisdiction, the structure shall not thereafter be restored or repaired and the Use shall not be reestablished except in conformity with the regulations of the Zoning District which it is located.

A. Structures and Uses in the Event of Disaster.

1. *Single-family dwelling and duplex dwelling.* In the event of a natural disaster, explosion, fire, act of God, or the public enemy, the Planning & Zoning Director may permit the reconstruction of any non-conforming single-family dwelling or duplex dwelling to the same or decreased non-conformity as existed immediately prior to the disaster, upon submission of proof satisfactory to the Director of the configuration of the prior single-family dwelling or duplex dwelling, and only in compliance with the Florida Building Code. An application for reconstruction of the single-family dwelling or duplex dwelling shall be filed within twelve (12) months of the event of its destruction, unless the City Council authorizes the Director to extend the twelve (12) month period city-wide.
2. *All other structures.*
 - a. Where a non-conforming structure is destroyed by natural disaster, explosion, fire, act of God, or the public enemy, the Director may, by written waiver, allow for the replacement or reconstruction of the non-conforming structure in whole or in part upon finding that the criteria of paragraph (b.) below are met.

- b. **Criteria for approval.** Replacement or reconstruction may be permitted if the following findings are made:
 - i. The cause of destruction was not the deliberate action of the owner or occupant of the structure or his agents.
 - ii. The replacement or reconstruction is reasonably necessary to allow the reasonable conforming Use of the structure.
 - iii. The replacement or reconstruction meets the Florida Building Code.
- a. An application for the reconstruction or repair shall be filed within a period of twelve (12) months from the date of the destruction unless the City Council authorizes the Director to extend the twelve (12) month time period city-wide.

1. *Non-conforming Uses.*

- a. The restoration of a non-conforming Use within a structure that is destroyed by natural disaster, explosion, fire, act of God, or the public enemy, may be approved by warrant as outlined below. The Use must be restored in a conforming structure or structure approved by waiver, and of equal or lesser size on the same property. The approval shall further find that the criteria of paragraph (b.) are met.
- b. **Criteria for approval.** The restoration of any non-conforming Use may be permitted if all of the following are found to be met:
 - i. The cause of destruction was not the deliberate action of the owner or occupant of the structure or his agents; and
 - ii. Nothing contained in the provisions of this Code or the City Code requires termination of such non-conforming Use; and
 - iii. There is a substantial public advantage in continuance of the non-conforming Use; and
 - iv. Replacement or reconstruction in the manner proposed, with related actions imposed in conditions and safeguards, will reduce any previous adverse effects of Use on neighboring properties; and
 - v. The Use will not be enlarged or intensified.
- c. The application for the restoration shall be filed within a period of twelve (12) months from the date of the destruction and be diligently carried to completion. Unless restoration is so initiated and completed, the non-conforming Use shall terminate and not be resumed.

A. Alterations and Expansion of Non-Conforming Structures.

1. *Single-family and duplex dwellings.*

- a. Interior alterations to a non-conforming single-family or duplex dwelling for interior work, such as repairs or interior remodeling, shall be allowed.
- b. Alterations, additions, repairs, and maintenance to a non-conforming single-family or duplex dwelling unit shall be permitted as long as there is no enlargement of any non-conformity that affects the exterior of the Building or premises.
- c. Where alteration, addition, repair or maintenance enlarges a non-conformity affecting the exterior of the Building or premises, the enlargement may be permitted by waiver from the Director upon meeting the standards of Sec.2.05.20.B.2.b.

2. *All other structures.*

- a. **Less than fifty percent (50%) of square footage of structures.** Alterations which enlarge the non-conformity of a non-conforming structure to extent less than fifty percent (50%) of the total square footage of the non-conforming structure may be permitted by Special Exception from the Planning & Zoning Board. In addition to satisfying the Special Exception criteria, the proposed enlargement shall not exceed a height or length of fifty percent (50%) of the horizontal or vertical linear footage of the exterior wall(s) of the remaining non-conforming portion of the structure.
- b. **Fifty percent (50) or more of the square footage of the structure.** A non-conforming structure may be altered to enlarge the non-conformity of the structure by fifty percent (50%) or more of the total square footage of the non-conforming structure only if the structure thereafter conforms to the requirement of the zoning district in which it is located.

3. *Computation of alterations.* The extent of alteration will be calculated to include the sum of all alterations over a period of three consecutive years.

4. *Expansion, repairs, remodeling and maintenance that does not enlarge the non-conformity of a non-conforming structure.* All expansion, repairs, remodeling and maintenance that does not enlarge the non-conformity of the structure are permitted and only in compliance with the Florida Building Code.

A. Non-conforming Uses.

- 1. *Time limitation.* Where, at the effective date of adoption or amendment of this Code, a lawful Use exists which would not be permitted under this Code, the Use may be continued for twenty (20) years consistent with this section. Upon application, the City Council may grant by Special Exception an extension for continuance of the Use for an additional term of up to twenty (20) years.
- 2. Legally established alcoholic beverage establishments, having a valid certificate of Use or Certificate of Occupancy and all other required permits, may continue in existence despite subsequent establishment of a church or school within the distance limitations imposed by the City Code.
- 3. *Replacement and expansion of structures that contain non-conforming Use.*

- a. No-enlargement, extension, replacement or restoration of an existing structure which contains a non-conforming Use shall be permitted except to change the Use to a conforming Use and as provided below:
- i. Interior arrangement. A non-conforming Use may be extended throughout any parts of a structure which was clearly designed or arranged for the non-conforming Use at the time that the Use became non-conforming. If a portion of a structure was unoccupied or not manifestly designed for the non-conforming Use, the Use may not be expanded within the structure.
 - ii. Alterations to the extent of less than fifty percent (50%) of the square footage of a Structure containing a non-conforming Use. Where an alteration of a structure containing a non-conforming Use is less than fifty percent (50%) of the square footage of the structure at the time of alteration, the non-conforming Use may be permitted to continue pursuant to an Exception.
 - iii. Exterior. No non-conforming Use which exists outside a structure shall be extended to occupy more area than was occupied at the time the Use became non-conforming, except as approved by Exception and to comply with the non-Use regulations of the Zoning District in which it is located. In this case, the occupancy of the new location shall be construed as remaining a non-conforming Use.
- b. **Subdivision or structural additions.** Structures used for non-conforming Uses shall not be subdivided, nor shall any structures be added on the premises.
4. *Discontinuance or abandonment of a non-conforming Use.* If, for a period of more than six (6) months, a non-conforming Use is documented as being discontinued or a certificate of Use for a non-conforming Use lapses, any subsequent Use shall conform to the regulations of the Code. Provided, however, the time period shall not include any time during which the discontinuance is caused by the governmental action which impedes access to the premises.

VOTE UPON ADOPTION:

ARIEL J. ABELAIRAS, COMMISSION PRESIDENT
JOSE M. DIAZ, COMMISSION VICE PRESIDENT
PRISCA BARRETO, COMMISSIONER
JOSE BERGOUIGNAN, JR., COMMISSIONER
MANUEL DUASSO, COMMISSIONER
JOSE M. GUERRA, COMMISSIONER
ORLANDO LOPEZ COMMISSIONER

Absent
yes
yes
yes
yes
yes
yes

Ord # 3587