

## **Sec. 35-702. Continuing Lawful Use of Property and Structures.**

- (a) Nonconforming Use Defined. A nonconforming use shall be any use which:
- (1) On the effective date of the ordinance from which this chapter is derived was lawfully operated as a nonconforming use in accordance with the provisions of any prior zoning ordinances; or
  - (2) On or after the effective date of the ordinance from which this chapter is derived was lawfully operated in accordance with the provisions of said ordinance but which use, by reason of amendment to said ordinance, or other governmental action, is not a permitted use in the district in which the use is located; provided, however, that a permitted use, otherwise in accordance with the provisions of this chapter, shall not be deemed a nonconforming use for a failure to comply with the provisions of this chapter relating to permitted signs, yard requirements, off-street parking requirements, or off-street loading requirements.
- Territory annexed into the city may continue as provided in subsections (a) and (b) of V.T.C.A. Local Government Code § 43.002, except as provided in subsection (c) thereto.
- (b) Limitations on Nonconforming Uses.
- (1) **Nonconforming Uses.** The lawful use of land existing as of the effective date of this chapter, or a lawful use which becomes nonconforming because of an amendment to this chapter, may be continued as provided in this section.
  - (2) **Abandonment.** If such nonconforming use is discontinued for twelve (12) months, any future use of such premises shall be in conformity with the provisions of this chapter.  
Abandonment of a nonconforming use shall terminate the right to operate such use.
  - (3) **Continuance.** The lawful use of any building existing as of the effective date of this chapter may be continued, although such use does not conform to the provisions of this chapter. Such use may be extended throughout the building, provided no structural alterations or additions to the structure, except those required by law or ordinance, are made thereto.
  - (4) **Enlargement.** A conforming structure in which a nonconforming use is operated shall not be enlarged or extended except as required by law or ordinance.
  - (5) **Conditions.** The right of nonconforming uses to continue shall be subject to such regulations as to the maintenance of the premises and conditions of operation as may, in the judgment of the zoning city, be reasonably required for the protection of adjacent property.
- (c) Nonconforming Lots of Record. A substandard lot may be used for any uses permitted in the applicable zoning district. A "substandard lot" means any lot which fails to meet the requirements for area or width, or both, generally applicable in the district because of a change in the applicable zoning district regulations, annexation, condemnation of a portion of the lot, or other governmental action. The provisions of this section do not require the replatting or combination of platted lots under common ownership which are protected by state vested rights law.

## **Sec. 35-707. Nonconforming Structures.**

**(a) Definition of Nonconforming Structure.** A nonconforming structure shall be any existing structure on or after the date of this chapter which does not comply with all the regulations applicable to the zoning district in which the structure is located.

**(b) Continuance of Nonconforming Structures.** Subject to all limitations herein set forth, any nonconforming structure may be occupied and operated and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended.

**(c) Enlargement.** A nonconforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with all of the provisions of this chapter established for structures in the district in which the nonconforming structure is located. Such enlargement shall also be subject to all other applicable city ordinances.

**(d) Termination of Nonconforming Structures.**

**(1) Damage to Structures.** The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure is damaged in any manner and from any cause whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the replacement cost of such structure on the date of such damage.

**(2) Obsolescence of Structure.** The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure becomes obsolete or substandard under any applicable ordinance of the municipality and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the replacement cost of such structure on the date that the proper official of the municipality determines that such structure is obsolete or substandard.

**(3) Determination of Replacement Cost.** In determining the replacement cost of any nonconforming structure there shall not be included therein the cost of land or any factors other than the nonconforming structure itself.