OFFICE USE ONLY
Approved by: _____ Date Verified _____ C of O needed _____ Land Use _____ Minimum current zoning classification that would allow the use: _____ Type of Documentation Submitted _____

DEVELOPMENT SERVICES DEPARTMENT
P. O. BOX 839966
SAN ANTONIO, TX 78283-3966

REGISTRATION OF NON-CONFORMING USE RIGHTS

DUE TO ANNEXATION:
DATE ANNEXED _____

DUE TO ZONING DISTRICT AMENDMENT:
DATE OF ORDINANCE _____

ADDRESS OF PROPERTY_____**BLG#**_____**SUITE#**_____

Lot _____ **Block** _____ **NCB**_____
(If unplatted attach metes and bounds description or field notes from licensed surveyor or engineer)
IF PLATTED, LIST DATE OF PLAT (if applicable)_____

DATE PRESENT USE COMMENCED AT THIS ADDRESS _____
(Please attach all supporting documentation)

PRESENT ZONING _____ **PREVIOUS ZONING (IF APPLICABLE)** _____

_____

HISTORIC DESIGNATION: Yes or No _____ **DESCRIBE TYPE** _____

NAME OF FIRM OR CORPORATION (DBA)_____

PROPRIETOR_____ _____ _____
(Attach written and signed statement if necessary)

DESCRIBE LAND USE IN DETAIL _____
(Attach written and signed statement if necessary)

OWNER OF LAND AND/OR BUILDING _____

ADDRESS _____ **TELEPHONE NUMBER** _____

REQUIREMENTS:

$50 Registration Fee
Plus
$3 Notary Fee (if Applicable)

(Make checks payable to: "CITY OF SAN ANTONIO")

1. **SUBMIT A SCALED PLOT PLAN AND /OR SKETCH SHOWING THE LOCATION AND USE OF ALL STRUCTURES. (ATTACHED OR DRAW ON ATTACHED PAGE)**
2. **COPY OF PREVIOUS AND CURRENT C OF O (IF APPLICABLE)**
3. **UTILITY STATEMENTS (SAWS & CPS) PRIOR TO EFFECTIVE YEAR OF ORDINANCE TO PRESENT (PROOF OF CONTINUOUS USE WITH NO MORE THAN 12 MONTH LAPSE)**
4. **PROOF OF PAID PROPERY TAXES PRIOR TO EFFECTIVE YEAR OF ORDINANCE TO PRESENT**
5. **SALES TAX RECORDS/RECEIPTS (IF APPLICABLE)**
6. **TABC RECORDS PRIOR TO EFFECTIVE YEAR TO PRESENT (IF APPLICABLE)**
7. **IF COMMERCIAL PROPERTY, MUST APPLY FOR CERTIFICATE OF OCCUPANCY UPON COMPLETION OF REGISTRATION**

SIGNED _____

TITLE _____

Sworn to before me this _____ **day of** _____ **20**_____.

_____
Notary Public in and for the State of Texas

PLOT PLAN

I, _____ certify that the above plot plan shows all improvements on this property.

Date _____ SIGNATURE OF APPLICANT _____

B. Within the context of a master development plan, net area shall mean total acreage within a master development plan less the area within the 100-year floodplain and the area dedicated to conservation easement, natural area (such as greenbelt) and parks.

Neighborhood Unit
A neighborhood unit encompasses an area which includes residences, businesses, parks, schools, and other community facilities. Populations may range from 4,000 to 10,000 people depending on the geographic area and boundaries. A neighborhood unit usually contains at least 1,500 housing units.

New construction
For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31,1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New development
Any new demand which increases the number of equivalent dwelling units including, but not limited to, the subdivision and/or resubdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land, any of which increases the number of equivalent dwelling units. [Commentary: The subdivision and/or resubdivision of land, the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land which does not increase the number of equivalent dwelling units is not considered new development and is not subject to [illegible] of additional impact fees. However, the previous applicable impact fees must have be[illegible]

New manufactured home park or subdivision
A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Nightclub
A tavern with more than 2,000 square feet of building area excluding kitchen, restrooms and storage areas. A nightclub use may include, in addition to the provision of alcohol, a dance hall, a dance floor, food services, live bands, disk jockey and or live entertainment.

Node
The terminus or intersection of two (2) or more Streets, including the head or bulb of a cul-de-sac.

Nonconforming structure
Any existing structure which was erected according to all applicable city ordinances at the time, but which does not now comply with all the regulations applicable to the district in which the structure is located.

Nonconforming use
Generally, the use of an existing property or structure after the effective date of this chapter, which does not comply with the use regulations applicable to the district in which the property is located, and as further defined in § 35-702 of this chapter.

35-703(a) continued

Action on the permits shall be taken by the director of development services within fifteen (15) days from the date of application. The director shall deny the permit if he finds that the construction will not meet the requirements of the building, fire protection, or minimum housing codes and other applicable ordinances and codes of the city. If the permit is refused, the construction work shall cease until necessary corrections are made.

(b) Proposed Construction

Proposed construction may be completed upon a finding by the zoning commission that sufficient evidence exists that planning for the proposed use was in progress prior to annexation, as prescribed by Appendix B to this chapter. Within fifteen (15) days from the date of such filing, the director shall present the evidence to the zoning commission for their determination, unless the applicant agrees to a longer period. The applicant shall have twelve (12) months from the date of the zoning commission's favorable determination to secure all building permits. After that time, the nonconforming rights shall expire.

(c) Master Development Plans

Newly annexed areas may be entitled to nonconforming rights for a master development plan upon favorable consideration by the zoning commission.- **xx** The property owner must submit an application as prescribed by Appendix "B" of this chapter.The zoning commission shall conduct a public hearing on the nonconforming rights master development plan after giving notice to the owners of property within two hundred (200) feet in the manner provided in section 35-403 for a rezoning. The purpose of the public hearing shall be to ascertain (1) the extent to which development of the master development plan had progressed prior to annexation and (2) the extent to which the master plan complies with the policies and objectives of the city's Land Use Plan. If the zoning commission approves the master development plan, construction in conformance with the plan must begin within one (1) year, with all portions of the plan either completed or under construction within five (5) years from the date of annexation. After that time, the nonconforming rights shall expire.

(Ord. No. 98697 § 4 & 6)(Ord. No. 100126)

35-704 Change of Use Regulations

(a) To a Conforming Use

Any nonconforming use may be changed to a use conforming with the regulations herein established for the district in which the nonconforming use is located; provided, however, that a nonconforming use so changed shall not thereafter be changed back to a nonconforming use.

(b) To Another Nonconforming Use

The following, and no other, nonconforming uses may be changed to another nonconforming use as herein set forth; provided, however, that a nonconforming use changed to another nonconforming use, as provided, shall not thereafter be changed back to the former nonconforming use:

NOTICE: *This document is a compilation of the city council adopted 1987 and 2001 UDC's and all amendments thereof through June 1st, 2005. It is a draft document for review only and is proposed to be presented to the city council for review and adoption in July of 2005.*

35-704(b) continued

Use permitted in:	Located in:	May be changed to use permitted in:
Resource Protection "RP" Residential Estate "RE"	Less restricted residential	Any more restricted district
Any business or industrial	Any residential district	Any residential use or a more restrictive business use as follows: "I-1" use may be changed to any "C-3", "C-2", "C-1", Office, or "NC"; "C-3" use may be changed to any "C-2", "C-1", Office, or "NC"; "C-2" may be changed to, "C-1", Office, or "NC"; "C-1" may be changed to Office, or "NC"; and office may be changed to an "NC" use
Any business district	More restricted business district	A more restrictive business use as follows: "I-1" use may be changed to any "C-3", "C-2", "C-1", Office, or "NC"; "C-3" use may be changed to any "C-2", "C-1", Office, or "NC"
"I-1" district	More restricted business district	"I-1" district

(c) Limitations on Changing Nonconforming Uses

All changes of nonconforming uses hereunder shall be limited by and shall be in accordance with the regulations herein established for accessory uses, home occupations, permitted structures, permitted signs, off-street parking requirements and off-street loading requirements. No nonconforming use shall be changed to another nonconforming use which requires more off-street parking and loading space than the former nonconforming use unless additional adequate off-street and loading space is provided for the increment of the new nonconforming use as would be herein required if the increment were a separate use. No nonconforming use shall be changed to another nonconforming use unless the original nonconforming use was registered in conformance with Section 35-705, below.

35-705 Certificate of Nonconforming Use

For purposes of this section, "applicable regulations" means the provisions of this chapter, or amendments to this chapter, which render a use nonconforming.

(a) Applicability

The owner of a nonconforming use or structure may register such nonconforming use or structure by filing with the department of development services a registration statement.

(b) Contents

35-705(b) continued

(1) Generally.

Such registration may be made on behalf of the owner by any person, firm, corporation or other entity which has a legal or equitable interest in the nonconforming use or structure. Registration statements shall require a disclosure of the complete ownership of the land and/or structure and shall be in such form and require the furnishing of such information and representation as are needed to show the following:

A. That the use was lawfully established prior to the effective date of the applicable regulations.
B. That the use has been continuously maintained since it was established.
C. That the use has not been abandoned.

(2) Denial of Registration.

The director of development services may deny any registration if it appears that the documents relied thereon are not valid, or that the documents produced to not show the existence of a prior nonconforming use in accordance with the criteria set forth in Subsection (1), above. The applicant may appeal this determination to the city in accordance with § 35-481 of this chapter.

(3) Amendment.

At any time after registration, upon application to the department of development services and with the written consent of the owner affected thereby, a registration statement may be amended to indicate changes in ownership. A copy of each registration statement shall be returned to the owner and a copy filed among the records of the department. The department of development services shall accept and file all tendered registration statements within the permitted time period, but the acceptance of such statements shall not constitute an authorization to operate an unlawful use. The filing of a false registration statement with the department shall constitute a violation of this chapter.

(c) Time Period for Registering

The owner of a use or structure which is rendered nonconforming as a result of the adoption of this chapter shall have three years from the effective date of this chapter to register such use or structure. The owner of a use or structure which is rendered nonconforming as a result of a city-initiated rezoning project or in newly annexed territory, subsequent to the adoption of this chapter is permitted one (1) year after the effective date of the rezoning to register such use or structure. Provided, however, that after the time periods prescribed above nonconforming rights may be established only upon submission, by the owner of sufficient evidence for the director of development services to find that the use or structure existed prior to the date of rezoning and was in legal compliance with all applicable laws.

(d) When Registration Not Required

It is not required to register a use or structure that is made nonconforming by any governmental action other than annexation or rezoning.

(e) Fences

Any fence of legal height and construction does not constitute a nonconforming use and does not require registration.

(Ord. No. 98697 § 4 & 6)

35-706 Termination of Nonconforming Uses

Termination of nonconforming rights under Subsections (a) and (b) of this section shall provide for notice and hearing as provided in Section 35-406 of this chapter.

(a) By Violation of Chapter

The violation of this chapter shall terminate immediately the right to operate a nonconforming use.

(b) By Specific Acts of Termination

Any one (1) of the following specific acts of termination shall terminate immediately the right to operate a nonconforming use:

(1) Changing a nonconforming use to a con

(2) Changing a nonconforming use to another nonconforming use as herein provided and authorized; provided, however, that the termination shall apply only to the nonconforming use existing prior to any change;

(3) Nonoperation or nonuse of a nonconforming use for a period of twelve (12) or more successive calendar months;

(4) Vacancy for a period of twelve (12) or more successive calendar months of the structure or that part of a structure occupied by a nonconforming use.

(c) By Action of the Zoning City

The zoning city may inquire into the existence of a nonconforming use, and after public hearing and investigation into the conditions created by the use, fire or health hazards created by the use, and any other danger or nuisance to the public due to or created by any condition or use existing on the property, require the discontinuance of such use. The owner of the use under investigation by the board shall have not less than ten (10) days written notice prior to the day of the public hearing. Time allowed for discontinuance of such use shall be prescribed by the board at a subsequent public hearing, after having heard from the affected parties, based on the board's ruling as to a reasonable amortization period for the nonconforming use. In prescribing said time period, the board shall consider the following factors:

(1) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.

NOTICE: *This document is a compilation of the city council adopted 1987 and 2001 UDC's and all amendments thereof through June 1st, 2005. It is a draft document for review only and is proposed to be presented to the city council for review and adoption in July of 2005.*

35-706(c) continued

(2) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.

(3) Any return on investment since inception of the use, including net income and depreciation.

(4) The anticipated annual recovery of investment, including net income and depreciation.

Note: For termination of nonconforming structures, see Section 35-707, below.

(d) At the Direction of City Council

The zoning city, at the direction of the city council, shall require the discontinuance of a nonconforming use. The board, after having heard from the affected parties, must provide a reasonable amortization period for the discontinuance of such use based on the factors set forth in subsection (c), above.

(e) By Destruction or Damage of Structure

The right to operate and maintain any nonconforming use, except a single-family dwelling unit, shall terminate and shall cease to exist whenever the structure or structures in which the nonconforming use is operated and maintained is damaged or destroyed from any cause whatsoever, and the cost of repairing such damage or destruction exceeds fifty (50) percent of the replacement cost of such structure on the date of such damage or destruction. A nonconforming single-family dwelling unit which is destroyed or damaged more than fifty (50) percent of the replacement cost may be rebuilt provided a building permit is issued within one (1) year of the date of such damage or destruction. The director of development services may require the submission of necessary evidence to verify the date of damage or destruction.

(f) Applicability to Extraction Facilities

The provisions of this section shall not apply to any tract of real property that is used primarily for the extraction and processing of limestone, sand, gravel, rock, or soil, provided that such use is in compliance with the applicable state and federal permit requirements.

(Ord. No. 98697 § 4)

35-707 Nonconforming Structures

(a) Definition of Nonconforming Structure

A nonconforming structure shall be any existing structure on or after the date of this ordinance which does not comply with all the regulations applicable to the zoning district in which the structure is located.

(b) Continuance of Nonconforming Structures

35-707(b) continued

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 35- nonconforming structure itself.

708 Sexually Oriented Businesses

Commentary: Type A nonconforming use rights extend to those establishments granted such rights pursuant to the methodology established by Ordinance 82135, passed and approved April 27, 1995, and this ordinance and are subject to §35-706 of this code except for amortization at the direction of city council. Type B nonconforming use rights extend to all other establishments that were lawfully in operation either prior to the adoption of the Sexually Oriented Business Regulations (§ 35-391 of this chapter) or outside of the city's corporate limits; but, as a result of the adoption of the Sexually Oriented Business Regulations (§ 35-391 of this chapter), or annexation after the adoption of the Sexually Oriented Business Regulations (§ 35-391 of this chapter), continued operation of the establishment is unlawful. A conforming use is one that is operating in a lawful manner consistent with the provisions of the Sexually Oriented Business Regulations (§ 35-391 of this chapter).