

ARTICLE 35
NON-CONFORMITIES

7 TCC 1-35 (a) Description. Within the districts established by this Ordinance or by amendments that may later be adopted, there may exist lots, premises, structures, and uses which were lawful before this Ordinance, or by amendment thereto, was effective, but which would be prohibited, regulated, or restricted under the provisions of this Ordinance or future amendment. These are commonly known as non-conforming uses, structures, etc., and are herein referred to under the general term "Non-Conformities".

7 TCC 1-35 (b) Statement of Intent. Under the law non-conformities are permitted to be continued, subject to certain conditions and restrictions. It is the intent of this Article to permit these non-conformities to continue until they are removed (except as otherwise herein provided), but not to encourage their survival. Such non-conformities are declared by this Article to be incompatible with the permitted structures and uses of land and structures in the district involved. It is further the intent of this Article that such non-conformities shall not be enlarged upon, expanded, or extended except as provided for herein, not to be used as grounds for addition other structures or uses prohibited elsewhere in the same district.

7 TCC 1-35 (c) Enlargement, Expansion, Extension Not Permitted. A non-conforming use of land, premises, or structure shall not be enlarged upon, expanded, or extended after the effective date of this Ordinance by the attachment of a structure, premise, or land, of additional signs intended to be seen off the premise or land, or by addition of other uses of a nature which would be prohibited in the district involved.

7 TCC 1-35 (d) When Rights of Conforming Use or Structure Granted. A non-conforming use or a non-conforming structure which is non-conforming only because of failure to provide off-street parking spaces, loading berths, or setbacks shall have all the rights of a conforming use or structure.

7 TCC 1-35 (e) Non-Conforming Lots of Record.

- (1) In any district in which single family dwellings are permitted, except the A-1, A-2 and conservation districts, notwithstanding limitations imposed by other provisions of this Ordinance a single family dwelling and customary accessory building may be erected on any lot which is a lot of record prior to the effective date of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations hereinafter provided.
- (2) In the A-1, A-2, and Conservation Districts, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory building may be erected on any lot which was a lot of record prior to March 16, 1978. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations hereinafter provided.

7 TCC 1-35 (f) Non-Conforming Uses of Land. Where, on the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is no longer permissible under the regulations and standards of this Ordinance as adopted or amended such use may be continued so long as it remains otherwise lawful subject to the following provisions:

- (1) No such non-conforming use of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this Ordinance.
- (2) No such non-conforming use of land shall be moved in whole or in part to any other portion of the lot or tract of land occupied on the effective date of adoption or amendment of this Ordinance.
- (3) Any non-conforming use of a building, structure, or land which is abandoned for a period of one year or more shall not be continued again, and any future use thereof shall be in conformity with the provisions of this Ordinance.

7 TCC 1-35 (g) Non-Conforming Structures. Where, on the effective date of adoption or amendment of this Ordinance, a lawful structure exists that could not be built under the regulations and standards of this Ordinance as adopted or amended, by reasons of restrictions on lot area, lot coverage, floor area ratio, height, yards, spacing between buildings or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its non-conformity. Such a structure, non-conforming to its setbacks or one or more yards, may be enlarged or altered, provided the addition encroaches no further into the required setbacks or yard. Any further encroachment beyond this limitation will require that a petition for a variance be filed and approved in accordance with Article 24 of this Ordinance. (Amendment # 22 – 2/06)
- (2) Should such structure be destroyed by any means to an extent or more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- (3) Should any such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations and standards for the district in which it is located after it is moved.

7 TCC 1-35 (h) Non-Conforming Uses of Structures. Where, on the effective date of adoption or amendment of this Ordinance, a lawful use of a structure or of a premise exists that is no longer permissible under the regulations and standards of this Ordinance as adopted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or altered except in changing the use of such structure to a use permitted in the district in which it is located.

- (2) Any non-conforming use may be extended throughout any parts of the building or structure which were manifestly arranged or designed for such use at the effective date of adoption, or amendment, of this Ordinance, but no such use shall be extended to occupy land outside of such structure.
- (3) Any structure, or any premise, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations and standards of the district in which such structure or premise is located, and the non-conforming use shall not be resumed.
- (4) When non-conforming use of a building, structure, or land which is abandoned for a period of one year or more shall not be continued again, and any future use thereof shall be in conformity with the provisions of this Ordinance.
- (5) Where non-conforming use status applied to a premise, removal or destruction of the structure shall eliminate the non-conforming use status of the land, except as it may qualify as a non-conforming lot of record.

7 TCC 1-35 (i) Repairs and Maintenance. On any structure devoted in whole or in part to any non-conforming use, or which itself is non-conforming work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not to exceed ten percent (10%) of the then current replacement value of the structure, provided that the volume of such building or the size of such structure as it existed at the effective date of adoption, or amendment, of this Ordinance shall not be increased. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.