

NON-CONFORMITIES

§ 157.635 DESCRIPTION.

- (A) Within the districts established by this chapter or by amendments that may later be adopted, there may exist lots, premises, structures, and uses which were lawful before this chapter, or by amendment thereto, was effective, but which would be prohibited, regulated, or restricted under the provisions of this chapter or future amendment.
- (B) These are commonly known as non-conforming uses, structures, and the like, and are herein referred to under the general term **NON-CONFORMITIES**.

(Prior Code, 7 TCC 1-35(a))

§ 157.636 STATEMENT OF INTENT.

- (A) Under the law non-conformities are permitted to be continued, subject to certain conditions and restrictions. It is the intent of this subchapter 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 subchapter to be incompatible with the permitted structures and uses of land and structures in the district involved.
- (B) It is further the intent of this subchapter that such non-conformities shall not be enlarged upon, expanded, or extended except as provided for herein, not to be used as grounds for additional other structures or uses prohibited elsewhere in the same district.

(Prior Code, 7 TCC 1-35(b))

§ 157.637 ENLARGEMENT, EXPANSION, AND EXTENSION PROHIBITED.

A non-conforming use of land, premises, or structure shall not be enlarged upon, expanded, or extended after the effective date of this chapter by the attachment of a structure, premise, or land, or additional signs intended to be seen off the premises or land, or by addition of other uses of a nature which would be prohibited in the district involved.

(Prior Code, 7 TCC 1-35(c)) Penalty, see § 157.999

§ 157.638 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.

(Prior Code, 7 TCC 1-35(d))

§ 157.639 NON-CONFORMING LOTS OF RECORD.

- (A) 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 chapter, 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 chapter. 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.
- (B) In the A-1, A-2, and Conservation Districts, notwithstanding limitations imposed by other provisions of this chapter, 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.

(Prior Code, 7 TCC 1-35(e))

§ 157.640 NON-CONFORMING USES OF LAND.

Where, on the effective date of adoption or amendment of this chapter, a lawful use of land exists that is no longer permissible under the regulations and standards of this chapter, as adopted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions.

- (A) 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 chapter.
- (B) 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 chapter.
- (C) 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 chapter.

(Prior Code, 7 TCC 1-35(f))

§ 157.641 NON-CONFORMING STRUCTURES.

Where, on the effective date of adoption or amendment of this chapter, a lawful structure exists that could not be built under the regulations and standards of this chapter, 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.

- (A) 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 §§ 157.415 through 157.421.
- (B) Should such structure be destroyed by any means to an extent or more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (C) Should any such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations and standards for the district in which it is located after it is moved.

(Prior Code, 7 TCC 1-35(g))

§ 157.642 NON-CONFORMING USES OF STRUCTURES.

Where, on the effective date of adoption or amendment of this chapter, a lawful use of a structure or of a premises exists that is no longer permissible under the regulations and standards of this chapter, as adopted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions.

- (A) No existing structure devoted to a use not permitted by this chapter 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.
- (B) Any non-conforming use may be extended throughout any part of the building or structure which were manifestly arranged or designed for such use at the effective date of adoption or amendment of this chapter, but no such use shall be extended to occupy land outside of such structure.
- (C) Any structure or any premises 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 premises is located, and the non-conforming use shall not be resumed.
- (D) When non-conforming use of a building, structure, or land which is abandoned for a period of one year or more, it shall not be continued again, and any future use thereof shall be in conformity with the provisions of this chapter.
- (E) 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.

(Prior Code, 7 TCC 1-35(h))

§ 157.643 REPAIRS AND MAINTENANCE.

- (A) 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 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 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 chapter shall not be increased.
- (B) Nothing in this subchapter 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.

(Prior Code, 7 TCC 1-35(i))