

ORDINANCE NO. 806

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AS HERETOFORE AMENDED, IS HEREBY AMENDED BY AMENDING ARTICLE XIV TO REVISE NONCONFORMING USES; PROVIDING FOR A PENALTY; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEAL CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, application was made to amend the Comprehensive Zoning Ordinance of the Town of Addison, Texas, by making application for the same with the Planning and Zoning Commission of the Town of Addison, Texas as required by State Statutes and the zoning ordinance of the Town of Addison, Texas and all the legal requirements, conditions and prerequisites having been complied with, the case having come before the City Council of Addison, Texas after all legal notices, requirements, conditions and prerequisites having been complied with; and

WHEREAS, the City Council of the Town of Addison, Texas does find that there is a public necessity for the zoning change, that the public demands it, that the public interest clearly requires the amendment, and it is in the best interest of the public at large, the citizens of the Town of Addison, and helps promote the general welfare and safety of this community, now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON,  
TEXAS:

SECTION 1. That the Comprehensive Zoning Ordinance of the  
Town of Addison, Texas, as heretofore amended, is hereby amended  
by amending Article XIV to read as follows:

Section 1

"Nonconforming" shall be deemed to mean that a use or structure  
was lawful at the time it was begun, but could not presently be  
so begun, used, or constructed under current ordinances and  
zoning.

Section 2

The lawful use of any building, structure, or land existing at  
the time such property was more restrictively zoned may be  
continued except as this ordinance may require abatement within a  
given period of time; provided, however, the right to continue  
such nonconforming uses shall be subject to regulations  
prohibiting nuisances and shall be terminated when such use  
constitutes a nuisance. Such nonconforming uses shall be subject  
to such reasonable regulations as the Zoning Board of Adjustment  
may require to protect adjacent property and shall be subject to  
the specific nonconforming use regulations herein contained.

Section 3 - Accidental Damage to Building

If a building occupied by nonconforming uses is destroyed by fire  
or the elements, it may not be reconstructed or rebuilt except to  
conform with provisions herein. In the case of partial  
destruction by fire or other causes, not exceeding fifty (50)  
percent of its current replacement value, the Building Official  
shall issue a permit for reconstruction. If greater than fifty  
(50) percent the building and uses must be made to conform to  
this Ordinance.

Section 4 - Substandard Structure

The right to operate and maintain any nonconforming structure  
shall terminate and shall cease to exist whenever the  
nonconforming structure becomes sub-standard under any applicable  
ordinance of the City and the cost of placing such structure in  
lawful compliance when the applicable ordinance exceeds fifty  
(50) percent of the replacement cost of such structure on the  
date that the Building Official determines that such structure is  
substandard.

Section 5 - 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 including foundation.

#### Section 6 - Repairs and Alterations

Repairs and alterations may be made to an undamaged nonconforming building or structure; provided, however, no structural alterations shall be made except those required by law or ordinance, unless the building is changed to a conforming use; and provided that no additional dwelling units shall be added where the nonconforming use results from there being more dwelling units on the lot than is permissible in the district in which the building is located. No enlargement or extension of a nonconforming use shall take place except as the Zoning Board of Adjustment may grant, as a special exception, an application to extend or enlarge a building occupied by such use provided such grant does not serve to prevent the return of such property to a conforming use.

#### Section 7 - Continuance of Nonconforming Use

Except as this ordinance may otherwise require, any nonconforming use may be continued in operation on the same land area and on the same floor area in a structure or structures which were occupied by the nonconforming use on the effective date of these regulations or on the effective date of any amendment by which the use became nonconforming, but such land area or floor area shall not be increased.

#### Section 8 - Registration of Nonconforming Use

No nonconforming use shall be renewed, the owner or tenant changed without a Certificate of Occupancy authorizing such renewal, change or extension.

#### Section 9 - Changing a Nonconforming 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. A nonconforming use shall not be changed to another nonconforming use.

#### Section 10 - Abandonment

A nonconforming use of any building or structure which has been abandoned shall not thereafter be returned to any nonconforming use. A nonconforming use shall be considered abandoned when:

- (a) It has been repladed with a conforming use, or

- (b) Such building or structure is or hereafter becomes vacant and remains unoccupied or out of use for a continuous period of six (6) months, or the special equipment and furnishings peculiar to the nonconforming use have been removed from the premises and have not been replaced within such six (6) month period, or
- (c) The intention of the owner to permanently discontinue the use is apparent.
- (d) A nonconforming structure shall not be deemed to include signs, which are regulated by Ordinance 403.

SECTION 2. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Hundred Dollars (\$200.00) for each offense and that each day such violation shall continue to exist shall constitute a separate offense.

SECTION 3. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provisions thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of this ordinance as a whole.

SECTION 4. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict


with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. Whereas, the above described property required that it be given the above zoning classification in order to permit its proper development and in order to protect the public interest, comfort and general welfare of the City and creates an urgency and an emergency for the preservation of the public health, safety and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of the caption as the law in such cases provides.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, this the 26 day of May, 1982.

  
MAYOR

ATTEST:

  
CITY SECRETARY

APPROVED AS TO FORM:

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CITY ATTORNEY

EFFECTIVE DATE:

June 30, 1982

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7/7/82