

ORDINANCE NO. 1481
(Case 2025-007)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONHAM, TEXAS AMENDING ARTICLE 16 (NONCONFORMING USES), EXHIBIT 14A (ZONING ORDINANCE) WITHIN THE BONHAM CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A PENALTY CLAUSE; AND, PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Bonham, Texas (the "City Council") has previously adopted ordinances, rules and regulations governing the zoning in the City; and

WHEREAS, the Planning and Zoning Commission of the City and the City Council have given the requisite notices and have held the public hearings as required by law and afforded a full and fair hearing to all persons interested in and situated in the affected area and in the vicinity thereof, the City Council has concluded that the Exhibit 14A Zoning Ordinance of the City should be amended as set forth below.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BONHAM, TEXAS, THAT:

SECTION 1. RECITALS INCORPORATED. The above recitals are incorporated herein by reference for all purposes

SECTION 2. AMENDMENT TO THE BONHAM CODE. In accordance with Chapter 1, Article 1.01 of the Bonham Code of Ordinances ("Bonham Code"), the new amendments/sections to Exhibit 14A (Zoning Ordinance) are hereby amended as follows.

(Additions are indicated in underlined text; deletions are indicated in ~~striketrough~~ text.)

ARTICLE 16 NONCONFORMITIES

- § 16.01 Nonconforming Status**
 - § 16.02 Continuance**
 - § 16.03 Change of Use**
 - § 16.04 Alteration of Existing Property**
 - § 16.05 Residential Uses in Nonresidential Zoning Districts**
 - § 16.06 Loss of Nonconforming Status**
 - § 16.07 Stopping Nonconforming Use Status**
 - § 16.08 Process Following City Council Order to Stop a Nonconforming Use**
 - § 16.09 Other methods of Terminating a Nonconforming Use or Removal or Relocation of Structures due to Nonconformity**
 - § 16.010 Determination of Nonconforming Status and Administrative Official Decision**
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§ 16.01 Nonconforming Status

Nonconforming status shall exist under the following provisions of this ordinance:

- a. When on the effective date of this ordinance the use or structure was in existence and lawfully constructed, located and operating in accordance with the provisions of the prior zoning ordinance or which was a nonconforming use there under, and which use or structure does not now conform to the regulations herein prescribed for the district in which such use or structure is located.**
- b. When a use or structure, which does not conform to the regulations, prescribed in the district in which such use or structure is located was in existence at the time of annexation to the City of Bonham and has since been in regular and continuous use.**

§ 16.02 Continuance

Any nonconforming use of land or structures may be continued for indefinite periods of time, except nonconformities may be terminated as described in §16.07, §16.08, and §16.09.

§ 16.03 Change of Use

The Building Official, in consultation with the Director of Community Development, may grant a change of occupancy from one nonconforming use to another, providing the use is within the same, or higher or more restricted classification as the original nonconforming use. In the event a nonconforming use of a building may be changed to another nonconforming use of more restricted classification, it shall not later be changed to a less restrictive classification of use and the prior less restrictive classification shall be considered to have been abandoned.

§ 16.04 Alteration of Existing Property

The lawful use of the building at the time of the passage of this ordinance may be continued although such does not conform to the provisions hereof; and such use may be extended throughout the building provided that no structural alteration, except those required by law or ordinance, is made therein. If such nonconforming building is removed, every future use of the land or premises shall be in conformity with the provisions of this ordinance.

In the Heritage Corridor District (Overlay) (HC) zone only, existing nonconforming uses may be structurally expanded within in this zone without a variance or zone change, provided that no additional land is acquired by the owner.

§ 16.05 Residential Uses in Nonresidential Zoning Districts

Existing residences, including but not limited to single-family, two-family, and multifamily, located in nonresidential districts may be improved, maintained, or rebuilt as conforming structures.

§ 16.06 Loss of Nonconforming Status

- a. Notwithstanding any other provisions of this ordinance, if a nonconforming use on a particular parcel shall cease operation for a period of more than one (1) year (365 days), then such nonconforming use shall be deemed to be permanently abandoned and shall not be re-instituted on that parcel or any other parcel in any district which does not permit the discontinued use. For the purposes of this paragraph, to “cease operation” shall mean to intentionally abandon the nonconforming use. The temporary suspension of a use shall not constitute abandonment, provided the property is not used during the period of suspension for any other purpose.

- b. If (1) a nonconforming structure or (2) a structure occupied by a nonconforming use is destroyed, it may not be rebuilt unless the structure or use can conform to the provisions of this ordinance. For purposes of this section, a structure is destroyed if it has suffered damage, neglect, disrepair, or impairment in excess of 70% of its total appraised value as determined by the Appraisal District. If such a structure is not destroyed, reconstruction will be permitted, but the size or function of the nonconforming structure, or any nonconforming use occupying the structure, cannot be expanded. The preceding provision shall apply in all cases except for those specified and located within the HC district.

§ 16.07 Stopping Nonconforming Use Status

City Council may order a nonconforming use to stop as follows:

- a. A City Council member uses the city's regular process to place an item on a Council meeting agenda.
- b. During that meeting, the Council votes as to whether they wish to proceed with full deliberation of the matter at a future meeting or terminate the discussion of the matter.
- c. If the Council determines to proceed, the matter will be placed on the agenda of a future meeting for full deliberation and a possible order that the nonconforming use stop. The order shall be made by adoption of a resolution. The date of the resolution is the date of the action by Council to adopt.

§ 16.08 Process Following City Council Order to Stop a Nonconforming Use

- a. The City must notify the property owner or lessee of the property, as indicated by the most recently approved municipal tax roll, not later than the 10th day after the date of the resolution. Notice must include a copy of the resolution and a description of the remedies, either payment or continued use, which an owner or lessee is entitled to under state law.
- b. Not later than the 30th day after the date the city gives notice, the property owner or lessee must respond in writing to the city indicating the remedy, either payment or continued use, chosen by the owner or lessee. If the city does not receive timely notice from an owner or lessee, the city may choose the remedy, as provided by state law.
- c. If the owner or lessee elects payment, or the city chooses payment after the owner or lessee fails to timely respond under Sec. 16.08b., then the city will hire an appraiser and follow the requirements of state law to determine the appropriate payment. A city official will notice the owner or lessee of the amount of the payment and simultaneously pay the owner

or lessee. The person receiving payment must stop the nonconforming use not later than the 10th day after the date of the payment.

- d. If the owner or lessee elects continuing use, or the city chooses continuing use after the owner or lessee fails to timely respond, then the city will hire an expert and follow the requirements of state law to determine the appropriate amount and therefore, the period of time for the use to continue before it is terminated. The city will notice the owner or lessee of the appropriate amount and time determined by the expert. The person must stop the nonconforming use at the determined time.
- e. A person entitled to payment or continuing use may appeal the determination by the appraiser or expert to the Board of Adjustment not later than the 20th day after the date of the notice of the determination of the amount or the period of time as described in §16.08c. or §16.08d., above.
- f. Continued use, apportionment, and appeal of the Board of Adjustment's determination is as described in state law.

§ 16.09 Other methods of Terminating a Nonconforming Use or Removal or Relocation of Structures due to Nonconformity

- a. Nonconforming uses or structures may also be terminated by court order or as otherwise allowed by law.
- b. Removal or relocation of structures due to nonconformity is at the discretion of City Council.

§ 16.010 Determination of Nonconforming Status and Administrative Official Decision

The process for determination of nonconforming status is overseen by the Director of Community Development. In their absence, a designee may be appointed.

- a. **Informal Determination:** City staff makes initial, informal determinations of whether a nonconforming use or structure exists under the provisions of the Zoning Ordinance. The informal determination is not appealable, and is considered valid unless a formal decision is requested.

b. Formal Decision: The property owner may request a formal decision as to whether a nonconforming use or structure exists on their property from the Director of Community Development.

a. The Director of Community Development will meet with the requesting property owner, tenant, or designated representative within twenty (20) business days of the date on which the request for a formal decision was filed with the Director unless otherwise agreed by the parties.

b. Based upon the evidence presented at such meeting, the Director of Community Development will provide a formal, written decision within twenty (20) business days. The formal decision and related evidence are public records.

c. Appeal: The formal decision of the Director of Community Development may be appealed to the Board of Adjustment under Article 18 of this Ordinance.

ARTICLE 16 NONCONFORMING USES

~~§ 16.01 Use of Existing Property.~~

~~§ 16.02 Continuing Lawful Use of Property.~~

~~§ 16.03 Alteration of Existing Property.~~

~~§ 16.04 Regulation of Nonconforming Use.~~

~~§ 16.05 Restoration of Damaged Property.~~

~~§ 16.01 Use of Existing Property.~~

~~Any use of property existing at the time of the passage of this ordinance that does not conform with the regulations prescribed in the preceding sections of this ordinance shall be deemed a nonconforming use.~~

~~(Ordinance 1059 adopted 11/11/2002; Ordinance 1076, sec. 1, adopted 7/14/2003)~~

~~§ 16.02 Continuing Lawful Use of Property.~~

~~The lawful use of land existing at the time of the passage of this ordinance, although such does not conform to the provisions thereof, may be continued; but if said nonconforming use is discontinued, any future use of said premises shall be in conformity with the provisions of this ordinance, provided, however, that where land is situated in any zoning district other than "HI" Heavy Industrial District, which land is now used for a use permitted only in an "HI" District and is not an accessory to the use of a main building located on the same lot or grounds, such nonconforming use of land shall be discontinued and all material completely removed by its owner not later than three (3) years from the date of the passage of this ordinance.~~

~~(Ordinance 1059 adopted 11/11/2002; Ordinance 1076, sec. 1, adopted 7/14/2003)~~

~~§ 16.03 Alteration of Existing Property.~~

~~The lawful use of the building at the time of the passage of this ordinance may be continued although such does not conform to the provisions hereof; and such use may be extended throughout the building provided that no structural alteration, except those required by law or ordinance, is made therein. If no structural alterations are made, a nonconforming use of the building may be changed to another nonconforming use of a more restricted classification. However, in the event a nonconforming use of a building is once changed to a nonconforming use of a higher or more restricted classification, it shall not later be reverted to the former lower or less restricted classification. If such nonconforming building is removed, every future use of the land or premises shall be in conformity with the provisions of this ordinance.~~

~~In the "HD" [HC] Heritage District overlay zone only, existing nonconforming uses may be structurally expanded within in this zone without a variance or zone change, provided that no additional land is acquired by the owner.~~

~~(Ordinance 1059 adopted 11/11/2002; Ordinance 1076, sec. 1, adopted 7/14/2003)~~

~~§ 16.04 Regulation of Nonconforming Use.~~

~~The right of nonconforming use to continue shall be subject to such regulations as the maintenance of the premises and conditions of operation as may, in the judgment of the Board of Adjustment, be reasonably required for the protection of adjacent property.~~

~~a. Abandoned Nonconforming Uses To Be Discontinued~~

~~A legal nonconforming use, when abandoned or discontinued, shall not be resumed. Abandonment or discontinuance is hereby defined as follows:~~

- ~~(1) When land being used for a nonconforming use shall cease to be used in a bona fide manner for two (2) calendar years.~~
- ~~(2) When a building or structure that is designed or arranged for a nonconforming use shall cease to be used in a bona fide manner as a legal nonconforming use for a continuous period of twenty-four (24) consecutive calendar months.~~
- ~~(3) When a building or structure that is designed or arranged for a conforming use shall cease to be used in a bona fide manner as a legal nonconforming use for a period of twenty-four (24) consecutive calendar months.~~
- ~~(4) The Board of Adjustment shall have the power, upon substantial evidence of hardship, to extend the above limits not to exceed twenty-four (24) consecutive calendar months.~~

~~b. Certificate of Occupancy Required~~

~~A certificate of occupancy shall be issued for all legal noneonforming uses.~~

~~(Ordinance 1059 adopted 11/11/2002; Ordinance 1076, sec. 2, adopted 7/14/2003)~~

~~§ 16.05 Restoration of Damaged Property.~~

~~Nothing in this ordinance shall be taken to prevent restoration of a building destroyed to the extent of not more than seventy percent (70%) of its reasonable value by fire, explosion, or other casualty, or act of God, or a public enemy, nor the continued occupancy or use of such building or part thereof, which existed at the time of such partial destruction.~~

~~(Ordinance 1059 adopted 11/11/2002; Ordinance 1076, sec. 1, adopted 7/14/2003)~~

SECTION 3. SAVINGS/REPEALING. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective that are consistent and do not conflict with the terms and provisions of this Ordinance are hereby ratified to the extent of such consistency and lack of conflict and all provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 4. PENALTY PROVISION. Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply therewith or with any of the requirements thereof, shall be guilty of a misdemeanor, and shall be subject to fine of not more than two thousand (\$2,000.00) dollars, and each day such violation shall be permitted to continue shall constitute a separate offense. The owner or owners of any building or premises or part thereof, where anything in violation of the ordinance shall be placed, or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be fined as above provided. The City of Bonham retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 5. SEVERABILITY. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining provisions of this Ordinance shall remain in full force and effect. The City of Bonham hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective upon its passage and publication as required by the City Charter and by law.

SECTION 7. PROPER NOTICE AND MEETINGS. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED on its first reading this the 1st day of December 2025.



H.L. Compton, Mayor

ATTEST:



Heather Stockton, City Secretary