

**ORDINANCE NO. 829**

**AN ORDINANCE OF THE CITY OF HEDWIG VILLAGE, TEXAS, AMENDING ARTICLE VIII, VARIANCES, APPEALS AND NONCONFORMITIES, DIVISION II, NONCONFORMITIES IN BUSINESS DISTRICTS, SECTION 810, NONCONFORMING USES AND STRUCTURES, SUBSECTION F, TERMINATION, OF THE HEDWIG VILLAGE PLANNING AND ZONING CODE TO CLARIFY THE APPLICABILITY OF THE CITY'S DEVELOPMENT STANDARDS TO EXISTING NONCONFORMING STRUCTURES AFTER A CASUALTY LOSS AND TO ADD AN APPLICABILITY TABLE.**

**WHEREAS**, pursuant to Section 705 of the Hedwig Village Planning and Zoning Code, the City Council of the City of Hedwig Village, Texas and the Planning and Zoning Commission of the City of Hedwig Village, Texas have held a joint public hearing to consider possible amendments to the Hedwig Village Planning and Zoning Code; and

**WHEREAS**, pursuant to Section 710 of the Hedwig Village Planning and Zoning Code, the Planning and Zoning Commission of the City of Hedwig Village, Texas submitted its written recommendation to the City Council of the City of Hedwig Village, Texas concerning proposed amendments to Article VIII, Variances, Appeals and Nonconformities, Division II, Nonconformities in Business Districts, Section 810, Nonconforming Uses and Structures, Subsection F, Termination, of the Hedwig Village Planning and Zoning Code to clarify the applicability of the City's development standards to existing nonconforming structures after a casualty loss and to add an applicability table; and

**WHEREAS**, pursuant to Sections 711 and 712 of the Hedwig Village Planning and Zoning Code, the City Council of the City of Hedwig Village, Texas, has considered the recommendation of the Planning and Zoning Commission, concerning the proposed amendments to the City's Planning and Zoning Code to clarify the applicability of the City's development standards to existing nonconforming structures after a casualty loss and to add an applicability table; and

**WHEREAS**, the City Council of the City of Hedwig Village, Texas, has concluded that amendments should be made to Article VIII, Variances, Appeals and Nonconformities, Division II, Nonconformities in Business Districts, Section 810, Nonconforming Uses and Structures; Subsection F, Termination, of the Hedwig Village Planning and Zoning Code to clarify the applicability of the City's development standards to existing nonconforming structures after a casualty to add an applicability table.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE**

**CITY OF HEDWIG VILLAGE, TEXAS, THAT:**

**Section 1.** The Recitals set forth above are found to be true and correct and are adopted as the findings of fact of the City.

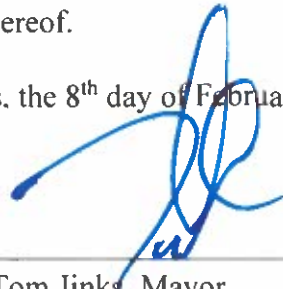
**Section 2.** Article VIII, Variances, Appeals and Nonconformities, Division II, Nonconformities in Business Districts, Section 810, Nonconforming Uses and Structures; Subsection F, Termination, of the Hedwig Village Planning and Zoning Code of the City of Hedwig Village, Texas is hereby amended to read as set out in Appendix A, attached hereto. All other portions of the Hedwig Village Planning and Zoning Code not specifically amended hereby remain in full force and effect.

**Section 3.** All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

**Section 4.** If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

**Section 5.** The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

**PASSED, APPROVED and ADOPTED** this. the 8<sup>th</sup> day of February, 2024.



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Tom Jinks, Mayor  
City of Hedwig Village, Texas

**ATTEST:**



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Lisa Modisette, City Secretary  
City of Hedwig Village, Texas

## Appendix A

### Proposed Code Amendment

Appendix A – PLANNING AND ZONING CODE

Article VIII. – VARIANCES, APPEALS AND NONCONFORMITIES

Division II. – NONCONFORMITIES IN BUSINESS DISTRICTS

Section 810 – Nonconforming Uses and Structures

Subsection 810(F)(2) to be amended to read as follows:

*810. Nonconforming uses and structures.*

- A. *Authority to continue.* Nonconforming uses of land and nonconforming uses of structures may continue in accordance with the provisions of this code.
- B. *Ordinary repair and maintenance.* Normal maintenance and repair of nonconforming uses may be performed.
- C. *Extensions.* Nonconforming uses shall not be extended. This prohibition shall be construed so as to prevent the:
  - 1. Enlargement of nonconforming uses by additions to the structure in which such nonconforming uses are located.
  - 2. Occupancy of additional land for a nonconforming use.
  - 3. A variance to paragraphs 1 and 2 of this subsection C may be granted by the board of adjustment if such board finds that the enlargement of such structure, including a new structure, and the occupancy of additional land on the existing site will result from major remodeling and/or renovation.
- D. *Relocation.* A structure housing a nonconforming use may not be moved unless the use shall thereafter conform to the limitations of the zoning district into which it is moved.
- E. *Change in use.* A nonconforming use shall not be changed to any other use unless such use conforms to the provisions of this code.
- F. *Termination.*
  - 1. *Abandonment or discontinuance:*
    - a. Where a nonconforming use of land is discontinued or abandoned for three months, then such use may not be reestablished or resumed, and any subsequent use must conform to the provisions of this code.
    - b. Where a nonconforming use of a structure is discontinued or abandoned for three months, then such use may not be reestablished or resumed, and any subsequent use must conform to the provisions of this code.
    - c. Subparagraphs a and b of this paragraph 1 shall not apply if (1) such discontinuance of a nonconforming use is temporary and for the sole purpose of major remodeling and/or renovation, (2) such work is substantially commenced in not more than three months from the date of such temporary discontinuance of use, (3) the work proceeds in an orderly and continuous fashion to full completion, and (4) all remodeling/renovation work is completed within 15 months from the date of temporary discontinuance of use.

2. Loss due to Casualty. If the Building Official determines that the cost to restore, repair or renovate a nonconforming structure or a structure housing a nonconforming use that is damaged or destroyed due to casualty or other similar cause is more than 50 percent of the fair market value of the structure, then the structure may not be restored, repaired, or renovated. No Permit other than a building permit shall be required for the restoration, repair, or renovation of a nonconforming structure which has been damaged by less than 50 percent of the fair market value of such structure. For properties developed as a multi-building development on a single property, the fair market value of all the structures on the property may be used if one of the primary buildings is the structure that was damaged or destroyed. However, no building permit shall be automatically issued for the restoration, repair, or renovation after the expiration of six months from the date of the damage. Beyond the six-month timeframe, the build must be to new standards or good cause for the delay must be shown. For purposes of this subsection, the amount of damaged or destroyed is determined by a good faith estimate of the cost to restore, repair, or renovate the structure, and the "fair market value" of the structure by the greater of the assessed value of the structure according to the most recent tax records prior to the casualty or a good faith appraisal of the value of the structure prior to the casualty using the most recent cost levels published by the ICC Building Valuation Data, or a similar agency's valuation data, with factors to modify the value for the Houston area.

G. *Applicability Table.*

<b>Development Standards Applicability</b>			
<b>Types of Proposed Development</b>	<b>Site Design Standards</b>	<b>Building Design Standards</b>	<b>Parking Lot Standards</b>
Renovation of interior of existing building that does not change the building use or increase the building square footage			
Change in use requiring additional parking, loading, or stacking spaces			✓
Interior and exterior renovations costing more than 75% of assessed value of existing improvement and that does not expand the square footage more than 40%		✓	✓
Increase in gross square footage of structure by more than 40 percent	✓	✓	✓
New construction	✓	✓	✓