

**CHAPTER NO. 775**

**SENATE BILL NO. 348**

**By Graves**

**Substituted for: House Bill No. 1472**

**By Briley**

AN ACT to amend Tennessee Code Annotated, Section 13-7-208, relative to the continuation of uses and structures not in conformance with local government zoning.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 13-7-208, is amended by adding the following language as new subsections:

(g) The provisions of subsections (b)-(d) shall not apply if an industrial, commercial, or other business establishment ceases to operate for a period of thirty (30) continuous months and the industrial, commercial, or other business use of the property did not conform with the land use classification as denoted in the existing zoning regulations for the zoning district in which it is located. Anytime after the thirty (30) month cessation, any use proposed to be established on the site, including any existing or proposed on-site sign, must conform to the provisions of the existing zoning regulations. For the purposes of this subsection, the thirty (30) month period of continuous ceased operation shall be tolled by:

(1) The period in which an industrial, commercial, or other business establishment is party to any action in a court of competent jurisdiction regarding the use of the property until such time that a final settlement, order, decree, or judgment has been rendered;

(2) Any period in which a facility is being constructed, reconstructed, renovated, or refurbished, provided that all necessary building permits were obtained within thirty (30) months of cessation of continuous use;

(3) The filing of an application for a building permit for the alteration, renovation or reconstruction of a structure which is non-conforming or of a structure in which or out of which a non-conforming industrial, commercial or other business use operates or is located; or

(4) The reactivation of the non-conforming use any time prior to the end of the thirty (30) month period.

Provided, however, the restrictions of subsections (g) and (i) shall only apply if the property owner intentionally and voluntarily abandons the nonconforming use of the property. In any contested matter on the use of such property, the government has the burden of proving an overt act of abandonment in such matter.

(h) The provisions of subsections (b)-(d) shall apply to an off-site sign, which, for the purposes of this section means any sign that advertises or gives direction to any business, product, service, attraction, or any other purpose or interest, other than the industrial, commercial or other business establishment located on the site where the sign is located; provided, however, that any expansion shall be limited as follows:

(1) Any off-site sign smaller than a standard 8-sheet poster, which, for the purposes of this subsection means an off-site sign with overall dimensions of at least five feet four inches (5' 4") to six feet two inches (6' 2") in height and eleven feet four inches (11' 4") to twelve feet two inches (12' 2") in width shall not be expanded to a size greater than a standard 8-sheet poster;

(2) Any standard 8-sheet poster shall not be expanded to a size greater than a 30-sheet poster, which, for the purposes of this subsection means an off-site sign with overall dimensions of twelve feet three inches (12' 3") in height and twenty-four feet six inches (24' 6") in width;

(3) Any standard 30-sheet poster shall not be expanded to a size greater than any standard bulletin, which, for the purposes of this subsection means any off-site sign with overall dimensions of ten feet (10') to fourteen feet (14') in height and thirty-six feet (36') to forty-eight feet (48') in width;

(4) Any standard bulletin shall not be expanded to a size greater than any super bulletin, which, for the purposes of this subsection means any off-site sign with overall dimensions of sixteen feet (16') to twenty feet (20') in height and sixty feet (60') in width;

(5) Any super bulletin shall not be expanded; or

(6) Any off-site sign with height larger than standard 8-sheet poster height or width larger than standard 8-sheet poster width but not meeting the definition of a standard 8-sheet poster, a standard 30-sheet poster, a standard bulletin, or a standard super bulletin shall not be expanded by more than one hundred percent (100%) of its surface area.

(i) Notwithstanding the provisions of subsection (d), any structure rebuilt on the site must conform to the provisions of the existing zoning regulations as to setbacks, height, bulk, or requirements as to the physical location of a structure upon the site, provided that this subsection shall not apply to off-site signs.

(j) The provisions of subsections (g), (h) and (i) do not apply to any home rule municipality, however, subject to the approval of the local legislative body, a home rule municipality may opt into the provisions of these subsections.

(k) Notwithstanding the foregoing, subsection (g) shall not apply to any industrial establishment location where twenty-five percent (25%) or more of the gross annual sales from such location are derived from sales to or contracts with local, state or federal governments or as a subcontractor to contracts with the same, or to any industrial establishment location where seventy-five percent (75%) or more of the gross annual sales from the location are made to agriculture or construction businesses.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 13, 2004

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 28<sup>th</sup> day of May 2004

  
PHIL BREDESEN, GOVERNOR