

(Amended by Deleting and Replacing by Ordinance No. 00-30, January 18, 2001)

Article VII

Exceptions and Modifications

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7.010 Scope

Article VII, of this ordinance, is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided in Article IV and Article V.

7.020 Nonconforming Uses

The districts established in this ordinance, as set forth in Article V, are designed to guide the future use of land in White House, Tennessee, by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible, and related uses.

It is the intent of this ordinance to recognize that the regulation, of the existing buildings and structures or uses that are not in conformity with the provisions of this ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this ordinance. It is also the intent of this ordinance to so administer the elimination of nonconforming uses, buildings; structure as to avoid an unreasonable invasion of established private property rights. Lawful nonconforming uses, buildings, and structures existing at the time of the passage of this ordinance or any amendment thereto shall be allowed to remain subject to the remain subject to the following provisions:

7.020.1 Provisions Governing Nonconforming Uses

A. Applicability

The provisions of this section are applicable to all uses that are not permitted within the districts in which they are located. Additionally, buildings and other structures located within the floodway are considered within the regulations of nonconforming uses.

B. Construction or Use Permit Approved Prior to Ordinance Adoption

Nothing contained herein shall require any change in the overall layout, plans, construction, site or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this ordinance, or any amendment thereto.

C. Repairs and Alterations

Nothing in this section shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

D. Zone Lot Containing Nonconforming Use

A zone lot containing a nonconforming use shall not be reduced in area.

E. Continuation of Nonconforming Use

Any use which becomes nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to continue in operation and be permitted provided there is no change in use.

F. Change of Nonconforming Use

1. General Provisions

A change in use is a change to another use either under the same activity type or to another activity class. However, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A nonconforming use may be changed to any conforming use. Such a change of use shall comply with all applicable bulk regulations and accessory off-street parking requirements.

2. Nonconforming to Conforming Use

Whenever a nonconforming use is changed to a conforming use, such use can not thereafter be changed back to a nonconforming use.

G. Expansion of Nonconforming Uses

1. General Provisions

Any uses which becomes nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to expand operations and construct additional facilities that

is an actual continuance and expansion of the nonconforming use provided that any such expansion shall not violate the provisions, as set forth below.

2. Adequate Space for Expansion

No expansion of any nonconforming use shall infringe upon any required open space (yard setback) or increase the extent of any infringement existing at the time of adoption of this ordinance, or any amendment thereto. All minimum yard setback requirements must be observed in any such expansion, projects.

3. Expansion Limited

Any expansion of a nonconforming use permitted under the provisions of this section shall take place only upon the zone lot(s) on which said use was operating at the time the use became nonconforming. Nothing within this provision shall be construed so as to permit expansion of any nonconforming use through the acquisition and development of additional land.

4. Expansion upon Land Subject to Flood

No expansion of any nonconforming use shall violate the provisions of Article V, of this ordinance.

H. Damage or Destruction

1. Any uses which becomes nonconforming upon enactment of this ordinance, or any amendments thereto, may be permitted to reconstruct damaged or destroyed facilities to allow continuance of the nonconforming use provided that any such reconstruction shall not violate the provisions set forth below.

2. Change in Use Prohibited

No reconstruction of damaged or destroyed facilities may occur which shall act to change the nonconforming use to other than a conforming use.

3. Infringement upon Open Space Restricted

The reconstruction of damage or destroyed facilities utilized by a nonconforming use shall not increase the extent of any infringement upon any open space (yard setback) required by this ordinance, or any amendment thereto.

4. Reconstructed of Flood Damaged Property

The provisions of Article V, of this ordinance, shall apply to the reconstruction of any buildings and structures associated with any nonconforming use located within a floodplain district.

I. Discontinuance

When a nonconforming use of land or the active operation of substantially all the nonconforming uses in any building or other structure is discontinued for a period of six (6) months, then the land or building or other structure shall not be re-established or changed to any use not in conformity with the provisions of this ordinance, or any amendment thereto. Intent to resume active operations shall not affect the foregoing provision,

7.030 Bulk and Lot Size Noncompliance

A. General Provisions

The provisions of this section pertain to permitted uses on parcels or in buildings other structures which do not meet the bulk or any other provisions applicable in the districts in which they are located.

B. Continuation of Use

The use of a noncomplying building or other structure or parcel may be continued, except as otherwise provided by this section.

C. Repairs and Alterations

Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of this Article.

D. Enlargements or Conversions

A noncomplying building or other structure may be enlarged or converted, provided that no enlargement or conversion may be made which would either create a new noncompliance or increase the degree of noncompliance of any portion of a building or other structure or parcel.

E. Damage or Destruction of Noncomplying Uses

A noncomplying building which is damaged or destroyed may be reconstructed, provided that the reconstruction will not either create a new noncompliance or increase the degree of noncompliance of a building or structure or parcel or portion thereof.

7.040 Exceptions on Height Limitations

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, transmission towers, windmills not in residential zones, chimneys, smokestacks, conveyors, flag poles, public and semi-public radio towers, masts and aerials. Height exceptions for radio towers and windmills in residential zoning districts shall be allowed only when approved by the Planning Commission.

7.050 Lots of Record

The following provisions shall apply to all existing lots of record:

- A. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance. Such lot may be used as a building site; provided, however, that the yard and other requirements of the district are complied with as closely as possible, in the opinion of the Board of Zoning Appeals.
- B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open spaces will be smaller than prescribed by this ordinance; and no yard, court, or open space provided around any buildings for the purpose of complying with these provisions hereof, shall again be considered as a yard, court, or other open space for another building.
- C. Where two (2) or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

7.060 Exceptions to Setback Requirements

The front setback requirements of this ordinance for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet of each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet on each side of the lot. In residential districts, however, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

Retaining walls, walls, fences, driveways, pads, mailboxes and similar structures are permitted to be installed or constructed over minimum building setbacks. Structures regulated by this section over eight (8ft) feet in height and any structure used as the foundation support wall for a connected building and structure not regulated in this section are required to be a minimum of five (5ft) feet or the distance determined by the recorded property easement from the property line. The setback exceptions listed in this section does not permit easements to be blocked or limited for drainage or access to utilities as determined by city staff.

7.070 Absolute Minimum Lot Size

In no case shall the Building Inspector or the Board of Zoning Appeals permit any zone lot in a residential district to be used as building site which is less than five thousand (5,000) square feet in total area and thirty (30) feet in width at its narrowest point, or has a front setback of less than fifteen (15) feet and a side setback of less than five (5) feet, with the exception of officially approved cluster developments.

7.080 Temporary Buildings

- A. Temporary buildings that are used in conjunction with construction work only may be permitted in any district during a twelve (12) month period of construction, but such temporary buildings shall be removed as soon as the construction work is complete.

- B. The planning commission may allow the temporary location of mobile homes in nonconforming situations for a period of not more than eighteen (18) months. The planning commission will allow this only where an emergency such as fire or flood causes the destruction of an existing structure and the property owner requires the use of the mobile home as temporary living quarters during the construction of a conforming dwelling.