

ARTICLE X

EXCEPTIONS AND MODIFICATIONS

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10.01 SCOPE

Article X of this ordinance is devoted to the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided for in Article IX.

10.02 NON-CONFORMING USES

It is the intent of this ordinance to recognize that the elimination, as expeditiously as is reasonable, 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 non-conforming uses, buildings, and structures as to avoid an unreasonable invasion of established private property rights. Lawful non-conforming 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 following provisions.

1. A non-conforming use of land shall be restricted to the area occupied by such use as of the effective date of this ordinance. A non-conforming use of a building or buildings shall not be enlarged to additional land after the effective date of this ordinance.
2. When a non-conforming use of any structure of land, excepting non-conforming mobile homes or mobile home parks, has been discontinued, it shall be not be re-established or changed to any use not in conformity with the provisions of this ordinance. Upon the lapse of ninety (90) calendar days after the removal of a non-conforming mobile home or discontinuance of a non-conforming mobile home park, the non-conformity of such structures and use of land shall lapse.(Amended 7/12/01)
3. Any non-conforming building or non-conforming use which is damaged by fire, flood, wind, or other act of God or man may be reconstructed and used as before if the proper permits have been obtained from the Spring City Building Inspector within twelve (12) months of such damage.

4. A non-conforming building or non-conforming use shall not be structurally altered except in conformance with the provisions of this ordinance. This provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety.
5. When the operation of a non-conforming industrial, commercial, or other business establishment is discontinued for a period of twelve (12) months the building and land shall lose its status as a non-conforming use and shall not be entitled to any special exceptions. (That is any new use must be one that is allowed in that district.)

10.03 EXCEPTIONS TO NON-CONFORMING USES

All districts shall comply with the Tennessee Code Annotated Section 13-7-208 Enforcement of Ordinances - Remedies:

The chief legislative body may provide for the enforcement of any ordinance enacted under this chapter. A violation of any such ordinance is hereby declared to be a misdemeanor. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any ordinance enacted under this chapter, the building commissioner, municipal counsel or other appropriate authority of the municipality, or any adjacent or neighboring property owner who would be specially damaged by such violation, may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

In the event that a zoning change occurs in any land area where such land area was not previously covered by any zoning restrictions of any governmental agency of this state or its political subdivisions, or where such land area is covered by zoning restrictions of a governmental agency of this state or its political subdivisions and such zoning restrictions differ from zoning restrictions imposed after the zoning change, then any industrial, commercial or business establishment in operation, permitted to operate under zoning regulations or exceptions thereto prior to the zoning change shall be allowed to continue in operation and be permitted provided that no change in the use of the land is undertaken by such industry or business.

Industrial, commercial, or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto in effect immediately preceding a change in zoning shall be allowed to expand operations and construct facilities which involve an actual continuance and expansion of the activities of the industry or business which were permitted and being conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners. No building permit or like permission for construction or landscaping shall be denied to an industry or business seeking to expand and continue activities conducted by that industry or business which were permitted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated

within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

Industrial, commercial, or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business subsequent to the zoning change, provided that no destruction and rebuilding shall occur which shall act to change the use classification of the land as classified under any zoning regulations or exceptions thereto in effect immediately prior to or subsequent to a change in the zoning of the land area on which such industry or business is located. No building permit or like permission for demolition, construction or landscaping shall be denied to an industry or business seeking to destroy and reconstruct facilities necessary to the continued conduct of the activities of that industry or business where such conduct was permitted prior to a change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

The provisions of the preceding three (3) paragraphs shall apply only to land owned and in use by such affected business, and shall not operate to permit expansion of an existing industry or business through the acquisition of additional land.

10.04 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this ordinance can be exceeded provided the following conditions are met.

1. The developer must present at the time he applies for a building permit a copy of the building plans which have been approved by the Spring City Fire Chief. These plans must show all of the following:
 - a. A wet standpipe riser with one and one-half (1-1/2) inch fire hose connections;
 - b. A wet automatic sprinkler protection system for the entire building;
 - c. Enclosed exit stairways;
 - d. Smoke and heat detection units; and
 - e. Any other fire protection and prevention requirements which the Fire Chief feels are necessary for the building.

The design and installation of these fire protection measures must be in conformance with the National Fire Protection Association Standards (NFPA).

2. Before the building can be occupied the developer must secure a statement from the Fire Chief that the fire protection system has been

installed according to the plans and that the system is functioning properly.

3. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, silos, grain elevators, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, and aerials.

10.05 LOTS OF RECORD

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

1. 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 in the opinion of the Board of Zoning Appeals is possible. (Refer to Section 10.07)
2. 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 building for the purpose of complying with the provisions hereof shall again be considered as a yard, court, or other open space for another building.
3. Where two 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.

10.06 EXCEPTIONS TO FRONT 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 on 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.

10.07 ABSOLUTE MINIMUM LOT SIZE

In no case shall the Board of Zoning Appeals permit a residence to be erected on a lot whose total lot area is less than seven thousand (7,000) square feet.

10.08 EXCEPTIONS TO SETBACK REQUIREMENTS

In the case of a structure that is to be used as a marina, boat launch, fishing pier, or other water-related structure that will require direct access to or over water, the setback requirements may be modified to the situation. This modification will be based upon a recommendation of the Planning Commission who shall take into account the situation, proposed purpose of the structure, et cetera.

In the case of a structure to be built close to, in, or above the water, that a determination be made by the Tennessee Valley Authority and the U. S. Corps of Engineers as to the safety of the structure including depth of pier poles, height of structure above the water's maximum pool elevation, actual construction materials of the proposed structure, and the first floor elevation of any adjoining structures on the shoreline property.