

ARTICLE VI
EXCEPTIONS AND MODIFICATIONS

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6.010 SCOPE

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

6.020 NONCONFORMING USE

It is the intent of this resolution 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 resolution 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 resolution. It is also the intent of this resolution to so administer the elimination of nonconforming uses, buildings, and structures 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 resolution or any amendment thereto shall be allowed to remain subject to the following provisions.

- A. An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same or higher classification provided, however, that establishment of another nonconforming use of the same or higher classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.
- B. A nonconforming use of land shall be restricted to the area occupied by such use as of the effective date of this resolution. A nonconforming use of a building or buildings shall not be enlarged to additional land after the effective date of this resolution.
- C. When any nonconforming commercial or industrial use of any structure or land, has been discontinued for a period of thirty (30) continuous months, it shall not be re-established or changed to any use not in conformity with the provisions of this resolution. Any nonconforming commercial or industrial building or nonconforming use which is damaged by fire, flood, wind, or other act of God

may be reconstructed and used as before, if a building permit is obtained within six (6) months of such damage, unless damage to the extent of more than seventy-five percent (75%) of its fair market value according to the current tax records kept in the Tipton County Office of the Assessor of Property immediately prior to damage, in which case any repair or reconstruction shall be in conformity with the provisions of this resolution. (Amended 2/9/09)

- D. When any nonconforming residential use of any structure or land, including mobile homes and mobile home parks, has been discontinued or abandoned for a period of ninety (90) days, including damage by fire, flood, wind, or other act of God, it shall not be re-established or changed to any use not in conformity with the provisions of this resolution, unless a building permit is obtained within ninety (90) days to replace such residential structure. (Amended 2/9/09)

6.030 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this resolution shall not apply to church spires, solar collectors, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, transmission towers, windmills, chimneys, smokestacks, conveyors, flag poles, radio towers, masts and aerials, and agricultural related buildings except those designated for human occupation as in residences or offices.

6.040 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 resolution does not own sufficient land to enable him to conform to the yard or other requirements of this resolution, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this resolution. 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 space will be smaller than prescribed by this resolution, 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.
- C. 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

6.050 EXCEPTIONS TO FRONT SETBACK REQUIREMENTS

The front setback requirement of this resolution 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 twenty (20) feet from the road right-of-way.

The front yard setback for Residentially Zoned properties (FAR, R-1, R-2, R-3) located on Arterial Roads may be reduced to the front yard setback for (all other roads), if and only if the front building setback line is located at a distance greater than one hundred (100) feet from the road right of way. (Amended 8/16/04)

6.060 AGRICULTURAL USE OF LAND

This resolution shall not be construed as authorizing the requirement of Development Permits nor providing for any regulation of the erection, construction, or reconstruction of any building or other structure on lands now devoted to agricultural uses or which may hereafter be used for agricultural, except on agricultural lands adjacent or in proximity to state federal aid highways, public airports, or public parks, provided however, such buildings or structure is incidental to the agricultural enterprise. Nor shall this resolution be construed as limiting or affecting in any way or controlling the agricultural uses of land.

6.070 GROWTH PLAN

So that future growth and development can be properly, orderly and fairly sustained, the areas marked in beige (Planned Growth Areas, PGA's) on the Tipton County Growth Plan map are envisioned for future high-density development. The areas marked in green (Rural Areas, RA's) on the Tipton County Growth Plan map are envisioned to remain rural in character, allowing only uses other than high density development in those areas.

6.080 EXCEPTIONS TO LOT WIDTH REQUIREMENTS IN THE FAR ZONING DISTRICT

The minimum lot width requirements of one hundred fifty (150) feet in width at the building setback line shall be waived to a minimum of one hundred (100) feet for lots being subdivided with a minimum of two existing residences provided all other dimensional requirements have been met. Proof that the residences were permitted before November 13, 2003 shall be provided before any plat with less than one hundred fifty (150) feet in width at the building setback is approved.