

**METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NUMBERS**

(Dwelling Districts Zoning Ordinance):

Original: 89-AO-2 (G.O. 100, 1989)
Amending: 90-AO-3 (G.O. 362, 1990); 92-AO-1 (G.O. 4, 1992);
92-AO-3 (G.O. 21, 1992); 93-AO-4 (G.O. 99, 1993);
95-AO-1 (G.O. 24, 1995); 95-AO-8 (G.O. 97, 1995)

(Commercial Zoning Ordinance):

Original: 69-AO-1
Amending: 75-AO-3; 76-AO-3; 79-AO-4; 80-AO-1 (G.O. 23, 1980);
92-AO-4 (G.O. 97, 1993); 94-AO-7 (G.O. 92, 1994);
96-AO-1 (G.O. 68, 1996)

(Industrial Zoning Ordinance):

Original: 63-AO-4
Amending: 67-AO-7; 73-AO-2; 80-AO-3; 96-AO-3 (G.O. 120, 1996)

(Central Business District Zoning Ordinance):

Original: 64-AO-1
Amending: 81-AO-4; 93-AO-1; 94-AO-1; 95-AO-4

(Special Districts Zoning Ordinance):

Original: 94-AO-3
Amending: 95-AO-3; 95-AO-12 (G.O. 203, 1995); 96-AO-1 (G.O.
68, 1996)

(Regional Center-North Meridian Corridor Zoning Ordinance):

Original: 70-AO-3
Amending: 70-AO-5; 81-AO-7; 82-AO-2; 92-AO-2; 93-AO-2

Adopted: 96-AO-4 (G.O. 173, 1996)

**AN ORDINANCE
AMENDING THE:**

**DWELLING DISTRICTS ZONING ORDINANCE;
COMMERCIAL ZONING ORDINANCE;
INDUSTRIAL ZONING ORDINANCE;
CENTRAL BUSINESS DISTRICT ZONING ORDINANCE;
SPECIAL DISTRICTS ZONING ORDINANCE;
REGIONAL CENTER - NORTH MERIDIAN CORRIDOR ZONING ORDINANCE**

**OF INDIANAPOLIS AND
MARION COUNTY, INDIANA**

ADOPTED BY:

**METROPOLITAN DEVELOPMENT COMMISSION - October 16, 1996
CITY-COUNTY COUNCIL - November 25, 1996**

Department of Metropolitan Development
Division of Neighborhood Services

CITY-COUNTY GENERAL ORDINANCE NO. 173, 1996
Proposal No. 700, 1996

METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NO. 96-AO-4
THE ZONING ORDINANCE
FOR MARION COUNTY, INDIANA

A GENERAL ORDINANCE to amend certain sections of: A. the Revised Code of the Consolidated City and County; and B. the Code of Indianapolis and Marion County, Appendix D, as amended, the Zoning Ordinance for Marion County, and fixing a time when the same shall take effect.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission (MDC) of Marion County, Indiana as the single planning and zoning authority for Marion County, Indiana, and empowers the MDC to approve and recommend to the City-County Council of the City of Indianapolis and of Marion County, Indiana ordinances for the zoning or districting of all lands with the County for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth; and,

WHEREAS, prior to the adoption of Acts 1955, Chapter 283, the City of Indianapolis, the County of Marion, and many smaller towns and cities, operated under different sets of land use and zoning regulations; and,

WHEREAS, the Metropolitan Plan Commission and the Metropolitan Development Commission has over the past thirty-eight years adopted numerous amendments to Marion County Council Ordinance No. 8-1957 for the purpose of zoning and districting all lands within the County; and,

WHEREAS, through the process of significant modifications of the various zoning classifications and the creation and elimination of various zoning classifications since the adoption of Marion County Council Ordinance No. 8-1957, many properties existing prior to the amendments of the various zoning ordinances are now not conforming to the current ordinances governing land use; and,

WHEREAS, many properties become nonconforming in the years after World War II when structures were converted by adding living units in order to provide housing opportunities for returning veterans; and,

WHEREAS, in many cases, this conversion was accomplished without receiving proper zoning approvals, yet received tacit approval from the community; and,

WHEREAS, many nonconforming properties have changed ownership several times over the ensuing years, resulting in a situation where the owner who made the property nonconforming avoids responsibility, but the current owner bears the burden of bringing the property into compliance; and,

WHEREAS, due to significant changes in the manner of record keeping within the City of Indianapolis, official data concerning building permits and variance petitions prior to Unigov (1970) can be incomplete or unreliable; and,

WHEREAS, it is the desire of the Metropolitan Development Commission, and in the best interest of the general public, that the interpretation of laws and ordinances be as certain as possible; and,

WHEREAS, the Metropolitan Development Commission and the City-County Council desire to address the needs of the community by providing certainty as to the enforcement of alleged zoning use violations occurring prior to a specifically expressed date and ordinance, now therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Dwelling Districts Zoning Ordinance of Marion County, Indiana, Revised Code of the Consolidated City and County, Chapter 731, Sec. 731-200 (adopted under Metropolitan Development Commission docket numbers 89-AO-2, 90-AO-3, 92-AO-1, 92-AO-3, 93-AO-4, 95-AO-1, and 95-AO-8), as amended, pursuant to IC 36-7-4 be amended by inserting the underlined text to read as follows:

Sec. 731-200

(9) Legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969.

a. A nonconforming use in a district of the Dwelling District Zoning Ordinance (as adopted by the Metropolitan Development Commission under docket number 66-AO-2) shall be deemed to be legally established (relative to both use and development standards) if the use:

1. existed prior to April 8, 1969; and,
2. has continued to exist from April 8, 1969 to the present; and,
3. has not been abandoned; and,
4. of the entire building has not been vacant voluntarily for any period of three hundred and sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

b. Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after April 8, 1969 have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.

c. Sec. 731-200 (9) shall:

1. have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
2. not relieve any property of the legal obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.
3. not apply to a property if written records of the:
 - Health and Hospital Corporation of Marion County;
 - fire department having jurisdiction over the property;
 - local law enforcement agency or agencies having jurisdiction over the property; or,
 - Indiana Department of Environmental Management or Department of Natural Resources

for the twenty-four (24) month period prior to October 1, 1996, reflect that there has been a significant violation of laws pertaining to public health or safety or ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance) for activities occurring on the property or the condition of the property.

d. Definition of significant violation. For purposes of this provision, a violation is defined to be significant as:

- Any outstanding violation or three or more separate citations from any of the health and safety agencies referred to in Sec. 731-200 (9) c (3) of this ordinance; or,
- Any citation or violation of Sections 302, 304, 310, 311, 313, and 701, as amended, of Chapter 10 the Code of the Health and Hospital Corporation of Marion County, Indiana (Housing and Environmental Standards Ordinance); or,
- One or more convictions of a tenant, owner, or lessee for criminal activities occurring on the property.

SECTION 2. The Commercial Zoning Ordinance of Marion County, Indiana, Code of Indianapolis and Marion County, Indiana, Appendix D, Part 12 (adopted under Metropolitan Development Commission docket numbers 69-AO-1, 75-AO-3, 76-AO-3, 79-AO-4, 80-AO-1, 92-AO-4, 94-AO-7, and 96-AO-1), as amended, pursuant to IC 36-7-4 be amended as follows:

A. That Section 2.00, A be amended by adding the following language:

8. Legal Establishment of Nonconforming Uses That Were Not Legally Initiated Prior to April 8, 1969.

a. A nonconforming use in a district of the Commercial Zoning Ordinance (as adopted by the Metropolitan Development Commission under docket number 69-AO-1) shall be deemed to be legally established (relative to both use and development standards) if the use:

- (1) existed prior to April 8, 1969; and,
- (2) has continued to exist from April 8, 1969 to the present; and,
- (3) has not been abandoned; and,
- (4) of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

b. Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after April 8, 1969 must have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.

c. Section 2.00, A, 8 shall:

- (1) have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
- (2) not relieve any property of the legal obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.
- (3) not apply to a property if written records of:
 - Health and Hospital Corporation of Marion County;
 - fire department having jurisdiction over the property;
 - local law enforcement agency or agencies having jurisdiction over the property; or,
 - Indiana Department of Environmental Management or Department of Natural Resources

for the twenty-four (24) month period prior to October 1, 1996, reflect that there has been a significant violation of laws pertaining to public health or safety or ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance) for activities occurring on the property or the condition of the property.

- d. Definition of *significant violation*. For purposes of this provision, a violation is defined to be significant as:
 - Any outstanding violation or three or more separate citations from any of the Health and Safety agencies referred to in Section 2.00, A, 8, c, (3) of this ordinance; or,
 - Any citation or violation of Sections 302, 304, 310, 311, 313, and 701 of Chapter 10 the Code of the Health and Hospital Corporation of Marion County, Indiana (Housing and Environmental Standards Ordinance); or,
 - One or more convictions of a tenant, owner or lessee for criminal activities occurring on the property.

SECTION 3. The Industrial Zoning Ordinance of Marion County, Indiana, Code of Indianapolis and Marion County, Indiana, Appendix D, Part 1 (adopted under Metropolitan Development Commission docket numbers 63-AO-4, 67-AO-7, 73-AO-2, 80-AO-3, and 96-AO-3), as amended, pursuant to IC 36-7-4 be amended as follows:

A. That Section 2.00, A, 3 be amended by adding the following language:

- g. Legal Establishment of Nonconforming Uses That Were Not Legally Initiated Prior to April 8, 1969.
 - (1) A nonconforming use in a district of the Industrial Zoning Ordinance (as adopted by the Metropolitan Development Commission under docket number 63-AO-4) shall be deemed to be legally established (relative to both use and development standards) if the use:
 - i. existed prior to April 8, 1969; and,

- ii. has continued to exist from April 8, 1969 to the present; and,
- iii. has not been abandoned; and,
- iv. of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

- (2) Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after April 8, 1969 must have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.

- (3) Section 2.00, A, 3, g shall:

- i. have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
- ii. not relieve any property of the legal obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.
- iii. not apply to a property if written records of:
 - Health and Hospital Corporation of Marion County;
 - fire department having jurisdiction over the property;
 - local law enforcement agency or agencies having jurisdiction over the property; or,
 - Indiana Department of Environmental Management or Department of Natural Resources

for the twenty-four (24) month period prior to October 1, 1996, reflect that there has been a significant violation of laws pertaining to public health or safety, or ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance) for activities occurring on the property or the condition of the property.

- (4) Definition of *significant violation*. For purposes of this provision, a violation is defined to be significant as:

- Any outstanding violation or three or more separate citations from any of the Health and Safety agencies referred to in Section 2.00, A, 3, g, c, (3) of this ordinance; or,
- Any citation or violation of Sections 302, 304, 310, 311, 313, and 701 of Chapter 10 the Code of the Health and Hospital Corporation of Marion County, Indiana (Housing and Environmental Standards Ordinance); or,

- One or more convictions of a tenant, owner, or lessee for criminal activities occurring on the property.

SECTION 4. The Central Business District Zoning Ordinance of Marion County, Indiana, Code of Indianapolis and Marion County, Indiana, Appendix D, Part 2 (adopted under Metropolitan Development Commission docket numbers 64-AO-1, 81-AO-4, 93-AO-1, 94-AO-1, and 95-AO-4 [Central Business Districts Zoning Ordinance]; and 68-AO-7, 81-AO-8, and 85-AO-1 [CBD-Special Development District]), as amended, pursuant to IC 36-7-4 be amended as follows:

A. That Section 2.00 be amended by adding the following language:

4. Legal Establishment of Nonconforming Uses That Were Not Legally Initiated Prior to April 8, 1969.
 - a. A nonconforming use in a district of the Central Business District Zoning Ordinance (as adopted by the Metropolitan Development Commission under docket number 64-AO-1 [Central Business Districts Zoning Ordinance], and 68-AO-7 [CBD-Special Development District]) shall be deemed to be legally established (relative to both use and development standards) if the use:
 - (1) existed prior to April 8, 1969; and,
 - (2) has continued to exist from April 8, 1969 to the present;
 - (3) has not been abandoned; and,
 - (4) of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

- b. Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after the specific dates noted in a. (1) above must have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.
- c. Section 2.00, 4 shall:
 - have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, of the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
 - not relieve any property of the obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.

SECTION 5. The Special Districts Zoning Ordinance of Marion County, Indiana, Code of Indianapolis and Marion County, Indiana, Appendix D, Part 7 (adopted under Metropolitan Development Commission docket numbers:

Park Districts Zoning Ordinance: 69-AO-2,
 Hospital Districts Zoning Ordinance: 68-AO-8, 73-AO-3,
 University Quarter Zoning Ordinance: 66-AO-6, 73-AO-5,
 Special Use Districts Zoning Ordinance: 66-AO-3, 67-AO-5, 68-AO-13, 78-AO-1, 94-AO-4, 94-AO-7, 95-AO-12,
 Special Districts Zoning Ordinance: 94-AO-3, 95-AO-3, 95-AO-12, 96-AO-1),

as amended, pursuant to IC 36-7-4 be amended as follows:

A. That Section 2.00, A be amended by adding the following language:

3. Legal Establishment of Nonconforming Uses That Were Not Legally Initiated Prior to April 8, 1969.

a. A nonconforming use in a Parks, Hospital, University Quarter and Special Use District (as adopted by the Metropolitan Development Commission under docket numbers: 69-AO-2 [Park Districts], 68-AO-8 [Hospital Districts], 66-AO-6 [University Quarter Districts], 66-AO-3 [Special Use Districts]) shall be deemed to be legally established (relative to both use and development standards) if the use:

- (1) shall have existed prior to April 8, 1969; and,
- (2) has continued to exist from April 8, 1969 to the present; and,
- (3) has not been abandoned; and,
- (4) of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

b. Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring during the period after the specific dates noted in a. (1) above must have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.

c. Section 2.00, A, 3 shall:

- have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
- not relieve any property of the legal obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.

SECTION 6. Regional Center - North Meridian Corridor Zoning Ordinance of Marion County, Indiana, Code of Indianapolis and Marion County, Indiana, Appendix D, Part 16 (adopted under Metropolitan Development Commission docket numbers 70-AO-3, 70-AO-5, 81-AO-7, 82-AO-2, 92-AO-2, 93-AO-2), as amended, pursuant to IC 36-7-4 be amended as follows:

A. That Section 1.00, A be amended by adding the following language:

3. Legal Establishment of Nonconforming Uses That Were Not Legally Initiated Prior to April 8, 1969.

a. A nonconforming use in a Regional Center District of the Regional Center - North Meridian Corridor Zoning Ordinance (as adopted by the Metropolitan Development Commission under docket number 70-AO-3) shall be deemed to be legally established (relative to both use and development standards) if the use:

- (1) existed prior to April 8, 1969; and,
- (2) has continued to exist from April 8, 1969 to the present; and,
- (3) has not been abandoned; and,
- (4) of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

b. Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after April 8, 1969 must have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.

c. Section 1.00, A, 3 shall:

- have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
- not relieve any property of the obligation to comply with conditions and commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.

SECTION 7. Severability. If any provision of this Ordinance shall be held invalid, its in-validity shall not affect any other provisions of the Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to severable.

The foregoing was passed by the City-County Council this 25th day of November, 1996 at 8:14 p.m.

