

**PART 10
NONCONFORMITIES**

§27-1000. Definitions.

Nonconforming Lot. A lot the area or dimension of which was lawful prior to the adoption or amendment of this zoning ordinance but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

Nonconforming Structure. A structure or part of a structure that does not comply with the applicable area, setback, yard, building height, location, size, impervious surface, and/or other dimensional requirements of this zoning ordinance or amendment heretofore or hereafter enacted where such structure lawfully existed prior to the enactment of this ordinance or amendment. Such nonconforming structures include, but are not limited to, nonconforming signs.

Nonconforming Use. A use, whether of land or of structure, which does not comply with the applicable use provisions in this zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the application of such ordinance or amendment to its location by reason of annexation.

§27-1001. Continuation.

The lawful use of a building or structure or the lawful use of any land as existing and lawful at the time of the enactment of this Chapter, or in the case of an amendment to this Chapter then at the time of such amendment, may be continued except as hereinafter provided, although such use does not conform to the provisions of this Chapter or subsequent amendments.

§27-1002. Ownership.

It is the intent of this §27-1002 to insure that the level of nonconformity is not increased when a nonconforming use is transferred or sold. Whenever a lot, which is nonconforming by virtue of use, except residential uses B1 and B2 which shall not be subject to review by the Borough Council, is transferred or sold to a new owner, a previously nonconforming use may be continued by the new owner after review by the Borough Council. The landowner shall prove that the nonconformity will not be increased. Should the landowner propose any changes or alterations to the nonconforming use, the Council may impose conditions regarding layout, circulation, and performance it deems necessary to insure that the change or alteration is in the best interest of the Borough, the convenience of the community, and the public welfare. The landowner may appeal such conditions to the Zoning Hearing Board, subject to the provisions of §27-1207 of this Chapter.

§27-1003. Abandonment.

Whenever a nonconforming use has been discontinued for a period of 1 year and such use has been abandoned, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this Chapter. Abandonment shall commence when the nonconforming use ceases.

§27-1004. Alteration or Extension.

1. A use of land or structure which does not conform to the regulations of Part 4, Use Regulations, shall not be altered, reconstructed, extended, nor enlarged, except in accordance with the following regulations:
 - A. Such alteration, reconstruction, extension, or enlargement shall be permitted only by special exception under the provisions of Part 12 and only upon the same lot as in existence at the date the use became nonconforming.
 - B. Any increase in volume, area, or extent of the nonconforming use shall not exceed an aggregate of more than 25% during the life of the nonconformity.
2. A structure which does not conform to the regulations of this Chapter other than subsection (1) may be altered, reconstructed, or enlarged, provided that no such nonconformity is increased beyond its extent on the date that it became nonconforming, provided that if the use or structure also falls under subsection (1) any change shall be subject to the provisions of that paragraph.
3. The proposed alteration or extension shall conform to the off street parking and buffer requirements of this Chapter.
4. No nonconforming use shall be extended to displace a conforming use.

§27-1005. Restoration.

No structure which has been legally condemned or has been damaged by fire or other causes to the extent of more than 75% of its fair market value shall be repaired, reconstructed, or used except in conformity with the regulations of this Chapter. Structures with damage to the extent of 75% or less of the fair market value may be reconstructed, repaired, or used for the same nonconforming use, subject to the following provisions.

- A. The reconstructed structure shall not exceed the height, area, or volume of the damaged structure except as provided in §27-1004.

- B. Reconstruction shall begin within 1 year from the date of the damage and shall be carried on without interruption.
- C. No building which has been razed shall be rebuilt except for in conformity with the regulations of this Chapter.

A nonconforming building or structure, or any building or structure containing a nonconforming use, wholly or partially destroyed by fire, explosion, flood or other natural phenomenon, or legally condemned, may be reconstructed and used for the same nonconforming use, provided that reconstruction of the building shall be commenced within one (1) year from the date the building was destroyed or condemned and shall be carried on without interruption. No further expansion of the original non-conforming use will be permitted. If a nonconforming building or structure is removed or demolished by the owner it shall be replaced only with a conforming structure.

§27-1006. Changes.

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use only under the following conditions:

- A. Such change shall be permitted only by special exception, under the provisions of Part 12.
- B. The applicant shall show that the nonconforming use cannot reasonably be changed to a use permitted in the district where such nonconforming use is located.
- C. The applicant shall show that the proposed change will be less objectionable in external effects than the existing nonconforming use with respect to:
 - (1) Traffic generation and congestion, including truck, passenger car, and pedestrian traffic.
 - (2) Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, or vibration.
 - (3) Storage and waste disposal.
 - (4) Appearance and consistency with the borough's goals of preserving historic character and architecture.
 - (5) Lighting.
- D. The new use must comply with all applicable regulations for that use as set forth in this and all other borough ordinances.

- E. All parking requirements for the use must be met.

§27-1007. Nonconforming Lots.

A conforming building may be erected or altered on any lot held at the effective date of this Chapter in single and separate ownership which is not of the required minimum area or width, provided plans for the proposed work shall be approved by the Zoning Hearing Board after review of such plans to assure reasonable compliance with the spirit of the zoning regulations for the district, and provided approval shall be obtained from the Bucks County Department of Health with respect to safe and adequate water supply and waste disposal. A conforming building in the R-3 District may include a building for any use permitted in Use B4 Traditional Neighborhood Development except for B6 Residential Conversion, Multi-Family Dwelling, and Townhouse.

§27-1008. District Changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming uses or structures existing therein.

§27-1009. Registration of Nonconforming Uses.

The Zoning Officer shall provide for the registration of all uses which are nonconforming under the terms of this Chapter within a reasonable time after the effective date of this Chapter. The record of nonconforming uses shall certify, after inspection, the extent and kind of use and disposition of the buildings and land. Upon notification, each occupant or owner of a premises used for nonconforming use shall make available such information as may be necessary to determine the extent and nature of the nonconforming use within 60 days.