

**PART 16**

**NONCONFORMITIES**

**§27-1601. General Provisions.**

The existing lawful use of land and/or structures which, at the time of passage of this Chapter, does not conform with the regulations of the district in which it is located, should have such use considered as a nonconformity. This nonconformity may continue on such land, but shall be subject to the regulations covering nonconformities. The Zoning Officer shall identify and maintain a register of nonconforming uses, structures and lots.

(Ord. 319-A, 3/21/2000, Art. 16, §114-138)

**§27-1602. Definitions.**

**NONCONFORMING LOT** — any lot, the area or dimension of that was lawful prior to the adoption or amendment of this Chapter but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

**NONCONFORMING STRUCTURE** — a structure or a part of a structure that does not comply with the applicable use or extent of use provisions or with the area, setback, yard, building height, location, size, impervious surface or other dimensional requirements of this Chapter or amendments heretofore or hereafter enacted where such structure lawfully existed prior to the enactment of this Chapter or amendment. Such nonconforming structures include, but are not limited to, nonconforming signs.

**NONCONFORMING USE** — a use, whether of land or structure, that does not comply with the applicable use provisions of this Chapter or amendment heretofore or hereafter enacted where such use was lawfully in existence prior to the enactment of such ordinances or amendment.

(Ord. 319-A, 3/21/2000 Art. 16, §114-139)

**§27-1603. 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 not be continued except as hereinafter provided, although such use or structure does not conform to the provisions of this Chapter or subsequent amendments.

## ZONING

(Ord. 319-A, 3/21/2000, Art. 16, §114-140)

### **§27-1604. Change of Use.**

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 by the Zoning Hearing Board, under the provision of this Chapter.
- B. The applicant shall show that a nonconforming use cannot be reasonably changed to a permitted use.
- 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, automobile and pedestrian traffic.
  - (2) Noise, smoke, dust, fumes, vapors, heat, odor, glare or vibration.
  - (3) Waste disposal.
  - (4) Appearance.

(Ord. 319-A, 3/21/2000, Art. 16, §114-141)

### **§27-1605. Extension of Nonconforming Use and Structures.**

1. A nonconforming structure may be extended by special exception along the existing building lines or existing building plane of the existing nonconformity; provided, that such expansion shall not extend within any street line. All other applicable requirements, including setback, yard and building height shall be met.
2. A nonconforming use may be extended by special exception; provided, that:
  - A. The proposed extension shall take place only upon the lot or contiguous lots held in the same ownership as that existing at the time the use became nonconforming. Permission to extend a nonconforming use as described in this Part shall not be construed to mean that a new use or uses may be established.
  - B. The proposed extension shall conform with the area and dimensional for the district in which said extension is located and with the parking, sign, buffer

and environmental standards and all other applicable requirements of this Chapter.

- C. Any increase in floor area or land area shall not exceed an aggregate of more than 50% of the floor area or land area existing at the date the use became nonconforming.

(Ord. 319-A, 3/21/2000, Art. 16, §114-42)

**§27-1606. Abandonment.**

A nonconforming use, when abandoned may be resumed any time within one year from such discontinued date. However, if the use is abandoned for a continuous period greater than one year subsequent use of such structure or land shall be in conformity with the provisions of this Chapter, unless the owner can demonstrate an intent to continue the use, for example, by providing listings which show an attempt to rent or sell the property.

(Ord. 319-A, 3/21/2000, Art. 16, §114-143)

**§27-1607. Restoration.**

A nonconforming structure not containing a nonconforming use or any structure containing a nonconforming use which has been damaged or destroyed by fire, explosion, accident or calamity or legally condemned (as contrasted to deterioration due to time or neglect) may be reconstructed and used for a nonconforming use; provided, that:

- A. The reconstructed building shall not exceed in height, area and volume the building destroyed, except in conformance with §27-1604.
- B. Building reconstruction shall be started within one year from the date the building was destroyed and shall be carried on without interruption.

(Ord. 319-A, 3/21/2000, Art. 16, §114-144)

**§27-1608. Nonconforming Signs.**

Nonconforming signs shall be regulated by §27-1506 of this Chapter.

(Ord. 319-A, 3/21/2000, Art. 16, §114-145)

## ZONING

### **§27-1609. Temporary Nonconforming Use.**

A temporary nonconforming use, which will benefit the public health or welfare or promote the proper development of a district in conformity with the intent of this Chapter, may be permitted for a period of not more than one month, on the approval of the Zoning Hearing Board, but any such use to be permitted for a longer period shall require a public hearing thereon, after which a Zoning Hearing Board approval may be issued for a period not exceeding one year.

(Ord. 319-A, 3/21/2000, Art. 16, §114-146)

### **§27-1610. Ownership.**

Whenever a lot is sold to a new owner a previously lawful nonconforming use on the lot may be continued. A change in nonconformity is governed by §27-1604.

(Ord. 319-A, 3/21/2000, Art. 16, §114-147)

### **§27-1611. [Reserved].**

(Ord. 319-A, 3/21/2000, Art. 16, §114-148)