

**Part 10**

**Nonconformities**

Section 1001. Application and Intent.

(a) Within the zoning districts established by this Chapter or subsequent amendments thereto, there exists or will exist certain nonconformities which, if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations, although such nonconformities would be prohibited, regulated or restricted under the terms of this Chapter or future amendments thereto.

(b) To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and on which actual building construction has been diligently carried on.

(Ordinance 130, December 9, 1991, Section 1001)

Section 1002. Nonconforming Lots of Record.

(a) Any lot shown on a recorded subdivision plan on the effective date of this Ordinance or after the enactment of subsequent amendments thereto which does not meet the minimum size or width requirements of the zoning district in which it is located may be used for a use permitted by use regulations of that district provided that all yard, height, coverage and open space requirements of the zoning district shall be met; provided, however, that when a subdivider has had an application for approval of a preliminary or final subdivision plan approved prior to the effective date of this Ordinance, no provision and/or regulation in this Chapter shall be applied to affect adversely the right of the subdivider to commence and complete any aspect of the approved preliminary or final plan within such time periods as are established within the Pennsylvania Municipalities Planning Code (Act 247), as amended.

(b) Any lot held in single and separate ownership on the effective date of this Ordinance or after the enactment of subsequent amendments thereto which does not meet the minimum size or width requirements of the zoning district in which it is located may be used for any use permitted in that district provided that all yard, height, coverage and open space requirements of the district are met; provided, however, that if two (2) or more lots, combination of lots, or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and/or area, the land involved shall be considered to be an undivided parcel for the purpose of this Chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and/or area requirements established by this Chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Chapter.

(Ordinance 130, December 9, 1991, Section 1002)

Section 1003. Nonconforming Uses of Land. Lawful uses of land, which at the effective date of this Ordinance or subsequent amendment thereto become

nonconforming, such nonconforming use or uses may be continued by the present or any subsequent owner so long as it remains otherwise lawful, subject to the provision listed with the following subsections.

(a) Extension. A nonconforming land use shall not be enlarged, increased and/or extended in order to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

(b) Discontinuance. Whenever a nonconforming use has been discontinued for a period of twelve (12) consecutive months, such use shall not thereafter be re-established, except if the owner of such property files within thirty (30) days of the date of discontinuance a certificate of intention to maintain such use. If such certificate is filed the time period which a nonconforming use may be discontinued and still be re-established shall be extended by a twelve (12) month period.

(c) Changes or Moving of Use. A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may be changed to a conforming use or to a nonconforming use of a less offensive nature. A nonconforming use shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such at the effective date of adoption or amendment of this Ordinance.

(d) Additional Structures. No additional structures not conforming to the requirements of this Chapter shall be erected in connection with such nonconforming use of land.

(Ordinance 130, December 9, 1991, Section 1003)

Section 1004. Nonconforming Structures or Buildings. Lawful nonconforming structures or buildings which at the effective date of this Ordinance or subsequent amendment thereto become nonconforming by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the building or structures, may be continued as long as they remain otherwise lawful, subject to the provisions listed in the following subsections.

(a) Enlargement.

(1) A nonconforming use, building or structure shall not be enlarged or increased upon land not owned, leased or under option to purchase at the time of the enactment of this Ordinance.

(2) A nonconforming building or structure shall not be enlarged, increased, repaired, maintained or modified in any manner which will further violate any applicable dimensional requirements imposed by this Chapter, except that a principal building which existed at the effective date of this Ordinance which is nonconforming as to a yard requirement may have repairs, improvements, modifications and/or additions made to those portions of the building located within the required yard. All such repairs, improvements, modifications and/or additions shall not further increase or extend into the required yard.

(3) Total future expansion of a nonconforming use shall not exceed fifty percent (50%) of the area occupied by the use at the time of the effective date of this Ordinance.

(b) Damage or Destruction. A nonconforming building or structure which has been damaged by fire, explosion, accident and/or calamity may be reconstructed and used for the same nonconforming use, provided that the

reconstructed building or structure does not exceed the area, volume and height of the destroyed buildings or structure. In addition, building reconstruction shall be started within one (1) year from the date the building or structure was destroyed and shall be carried through without interruption.

(c) Moving of Structure. No nonconforming structure or building shall be, for any reason, moved for any distance unless it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ordinance 130, December 9, 1991, Section 1004; as amended by Ordinance 164, April 26, 1999, Section 37)

Section 1005. Nonconforming Use of Structures or Buildings or of Buildings and Land in Combination. Lawful nonconforming structures or buildings, or structures or buildings and land in combination, which exist at the effective date of this Ordinance or subsequent amendments thereto, that would not be allowed in the district under the terms of this Chapter, may be continued so long as it remains otherwise lawful, subject to the provisions listed in the following subsections.

(a) Enlargement.

(1) An existing structure devoted to a use not permitted by this Chapter in the district where it is located may be enlarged, extended, constructed, reconstructed or structurally altered up to but not more than twenty five percent (25%) of its floor and/or use area as it existed at the time of the passage of this Ordinance or subsequent amendment, provided that the lot or lots upon which the nonconforming structure is situated where in single ownership or long-term lease (ten (10) years or more) and purchased or leased prior to the enactment or amending of this Ordinance.

(2) Any enlargement, extension, construction, reconstruction or structural alteration must conform to all other regulations of the zoning district in which it is located. This provision may be used only once for each nonconforming structure.

(3) Any nonconforming use may be extended throughout the building which was in use for the nonconforming use at the time of adoption of this Ordinance, but no such use shall be extended to occupy any land outside such building unless provided for under this Section.

(b) Change of Use. A nonconforming use of a structure, or premises and structure, may be changed to another nonconforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Such determination shall be made by a special exception granted from the Zoning Hearing Board which shall take into consideration, among other things, the intent of the provisions for the district.

(c) Discontinuance. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination, shall not

thereafter be used except in conformity with the regulations of the district in which it is located.

(d) Destruction. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land and use. Destruction for the purpose of this Subsection is defined as damage to an extent of more than seventy-five percent (75%) of the market value at the time of destruction.

(Ordinance 130, December 9, 1991, Section 1005)

Section 1006. Unsafe or Unlawful Structures. If a nonconforming structure or building or portions thereof containing a nonconforming use becomes physically unsafe due to lack of repairs and maintenance, and is declared by a duly authorized official appointed by the Board of Township Supervisors to be unsafe by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located. (Ordinance 130, December 9, 1991, Section 1006)

Section 1007. Permitted Special Exception Uses. Any use which is permitted as a special exception in a zoning district under the terms of this Chapter (other than a change through Zoning Hearing Board action from one nonconforming use to another nonconforming use) shall not be deemed a nonconforming use in such zoning district, but shall without further action be considered a conforming use. (Ordinance 130, December 9, 1991, Section 1007)

Section 1008. Registration of Nonconformities. To facilitate the administration of this Chapter, the property owner shall inform the Township Zoning Officer as to the status of a nonconforming use, lot, structure or building. The burden of proof that the use, lot, structure or building is a nonconformity shall be the responsibility of the property owner. All known nonconformities shall be a matter of public record and shall constitute sufficient notice and the limitations therein express and implied to any transferee acquiring any right to use or own such property. (Ordinance 130, December 9, 1991, Section 1008; as amended by Ordinance 164, April 26, 1999, Section 38)

Section 1009. Certification of Intention.

(a) A Certificate of Intention shall be required in all instances where a nonconforming use of land or nonconforming use of a structure or building is discontinued if the owner or operator of such uses desires to maintain such a nonconforming use.

(b) The Zoning Officer shall maintain proper forms for the registration of any Certificate of Intention. It shall be incumbent upon the owner or applicant to file such a form with the Zoning Officer. The filing of such form shall be considered a ministerial duty of the Zoning Officer, who shall not refuse to accept the completed form.

(c) The Zoning Officer shall maintain a record of all Certificates of Intention.

(d) Each Certificate of Intention shall be valid for three (3) years.

(Ordinance 130, December 9, 1991, Section 1009)