

# Part 7: Nonconformities

CB-013-2019 (DR-2) has not yet taken effect and is subject to revisions via further legislative action of the Council.



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**Part 27-7 NONCONFORMING BUILDINGS, STRUCTURES, USES, LOTS, AND SIGNS**

**Sec. 27-7100 General Requirements and Procedures**

**27-7101. Certificate of Nonconforming Use**

**(a) General**

This Section provides a uniform mechanism for the review and certification of all nonconforming uses under this Ordinance.

**(b) Applicability**

(1) Unless exempted below, certification of a nonconforming use under this Ordinance may only be approved in accordance with the procedures and standards of this Subsection, prior to its development or redevelopment.

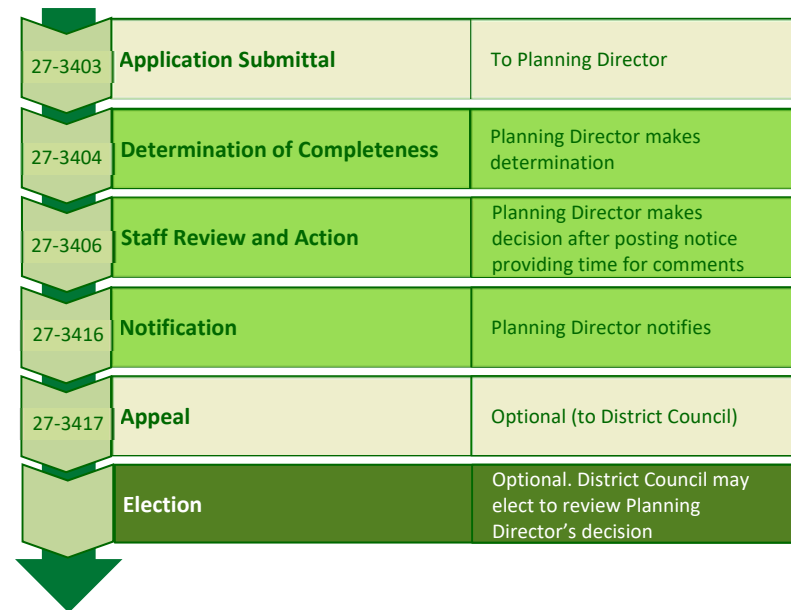
(2) The following development is exempted from the requirements of this Subsection:

- (A) Nonconforming structures;
- (B) Nonconforming signs;
- (C) Nonconforming lots of record;
- (D) Other nonconformities pursuant to Section Sec. 27-7800.

**(c) Certification of Nonconforming Use Procedure**

This Subsection identifies additions or modifications to the standard review procedures in Section Sec. 27-3400, Standard Review Procedures, that apply to applications to certify a nonconforming use. Figure 27-7101(c) identifies key steps in the certification procedure.

**Figure 27-7101(c): Certification of Nonconforming Use Procedure (Illustrative)**



**(1) Application Submittal**

See Section 27-3403, Application Submittal. Applications for a certification of nonconforming use shall be submitted to the Planning Director. This application shall include:

- (A) Documentary evidence, such as tax records, business records, public utility installation or

1	payment records, and sworn affidavits, showing	32
2	the commencing date and continuous existence	33
3	of the nonconforming use;	34
4	<b>(B)</b> Evidence that the nonconforming use has not	35
5	ceased to operate for more than 180 consecutive	36
6	calendar days between the time the use became	37
7	nonconforming and the date when the	38
8	application is submitted, or that conditions of	39
9	nonoperation for more than 180 consecutive	40
10	calendar days were beyond the applicant's	41
11	and/or owner's control, were for the purpose of	42
12	correcting Code violations, or were due to the	43
13	seasonal nature of the use;	44
14	<b>(C)</b> Specific data showing:	45
15	<b>(i)</b> The exact nature, size, and location of the	46
16	building, structure, and use;	47
17	<b>(ii)</b> A legal description of the property; and	48
18	<b>(iii)</b> The precise location and limits of the use on the	49
19	property and within any building it occupies.	50
20	<b>(D)</b> A copy of a valid use and occupancy permit	51
21	issued for the use prior to the date upon which it	52
22	became a nonconforming use, if the applicant	53
23	possesses one.	54
24	In the case of outdoor advertising signs, the requirements	55
25	above are not applicable. Instead, documentary evidence,	56
26	including, but not limited to deeds, tax records, business	57
27	records, approved plats or development plans, permits,	58
28	public utility installation or payment records; photographs;	59
29	and sworn affidavits, showing that the outdoor advertising	60
30	sign was constructed prior to and has operated	61
31	continuously since January 1, 2002, shall be provided.	62

## **(2) Determination of Completeness**

See Section 27-3404, Determination of Completeness. The Planning Director determines whether the application is complete.

## **(3) Staff Review and Action**

See Section 27-3406, Staff Review and Action.

**(A)** In addition, and before the Planning Director makes a decision on the application, the applicant shall post the property subject to the application with a durable sign(s) that can be readily seen from any existing public right-of-way(s) adjoining the property, within ten days of determining the application is complete. The sign(s) shall provide notice of the application, the nature of the nonconforming use for which the certification is sought, a date, at least 20 days after posting, by which written comments and/or supporting documentary evidence relating to the commencing date and continuity of such nonconforming use will be received and accepted from the public by the Planning Director, and instructions for obtaining additional information about the application.

**(B)** After staff review and evaluation of the application, notice of the application is posted in accordance with this Section, and sufficient time has lapsed for receipt of comments from the public on the application, the Planning Director shall make a decision on an application in accordance with the standards in this Section. The decision shall be one of the following:

1	(i)	Approve the application as submitted; or	25	(B)	In addition, the District Council may, on its own motion, elect to review the Planning Director’s decision on the certificate of nonconforming use, within 30 days of the mailing of notice of the Planning Director’s decision.
2	(ii)	Disapprove the application.	26		
3	(C)	If the application is denied, a written statement shall be included with the application stating the reasons why the application does not comply with the decision standards.	28	(C)	The Planning Director shall immediately transmit to the District Council after the appeal or election review is filed, the application and all written materials and other evidence related to its review, and any additional information or explanatory material deemed appropriate. This shall constitute the record on appeal or election review.
4			29		
5			30		
6			31		
7	(D)	Following the decision, the Planning Director shall notify the District Council of the decision.	32		
8			33		
9		Electronic notice of the decision for certification shall also be made by the Planning Director not later than 7 calendar days after the date of the decision. The Planning Director shall also publish the development activity report on the Planning Department’s website.	34	(D)	The Clerk of the Council shall schedule and provide notice of a public hearing on the appeal to the appellant, the applicant, and any persons of record a minimum of 30 days before the date of the hearing.
10			35		
11			36		
12			37		
13			38		
14			39		
15	(4)	<b>Notification</b>	40		
16		See Section 27-3416, Notification.	41		
17	(5)	<b>Appeal and Election</b>	42		
18		Optional (see Section 27-3417, Appeal).	43	(E)	The District Council shall hold a hearing in accordance with Section 27-3412, Evidentiary Hearing, within a reasonable period of time after the filing of the notice of appeal. Within 60 days after the close of the hearing, the District Council shall render a final decision based on the standards in subsection 11.f., below. The District Council shall provide its decision in writing, stating the reasons for its action.
19	(A)	The applicant or any aggrieved person may appeal the Planning Director’s decision on an application for a certification of nonconforming use, by filing a notice of appeal with the Clerk of the Council within 30 days of the Planning Director’s mailing of the decision.	44		
20			45		
21			46		
22			47		
23			48		
24			49		
			50		
			51		

- 1 (F) The District Council may modify or reverse the 32 use should be revoked. The landowners subject  
2 decision of the Planning Board on appeal or 33 to the potential revocation and all persons of  
3 election review if the decision is not supported 34 record shall be given notice of the hearing by the  
4 by substantial evidence, is arbitrary and 35 Clerk of the Council within a reasonable period  
5 capricious, or is predicated on an error of law. 36 of time prior to the hearing. The District Council  
6 (G) The Clerk of the Council shall mail copies of the 37 shall revoke the certification if it finds that  
7 decision to all persons of record and the Planning 38 either:  
8 Director, within a reasonable period of time after 39 (aa) There was fraud or misrepresentation in  
9 the decision. 40 obtaining the certification; or  
10 (6) Post-Decision Actions 41 (bb) A certified nonconforming use has been  
11 (A) Development of the land subject to a 42 discontinued for a period of 180 or more  
12 certification of nonconforming use shall comply 43 consecutive days, unless the conditions of  
13 with the approved certification of 44  
14 nonconforming use, and all other relevant 45  
15 provisions of this Ordinance. 46  
16 (B) Following certification of nonconforming use, 47  
17 the applicant shall file an application for a use 48  
18 and occupancy permit identifying the use as 49  
19 nonconforming. Any person making use of or 50  
20 relying upon the certification that is violating or 51  
21 has violated any conditions thereof, or that the 52  
22 use for which the certification was granted is 53  
23 being, or has been exercised contrary to the 54  
24 terms or conditions of such approval shall be 55  
25 grounds for revocation proceedings in 56  
26 accordance with this Subsection. 57  
27 (C) Revocation of Certification 58  
28 (i) Upon an application filed by the DPIE Director, or 59  
29 upon its own motion, the District Council may 60  
30 conduct a public hearing to determine whether  
31 an approved certification of a nonconforming

## 27-7102. Definitions

- (a) “Nonconforming Building or Structure” and “Nonconforming Use” are defined in Part 2, Definitions, of this Subtitle.
- (b) For the purposes of this Part, “party of interest” shall be defined as any person having personal knowledge of the subject property or the proposed nonconforming use, any person having a current or previous financial interest in the subject property or the proposed nonconforming use, or any person living or owning property within one (1) mile from the subject property.

## 27-7103. Continuation

- (a) Any nonconforming building, structure, or use may be continued, repaired, or maintained. It may not be altered, enlarged, or extended except in accordance with this Part.
- (b) In order for a nonconforming use to continue, a use and occupancy permit must be issued identifying the use as



- 1 nonconforming, and the use must be certified in 29  
2 accordance with Section Sec. 27-7200, Certification. In 30  
3 addition, a nonconforming surface mining operation 31  
4 located within a Chesapeake Bay Critical Area Overlay 32  
5 Zone may only continue if it meets the criteria set forth in 33  
6 Section 27-5402(jjj).
- 7 **(c)** Continuous, day-to-day operation of a certified 34  
8 nonconforming use is required to maintain its 35  
9 nonconforming status. Discontinuance of day-to-day 36  
10 operation for a period of one hundred eight (180) or more 37  
11 consecutive calendar days shall constitute abandonment 38  
12 of the use. No certified nonconforming use may be 39  
13 reestablished unless either: 40
- 14 **(1)** The case involves reconstruction, restoration, or 41  
15 reestablishment in accordance with Section 27-7105, 42  
16 Reconstruction, Reestablishment, and Restoration; or 43
- 17 **(2)** The Planning Board determines (upon written request) 44  
18 that the conditions of nonoperation were beyond the 45  
19 control of the person who was in control of the property 46  
20 during the period of nonoperation. The Planning Board’s 47  
21 determination shall be based on satisfactory evidence 48  
22 presented by the person making the request. 49
- 23 **(d)** The provisions of Subsection (c), above, do not apply to: 50
- 24 **(1)** Nonconforming buildings and structures occupied by 51  
25 conforming uses; 52
- 26 **(2)** Certified nonconforming surface mining operations that 53  
27 are not within a Chesapeake Bay Critical Area Overlay 54  
28 Zone; or 55
- (3)** Mobile home dwellings and trailer camps used in 56  
accordance with Section 27-7405, Mobile Homes and 57  
Trailer Camps (Mobile Home Parks). 58
- (e)** For properties within the Chesapeake Bay Critical Area, 59  
the following shall apply:
- (1)** A lot or parcel legally developed as of July 1, 2008, shall 60  
not be considered nonconforming for purposes of 61  
Critical Area lot coverage. 62
- (2)** For the purpose of increasing Critical Area lot coverage 63  
on a lot or parcel under Subparagraph (1) above, the 64  
Critical Area lot coverage limitations of Section 27- 65  
4402(a)(4) shall not be construed to apply to a 66  
development activity for which an approved 67  
Conservation Plan or staff level review was obtained 68  
and:
- (A)** A building permit was issued before July 1, 2008; 69  
and 70
- (B)** Construction was initiated and an inspection was 71  
performed before July 1, 2009. 72
- (f)** A use that was approved by a special exception prior to, 73  
and remained valid on [redacted] *[insert the effective date of* 74  
*this Ordinance]*, is nonconforming and remains subject to 75  
all terms and conditions of its special exception approval, 76  
unless it meets all of the standards of this Ordinance for 77  
that use. 78
- (g)** Reconstruction, Re-establishment, and Restoration 79  
A nonconforming use or structure may be restored, 80  
reconstructed or re-established in accordance with Section 81  
27-7104: Reconstruction, Re-establishment, or Restoration of 82  
Nonconforming Use or Structure. 83

1	<b>27-7104. Alteration, Extension, or Enlargement</b>	28		
2	<b>(a) In General</b>	29		<b>(2) Structures in Floodplains</b>
3	<b>(1)</b> A nonconforming building or structure, or a certified	30		Existing nonconforming buildings, structures, and uses
4	nonconforming use (except as provided for in this	31		within a 100-year floodplain may be modified to
5	Section) may be altered, enlarged, or extended,	32		incorporate flood-proofing measures, and do not require a
6	provided that:	33		special exception if the nonconforming building, structure,
7	<b>(A)</b> The alteration, enlargement, or extension	34		or certified nonconforming use is not enlarged or extended,
8	conforms to the building line setback or build-to	35		provided that:
9	line, yard, and height regulations of the zone in	36		<b>(A)</b> The measures do not raise the level of the 100-
10	which the use is located; and	37		year floodplain; and
11	<b>(B)</b> A special exception has been approved by the	38		<b>(B)</b> The measures are in conformance with Division
12	District Council, in accordance with Section 27-	39		2 of Subtitle 4: Building, of this Code, entitled
13	3604, Special Exception, of this Subtitle.	40		“Construction or Changes in Floodplain Areas.”
14	<b>(b) Exceptions</b>	41		<b>(3) Gas Stations</b>
15	<b>(1) Surface Mining</b>	42		<b>(A)</b> The following modifications of a certified
16	A certified nonconforming use involving surface mining	43		nonconforming gas station may be permitted by
17	may be expanded to include the entire parcel of land (or	44		the Planning Board without a special exception:
18	acreage owned or leased at the time the use became	45		<b>(i)</b> The enlargement or relocation of pump islands;
19	nonconforming) upon which the removal operations were	46		<b>(ii)</b> The addition of one (1) pump island;
20	initially conducted, provided the initial use predates the	47		<b>(iii)</b> The addition, relocation, or modification of a
21	adoption of the original Zoning Map for the area. This	48		fence, kiosk, island shelter, island canopy,
22	expansion does not require a special exception. This	49		storage area, trash enclosure, vending area, or
23	exception does not apply if the use is located in a 100-year	50		lavatory facility;
24	floodplain. Additionally, if the use is located within a	51		<b>(iv)</b> The addition, relocation, of modification of an
25	Chesapeake Bay Critical Area Overlay Zone, a special	52		accessory building used solely for the storage of
26	exception for surface mining in accordance with Section 27-	53		automotive replacement parts or accessories.
27	7405 is required.	54		The accessory building shall be wholly enclosed.
		55		The building shall either be constructed of brick
		56		(or another building material similar in
				appearance to that of the main structure) and

1	placed on a permanent foundation, or it shall be	32	of the Council shall notify the Planning Board of
2	entirely surrounded with screening material.	33	any appeal of review decision. Within seven (7)
3	Screening shall consist of a wall, fence, or sight-	34	days after receiving this notice, the Planning
4	tight landscaping material, which shall be at least	35	Board shall transmit to the District Council all
5	as high as the accessory building. The screening	36	written evidence and materials submitted for
6	shall be approved as part of the modification.	37	consideration by the Planning Board, a transcript
7	<b>(B)</b> A site plan shall be submitted showing the	38	of the public hearing on the revised plan, and any
8	modifications.	39	additional information or explanatory material
9	<b>(C)</b> The modifications shall not violate any condition	40	deemed appropriate. The District Council shall
10	of a previously approved special exception for a	41	schedule a public hearing on the appeal or
11	gas station on the property.	42	review. The Council shall give at least thirty (30)
12	<b>(D)</b> The modification shall be in conformance with	43	calendar days' notice of the hearing to all
13	Section 27-5402(cc), Gas Station, and any	44	persons of record and the Planning Board, all of
14	provisions of the zone in which the property is	45	whom shall be entitled to appear at the hearing.
15	located.	46	Testimony at the hearing shall be limited to the
16	<b>(E)</b> At the time the application is filed, a fee shall be	47	facts and information contained within the
17	paid by the applicant to cover the costs of	48	record made at the hearing before the Planning
18	processing the application. The amount of the	49	Board. Within sixty (60) days after the close of
19	fee shall be established by the Planning Board.	50	the Council's hearing, the Council shall affirm,
20	<b>(F)</b> The Planning Board's decision (resolution) on the	51	reverse, or modify the decision of the Planning
21	requested modification shall be sent to all	52	Board, or return the modification request to the
22	persons of record in the hearing before the	53	Planning Board to take further testimony or
23	Planning Board, and to the District Council. This	54	reconsider its decision. Where the Council
24	decision may be appealed to the District Council	55	approves a modification, it shall make the same
25	upon petition by any person of record. The	56	findings which are required to be made by the
26	petition shall be filed with the Clerk of the	57	Planning Board. If the Council fails to act within
27	Council within thirty (30) days after the date of	58	the specified time, the Planning Board's decision
28	the notice of the Planning Board's decision. The	59	is automatically affirmed. The Council shall give
29	District Council may vote to review the Planning	60	its decision in writing, stating the reasons for its
30	Board's decision on its own motion within thirty	61	action. Copies of the decision shall be sent to all
31	(30) days after the date of the notice. The Clerk	62	persons of record and the Planning Board.

1	<b>(4) Quick-Service Restaurants</b>	31	
2	<b>(A)</b> The following modifications of a certified	32	
3	nonconforming quick-service restaurant may be	33	
4	permitted by the Planning Board without a	34	
5	special exception:	35	
6	<b>(i)</b> The addition, relocation, or modification of a	36	
7	freezer on the sides or rear of the restaurant	37	
8	building;	38	
9	<b>(ii)</b> The addition, relocation, or modification of gross	39	
10	floor area in order to provide rest rooms to serve	40	
11	the physically handicapped;	41	
12	<b>(iii)</b> The addition, relocation, or modification of	42	
13	vestibules above and around points of access to	43	
14	the restaurant building; or	44	
15	<b>(iv)</b> The addition, relocation, or modification of a	45	
16	fence, storage area, or trash enclosure.	46	
17	<b>(B)</b> A site plan shall be submitted showing the	47	
18	modifications.	48	
19	<b>(C)</b> The modification shall not violate any condition	49	
20	of a previously approved special exception for a	50	
21	quick-service restaurant on the property.	51	
22	<b>(D)</b> At the time the application is filed, a fee shall be	52	
23	paid by the applicant to cover the costs of	53	
24	processing the application. The amount of the	54	
25	fee shall be established by the Planning Board.	55	
26	<b>(E)</b> The Planning Board's decision (resolution) on the	56	
27	requested modification shall be sent to all	57	
28	persons of record in the hearing before the	58	
29	Planning Board, and to the District Council. This	59	
30	decision may be appealed to the District Council	60	
		61	upon petition by any person of record. The
		62	petition shall be filed with the Clerk of the
		63	Council within thirty (30) days after the date of
		64	the notice of the Planning Board's decision. The

1 is automatically affirmed. The Council shall give 31  
2 its decision in writing, stating the reasons for its 32  
3 action. Copies of the decision shall be sent to all  
4 persons of record and the Planning Board. 33

5 **(5) Recreation/Entertainment and Community** 34  
6 **Service Uses for Multifamily Dwellings** 35

7 The alteration, extension, or enlargement of 36  
8 Recreation/Entertainment and Community Service Uses 37  
9 associated with certified nonconforming multifamily 38  
10 dwellings, for the sole use of residents and their guests, 39  
11 shall not be considered an alteration, extension, or 40  
12 enlargement of the nonconforming use. A detailed site plan 41  
13 shall be approved for this use in accordance with Section 42  
14 27-3605, Detailed Site Plan, of this Subtitle, prior to the 43  
15 issuance of any permits.

16 **(6) Single-Family Detached Dwellings** 44

17 The alteration, extension, or enlargement of a 45  
18 nonconforming single-family detached dwelling may be 46  
19 permitted and does not require a special exception 47  
20 provided that: 48

- 21 **(A)** The modification conforms to the requirements 49  
22 of subparagraph 27-7104(a)(1)(A), above; 50  
23 **(B)** Development on the property (including the 51  
24 proposed modification) conforms to the lot 52  
25 coverage limitations of the zone in which the 53  
26 property is located; and 54  
27 **(C)** Within a Chesapeake Bay Critical Area Overlay 55  
28 Zone, development on the property (including 56  
29 the proposed modification) conforms to any 57  
30 applicable requirements concerning impervious

surface ratios, except as provided in paragraph  
(9), below.

**(7) Improvements to Multifamily Development**

- (A)** In multifamily developments existing as of  
January 1, 1990, in the RMF-12, RMF-20, and  
RMF-48 zones, the following improvements do  
not require a special exception:
- (i)** Fence or wall;
  - (ii)** Trash enclosure;
  - (iii)** Guard booth;
  - (iv)** Canopy;
  - (v)** Playground and outdoor play area for a day care  
center for children;
  - (vi)** Landscaping;
  - (vii)** Day care centers for children in multifamily units;
  - (viii)** Antenna, otherwise permitted in the zone;
  - (ix)** Equipment room for telecommunications  
located inside an existing building;
  - (x)** Day care center for children within an existing  
free-standing building in a project in excess of  
one hundred (100) units, with a maximum of one  
(1) per project, provided that it is located in a  
“Hot Spot” as defined in State law or  
“Revitalization Area,” it is operated by a  
nonprofit entity, and at least fifty percent (50%)  
of the children are residents of the project;
  - (xi)** New access or parking; and

1	(xii) An increase of no more than ten percent (10%)	31
2	in the gross floor area of a building, not to exceed	32
3	2,000 square feet of gross floor area, provided	33
4	the increase is to allow for the enlargement of an	34
5	existing area used for recreational purposes.	35
6	(B) Such improvements shall conform to any	36
7	applicable regulations in this Subtitle.	37
8	(C) In multifamily developments existing as of	38
9	January 1, 1990, a special exception is not	39
10	required for urban agriculture in the RMF-20	40
11	Zone.	40
12	<b>(8) Screening Requirements for Vehicle Sales and</b>	41
13	<b>Service Uses</b>	42
14	The alteration of a certified nonconforming Vehicle Sales	44
15	and Service Use may be permitted by the Planning Board	45
16	and does not require a special exception, provided the	46
17	alteration is made to comply with the screening	47
18	requirements set forth in Section 13-235 of Subtitle 13 of	48
19	this Code, and Section 4.4 of the Landscape Manual.	49
20	<b>(9) Chesapeake Bay Critical Area Overlay Zone</b>	50
21	Within a Chesapeake Bay Critical Area Overlay Zone, the	51
22	alteration, extension, or enlargement of a certified	52
23	nonconforming structure may be permitted and does not	53
24	require a special exception, provided that all of the	54
25	following provisions are met:	55
26	(A) Lot coverage in the CBCA is the only	56
27	nonconforming element of the subject property	57
28	relative to the Chesapeake Bay Critical Area	58
29	Overlay Zone in which it is located, and either all	59
30	requirements of the underlying zone are met, or	

other provisions of Subsection 27-7104(b) apply to the subject use;

(B) All structures contributing to the nonconforming lot coverage in the CBCA were in existence prior to July 1, 2008; and

(C) Development on the property (including the proposed modification) does not result in a net increase in lot coverage in the CBCA.

#### **(10) Safety Improvements Required by the Commission**

A special exception shall not be required for safety improvements made to an existing certified nonconforming use pursuant to an executed agreement with the Maryland-National Capital Park and Planning Commission. The safety improvements shall be identified on the certified nonconforming use site plan.

#### **(11) Adaptive Reuse of a Community Building**

(A) The renovation and adaptive reuse of a historic structure located within a certified nonconforming use multifamily development pursuant to a Historic Area Work Permit approved by the Historic Preservation Commission does not require a special exception for alteration, extension, or enlargement of the nonconforming use. Allowable modifications shall included, but not be limited to:

(i) Reconfiguration of internal driveways, parking, and drive aisles, provided the total number of parking spaces is not reduced;

1	(ii)	The construction of an addition to the historic structure including related sidewalks, entrances, and other site work.	25	<b>27-7105. Reconstruction, Reestablishment, and Restoration</b>
2			26	
3				
4	(B)	Upon completion of the improvements proposed in accordance with Section 27-7104(b)(11)(A), above, the owner shall be entitled to submit a revised nonconforming use site plan reflecting the improvements which shall be recertified by the Planning Board’s authorized representative.	27	<b>(a) Without Enlargement, Extension, or Relocation</b>
5			28	
6			29	<b>(1)</b> The restoration, reconstruction, or reestablishment of a nonconforming building or structure, or a certified nonconforming use, which has either been unintentionally destroyed by fire or other calamity, has temporarily ceased operation for the sole purpose of correcting Code violations, or has temporarily ceased operation due to the seasonal nature of the use, may be permitted without relocation, enlargement, or extension, provided that:
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8			31	
9			32	
10	(C)	For purposes of this Subsection, the provisions of Section 27-5402(d), Adaptive Use of a Historic Site shall also not apply.	33	<b>(A)</b> Where the building, structure, or use has been unintentionally destroyed by fire or other calamity, a building permit for restoration or reconstruction shall be issued within one (1) calendar year from the destruction date, and construction pursuant to the permit has begun within six (6) calendar months after the date of issuance (or lawful extension) of the permit, and proceeds to completion in a timely manner. If it has been destroyed for more than one (1) calendar year, the reconstruction, reestablishment, or restoration may only be permitted upon approval of a special exception in accordance with Section 27-3604, Special Exception, of this Subtitle.
11			34	
12			35	
13			36	<b>(B)</b> Where a certified nonconforming use has temporarily ceased operation, either for the sole purpose of correcting Code vilations or because the nature of the nonconforming use is seasonal,
14	<b>(12) Military Installation Overlay Zone</b>		37	
15	In the Military Installation Overlay Zone, alterations, extensions, or enlargements of uses, buildings, or structures considered nonconforming pursuant to the provisions of Section 27-4402(c)(3)(D) may be permitted to allow modifications subject to Section 27-3611(f) of this Subtitle.		38	
16			39	
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18			41	
19			42	
20	<b>(13) Digital Billboard</b>		43	
21	The relocation, alteration, reconstruction, enlargement, or extension of a billboard in order to convert it into a digital billboard does not require a special exception, provided that it meets the requirements of Section 27-61506(g).		44	
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1 such use shall be reestablished within one (1) 33  
2 calendar year from the date upon which 34  
3 operation last ceased. 35  
4 **(2)** The intentional demolition and reconstruction, 36  
5 reestablishment, or restoration of a certified 37  
6 nonconforming use on the same lot, which does not 38  
7 involve relocation, enlargement, or extension, is 39  
8 prohibited within the Safety Zones of the Military 40  
9 Installation Overlay Zone, but may be permitted outside 41  
10 the Safety Zones of the Military Insallation Overlay Zone 42  
11 only upon approval of a special exception in accordance 43  
12 with Section 27-3604, Special Exception, of this Subtitle. 44

13 **(b) With Enlargement, Extension, or Relocation**

14 **(1)** The reconstruction or restoration of a nonconforming 45  
15 building or structure, or a certified nonconforming use, 46  
16 which has been unintentionally destroyed by fire or 47  
17 other calamity and which involves an enlargement, 48  
18 extension, or relocation, may be permitted only upon 49  
19 approval of a special exception in accordance with 50  
20 Section 27-3604, Special Exception, of this Subtitle. 51

21 **(2)** The intentional demolition and reconstruction of a 52  
22 certified nonconforming use on the same lot, which 53  
23 involves relocation, enlargement, or extension, is 54  
24 prohibited within the Safety Zones of the Military 55  
25 Installation Overlay Zone but may be permitted outside 56  
26 of the Safety Zones of the Military Installation Overlay 57  
27 Zone only upon approval of a special exception in 58  
28 accordance with Section 27-3604, Special Exception, of 59  
29 this Subtitle. The requirement of a special exception 60  
30 shall not apply to the replacement of a mobile home,  
31 provided the new mobile home does not exceed one  
32 thousand and fifty (1,050) square feet in size.

**(3)** Notwithstanding any other provision with this Section, the reconstruction or restoration of a nonconforming building or structure, or a certified nonconforming use involving an enlargement, extension, or relocation of uses, buildings, or structures considered nonconforming pursuant to the provisions of Section 27-4402(c)(3)(D) of this Subtitle is prohibited.

### **27-7106. Change of Nonconforming Use to Another Use**

A nonconforming use may not be changed to, or changed to include, any use other than that certified, unless such other use is permitted, or permitted by grant of a special exception, in the zone in which the nonconforming use is located.

### **27-7107. Floodplains**

Nonconforming buildings and structures, and certified nonconforming uses, located within a 100-year floodplain may be modified to incorporate flood-proofing measures provided that:

- (a)** The measures do not raise the level of the 100-year floodplain; and
- (b)** The measures are in conformance with Division 2 of Subtitle 4: Building, of this Code, entitled “Construction or Changes in Floodplain Areas.”

### **27-7108. Nonconforming Buildings and Structures Occupied by Conforming Uses**

Satisfactory evidence as to the actual existence (date of construction) of a nonconforming building or structure shall be submitted with any application for a permit to use a nonconforming building or structure



1 for a conforming use. The use and occupancy permit shall not be  
2 issued until satisfactory evidence has been provided.

## 3 **Sec. 27-7200 Certification**

### 4 **27-7201. In General**

5 A nonconforming use may only continue if a use and occupancy  
6 permit identifying the use as nonconforming is issued after the  
7 Planning Board (or its authorized representative) or the District  
8 Council certifies the use is nonconforming and is not illegal (except as  
9 provided for in Section 27-7302, Validation of Permits Issued in  
10 Error). Any person making use of or relying upon the certification that  
11 is violating or has violated any conditions thereof, or that the use for  
12 which the certification was granted is being, or has been exercised  
13 contrary to the terms or conditions of such approval shall be grounds  
14 for revocation proceedings in accordance with this Code.

### 15 **27-7202. Application for Use and Occupancy 16 Permit**

17 (a) The applicant shall file for a use and occupancy permit in  
18 accordance with Section 27-3608, Use and Occupancy  
19 Permit, of this Subtitle.

20 (b) Along with the application and accompanying plans, the  
21 applicant shall provide the following:

22 (1) Documentary evidence, such as tax records, business  
23 records, public utility installation or payment records,  
24 and sworn affidavits, showing the commencing date and  
25 continuous existence of the nonconforming use;

26 (2) Evidence that the nonconforming use has not ceased to  
27 operate for more than one hundred eighty (180)  
28 consecutive calendar days between the time the use

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became nonconforming and the date when the  
application is submitted, or that conditions of  
nonoperation for more than one hundred eight (180)  
consecutive calendar days were beyond the applicant's  
and/or owner's control, were for the purpose of  
correcting Code violations, or were due to the seasonal  
nature of the use;

(3) Specific data showing:

(A) The exact nature, size, and location of the  
building, structure, and use;

(B) A legal description of the property; and

(C) The precise location and limits of the use on the  
property and within any building it occupies;

(4) A copy of a valid use and occupancy permit issued for  
the use prior to the date upon which it became a  
nonconforming use, if the applicant possesses one.

(5) In the case of outdoor advertising signs, the  
requirements of Section 27-7202(b)(2), above, are not  
applicable. Documentary evidence, including but not  
limited to deeds, tax records, business records,  
approved plats or development plans, permits, public  
utility installation or payment records, photographs,  
and sworn affidavits, showing that the outdoor  
advertising sign was constructed prior to and has  
operated continuously since January 1, 2002.

### 54 **27-7203. Notice**

(a) Notice of the proposed application shall be provided by  
the applicant in accordance with Section 3402(c)(2), Pre-  
Application Neighborhood Meeting, of this Subtitle.

1       **(b)** The following notice provisions shall not apply to uses       33  
2       that, with the exception of parking in accordance with       34  
3       Section Sec. 27-6300, Off-Street Parking and Loading,       35  
4       occur solely within an enclosed building.       36  
5       **(c)** The Planning Board shall post the property with a durable       37  
6       sign(s) within ten (10) days of acceptance of the       38  
7       application and accompanying documentation. The sign(s)       39  
8       shall provide notice of the application; the nature of the       40  
9       nonconforming use for which the permit is sought; a date,       41  
10      at least twenty (20) days after posting, by which written       42  
11      comments and/or supporting documentary evidence       43  
12      relating to the commencing date and continuity of such       44  
13      use, and/or a request for public hearing from a party of       45  
14      interest will be received; and instructions for obtaining       46  
15      additional information. Requirements regarding posting       47  
16      fees, the number and the location of signs shall conform       48  
17      to the requirements set forth in Subsection (f) below.       49

18 **27-7204. Administrative Review**       50

19       **(a)** Except for outdoor advertising signs, if a copy of a valid       51  
20       use and occupancy permit is submitted with the       52  
21       application, where applicable a request is not submitted       53  
22       for the Planning Board to conduct a public hearing, and,       54  
23       based on the documentary evidence presented, the       55  
24       Planning Board’s authorized representative is satisfied as       56  
25       to the commencing date and continuity of the       57  
26       nonconforming use, the representative shall recommend       58  
27       certification of the use as nonconforming for the purpose       59  
28       of issuing a new use and occupancy permit identifying the       60  
29       use as nonconforming, upon finding, within the       61  
30       administrative record for the application, that the use to       62  
31       be certified as nonconforming has no outstanding Code       63  
32       violations with the Department of Permitting, Inspections,       64

and Enforcement regarding the property other than failure to have a use and occupancy permit. This recommendation shall not be made prior to the specified date on which written comments and/or requests for public hearing are accepted.

- (b)** For outdoor advertising signs, if satisfactory documentary evidence described in Section 27-7202(b)(5) is received, the Planning Board’s authorized representative shall recommend certification of the use as nonconforming for the purpose of issuing applicable permits and certifying the use as nonconforming. This recommendation shall not be made prior to the specified date on which written comments and/or requests for public hearing are accepted.
- (c)** Following a recommendation of certification of the use as nonconforming, the Planning Board’s authorized representative shall notify the District Council of the recommendation. Electronic notice of the recommendation for certification shall also be made by the Planning Board’s authorized representative not later than seven (7) calendar days after the date of the recommendation. The Planning Director shall also publish the development activity report on the Planning Department’s website.
- (d)** If the District Council does not elect to review the recommendation within thirty (30) days of receipt of the recommendation as authorized by Section 27-7205, District Council Review, below, the representative shall certify the use as nonconforming.
- (e)** Subsections (c) and (d), above, and Section 27-7205, District Council Review, below, shall not apply to uses that, with the exception of parking in accordance with Section

1 Sec. 27-6300, Off-Street Parking and Loading, occur solely 30  
2 within an enclosed building. 31  
32

3 **27-7205. District Council Review** 33

4 (a) The District Council may, on its own motion, vote to 34  
5 review the Planning Board representative's 35  
6 recommendation, for the purpose of determining 36  
7 whether the use should be certified as nonconforming, 37  
8 within thirty (30) days of receipt of the recommendation. 38

9 (b) If the District Council decides to review the proposed 39  
10 certification, the Clerk of the Council shall notify the 40  
11 Planning Board of the Council's decision. Within seven (7) 41  
12 calendar days after receiving this notice, the Planning 42  
13 Board shall transit to the Council all materials submitted 43  
14 to it in connection with the application. 44

15 (c) The Zoning Hearing Examiner shall conduct a public 45  
16 hearing on the application. The Zoning Hearing Examiner 46  
17 shall make the same findings required for administrative 47  
18 review or approval by the Planning Board required in this 48  
19 Section, as well as any other applicable prescriptions 49  
20 regulating the proposed use specified within any other 50  
21 applicable Subtitle of this Code. 51

22 (d) The Zoning Hearing Examiner shall file a written 52  
23 recommendation with the District Council within thirty 53  
24 (30) days after the close of the hearing record. 54

25 (e) Any person of record may appeals the recommendation of 55  
26 the Zoning Hearing Examiner within fifteen (15) days of 56  
27 the filing of the Zoning Hearing Examiner's 57  
28 recommendation with the District Council. If appealed, all  
29 persons of record may testify before the District Council.

(f) Persons arguing shall adhere to the District Council's Rules  
of Procedure, and argument shall be limited to thirty (30)  
minutes for each side, and to the record of the hearing.

(g) The District Council shall affirm the certification only if it  
finds that a nonconforming use exists and has  
continuously operated, and upon finding, within the  
administrative record for the application, that the use to  
be certified as nonconforming has no outstanding Code  
violations with the Department of Permitting, Inspections,  
and Enforcement regarding the property, other than  
failure to have a use and occupancy permit.

(h) The District Council shall make its decision within forty-  
five (45) days from the filing of the Zoning Hearing  
Examiner's recommendation. Failure of the Council to  
take action within this time shall constitute a decision to  
certify the use.

46 **27-7206. Planning Board Review**

47 (a) **Required Hearing**

48 If a copy of a valid use and occupancy permit is not submitted  
49 with he application, if the documentary evidence is not  
50 satisfactory to the Planning Board's authorized representative  
51 to prove the commencing date or continuity of the use, or if a  
52 public hearing has been requested by any party of interest  
53 challenging the commencing date and/or continuity of the use,  
54 the Planning Board shall conduct a public hearing on the  
55 application for the purpose of determining whether the use  
56 should be certified as nonconforming.

1	<b>(b) Application for Certification</b>	30
2	Whenever the Planning Board will hold a hearing on the	31
3	certification of the use as nonconforming, the applicant shall	32
4	complete the appropriate form provided by the Planning Board.	33
5	<b>(c) Notice</b>	34
6	At least seven (7) calendar days prior to the public hearing, the	35
7	Planning Board shall send written notice of the date, time, and	36
8	place of the hearing to the applicant and to all persons of record.	37
9	<b>(d) Planning Board Action</b>	38
10	<b>(1)</b> The Planning Board may decide to either grant or deny	39
11	certification of the use as nonconforming. If it decides	40
12	to certify that a nonconforming use actually exists and	41
13	has continuously operated and upon finding, within the	42
14	administrative record for the application, that the use to	43
15	be certified as nonconforming has no outstanding Code	44
16	violations with the Department of Permitting,	45
17	Inspections, and Enforcement regarding the property,	46
18	other than failure to have a use and occupancy permit.	47
19	<b>(2)</b> The recommendation of the Planning Board shall be in	48
20	the form of a resolution adopted at a regularly	49
21	scheduled public meeting. The resolution shall set forth	50
22	findings of fact and conclusions of law in support of the	51
23	Planning Board’s recommendation.	52
24	<b>(3)</b> The Planning Board shall send a copy of the resolution	53
25	to all persons of record.	54
26	<b>(e) District Council Election to Review; Appeal of</b>	55
27	<b>Planning Board’s Recommendation</b>	56
28	<b>(1)</b> The recommendation of the Planning Board may be	57
29	appealed by any person of record to the District Council	

by filing an appeal with the Clerk of the Council. In addition, and notwithstanding any appeal of the Planning Board’s recommendation filed by a person of record, the District Council may, on its own motion, vote to review the Planning Board’s recommendation for the purpose of making a final decision as to whether the use should be certified as nonconforming.

- (2)** The appeal shall be filed, or District Council vote to review the Planning Board recommendation shall occur, within thirty (30) calendar days after the resolution of the Planning Board was mailed. If no appeal is filed, and the District Council does not elect to review the recommendation of Planning Board within thirty (30) calendar days after the resolution of the Planning Board is mailed, the Planning Board’s recommendation shall become the final decision as to the application to certify the use as nonconforming.
- (3)** Before the District Council makes a decision on the application, it shall hold a public hearing.
- (4)** The Council may decide to affirm, reverse, or modify the recommendation of the Planning Board. The decision of the Council shall be based on the record made before the Planning Board. No new evidence shall be entered into the record of the case unless it is remanded to the Planning Board and a rehearing is ordered.

**(f) Applicability**

This Section shall not apply to nonconforming buildings or structures occupied by conforming uses. (See Section 27-7103)

**Sec. 27-7300 Revocation of Certification**

**27-7301. In General**

- (a)** Upon a petition filed by the Director of the Department of Permitting, Inspections, and Enforcement (or his designee), or upon its own motion, the Planning Board shall hold a public hearing to determine whether the certification of a nonconforming use should be revoked.
- (b)** The Planning Board shall revoke the certification if it finds that either:

  - (1)** There was fraud or misrepresentation in obtaining the certification;
  - (2)** A certified nonconforming use has been discontinued for a period of one hundred eight (180) or more consecutive calendar days, unless the conditions of nonoperation were beyond the control of the owner or hold of the use and occupancy period; or
  - (3)** Any applicable requirements of Section Sec. 27-7200, Certification, have not been met.
- (c)** The Planning Board shall notify the Director of the Department of Permitting, Inspections, and Enforcement (or his designee) of a revocation. The Director, in turn, shall revoke the use and occupancy permit for the nonconforming use.
- (d)** The decision of the Planning Board may be appealed to the District Council in the same manner as an original certification. (See Section 27-7206(e)).

**27-7302. Validation of Permits Issued in Error**

Any building, structure, or use, for which a permit issued in error has been validated by the District Council in accordance with Section 27-3615, Validation of Permit Issued in Error, shall be deemed a nonconforming building or structure, or a certified nonconforming use, unless otherwise specified by the Council when it validates the permit. The nonconforming building or structure, or certified nonconforming use, shall be subject to all of the provisions of this Part.

**Sec. 27-7400 Additional Requirements for Specific Nonconforming Uses**

**27-7401. Junk Yards and Vehicle Salvage Yards**

- (a)** In order for a certified nonconforming junk yard or vehicle salvage yard to continue, the requirements of this Section shall be met, in addition to any other applicable requirements of this Part.
- (b)** The purposes of this Section are:

  - (1)** To protect passersby from the dangers inherent in the dismantling, movement, or storage of wrecked and junked motor vehicles and other scrap materials;
  - (2)** To protect children, who are naturally attracted to these site;
  - (3)** To prevent stray dogs from frequenting the site;
  - (4)** To prevent rats, mice, and other vermin from infesting the site;
  - (5)** To protect the health and safety of workers and residents in the general area;

1	<b>(6)</b> To prevent or control detrimental effects upon	28	<b>(B)</b> Along with the application, the owner or
2	neighboring properties, and existing and proposed land	29	operator shall submit the following:
3	uses in the general area; and	30	<b>(i)</b> A statement listing the names, and the business
4	<b>(7)</b> Any similar purposes.	31	and residential addresses, of all individuals
5	<b>(c)</b> All certified nonconforming junk yards and vehicle salvage	32	having at least a five percent (5%) financial
6	yards shall meet the following requirements:	33	interest in the subject property;
7	<b>(1)</b> The junk yard or vehicle salvage yard shall be enclosed	34	<b>(ii)</b> If any owner is a corporation, a statement listing
8	by a solid, light-tight, slightly wall or fence at least eight	35	the officers of the corporation, their business
9	(8) feet high;	36	and residential addresses, and the date on which
10	<b>(2)</b> The wall or fence shall screen the enclosed area from	37	they assumed their respective offices. The
11	public view;	38	statement shall also list the current Board of
12	<b>(3)</b> The fence shall be maintained in a constant state of	39	Directors, their business and residential
13	good repair; and	40	addresses, and the dates of each Director’s term.
14	<b>(4)</b> No sign shall be placed on the fence (except as	41	An owner that is a corporation listed on a
15	permitted by Section Sec. 27-61500, Signage).	42	national stock exchange shall be exempt from
16	<b>(d)</b> The requirements of paragraph (c), above, shall apply to	43	the requirement to provide residential
17	all nonconforming junk yards and vehicle salvage yards,	44	addresses of its officers and directors; and
18	regardless of any prior nonconforming use status.	45	<b>(iii)</b> If the owner is a corporation (except one listed
19	<b>(e)</b> The fence (wall) requirements may be waived or modified	46	on a national stock exchange), a statement
20	by the District Council in accordance with the following	47	containing the names and residential addresses
21	procedures:	48	of those individuals owning at least five percent
22	<b>(1) Application</b>	49	(5%) of the shares of any class of corporate
23	<b>(A)</b> The owner or operator of the junk yard shall	50	security (including stocks and serial maturity
24	make a written request to the District Council to	51	bonds).
25	wave or modify the requirements. The	52	<b>(C)</b> For the purposes of subparagraphs (i), (ii), and
26	application shall be filed with the Clerk of the	53	(iii), above, the term “owner” shall include not
27	Council.	54	only the owner of record, but also any contract
		55	purchaser.

1	<b>(2) Transmittal</b>	27	<b>(iii)</b> A wire fence on sides where the adjacent properties are predominantly undeveloped; or
2	The application and any accompanying material shall be	28	
3	forwarded by the Clerk of the Council to the Office of the	29	<b>(iv)</b> A reduction in the fence requirements when the
4	Zoning Hearing Examiner.	30	property is, or abuts, properties zoned IE or IH.
5	<b>(3) Zoning Hearing Examiner Hearing Procedures</b>	31	<b>27-7402. Adult book stores</b>
6	The Zoning Hearing Examiner shall conduct a public hearing	32	<b>(a)</b> In order for a certified nonconforming adult bookstore
7	on the matter, in accordance with Section 27-3412,	33	and/or adult video store to continue, the requirements of
8	Evidentiary Hearing, of this Subtitle.	34	this Section shall be met (in addition to any other
9	<b>(4) Notice of Public Hearing</b>	35	applicable requirements of this Part).
10	The Zoning Hearing Examiner shall designate a date for the	36	<b>(b)</b> The purposes of this Section are:
11	public hearing and shall notify the applicant of the date.	37	<b>(1)</b> To protect children, who may be attracted to these
12	<b>(5) District Council Hearing (Oral Argument)</b>	38	establishments; and
13	<b>Procedures</b>	39	<b>(2)</b> To prevent or control detrimental effects upon
14	The District Council shall decide upon the application, in	40	neighboring properties, and existing and proposed land
15	accordance with the procedures for oral argument and	41	uses in the general area.
16	Council hearings contained in Section 27-3412, Evidentiary	42	<b>(c)</b> All certified nonconforming adult bookstores and/or adult
17	Hearing, of this Subtitle.	43	video stores shall meet the following requirements:
18	<b>(6) Criterial for Approval</b>	44	<b>(1)</b> All windows, doors, and other apertures shall be
19	<b>(A)</b> The application may only be approved:	45	blackened or obstructed so as to prevent anyone
20	<b>(i)</b> For a fixed temporary period of time, which may	46	outside the establishment from viewing its interior;
21	be renewed; and	47	<b>(2)</b> Advertising shall be limited to one (1) business sign, as
22	<b>(ii)</b> If the purposes of this Section are fulfilled.	48	provided for in Section Sec. 27-61500, Signage;
23	<b>(B)</b> In place of the fence, the Council may permit any	49	<b>(3)</b> The proprietor, owner, or personnel of the
24	of the following:	50	establishment shall prohibit access to the premises by
25	<b>(i)</b> Screening by natural objects;	51	any person who is under eighteen (18) years old; and
26	<b>(ii)</b> Plantings on sides not facing traveled roads;	52	<b>(d)</b> All adult bookstores and/or adult video stores have to
		53	obtain a use and occupancy permit as set forth in Section
		54	27-3608, Use and Occupancy Permit. In order to provide

1 for a reasonable standard of amortization and to prevent  
2 an unreasonable loss, all certified nonconforming adult  
3 uses may continue in operation until January 1, 2011, in  
4 accordance with the provisions of this Subtitle.

### 5 **27-7403. Eating or Drinking Establishments**

6 (a) In addition to being certified as a nonconforming use, an  
7 eating or drinking establishment permitting live  
8 entertainment or patron dancing, with hours of operation  
9 that extend beyond 11:00 P.M., and with parking abutting  
10 land used for residential purposes, except hotel lounges,  
11 may only continue subject to the requirements of this  
12 Section and to any other applicable requirements of this  
13 Part.

14 (b) The purpose of this Section is to prevent and control  
15 detrimental effects upon neighboring properties.

16 (c) All certified nonconforming eating or drinking  
17 establishments described in Subsection (a), above, shall  
18 meet the following requirements:

19 (1) A sight-tight fence or wall, at least six (6) feet in height,  
20 shall be located along the perimeter of all abutting  
21 residential property; and

22 (2) The property shall be maintained in accordance with all  
23 applicable provisions of the County Code.

### 24 **27-7404. Massage Establishments**

25 (a) In order for a certified nonconforming massage  
26 establishment to continue, the requirements of this  
27 Section shall be met (in addition to any other applicable  
28 requirements of this Part).

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(b) The purposes of this Section are:

(1) To protect children, who may be attracted to these establishments; and

(2) To prevent or control detrimental effects upon neighboring properties, and existing and proposed land uses in the general area.

(c) All certified nonconforming massage establishments shall meet the following requirements:

(1) All windows, doors, and other apertures shall be blackened or obstructed so as to prevent anyone outside the establishment from viewing its interior;

(2) Advertising shall be limited to one (1) business sign, as provided for in Section Sec. 27-61500, Signage;

(3) The proprietor, owner, or personnel of the establishment shall prohibit access to the premises by any person who is under eighteen (18) years old.

(d) In order to provide for a reasonable standard of amortization and to prevent an unreasonable loss, all certified nonconforming massage establishments may continue in operation until January 1, 1987, if properly licensed and in accordance with the provisions of this Subtitle. On or after that date, a massage establishment may only continue if a special exception for a massage establishment is approved in accordance with Section 27-3604 of this Subtitle.

### **27-7405. Mobile Homes and Trailer Camps (Mobile Home Parks)**

(a) In order for a nonconforming mobile home dwelling or trailer camp (mobile home park) to continue, the



1 requirements of this Section shall be met (in addition to 29  
2 any other applicable requirements of this Part). 30

3 **(b) Mobile Home Dwellings** 31

4 **(1)** A nonconforming mobile home used as a dwelling may 33  
5 continue, if the dwelling was legally in existence on 34  
6 November 24, 1975. 35

7 **(2)** A building permit may be issued for a mobile home to 36  
8 be used as a dwelling provided that: 37  
38

9 **(A)** The application for the permit was on file with 39  
10 the Department of Permitting, Inspections, and 40  
11 Enforcement on November 23, 1975; and 41

12 **(B)** All requirements applicable to the erection of a 42  
13 mobile home as of that date have been met. 43

14 **(3)** A mobile home dwelling erected pursuant to the above 44  
15 permit shall be deemed a certified nonconforming use 45  
16 provided that: 46

17 **(A)** Construction begins within six (6) months after 47  
18 the permit is issued; and 48

19 **(B)** Construction proceeds to completion in 49  
20 accordance with the permit. 50

21 **(c) Trailer Camps (Mobile Home Parks)** 51

22 **(1)** A trailer camp (mobile home park) legally in existence 52  
23 on November 24, 1975, shall be considered a 53  
24 nonconforming use. 54

25 **(2)** A trailer camp shall be deemed a certified 55  
26 nonconforming use if a special exception for the camp 56  
27 was approved by the District Council prior to November 57  
28 24, 1975.

**(3)** In the case of a trailer camp identified in paragraph (2),  
above, building permits may be issued for all structures  
shown on the site plan. In addition, building permits for  
buildings to be used for storage of maintenance  
equipment and supplies not shown on the site plan may  
be issued without the approval of a special exception to  
alter, enlarge, or extend a nonconforming use. These  
storage buildings shall be subject to the requirements  
applicable to main buildings in the zone in which the  
camp is located.

39 **27-7406. Pawnshops**

**(a)** In order for a certified nonconforming pawnshop to  
continue, the requirements of this Section shall be met (in  
addition to any other applicable requirements of this  
Part).

**(b)** The purposes of this Section are:

**(1)** To preserve, conserve, and facilitate the revitalization of  
historic and older communities;

**(2)** To control detrimental effects upon neighboring  
properties and existing and proposed land uses in the  
general area; and

**(3)** To provide appropriate siting of pawnshops to mitigate  
adverse effects on nearby residential and commercial  
areas.

**(c)** All certified nonconforming pawnshops shall meet the  
following requirements:

**(1)** The proprietor, owner, or personnel of the pawnshop  
establishment shall not transact business with any  
person who is under eighteen (18) years old;

1           **(2)** No parking of motor vehicles pledged as collateral shall  
2           be permitted on the subject property.

3           **(d)** In the event that a certified nonconforming pawnshop is  
4           relocated to another location, the certification shall cease.

### 5 **27-7407. Model Studios**

6           **(a)** In order for a certified nonconforming model studio to  
7           continue, the requirements of this Section shall be met (in  
8           addition to any other applicable requirements of this Part.

9           **(b)** The purpose of this Section is to prevent or control  
10          detrimental effects upon neighboring properties, and  
11          existing and proposed land uses in the general area.

12          **(c)** All certified nonconforming model studios shall meet the  
13          following requirements:

14               **(1)** Outdoor displays or advertising shall be limited to one  
15               (1) business sign, as provided for in Section Sec. 27-  
16               61500, Signage; and

17               **(2)** The proprietor, owner, or personnel of the  
18               establishment shall prohibit access to the premises by  
19               any person who is not yet eighteen (18) years old.

20          **(d)** In order to provide for a reasonable standard of  
21          amortization and to prevent an unreasonable loss, all  
22          certified nonconforming model studios may continue in  
23          operation until January 1, 1985, if properly licensed and in  
24          accordance with the provisions of this Subtitle. On or after  
25          that date, a model studio may continue only if a special  
26          exception for a model studio is approved in accordance  
27          with Section 27-3604, Special Exception, of this Subtitle.

## 28 **Sec. 27-7500 Nonconforming Structures –** 29 **Special Procedures**

### 30 **27-7501. Nonconforming Apartment Buildings**

31 The following procedures shall control and shall supersede all other  
32 zoning requirements for the legalization of the structures, site plans,  
33 and use of multifamily buildings located in the RMF-20 Zone,  
34 constructed pursuant to a validly issued building permit prior to  
35 1970, on land subdivided after November 1967, on a minimum of  
36 twenty-five (25) acres of land, and comprised of not more than fifty-  
37 six (56) buildings, with not more than six hundred (600) dwelling  
38 units.

39           **(a)** The applicant shall file the request with the Planning  
40           Board and shall submit the following:

41                       **(1)** An as-built site plan of the subject property;

42                       **(2)** A site plan depicting all proposed modifications to the  
43                       as-built site plan; and

44                       **(3)** A statement of justification supporting the applicant’s  
45                       request for a waiver by the District Council of specific  
46                       provisions of the Zoning Ordinance, including, but not  
47                       limited to, any required variances, departures, or  
48                       wavers.

49           **(b)** The Technical Staff shall review the applicant’s request  
50           and shall submit specific recommendations to the District  
51           Council or either the denial or approval of each of the  
52           requested waivers after making the following findings:

53                       **(1)** That the waiver is essential to the revitalization or  
54                       redevelopment of a deteriorated or obsolescent  
55                       multifamily project; and

1 (2) That the project serves a public need and is a benefit to  
2 the citizens and the property in the surrounding  
3 neighborhood.

4 (c) Within thirty (30) days after receipt of the Staff's  
5 recommendations, the District Council shall conduct a  
6 public hearing on the request. The property shall be  
7 posted at least ten (10) calendar days prior to the hearing.  
8 The hearing shall also be advertised for two (2)  
9 consecutive weeks prior thereto in the County  
10 newspapers of record. The District Council, after making  
11 the above required findings, may grant any of the waivers  
12 requested, thus legalizing a portion or all of a particular  
13 structure or use on the subject property. Approval of such  
14 a waiver shall not confer certification of nonconforming  
15 use status upon the subject property.

## 16 Sec. 27-7600 Nonconforming Lots of 17 Record

18 Nonconforming lots recorded prior to the effective date of this  
19 Ordinance shall be subject to the provisions applicable to  
20 "Nonconforming Lots" set forth within the prior Zoning Ordinance,  
21 being also Subtitle 27, Prince George's County Code (2015 Ed., 2017  
22 Supp.).

## 23 Sec. 27-7700 Nonconforming Signs

### 24 27-7701. Alteration

25 Nonconforming signs (including outdoor advertising signs) may be  
26 maintained, structurally altered, expanded, repaired, replaced, or  
27 relocated in conformance with this Part and the standards in Section  
28 Sec. 27-61500, Signage, or Section Sec. 27-7100, General  
29 Requirements and Procedures. **Error! Reference source not found.**

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### 30 27-7702. Illegal Signs

31 Illegal signs shall be removed, or made to conform to the standards  
32 in Section Sec. 27-61500, Signage, by the owner or user of the sign,  
33 or by the owner of the premises upon which it is located. Signs for  
34 which the District Council has validated a permit issued in error (see  
35 Section 27-3615, Validation of Permit Issued in Error) are not subject  
36 to this requirement.

### 37 27-7703. Signs for Nonconforming Businesses in 38 Rural and Agricultural and Residential 39 Zones

40 When a use and occupancy permit has been issued for a certified  
41 nonconforming commercial or industrial use of property in a Rural  
42 and Agricultural or Residential zone, or land proposed to be used for  
43 residential purposes on an approved detailed site plan, signs may be  
44 permitted on the property. These signs shall be regulated by the  
45 same provisions as those for the least intensive commercial or  
46 industrial zone in which the use is normally allowed.

## 47 Sec. 27-7800 Other Nonconformities

### 48 27-7801. Purpose

49 This Section protects existing nonconforming rights for site elements  
50 such as parking and loading areas.

### 51 27-7802. Continuance of Other Nonconformities

52 Other nonconformities may be continued subject to the following  
53 limitations:

- 54 (a) No action shall be taken that increases the degree or  
55 extent of the nonconforming site element. Any  
56 enlargement, extension or structural alteration of the

Zoning Ordinance

27-7—23

1 nonconforming site element shall conform to all 28  
 2 requirements of this Ordinance. 29  
 3 (b) For development existing prior to \_\_\_ [insert the effective 30  
 4 date of new Zoning Ordinance], or for which a vested right 31  
 5 is established, other nonconformities created by a change 32  
 6 in regulations may continue to exist, and structures with 33  
 7 those nonconforming features may be reconstructed if 34  
 8 they are demolished or destroyed. 35

9 **27-7803. Exclusion of Previously Existing Uses**

10 Any legally existing use that complies with the previous requirements  
 11 for parking and loading areas (in effect at the time the use began)  
 12 shall not be required to comply with the provisions of this Part. If the  
 13 use is a certified nonconforming use, the parking lot or loading area  
 14 used with it shall not be reduced, except in accordance with this Part.

15 **27-7804. Certificate of Nonconforming Use**

16 (a) **General**

17 This Section provides a uniform mechanism for the review and  
 18 certification of all nonconforming uses under this Ordinance.

19 (b) **Applicability**

20 (1) Unless exempted in accordance with Section 27-7101(b)  
 21 certification of a nonconforming use under this  
 22 Ordinance may only be approved in accordance with the  
 23 procedures and standards of this Section, prior to its  
 24 development or redevelopment.

25 (2) The following development is exempted from the  
 26 requirements of this Subsection:

27 (A) Nonconforming structures;

(B) Nonconforming signs;

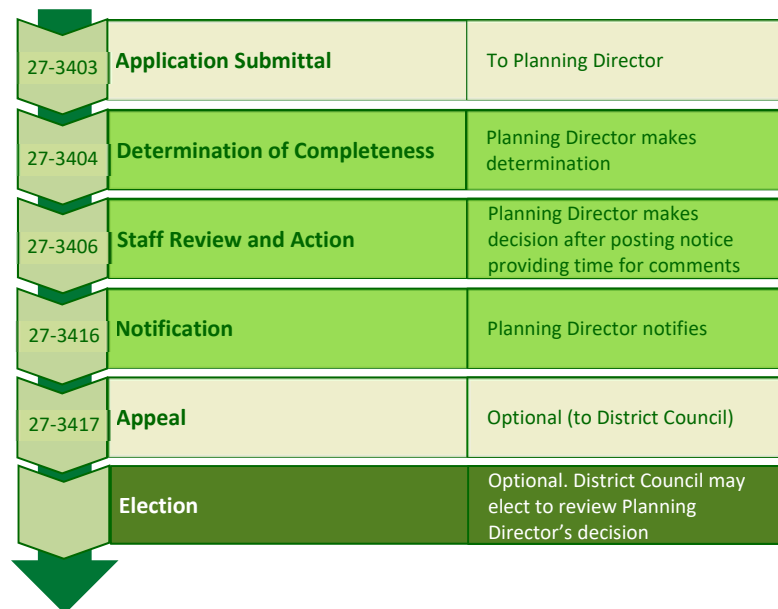
(C) Nonconforming lots of record;

(D) Other nonconformities pursuant to Section Sec. 27-7800.

(c) **Certification of Nonconforming Use Procedure**

This Subsection identifies additions or modifications to the standard review procedures in Section Sec. 27-3400, Standard Review Procedures, that apply to applications to certify a nonconforming use. Figure below identifies key steps in the certification procedure.

38 **Figure Section 27-7804: Certification of Nonconforming Use**  
 39 **Procedure (Illustrative)**



40

1	<b>(1) Application Submittal</b>	30
2	See Section 27-3403, Application Submittal. Applications	31
3	for a certification of nonconforming use shall be submitted	32
4	to the Planning Director. This application shall include:	33
5	<b>(A)</b> Documentary evidence, such as tax records,	34
6	business records, public utility installation or	35
7	payment records, and sworn affidavits, showing	36
8	the commencing date and continuous existence	37
9	of the nonconforming use;	38
10	<b>(B)</b> Evidence that the nonconforming use has not	39
11	ceased to operate for more than 180 consecutive	40
12	calendar days between the time the use became	41
13	nonconforming and the date when the	42
14	application is submitted, or that conditions of	43
15	nonoperation for more than 180 consecutive	44
16	calendar days were beyond the applicant's	45
17	and/or owner's control, were for the purpose of	46
18	correcting Code violations, or were due to the	47
19	seasonal nature of the use;	48
20	<b>(C)</b> Specific data showing:	49
21	<b>(i)</b> The exact nature, size, and location of the	50
22	building, structure, and use;	51
23	<b>(ii)</b> A legal description of the property; and	52
24	<b>(iii)</b> The precise location and limits of the use on the	53
25	property and within any building it occupies.	54
26	<b>(D)</b> A copy of a valid use and occupancy permit	55
27	issued for the use prior to the date upon which it	56
28	became a nonconforming use, if the applicant	57
29	possesses one.	58
		59
		60

In the case of outdoor advertising signs, the requirements above are not applicable. Instead, documentary evidence, including, but not limited to deeds, tax records, business records, approved plats or development plans, permits, public utility installation or payment records; photographs; and sworn affidavits, showing that the outdoor advertising sign was constructed prior to and has operated continuously since January 1, 2002, shall be provided.

### **(2) Determination of Completeness**

See Section 27-3404, Determination of Completeness. The Planning Director determines whether the application is complete.

### **(3) Staff Review and Action**

See Section 27-3406, Staff Review and Action.

- (A)** In addition, and before the Planning Director makes a decision on the application, the applicant shall post the property subject to the application with a durable sign(s) that can be readily seen from any existing public right-of-way(s) adjoining the property, within ten days of determining the application is complete. The sign(s) shall provide notice of the application, the nature of the nonconforming use for which the certification is sought, a date, at least 20 days after posting, by which written comments and/or supporting documentary evidence relating to the commencing date and continuity of such nonconforming use will be received and accepted from the public by the Planning Director, and instructions for obtaining additional information about the application.

1	<b>(B)</b> After staff review and evaluation of the	30	application for a certification of nonconforming
2	application, notice of the application is posted in	31	use, by filing a notice of appeal with the Clerk of
3	accordance with this subsection and sufficient	32	the Council within 30 days of the Planning
4	time has lapsed for receipt of comments from	33	Director's mailing of the decision.
5	the public on the application, the Planning	34	
6	Director shall make a decision on an application	35	<b>(B)</b> In addition, the District Council may, on its own
7	in accordance with the standards of this Parts 3	36	motion, elect to review the Planning Director's
8	and 7 of this Subtitle. The decision shall be one	37	decision on the certificate of nonconforming
9	of the following:	38	use, within 30 days of the mailing of notice of
10	<b>(i)</b> Approve the application as submitted; or	39	the Planning Director's decision.
11	<b>(ii)</b> Disapprove the application.	40	
12	<b>(C)</b> If the application is denied, a written statement	41	<b>(C)</b> The Planning Director shall immediately transmit
13	shall be included with the application stating the	42	to the District Council after the appeal or election
14	reasons why the application does not comply	43	review is filed, the application and all written
15	with the decision standards.	44	materials and other evidence related to its
16	<b>(D)</b> Following the decision, the Planning Director	45	review, and any additional information or
17	shall notify the District Council of the decision.	46	explanatory material deemed appropriate. This
18	Electronic notice of the decision for certification	47	shall constitute the record on appeal or election
19	shall also be made by the Planning Director not	48	review.
20	later than 7 calendar days after the date of the	49	
21	decision. The Planning Director shall also publish	50	<b>(D)</b> The Clerk of the Council shall schedule and
22	the development activity report on the Planning	51	provide notice of a public hearing on the appeal
23	Department's website.	52	to the appellant, the applicant, and any persons
24	<b>(4) Notification</b>	53	of record a minimum of 30 days before the date
25	See Section 27-3416, Notification.	54	of the hearing.
26	<b>(5) Appeal and Election</b>	55	
27	Optional (see Section 27-3417, Appeal).	56	<b>(E)</b> The District Council shall hold a hearing in
28	<b>(A)</b> The applicant or any aggrieved person may	57	accordance with Section 27-3412, Evidentiary
29	appeal the Planning Director's decision on an	58	Hearing, within a reasonable period of time after
		59	the filing of the notice of appeal. Within 60 days
		60	after the close of the hearing, the District Council
			shall render a final decision based on the
			standards in subsection 11.f., below. The District
			Council shall provide its decision in writing,
			stating the reasons for its action.

1	(F) The District Council may modify or reverse the	23	being, or has been exercised contrary to the
2	decision of the Planning Board on appeal or	24	terms or conditions of such approval shall be
3	election review if the decision is not supported	25	grounds for revocation proceedings in
4	by substantial evidence, is arbitrary and	26	accordance with this Subsection.
5	capricious, or is predicated on an error of law.	27	
6	(G) The Clerk of the Council shall mail copies of the	28	(C) <b>Revocation of Certification</b>
7	decision to all persons of record and the Planning	29	(i) Upon an application filed by the DPIE Director, or
8	Director, within a reasonable period of time after	30	upon its own motion, the District Council may
9	the decision.	31	conduct a public hearing to determine whether
10	(6) <b>Post-Decision Actions</b>	32	an approved certification of a nonconforming
11	(A) Development of the land subject to a	33	use should be revoked. The landowners subject
12	certification of nonconforming use shall comply	34	to the potential revocation and all persons of
13	with the approved certification of	35	record shall be given notice of the hearing by the
14	nonconforming use, and all other relevant	36	Clerk of the Council within a reasonable period
15	provisions of this Ordinance.	37	of time prior to the hearing. The District Council
16	(B) Following certification of nonconforming use,	38	shall revoke the certification if it finds that
17	the applicant shall file an application for a use	39	either:
18	and occupancy permit identifying the use as	40	(aa) There was fraud or misrepresentation in
19	nonconforming. Any person making use of or	41	obtaining the certification; or
20	relying upon the certification that is violating or	42	A certified nonconforming use has been discontinued for a period of
21	has violated any conditions thereof, or that the		180 or more consecutive days, unless the conditions of
22	use for which the certification was granted is		
43			

