

CHAPTER 12. NONCONFORMING USES AND NONCOMPLYING STRUCTURES

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9-12-1: Purpose.

The purpose of this chapter is to govern and regulate continuance, abandonment, alteration and repair of nonconforming uses and noncomplying structures. The general intent of this chapter is to 1) allow for indefinite continuation of completed structures and legally vested uses that are contained within a completed structure that become noncompliant or nonconforming due to subsequent ordinance changes and 2) allow for the continuation of legally vested uses that become nonconforming due to subsequent ordinance changes when the use is not contained within a structure, only so long as the use is not abandoned for more than a year.

9-12-2: Noncomplying Structures and Contained Nonconforming Uses.

Any structure built in accordance with County Ordinance and Utah State law in effect at the time of construction shall be unaffected by future additions or modifications to County Ordinances made effective after the time that the structure is completed. Said structures shall be referred to as noncomplying structures. Any use that is contained wholly or substantially within a structure shall also be unaffected by future additions or modifications to County Ordinances made effective after the time that the structure is completed so long as the use was allowed, or not prohibited, by County Ordinance at the time the use was initiated. Said uses shall be referred to as contained nonconforming uses.

9-12-3: Noncomplying Structure Additions and Enlargements.

A noncomplying structure may be added to or enlarged in any manner so long as the additions and enlargements are made to conform to all current County Ordinances. The Land Use Authority may waive specific building code requirements if recommended by the building official after application is made by the land owner.

9-12-4: Noncomplying Structure Repairs and Structural Alterations.

A noncomplying structure may be repaired so long as the repair does not alter the safety and structure of the building. A noncomplying structure may be altered or modified structurally so long as the alterations or modifications comply with current County building code requirements. The Land Use Authority may waive specific building code requirements if recommended by the building official after application is made by the land owner.

9-12-5: Alterations Where Parking is Insufficient.

A building or structure lacking sufficient automobile parking space as required by this Ordinance may not be altered or enlarged unless additional automobile parking space is supplied to meet the requirements of this Ordinance.

9-12-6: Restoration of Damaged Structures.

A noncomplying structure or the structure of a contained nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake, or other calamity or Act of God or the public enemy, may be restored and the occupancy or use of such structure or part thereof, which was existing at the time of such damage or destruction, may be continued or resumed provided that such restoration is started within a period of one year and is diligently pursued to completion.

9-12-7: Nonconforming Use of Land.

Any use not contained substantially within a structure, which was allowed, or not prohibited by county ordinance at the time the use was initiated may continue so long as the use is not abandoned. Abandonment shall be governed by Utah State Code. Nonconforming uses shall not be enlarged or extended on the same or adjoining piece of land.

9-12-8: Presumption of Existence.

For purposes of this chapter any noncomplying structure is presumed to be in compliance with the ordinance and law in effect at the time of completion. Completion may be established by a completed building permit or certificate of occupancy or any other documentation sufficient to show that the construction of the structure was complete. For purposes of this chapter any contained nonconforming use is presumed to exist 1) at the time of completion of the structure associated with the use if the purpose of the structure was for the contained nonconforming use and the use was allowed or not prohibited at the time of completion; or 2) at the time the use was initiated. Initiation of a contained nonconforming use may be established by any evidence sufficient to show that the use was initiated. The property owner shall have the burden of establishing other nonconforming uses without the benefit of a presumption.

9-12-9: Occupation Within One Year.

An existing vacant structure or parcel of land may be occupied by a nonconforming use for which the structure was designed or intended if so occupied within a period of one year after the intended use became or becomes nonconforming. This section shall be considered an additional means of establishing a nonconforming use. This section shall not be construed as to further restrict any other section in this chapter. Specifically, this section does not put a time restriction on the rights afforded under any other section in this chapter.

9-12-10: Change of Use.

The nonconforming use of a structures or land may be changed to a conforming use. A contained nonconforming use may be reinitiated at any time after discontinuation. Other nonconforming uses shall not thereafter be reinstated if abandoned, intentionally discontinued or changed to a conforming use.

9-12-11: Expansion Permitted.

A contained nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.