



BOUNTIFUL

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Notice Regarding Nonconforming Uses and Noncomplying Structures

Issued By: Arie Jensen; Director of Planning and Economic Development
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To Whom It May Concern,

In the 2007 General Session, the Utah State Legislature passed legislation regarding the reconstruction of legal nonconforming uses and legal noncomplying structures. Those requirements in their entirety are found in 10-9a-511 of the Utah State Code. For your convenience, the applicable portions of that Section are attached to this letter. In addition, the applicable portions of the Bountiful City Land Use Ordinance are also attached.

As a general policy, Bountiful City, Utah, does not issue "rebuild letters", "zoning compliance letters", or any other document of similar nature. It is the responsibility of each property owner to maintain a copy of any building permit, conditional use permit, and/or any other approval issued by the City or its authorized agent. Furthermore, it is the responsibility of each property owner to maintain his/her property in compliance with City Ordinances and any conditions required at the time of approval.

The City has electronic copies of building permits dating as far back as 1991. Permit information can be obtained by contacting the Bountiful City Engineering Department at (801) 298-6125. Permits issued prior to 1991 must be manually researched, and a fee will be charged based on the time and cost required to locate the requested information. Most construction plans are kept on file one year from the time of completion, and then returned to the property owner. Any unclaimed plans are destroyed.

The minutes for all public meetings are kept on file at City Hall. For copies of City Council minutes, contact the City Recorder at (801) 298-6100. For copies of Planning Commission, Board of Adjustment, and Administrative Committee minutes, and for general information, contact the Department of Planning and Economic Development at (801) 298-6190.

Selected Excerpts from Utah State Code

10-9a-511. Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(c) has not in fact occurred.

(5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Amended by Chapter 171, 2007 General Session

CHAPTER 2

ADMINISTRATION AND PROCEDURES

PART 4 - NONCONFORMING USES AND NON-COMPLYING SITES/BUILDINGS

- 14-2-401 DEFINITIONS
- 14-2-402 CONTINUATION OF NONCONFORMING USE AND NONCOMPLYING STRUCTURES
- 14-2-403 EXPANSION OF NONCONFORMING USE AND NONCOMPLYING STRUCTURE
- 14-2-404 ABANDONMENT OF NONCONFORMING USE
- 14-2-405 RESTORATION AFTER INVOLUNTARY DESTRUCTION
- 14-2-406 NO RESTORATION AFTER DETERIORATION OR VOLUNTARY DESTRUCTION
- 14-2-107 BURDEN OF PROOF
- 14-2-108 SCHOOLS

14-2-401 DEFINITIONS

- A. "Noncomplying structure" means a structure that:
- (1) legally existed before its current land use designation; and
 - (2) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations which govern the use of land.
- B. "Nonconforming use" means a use of land that:
- (1) legally existed before its current land use designation;
 - (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
 - (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

14-2-402 CONTINUATION OF NONCONFORMING USE AND NONCOMPLYING STRUCTURES

Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

14-2-403 EXPANSION OF NONCONFORMING USE AND NONCOMPLYING STRUCTURE

A nonconforming use may not be expanded, except that it may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of

the extension. For purposes of this subsection, the addition of a solar energy device to a building is not a structural alteration.

14-2-404 ABANDONMENT OF NONCONFORMING USE

Land loses its nonconforming use status if the termination of a nonconforming use is abandoned. Abandonment automatically occurs if the nonconforming use of the land ceases for any reason for a period of one year or longer.

14-2-405 RESTORATION AFTER INVOLUNTARY DESTRUCTION

Except as provided in subsection B below, a noncomplying structure or nonconforming use of a structure may be reconstructed or restored after an involuntarily destruction in whole or in part due to fire or other calamity, unless the structure or use has been abandoned.

14-2-406 NO RESTORATION AFTER DETERIORATION OR VOLUNTARY DESTRUCTION

Reconstruction or restoration of a noncomplying structure is prohibited, or the nonconforming use of a structure is terminated, if:

- A. The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or
- B. The property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

14-2-107 BURDEN OF PROOF

- A. The property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.
- B. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
 - (1) Abandonment may be presumed to have occurred if:
 - (a) A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;
 - (b) The use has been discontinued for a minimum of one year; or
 - (c) The primary structure associated with the nonconforming use remains vacant for a period of one year.

- (2) The property owner may rebut the presumption of abandonment, and shall have the burden of establishing that any claimed abandonment has not in fact occurred.

14-2-108 SCHOOLS

The nonconforming status of a school district or charter school use or structure is terminated when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period of one year or longer.