

**Chapter 19.88
NONCOMPLYING BUILDINGS
AND NONCONFORMING USES**

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19.88.010 Continuation of use.

The occupancy of a noncomplying building or structure, or a building or structure by a nonconforming use, existing at the time this title became effective, may be continued by the present or a future property owner. The definitions of “noncomplying building” and “nonconforming use” shall be as provided in UTAH CODE ANN. §10-9a-103, as amended.

19.88.020 Occupation within one year.

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became nonconforming.

19.88.030 Maintenance permitted.

A noncomplying building or structure may be maintained.

19.88.040 Repairs and alterations permitted.

Repairs and structural alterations may be made to a noncomplying building or to a building housing a nonconforming use.

19.88.050 Addition of parking space.

A building or structure lacking sufficient automobile parking space for a legal use under this title may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of this title for such alteration or enlargement.

19.88.060 Expansion of use permitted.

A nonconforming use may be extended through the entire existing building in which it is conducted at the time the use became nonconforming, provided no structural alteration is proposed or made for purpose of the extension. The addition of a solar energy device is not a structural alteration under this section.

19.88.070 Additions, enlargements, moving and reconstruction of building.

A. A building occupied by a nonconforming use and a building noncomplying as to height, area or yard regulations shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.

B. A building occupied by a nonconforming use or a building

noncomplying as to height, area or yard regulations may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the appeals hearing officer, provided that the appeals hearing officer, after the hearing, shall find:

1. The addition to, enlargement of, moving of, or reconstruction of the noncomplying building at a new location on the lot will be in harmony with one or more of the purposes stated in section 19.02.020, and shall be in keeping with the intent of this title;

2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or noncomplying building.

C. The appeals hearing officer shall have the same authority concerning additions, enlargements and moving of noncomplying structures as with noncomplying buildings, but shall not have the authority to allow reconstruction of noncomplying structures at a new location on the lot.

19.88.080 Nonconforming use of land.

The nonconforming use of land, existing at the time this title became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provision of this title.

19.88.090 Change of use.

A. A nonconforming use may be changed to any use allowed in the most

restrictive zone where such nonconforming use is allowed, provided the planning commission finds that such use would not be more intensive than the most recent existing legal nonconforming use.

B. Noncomplying buildings, or buildings housing a nonconforming use, shall not be enlarged, removed, reconstructed or otherwise changed except for interior remodeling and exterior restoration or renewal that will make the appearance of the building more nearly conform to the character of the area in which it is located.

C. The existing lot or parcel shall not be enlarged upon or modified except to create landscaping, fencing, curb, gutter and sidewalk, road widening or minimum off-street parking that will provide a safer and more compatible facility.

D. Any change of a nonconforming use to another nonconforming use shall be a conditional use and subject to chapters 19.78, "Supplementary and Qualifying Regulations," and 19.84, "Conditional Uses," except that the proposed nonconforming use need not conform to the city's general plan.

E. The planning commission may approve a change of use pursuant to this title even though the nonconforming use may have been abandoned under the provisions of section 19.88.130.

19.88.110 Restoration of damaged building.

A noncomplying building or structure, or a building or structure occupied by a 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 building, structure or part thereof, which existed at the time of such damage or

destruction may be continued or resumed, provided that:

A. The structure has not been 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.

19.88.120 One-year vacancy.

A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

19.88.130 Abandonment.

A nonconforming use that has been abandoned shall be deemed to be terminated. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment under the standards specified in UTAH CODE ANN. §10-9a-511, as amended.

19.88.140 Application to have a use violation declared a non-conforming use.

A. Whenever land or a structure is used in violation of this title, the owner may file an application with the planning commission to have the use declared

nonconforming. The planning commission may approve such an application only when the evidence establishes all of the following:

1. The use exists on the property at the time of the application and has been in continuous violation of the zoning ordinance for a period exceeding five years;

2. No complaint has been made to the department concerning the violation for a period exceeding five consecutive years during which the violation existed;

3. Continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity.

B. In approving an application hereunder, the planning commission may set any conditions it deems necessary for protection of adjacent properties or the public welfare including provisions limiting the period of time the use may continue. This section shall in no way be interpreted to permit the continuation of any violation which exists on the effective date of the ordinance codified in this section. Any person shall have the right to appeal to the appeals hearing officer a decision rendered by the planning commission pursuant to this section.

19.88.150 Termination.

A. The city council may provide by ordinance for the termination of a nonconforming use, 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.

B. The city council may terminate the nonconforming status of a school district or charter school use or structure with 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.