Chapter 17.12
GENERAL PROVISIONS

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17.12.010      Intent.

The intent of this chapter is to accumulate provisions applying to all land and building within the incorporated area of the City into one chapter rather than to repeat them several times. (Ord. 10-15, 2010)

17.12.020      Special exceptions--Generally.

Sections 17.12.030 through 17.12.100 are to be decided by the Zoning Administrator with appeal to the hearing officer. (Ord. 10-15, 2010)

17.12.030      Nonconforming uses and non-complying buildings.

A. Applicability. These provisions apply only to legal, nonconforming uses and non-complying structures, and do not apply to illegally established nonconforming uses and non-complying structures. No use may be
considered a legally existing nonconforming use under the provisions of this chapter if the use was never lawfully established.

B. **Nonconforming Status.** The use of land, use of a structure, or a structure itself shall be deemed to have nonconforming status when all of the following conditions are satisfied:

1. The use or structure does not conform to the regulations prescribed in the district in which such use or structure is located and was in existence and lawfully constructed, located and operating prior to, and at the time of, the event that made such use or structure nonconforming.

2. The event that made such use or structure nonconforming was one of the following: annexation into the City; adoption of this code or a previous zoning ordinance, or, amendment of this code or a previous zoning ordinance.

3. The nonconforming use or the use occupying the non-complying structure has been operating since the time that the use or structure first became non-complying without abandonment, as abandonment is defined in Section 17.12.060. (Ord. 10-15, 2010)

**17.12.040 Continuation and expansion.**

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

A. 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. Installation of solar energy devices to a building is not a structural alteration.

B. A non-complying building or structure or nonconforming use of land may be continued to the same extent and character as that which legally existed on the effective day of the applicable regulations.

C. A nonconforming structure may not expand. A nonconforming structure may be allowed to reconstruct a portion of the building subject to the conditions established in Section 17.12.040 of this code.

D. Allowed dwellings that are nonconforming as to the required minimum building square footage at the time of the adoption of the ordinance codified in this chapter, shall be allowed to construct additions, expansions, and remodels without having to come into full compliance with the minimum square footage requirement. In any case, such addition, expansion or remodel shall in all other ways fully comply with the requirements of the zoning district. (Ord. 10-15, 2010)
17.12.050 Damaged building restoration.

A. The following changes or alterations may be made to a nonconforming building provided that such changes or alterations do not exceed fifty percent of its assessed valuation, excluding the value of the land, for tax purposes at such date unless such building or structure is changed to a conforming use.

1. Repairs may be made to a non-complying building or to a building housing a nonconforming use that has been officially declared unsafe to restore it to a safe condition. All structural alterations shall be made as required by law or as established by a health or safety official. No further expansion or change in use can be undertaken contrary to the provisions of this title unless a health or safety official, acting in his official capacity, requires such increase or expansion. Such expansions shall be limited to that which is required to comply with the minimum requirements.

2. Maintenance repairs may be made to a non-complying building to maintain an acceptable condition of a building.

3. Any structural alterations that would not increase the degree of nonconformance or which would change the use to a conforming use.

B. If a nonconforming structure or a structure occupied by a nonconforming use is destroyed by fire, the elements or other cause, it may be rebuilt to conform to the provisions of this code except as follows:

1. In the case of partial destruction of a structure occupied by a nonconforming use not exceeding fifty percent of its replacement value, reconstruction may be permitted subject to the following standards:

   a. The size and function of the nonconforming use shall not be expanded; and

   b. Work on the restoration of the use must begin within twelve months of the time of the calamity.

2. A residential structure that is destroyed fifty percent or more of its replacement value and is nonconforming only because it does not meet the minimum required dwelling unit floor area, may be reconstructed subject to the following standards:

   a. The replacement residential structure may be the same size or it may be larger than the destroyed structure provided that the new structure conforms with all other requirements of the zone district; and

   b. The replacement residential structure conforms to all adopted building codes, including but not limited to: currently adopted city construction codes;

   c. All manufactured housing must comply with the requirements of this code. (Ord. 10-15, 2010)
17.12.060 Discontinuance or abandonment.

A. Any nonconforming use that is discontinued for, or non-complying structure that remains vacant for a period of one year, shall be considered to have been abandoned. Any nonconforming use that is moved from the premises shall be considered to have been abandoned.

1. Whenever a nonconforming use or a conforming use in a nonconforming structure is abandoned, all nonconforming rights shall immediately cease and the use of the premises shall henceforth conform to this code. Abandonment shall involve the actual act of discontinuance, regardless of the intent of the user or owner to discontinue a nonconforming operation.

2. A nonconforming use shall not be transferred or moved from another location unless the use will be in conformance with the zoning regulations of the zone into which it is moved.

3. No accessory use to a primary nonconforming use may continue after the primary nonconforming use has been abandoned. (Ord. 10-15, 2010)

17.12.070 Change to another nonconforming use prohibited.

A nonconforming use shall not be changed to another nonconforming use. (Ord. 10-15, 2010)

17.12.080 Nonconforming lots.

A. General. A single-household dwelling and customary accessory buildings may be developed on a lot that fails to meet the minimum area and width dimensions for one-household dwellings as required by the underlying zone district and was an official “lot of record” prior to January 1, 1975, if:

1. The “lot of record” is in separate ownership or contiguous to lots in the same ownership; and

2. The proposed single-household dwelling can be located on the lot so that the yard, height, and other dimensional requirements of the underlying zone district can be met, or a variance is obtained from said dimensional requirements pursuant to Chapter 17.72 of this code.

Dwellings are permitted in the zone.

B. Undivided Lot. If two or more lots or combinations of contiguous lots in a single ownership (including husband and wife as, in all cases, a single owner) are of record since January 1, 1975, regardless of time of acquisition, on all or parts of the lots which do not meet the requirements established for lot width and area, the lots shall be considered an undivided parcel, and no portion shall be used or occupied which does not meet the width and area requirements of this code. Yard dimensions and other requirements not involving area or width
shall conform to the regulations of the zone in which the lot is located, except when granted a variance by the hearing officer.

C. **Lot Reduction.**

1. No lot or interest therein shall be transferred, conveyed, sold or subdivided so as to create a new nonconforming lot, to avoid, circumvent or subvert any provision of this code, or to leave remaining any lot in violation of the dimensional requirements of this code.

2. No lot or portion of a lot required as a building site under this code shall be used as a portion of a lot required as a site for another structure.

3. No building permit shall be issued for any lot or parcel of land which has been conveyed, sold, or subdivided in violation of this subsection. Any transferee who acquires a lot in violation of this subsection without knowledge of such violation, and any subsequent transferee, shall have the right pursuant to Utah law to rescind and/or receive damages from any transferor who violates the provisions of this paragraph. (Ord. 19-13 §§ 6, 7, 21 (part), 2019; Ord. 10-15, 2010)

### 17.12.090 Establishment, abandonment and miscellaneous requirements.

A. A property owner shall have the burden of establishing the legal existence of a non-complying structure or a nonconforming use.

B. The City or any party claiming a nonconforming use has been abandoned shall have the burden of establishing the abandonment. Abandonment shall be presumed to have occurred if:

1. A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the City regarding an extension of the nonconforming use;

2. The nonconforming use has been discontinued for a minimum of one year;

3. The non-complying primary structure associated with the nonconforming use remains vacant for a period of one year; or

4. The nonconforming use has been replaced by a conforming use.

C. The property owner may rebut the presumption of abandonment under subsection B of this section and shall have the burden of establishing that any claimed abandonment under subsection B of this section has not in fact occurred. (Ord. 10-15, 2010)
17.12.100 Owner-occupied mobile home.

A. An owner-occupied mobile home constituting a non-complying building in its present location may be removed by the owner and replaced by a manufactured home within ninety days and so continue as a non-complying building, providing the manufactured home replacing the one formerly removed be located within the minimum setbacks as required by the zoning district for residential use in that zoning district, and providing it is a newer model and an improvement and manufactured after June 16, 1976, in accordance with the standards adopted pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 and stamped approved by HUD (S 54026) and contains the State Insignia of Approval. Mobile homes that have existed in the City prior to the adoption of the ordinance codified in this section may be moved to another mobile home park or subdivision within the City as long as minimum safety standards and applicable laws are met and approved by the City building official. (Ord. 10-15, 2010)

17.12.110 Prohibition of reconstruction or restoration of a non-complying structure.

A. In accordance with UCA 10-9a-511(3), the City may, at its discretion, prohibit the reconstruction or restoration of a non-complying structure or termination of the nonconforming use of a structure if:

1. 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 non-complying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

2. The property owner has voluntarily demolished a majority of the non-complying structure or the building that houses the nonconforming use. (Ord. 10-15, 2010)

17.12.120 Annexations.

All land hereafter annexed to the City shall conform to the Utah State Local Boundary Commissions Act of 1979. (Prior code § 27-4-4)

17.12.170 Policy pertaining to flag-shaped or panhandle lots.

Flag-shaped or panhandle lots shall be permitted in any subdivision where required by the configuration of land boundaries or terrain dictates such lot shape, but under no circumstances shall such lot shape be utilized as a standard or repetitious pattern in a subdivision.
Flag-shaped or panhandle-shaped lots may be created in any residential zone if all of the following requirements are met:

A. The lot has at least twenty feet of frontage on a dedicated public street, which frontage serves as access only to the subject lot or parcel;

B. The handle portion of the lot is at least twenty feet in width, and not more than one hundred fifty feet in length;

C. The lot meets the lot area and lot width requirements of the applicable zone.

D. Setbacks for structures on a flag lot shall be those as applied to any other standard lot in the underlying zone.

   1. Setback exception: Single-story dwellings constructed on flag lots may be constructed to within five feet of the side lot line adjacent to the pole side of the lot. (Ord. 18-06 (part), 2018: Ord. 10-79 (part), 1979: prior code § 27-4-7)

17.12.180 Height restrictions of buildings.

A. No lot or parcel shall have a building or structure which exceeds a height of three stories and is to be no more than forty feet, measured as defined in Chapter 17.06.

B. Antennas, chimneys, flues, vents, or similar structures may extend up to ten feet above the forty-foot height limit, except as may be specifically authorized by the building codes and building inspector for safety requirements and special conditions. In no case shall the parapet wall of a flat roof extend more than two feet above the maximum height limitation.

C. Church spires, bell towers, and like architectural features may extend over the specified maximum height limit by up to fifty percent of the height limit, but shall not contain any habitable spaces above the forty-foot maximum height limit. (Ord. 19-13 § 8, 2019; Ord. 91-13, 1991)

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