

# LINDON CITY CODE

## Chapter 17.16

### NONCONFORMING BUILDINGS

#### AND USES

##### Sections:

17.16.010	Purpose and Intent.
17.16.020	Definitions.
17.16.030	Amendments, additions, enlargements and moving of nonconforming parcels or uses.
17.16.040	Alteration where parking is insufficient.
17.16.050	Restoration of damaged buildings.
17.16.060	Loss of legal Nonconforming Status.
17.16.070	Determination of Nonconforming Status.
17.16.080	Listed Historic Structure.
17.16.090	Provisions to applicable public nuisances.
17.16.100	Noticing
17.16.110	Alterations to comply with code
17.16.120	School District Property
17.16.130	Amortization

##### Section 17.16.010 Purpose and Intent.

In the zones established by this title or amendments that may later be adopted, there exist lots, buildings and structures, and uses of lots, buildings and structures, which were lawful before this title was passed or amended but which would be prohibited, regulated or restricted under the terms of this title or future amendment. The City Council declares that nonconforming buildings, structures and uses are generally incompatible with permitted uses, conditional uses and conforming buildings and structures in the zones involved. Being such, nonconforming buildings, structures and uses shall not be enlarged, modified, moved or otherwise changed, except as provided herein. (Ordinance 2005-5, Amended 02/01/05, Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1(part), 1985; prior code §12-105-1.)

##### Section 17.16.020 Definitions.

In addition to the definitions set forth in chapter 17.02 of this title, the following definitions shall apply for purposes of this chapter:  
“Change of Use” means a change from one land

use to another land use on a different line in the land use charts or as per the comparability standard as found in Appendix A of the Standard Land Use Table of the Lindon City Code.

“Nonconforming building or structure” means a building or structure which does not comply with height, setback, coverage or other requirements established by Lindon City Code, but which complied with the requirements and/or regulations in existence at the time of the construction of the building or structure.

“Nonconforming lot” means a lot which does not comply with lot area, lot dimension, lot coverage, lot improvement and maintenance requirements for parking, storage and display areas, and other requirements established by the zoning ordinance or any amendments thereto, but which complied with the requirements and/or regulations in existence at the time of the creation of the lot.

“Nonconforming use” means any use, whether of a building, structure, lot, or tract of land, which does not conform to the land use regulations of this title and Lindon City Code for the zone in which such use is located, but which complied with the requirements and/or regulations in existence at the time the use was created. (Ordinance 2005-5, Amended 02/01/05, Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1 (part), 1985; prior code §12-105-2.)

##### Section 17.16.030 Amendments, additions, enlargements and moving of nonconforming parcels or uses.

1. All nonconforming parcels, lots, buildings, structures, or uses shall not be added to, enlarged in any manner, moved to another location on the lot, or have parcel lines moved, changed, or adjusted, except as provided by subsection 2 of this section.
2. The Planning Commission may authorize the expansion, alteration, or enlargement of a nonconforming use, structure, building, parcel, or lot, or movement of parcel lines, only after holding a public hearing and finding that:

## LINDON CITY CODE

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- a. the expansion, alteration or enlargement of the nonconforming building, structure, parcel, lot, or use will to reasonable extent bring the property, building, structure, parcel, lot or use as close as reasonably possible to conformance with requirements and regulations of the zone in which the nonconformity is located; and,
  - b. the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure or violate the development policies adopted in the Lindon City Master Plan; and,
  - c. the use, building, or structure, existing or proposed, will be brought into compliance, where possible, with design and architectural standards of the zone where proposed.
3. Additions, enlargements, alterations, or expansions of nonconforming uses, upon compliance with 17.16.030, shall be permitted on neighboring properties of the existing nonconforming use. Such parcels or lots shall be adjoining and share a common parcel boundary line and shall not be divided by a city street. (Ordinance 2005-5, Amended 02/01/05, Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1(part), 1985; prior code §12-105-3.)

Section 17.16.040      Alteration where parking is insufficient.

A use, building or structure lacking sufficient automobile parking space in connection therewith as required by 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. (Ordinance 2005-5, Amended 02/01/05, Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1(part), 1985; prior code §12-105-4.)

Section 17.16.050      Restoration of damaged buildings.

A nonconforming building or structure occupied by a nonconforming use which is damaged or is

destroyed by casualty, act of God, or vandalism, may be restored pursuant to this section. 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 such restoration is started within a period of one year from the damage or destruction and is diligently prosecuted to completion within two years of the damage or destruction. Any reconstruction or restoration must comply with Lindon City Code to the maximum extent possible. (Ordinance 2005-5, Amended 02/01/05, Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1(part), 1985; prior code §12-105-5.)

Section 17.16.060      Loss of Legal Nonconforming Status.

If a nonconforming uses ceases for any reason for a period of more than one hundred eighty (180) days, or for a period of six months from the expiration of a Lindon City business license, the use shall be considered abandoned. Once abandoned, the legal nonconforming status shall be lost, and re-establishment of the use shall be prohibited. Any subsequent use of the property shall comply with the regulations of the zoning district in which it is located.

This provision (17.16.060) shall not apply to established residential land uses in zones where housing construction is not permitted. (Ordinance 2005-5, Amended 02/01/05) Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1 (part), 1985; prior code §12-105-6.)

Section 17.16.070      Determination of Nonconforming Status.

The burden of establishing that any nonconformity is a legal nonconformity shall, in all cases, be solely upon the owner of such nonconformity. (Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1(part), 1985; prior code §12-105-7.)

Section 17.16.080      Listed Historic Structures

## LINDON CITY CODE

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The Planning Commission shall be authorized to approve an addition, enlargement, and relocation of a nonconforming listed historic structure that does not comply with all the non-use regulations of the zone in which is it locate; and to authorize the use of a listed historic structure for a nonconforming use. Authorization requires the Planning Commission make the following findings:

- a. The proposed building, structure or use provides a demonstrable benefit toward the preservation of the listed historic structure; and
- b. The public benefits of the preservation of the listed historic structure as derived from the proposed nonconforming building, structure, or use will outweigh the public benefits that would result from the action(s) that would be required for the building, structure, or use to be brought into, or remain in, conformance.

(Ordinance 2005-5, Amended 02/01/05, Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1(part), 1985; prior code §12-105-8.)

### Section 17.16.090      P r o v i s i o n s   n o t    A p p l i c a b l e   t o   P u b l i c    N u i s a n c e s .

Nonconforming status shall not be granted to public nuisances as enumerated in the Lindon City Code. Parcels, lots, or structures not in compliance with the Lindon City Code either presently or in the past shall not be granted nonconforming status. (Ordinance 2005-5, Amended 02/01/05, Ord. no. 2004-3, 04/06/2004; Ord. no. 111 §1(part), 1985; prior code §12-105-9.)

### Section 17.16.110      A l t e r a t i o n s   t o   c o m p l y    w i t h   c o d e .

A nonconforming use or structure may be altered or modified for the purpose of coming into compliance with any state or local law.

(Ordinance 2005-5, Amended 2/1/05, Repealed and Replaced by Ord. no. 2004-3, 04/06/2004;

Ord. no. 111 §1(part), 1985; prior code §12-105-11.)

### Section 17.16.120      S c h o o l   D i s t r i c t    P r o p e r t y

Lindon City may terminate the nonconforming status of school district property when the property ceases to be used for school district purposes.

(Ordinance 2005-5, 02/01/05)

### Section 17.16.130      A m o r t i z a t i o n

The Lindon City Council may provide for 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.

(Ordinance 2005-5, 02/01/05)