

Chapter 4**NONCONFORMING LOTS, USES AND
NONCOMPLYING STRUCTURES****10-4-010: Intent****10-4-020: Purpose****10-4-030: Effect of Chapter****10-4-050: Nonconforming Uses****10-4-060: Determination of Nonconformance and Noncompliance****10-4-070: Nonconforming Lots of Record****10-4-080: Nonconforming Uses of Land****10-4-090: Noncomplying Structures****10-4-100: Nonconforming Uses of Complying Structures****10-4-110: Nonconforming Use of Noncomplying Structures****10-4-120: Change in Status of Non-Conforming Use****10-4-130: Damaged Buildings****10-4-010: INTENT**

In view of the fact that no further development or change in use can be undertaken contrary to the provisions of this title, it is the intent of this title that nonconforming uses and noncomplying structures shall not be increased nor expanded except where a health or safety official, acting in his official capacity, requires such increase or expansion. Such expansion shall be no greater than that which is required to comply with the minimum requirements as set forth by the health or safety official.

Nevertheless, a noncomplying structure or nonconforming use of land may be continued to the same extent and character as that which legally existed on the effective date of the applicable regulations. Repairs may also be made to a noncomplying structure housing a nonconforming use.

10-4-020 PURPOSE

It is the purpose of this Title to permit nonconforming uses and noncomplying structures to continue until such time as they are changed, amended, or abandoned. This Chapter declares nonconforming uses to be incompatible with permitted uses in the zone involved. However, to avoid undue hardship, nothing in this Title shall require a change in the plans, construction, or designated use of any building on which actual construction lawfully began prior to the effective date of adoption or amendment to this Title and is diligently pursued. This Title defines actual construction as the placement of construction materials in a permanent position and fastening in a permanent manner.

Where excavation, demolition, or removal of an existing building substantially began preparatory to rebuilding, this Title shall deem such excavation, demolition, or removal to be actual construction, provided the builders carry on the work diligently.

10-4-030: Effect of Chapter

Structures built prior to the adoption of this ordinance, or for which building permits were issued and on which work commenced as required under the permit shall, to the extent they do not comply with the requirements of this ordinance, be considered as non-complying structures and shall not be affected hereby. Uses that were non-conforming under the old enactments shall not be affected by this Code, unless this Code is changed in a manner that makes the use conforming to the new code or zone.

10-4-040: NONCONFORMING USES

- A. Purpose.** This section sets forth procedures for determining the existence, expansion or modification of a nonconforming use.
- B. Authority.** The Land Use Administrator is authorized to make a determination regarding the existence, expansion or modification of a nonconforming use as provided in this section.
- C. Initiation.** A property owner, or the owner's agent, may request a determination regarding the existence, expansion or modification of a nonconforming use affecting the owner's property as provided in Subsection (D)(1) below.
- D. Procedure.** An application for determination of the existence, expansion or modification of a nonconforming use shall be considered and processed as provided in this subsection.
 - 1. A complete application shall be submitted to the office of the Community Development Department in a form established by the Department along with any fee established by the City's schedule of fees. The application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
 - b. The nonconforming use in question.
 - c. A description of the action requested by the applicant.
 - d. Grounds for finding the use is nonconforming or for allowing expansion or modification of the nonconforming use.

2. After the application is determined to be complete, the Land Use Administrator shall approve, approve with conditions or deny the application pursuant to the standards set forth in Subsection (E) below. Any conditions of approval shall be limited to conditions needed to conform the nonconforming use, expansion or modification to approval standards.
3. After making a decision, the Land Use Administrator shall give the applicant written notice of the decision.
4. A record of all nonconforming use determinations shall be maintained in the office of the Land Use Administrator.

E. Standards for Decision. A determination regarding the existence, expansion or modification of a nonconforming use shall be based on applicable provisions of ~~Chapter 5~~10-4-030 of this Title.

F. Appeal of Decision. Any person adversely affected by a decision of the Land Use Administrator regarding a nonconforming use may appeal such decision as provided in Section 10-4-140 of this Chapter.

G. Effect of Decision. An applicant may continue, expand or modify a nonconforming use as determined by the Land Use Administrator.

10-4-050: DETERMINATION OF NONCONFORMANCE AND NONCOMPLIANCE

Pursuant to the procedures set forth in 10-4-030, the Land Use Authority shall determine all matters regarding the nonconforming use of lots, land, and non-complying buildings and whether the use is nonconforming with respect to current provisions of this Chapter.

10-4-060: NONCONFORMING LOTS OF RECORD:

A parcel or lot that was lawfully created prior to the effective date of the original Coalville City Development Code (January 8, 1994), and does not conform to the minimum area per dwelling unit requirements of the zone district in which it is located, is entitled to one (1) but not more than one (1) dwelling unit thereon. Lots or parcels of land which legally existed or were created by a preliminary or final plat approval prior to the application of this Code shall not be denied a building permit solely for reason of non-conformance with the parcel requirements of this Code and are declared a legal Nonconforming Use in accordance with Section 10-4-040 herein.

10-4-070: NONCONFORMING LOTS OF RECORD

Notwithstanding any other provision of this title, a single-family dwelling may be permitted on any lot of record in any zone in which dwellings are permitted, even though

such lot fails to meet the area or width requirements for single-family dwellings within the zone, provided that where two (2) or more contiguous lots of record having continuous frontage are owned by the same persons at the time of the passage of the controlling ordinance, the land included in the lots shall be considered to be an undivided parcel and no portion of said parcel shall be used as a dwelling site or sold which does not meet the area and width requirements of the zone in which the lot is located. 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 appeal authority

10-4-080: NONCONFORMING USES OF LAND

A nonconforming use of land lawfully existing on the effective date of this Code may be continued provided:

- A. No one enlarges or increases such nonconforming use or extends such use to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Title.
- B. No one moves in whole or in part such nonconforming use to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Title.
- C. Any such nonconforming use of land does not cease for any reason for a period of more than one (1) year; otherwise, any subsequent use of such land shall conform to the regulations specified by this Title for the zone in which such land resides.
- D. No one erects additional noncomplying structures in connection with such nonconforming uses of land.

10-4-090: NONCOMPLYING STRUCTURES:

A noncomplying structure in any zone district may continue provided no additions or enlargements are made thereto and no structural alterations are made therein, except as allowed by a Conditional Use Approval.

Subject to the provisions of this Code, a Conditional Use Approval may be granted to allow the expansion of a building that does not conform to height, lot coverage setbacks or area requirements if all of the following standards can be met:

- 1. That granting the expansion will not adversely impact the attainment of the General Plan Goals, Objectives, and Policies.
- 2. That the expansion will improve the general appearance or safety of the building.

3. That by expanding the building, the character of the neighborhood is not adversely impacted.
4. That the expansion will improve the area by providing adequate parking.
5. That any expansion will be adequately screened or buffered, if needed, so as not to increase impacts to the adjoining properties.

If a noncomplying structure is removed, the future use of the land on which the building was located shall conform to the provisions of this Code.

10-4-100: NONCONFORMING USES OF COMPLYING STRUCTURES

The nonconforming use of any conforming structure lawfully existing on the effective date of this Code may be continued provided such nonconforming use shall not be expanded or extended into any other portion of the complying structure nor shall any structural alterations except those required by law be made. If such nonconforming use is discontinued for a continuous period of more than one (1) year, any future use of such structure shall conform to the provisions of the zone in which it is located.

Subject to the provisions of this Code, a Conditional Use Approval may be granted to allow the expansion of a complying structure in which a nonconforming use is operating if all of the following standards can be met:

1. The expansion of the structure will not adversely impact the surrounding properties.
2. The proposed expansion is compatible with the surrounding area.
3. The site of the proposed expansion conforms to all site development requirements.

10-4-110: NONCONFORMING USE OF NONCOMPLYING STRUCTURES:

The nonconforming use of a noncomplying structure lawfully existing on the effective date of this Code may be continued for the period prescribed in this Section and may be expanded or extended throughout such structure provided no structural alterations except those required by law are made therein.. If such nonconforming use is discontinued for a continuous period of more than one (1) year, any future use of the building shall conform to the provisions of this Code, the zone district in which it is located and all other laws and ordinances of the City.

10-4-120: CHANGE IN STATUS OF NONCONFORMING USE:

- A. If a nonconforming use is vacated, it may be succeeded by the same use provided such change is effected within one (1) year.
- B. If such nonconforming use is discontinued for a continuous period of more than one (1) year, any future use of the building shall conform to the provisions of this Code, the zone district in which it is located and all other laws and ordinances of the City.
- C. Residential dwellings shall be permitted in existing structures, both complying and noncomplying, in the historic district of Main Street that were originally residential uses, even if at some point those structures were converted to commercial or some other use.

10-4-130: DAMAGED BUILDINGS:

A noncomplying structure damaged or destroyed by fire, explosion, or other casualty or act of nature or public enemy or natural disaster, may be restored and the occupancy or use of such building or part thereof that existed at the time of such partial destruction may be continued subject to all of the provisions of this Code. The occupancy or use of such noncomplying structures, or part thereof which legally existed at the time of damage, may continue to operate given the building is repaired within one (1) year from the date of loss, an provided that such restoration does not increase the floor space devoted to the nonconforming use over that which existed at the time the building became nonconforming.