

## **Chapter 12.14**

### **Non-Conforming Uses** *(amended 7/12/2005 Or. No. 2005-15)*

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#### **12.14.1 Non-Conforming Use and Non-Complying Structure Defined**

A non-conforming use is defined as a use that legally existed prior to the adoption of this ordinance, has been maintained continuously since the time this ordinance was adopted, and because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

A non-complying structure is defined as a structure that legally existed before its current land use designation and 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.

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

#### **12.14.2 Maintenance Permitted**

A non-conforming use or non-complying structure shall be maintained and kept in good repair. Basic repairs and structural improvements may be made to a non-complying structure non-conforming or to a building housing a non-conforming use.

#### **12.14.3 Additions, Enlargements, and Moving**

A building or structure occupied by a non-conforming use and a building or structure non-conforming in height, area, or yard requirements shall not be added to or enlarged in any manner, or moved to another location on the lot except as provided herein:

1. The addition or enlargement of or moving of the building will be in harmony with one or more of the purposes of this ordinance.
2. The addition, enlargement, or movement will bring the non-conforming use or building into closer compliance with the current Zoning Ordinance.
3. The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the non-conforming use or structure nor does it violate the development policies adopted in the General Plan.

#### **12.14.4 Restoration of Damaged Buildings**

A non-complying structure or a building or structure occupied by a non-conforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or Act of God, or the public enemy, may be restored. 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 (1) year and is completed in conformance with the ordinances of Bluffdale City within two (2) years. A non-complying structure or a building or structure occupied by a non-conforming use which is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired within six (6) months after written notice to the property owner notifying them of the same and that the non-complying structure or non-conforming use will be lost if the structure is not repaired or restored within six (6) months or which is voluntarily destroyed by the property owner shall not be allowed to rebuilt, repaired or restored.

#### **12.14.5 Pre-Existing Use May be Continued**

Land and/or buildings utilized prior to the effective date of this ordinance for a use which after the effective date of this ordinance is non-conforming, may continue to be utilized as a non-conforming use unless the building is vacated

or the use ceased for a continuous period in excess of one (1) year. However, it does not constitute a safety or health hazard, is not a nuisance nor is otherwise dangerous to life and property values. No such non-conforming use of land may in any way be expanded or extended, either in the same or on adjoining property.

**12.14.6 Effect of Vacating a Non-Conforming Use or Building**

A vacant building may be occupied by a use for which the building or structure was used, designed or intended, if so occupied within a period of one (1) year after the use became non-conforming.

However, a building or portion thereof occupied by a non-conforming use which is, or hereafter becomes, vacant and remains unoccupied by said non-conforming use for a continuous period in excess of one (1) year, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

Should a non-conforming use of land be ceased for a period in excess of one (1) year, any future use of such land shall be in conformity with the provisions of this ordinance and the previously authorized non-conforming use is expressly prohibited.