

TITLE 15 – Land Use Regulations

Huntsville Town Ordinance

Title 15.17 NONCOMPLYING BUILDING, NONCONFORMING USES, AND PARCELS

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15.17 Introduction

Huntsville Town desires to bring non-conforming land uses, non-conforming buildings, non-complying parcels of land, and non-complying building structures into compliance and/or conformity as soon as is practicable but recognizes the right of existing land uses and structures to continue to exist until such time as owners no longer desire to use them in their current state.¹

15.17.1 Maintenance Period

A noncomplying building or structure may be maintained as long as it is not abandoned. However,

- A. The property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.
- B. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

¹ Amended 8-4-2016: To add Title 15.17; Introduction paragraph.

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- C. Abandonment may 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 municipality regarding an extension of the nonconforming use;
 2. the use has been discontinued for a minimum of one year; or
 3. the primary structure associated with the nonconforming use remains vacant for a period of one year.
- D. The property owner may rebut the presumption of abandonment and shall have the burden of establishing that any claimed abandonment as described above has not in fact occurred.

15.17.2 Repairs, Alterations

Repairs and structural alterations may be made to a nonconforming use. Any noncomplying building or portion thereof declared unsafe by the Huntsville Town Building Inspector may be strengthened or restored to a safe condition.

15.17.3 Additions and Enlargements

- A. A building or structure nonconforming as to use shall not be added to or enlarged in any manner unless the building or structure is brought into conformance with the use regulations of the zone in which it is located.²
- B. A non-complying building or structure shall not be added to or enlarged in any manner unless such additions or enlargements comply with all of the regulations of the zone in which the non-complying building or structure is located.³⁴
- C. A non-complying dwelling unit located in a residential zone shall not be added to or enlarged if the addition or enlargement is a separate dwelling attached to the existing single-family dwelling with a breezeway or extension of the roof. Such additions or enlargements shall be considered to be separate dwellings and are prohibited. Nothing in this ordinance shall be construed to allow two dwelling units to be built on a single

² Amended: 8-4-2016; Title 15.17.3.A

³ Amended: 8-4-2016; Title 15.17.3.B

⁴ Amended: 3-7-2019; Ordinance #2019-1-24-B Title 15.17.3.B Amended from: "A building or structure noncomplying as to height, area or yard regulations shall not be added to or enlarged in any manner unless the entire building or structure is brought into conformance with building regulations of the zone in which it is located."

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residential lot regardless of whether the structures are attached by a breezeway, roof extension or other attachment except as allowed in 15.8.5.⁵⁶

15.17.4 Alteration Where Parking Insufficient

A 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.

15.17.5 Moving Noncomplying Buildings

No noncomplying building or structure shall be moved in whole or in part to any other location on the lot, except by permit of the Appeal authority as herein provided, unless every portion of such building or structure is made to comply to all regulations of the zone in which it is located.

15.17.6 Restoration of Damaged Buildings

A noncomplying building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity, or act of God, terrorism, or war, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such partial destruction may be continued or resumed, provided that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.

15.17.7 One-Year Vacancy or Abandonment

A building or structure or portion thereof, nonconforming as to use, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year, except for dwellings and buildings to house animals and fowl, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

Wherever a nonconforming use has been discontinued for a period of one (1) year, such use shall not thereafter be reestablished and any future use shall be in conformance with the provisions of this Title if:

- A. The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within one year after Written Notice to the property owner that the structure is uninhabitable and that the

⁵ Amended: 3-17-19: Ordinance #2019-1-24-B Title 15.17.3.C Added paragraph C.

⁶ Amended: 5-2-23: Ordinance #2023-2-23 Title 15.17.3.C Amended wording and referenced 15.8.5.

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noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within one year; or

- B. The property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

Any building, structure, or use for which a valid building permit has been issued and actual construction was lawfully begun prior to the effective date of this Title, may be completed and used in accordance with the plans, specifications and permit on which said building permit was granted. Actual construction is hereby defined to be: The actual placing of construction materials in their permanent position, fastened in a permanent manner, actual work in excavating a basement or the demolition or removal of an existing structure begun preparatory to rebuilding; provided that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved.

15.17.8 Continuation of Use

Nonconforming uses and noncomplying structures, existing at the time this Ordinance became effective, may be continued.

- A. Except as provided in this Chapter, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.
- B. A nonconforming use may be extended through the same building, provided no structural alternation of the building is proposed or made for the purpose of the extension.
- C. For purposes of this Chapter, the addition of a solar energy device to a building is not a structural alteration.

15.17.9 Occupation Within One Year

A vacant noncomplying 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 (1) year after the building or structure became noncomplying.

15.17.10 Change of Use

Except by permit of the Appeal Authority as provided in 15.5, the nonconforming use of a building or structure may not be changed except to a conforming use; but where such change is made to a conforming use, the use shall not thereafter be changed back to a nonconforming use.

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15.17.11 Expansion of Use Permitted

A nonconforming use may be extended to include the entire floor area of the existing building in which it was conducted at the time the use became nonconforming, provided, however, that a certificate of occupancy be first obtained for such extension of use.

15.17.12 Nonconforming Use of Land

The nonconforming use of land, or a portion thereof, existing at the time this Title became effective, may be continued. 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, any future use of such land shall be in conformity with the provisions of this Title.

15.17.13 Conforming Use of Land

Any land, building, structure or use thereof conforming to current Huntsville Town Land Use regulations as of the effective date of adoption of these revised ordinances shall be deemed to be in conformity with the revised Huntsville Town ordinances regardless of different requirements set forth in the revised ordinances and shall not be made nonconforming by the adoption of the revised ordinances.

15.17.14 Nonconforming Lots or Parcels of Record⁷⁸

- A. A parcel which is nonconforming as to area and frontage requirements, and which contains a single-family residence that has not been abandoned, and which was legally created within Huntsville Town limits and recorded prior to 1987; shall be a legally complying lot entitled to the same rights as lots conforming to current Huntsville Town area and frontage requirements.
- B. A parcel which is nonconforming as to area and frontage requirements, and which was of record as a legally created lot within Huntsville town limits and was recorded prior to 1987 and which met area and frontage requirements for the zone in which it was created at the time it was created; may submit an application for subdivision approval provided that it meets all other applicable requirements of the Huntsville town Subdivision and Zoning Titles. The landowner will have the burden to prove that their lot met area and frontage requirements for the zone in which it was created at the time it was created

⁷ Amended 8-5-2021: Ordinance #2021-6-24. Deleted footnote on 8-6-21 and added to the code as letter "C" under 15.17.14

⁸ Amended 3-2-2023: Ordinance #2022-11-16 Revised A-C of 15.17.14. Added paragraph D

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- C. A parcel nonconforming as to current area and frontage requirements, which was legally created and recorded prior to 1987 in the Town of Huntsville; and which met area and frontage requirements per Huntsville Town Municipal code for the zone in which it was created at the time it was legally created, will be determined to be a buildable lot and have the same rights as a conforming parcel.
- D. A parcel annexed into Huntsville Town that is nonconforming as to the current area and frontage requirements of the Huntsville Town zone into which it is annexed; but met the area and frontage requirements of the Weber county zone in which it was created at the time it was legally created and recorded and has vested rights under the laws of the State of Utah shall be determined to be a buildable lot and have the same rights as a conforming parcel.

15.17.15 Nonconforming Status of a School Use of Structure

Huntsville Town may terminate the nonconforming status of a school district or charter school use or structure when 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 continuous period of one (1) year.

15.17.16 Flag Lots⁹

Flag lots shall not be permitted in any Zone in Huntsville Town.

⁹ Amended 4-7-2022: Ordinance #2022-4-7 added 15.17.16 to Title 15