

**Chapter 5**  
**NON-COMPLYING USES AND STRUCTURES**

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**5.1. MAINTENANCE, REPAIRS AND ALTERATIONS.**

Maintenance repairs and structural alterations may be made to a non-complying structure or to a structure housing a non-complying use.

**5.2. ADDITIONS, ENLARGEMENTS, AND MOVING.**

1. A building or structure occupied by a non-complying use and a building or structure non-complying as to height, area, or yard requirements shall not be added to or enlarged in any manner or moved to another location on a lot, nor shall any non-complying use of land be expanded on a lot except as provided herein.
2. A building or structure occupied by a non-complying use or a building or structure non-complying as to height, area, or yard regulations may be added to or enlarged or moved to a new location on the lot upon issuance of a conditional use permit by the Planning Commission. The Planning Commission may schedule a public hearing on a request to add,

enlarge or move a non conforming use or structure if deemed necessary.

**5.3. ALTERATION WHERE PARKING IS INSUFFICIENT.**

A building, structure or use lacking sufficient automobile parking space in connection therewith as required by this code may be altered or enlarged, provided additional off-street automobile parking space is supplied to meet the basic requirements of this code for such alteration or enlargement.

**5.4. RESTORATION OF DAMAGED STRUCTURES.**

A non-complying building or structure or a building or structure occupied by a non-complying use which is substantially damaged or is destroyed by fire, flood, wind, earthquake or other calamity or natural disaster, or vandalism, etc., 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 365 calendar days immediately following the date of damage or destruction, and is diligently pursued to completion in conformance with the ordinances of East Carbon City within 2 years, and complies with all applicable codes.

**5.5. PRE-EXISTING PROVISIONS.**

A structure utilized prior to the effective date of this code for a use, which after the effective date of this code is non-complying, may continue to be utilized for such non-complying use unless the structure is vacated or the use ceased for a continuous period in excess of 365 calendar days. Land used prior to the effective date of this code for a purpose which after the effective date of this code is non-complying may continue to be so used provided that such non-

complying use is not ceased for a continuous period in excess of 365 calendar days. No such non-complying use of land may in any way be expanded or extended, either in the same or on adjoining property, except as provided under Section 5.2 above.

**5.6. VACATING AND CEASING NON-COMPLYING USES.**

1. A vacant structure may be occupied by a use for which the structure was previously used, designed or intended, if so occupied within a period of 365 calendar days after the use became non-complying.
2. However, a structure or any portion thereof occupied by a non-complying use which is, or hereafter becomes, vacant and remains unoccupied by said non-complying use for a continuous period in excess of 365 calendar days, shall not thereafter be occupied except by a use which conforms to the use regulations of the zoning district in which it is located.
3. Should a non-complying use of land cease for a period in excess of 365 calendar days, any future use of such land shall be in conformity with the provisions of this code, and the previously authorized non-complying use is expressly prohibited.

**5.7. EFFECT OF CHANGE OF USE.**

The non-complying use of a building or structure may not be changed except to a conforming use; but where such change is made, the use shall not thereafter be changed back to a non-complying use.

**5.8. NON-COMPLYING MOBILE HOME UNITS**

1. If a non-complying mobile home is removed from the premises, it cannot thereafter be returned, except:
  1. If the mobile home is returned within 30 days where such removal was upon order of the building official for correction of deficiencies or by decision of the owner for the purpose of correcting deficiencies, or
  2. A new mobile home may be moved on to the premises if:
    1. Accomplished within 30 days of the removal of the removed mobile home and the restored or new mobile home is owned by the same owner as the mobile home removed, and
    2. Said mobile home is to be occupied for a continuous period of at least 6 months by the same occupant(s) of the mobile home removed.
    3. Said mobile home meets the minimum HUD requirements and all current building code requirements for mobile homes.
2. Manufactured, modular or mobile home parks and recreational coach parks shall be licensed annually by the City Council as businesses. Such licenses shall not be issued to nor renewed for mobile home and recreational coach parks that do not meet the minimum standards contained in this code or other codes, regulations or standards adopted or established by the City Council.

**5.9 TERMINATION OF NON-COMPLYING USES.**

The City Council may in any zoning ordinance or amendment provide for the termination of non-complying uses, except billboards, by providing a formula establishing a reasonable

time period during which the owner can recover or amortize the amount of his/her investment in the non-complying use.

1. The termination of a billboard that is a non-complying use by the City Council may occur by acquiring the billboard and associated property rights through:
  1. gift;
  2. purchase;
  3. agreement;
  4. exchange; or
  5. eminent domain.

(See Section 10-9a-5138, Utah Code Annotated 1953 as amended)