Chapter 5. Nonconforming USES

5-1 Purpose and Intent

These provisions provide for the orderly termination of nonconforming structures and uses to promote the public health, safety, and general welfare, and to bring these structures and uses into conformity with the goals and policies of the General Plan. This chapter is intended to prevent the expansion of nonconforming structures and uses to the maximum extent feasible, to establish the criteria under which they may be continued or possibly expanded, and to provide for the correction or removal of these land use non-conformities in an equitable, reasonable and timely manner.

It is hereby declared that nonconforming structures and uses within the Town of Minersville are detrimental to both orderly and creative development, and the general welfare of citizens and property.

5-2 Nonconforming Structures

A structure which lawfully existed prior to the effective date of this zoning ordinance is a legal nonconforming structure, and may continue even though the structure fails to conform to the present requirements of the land use district in which it is located. A legal nonconforming structure may be maintained as follows:

1. A legal nonconforming structure which is damaged to an extent of one-half (1/2) or more of its replacement cost immediately prior to such damage may be restored only if made to conform to all provisions of this zoning ordinance. However, any residential structure(s), including multi-family in a residential land use district destroyed by a catastrophe, including fire, may be reconstructed up to the original size, placement, and density. However, reconstruction shall commence within one (1) year after the catastrophe.

2. Necessary repairs and desired alterations may be made to a legal nonconforming residential structure(s), including multi-family, located in a residential land use district.

3. Reasonable repairs and alterations may be made to legal nonconforming commercial, institutional, or industrial structures, provided that no structural alterations shall be made which would prolong the life of the supporting members of a structure, such as bearing walls, columns, beams, or girders. Structural elements may be modified or repaired only if the building inspector determines that such modification or repair is immediately necessary to protect the health and safety of the public or occupants of the nonconforming structure, or adjacent property and the cost does not exceed one-half (1/2) of the replacement cost of the legal nonconforming structure.

4. Changes to interior partitions or other nonstructural improvements and repairs may be made to a legal nonconforming structure over any consecutive 5-year period.

5. The replacement cost shall be determined by the building inspector.

6. Any additional development of a parcel with a legal nonconforming structure will require that all new structures be in conformance with the zoning ordinance.

7. If the use of a nonconforming structure is discontinued for a period of one year of more consecutive calendar months, the structure shall lose its legal nonconforming status, and shall be removed or altered to conform to the provisions of this zoning ordinance. A use of a legal nonconforming structure shall be considered discontinued when any of the following apply:

   a. The intent of the owner to discontinue use of the nonconforming structure is apparent, as determined by the building inspector.

   b. Where characteristic furnishing and equipment associated with the use have been removed and not replaced with equivalent furnishings and equipment during this time, and where normal occupancy and/or use has been discontinued for a period of one (1) year or more consecutive calendar months.

   c. Where there are no business receipts available for a one (1) year period.

5-3 Nonconforming Uses

A nonconforming use is one which lawfully existed prior to the effective date of this zoning ordinance, but which is no longer permitted in the land use district in which is located. The continuance of a legal nonconforming use is subject to the following:

1. Change of ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status, provided that the use and intensity of use does not change.

2. If a nonconforming use is discontinued for a period of one (1) year of more consecutive calendar months, it shall lose its legal nonconforming status, and the continued use of the property shall be required to conform with the provisions of this zoning ordinance.

3. Additional development of any property on which a legal nonconforming use exists shall require that all new uses conform to the provisions of the zoning ordinance.

4. If a nonconforming use is converted to a conforming use, the nonconforming use may not be resumed.

5. No nonconforming use may be established or replaced by another nonconforming use, nor may any nonconforming use be expanded or changes, except as provided in 5-3 (6) and 5-3 (7).

6. A nonconforming use of a portion of a nonconforming commercial or industrial center or complex may be established or be replaced by another similar nonconforming use subject to the granting of Development Permit after a noticed public hearing, and if all of the following findings are made:

   a. That the nonconforming use is similar to the uses originally allowed in the center or complex;

   b. That the nonconforming use will not adversely affect or be materially detrimental to adjoining properties; and

   c. That the use of the entire center or complex has not been vacant or discontinued for a period of one (1) year or more calendar months.

7. An existing legal nonconforming use or legal nonconforming building may be minimally expanded or changed subject to the granting of a Development Permit after a noticed public hearing and if all of the following findings are made:

   a. That such expansion or change is minimal;

   b. That such expansion or change will not adversely affect or be materially detrimental to adjoining properties;

   c. That there is a need for relief or overcrowded conditions or for modernization in order to properly operate the use; and

   d. That the use is existing and has been discontinued for a period of one (1) year or more calendar months.

MINERSVILLE TOWN, A Municipal Corporation

ORDINANCE NO. 7-07-03

AN ORDINANCE AMENDING THE UNIFORM ZONING ORDINANCE OF MINERSVILLE.

WHEREAS, the Minersville Town Council is concerned about the safety of persons who move into single wide mobile homes constructed prior to 1977, these mobile homes have had electrical problems resulting in fires and structural problems in Minersville Town which will only continue to increase as the structures continue to age: and,

WHEREAS, the adoption of provisions requiring an inspection prior to occupancy of vacant residential single wide mobile homes constructed prior to 1977 is in the best interest of the health, general welfare and safety of the inhabitants of Minersville Town.

NOW, THEREFORE, be it ordained by the governing body of the Town of Minersville as follows:

SECTION 1. That Chapter 5 of the Uniform Zoning Ordinance of Minersville, entitled Nonconforming Uses, be amended to enact Section 5-4 to read as follows:

SECTION 5-4. INSPECTION OF SINGLE WIDE MOBILE HOMES CONSTRUCTED PRIOR TO 1977.

No person may occupy an unoccupied single wide mobile home constructed prior to 1977 unless the structure has been inspected by the building inspector and occupancy approved by the building inspector prior to occupancy. The cost of the inspection shall be set by resolution of the governing body and paid by the owner or occupant prior to the inspection. For the purpose of this section, unoccupied means not routinely characterized by the presence of human beings. This section shall not apply to a mobile home that has passed an inspection for occupancy within the last 12 months.

SECTION 2. Effective Date. This Ordinance shall take effect immediately upon posting.

Passed by the Town Council of Minersville, Utah, this 7 day of July, 2003 by the following vote:

AYES: Helen Stubbs
Paul Marshall
Chad Carter
Ben Dalton
Jack McMullin

Nays: _____

_____

Absent: _____

_____

MINERSVILLE TOWN

By _____
ROBERT L. CRAW, Mayor

Attest:

_____
SUE M. CARTER
Town Clerk