



## Part I

### Section 5

#### Non Conforming Uses



PART I, SECTION 5:

NONCONFORMING USES

A. NONCONFORMING LOTS

1. In any areas in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot which was of record before these regulations were adopted or amended. This provision shall apply even though such lots fail to meet the requirements for area, width, or both, that are applicable in the given area. However, all minimum yard requirements shall conform to the provisions within these regulations and amendments for the area.

B. NONCONFORMING USES OF LAND

A use of land which was lawful before these regulations were adopted or amended may continue to exist even though the use would be prohibited, regulated or restricted under the provisions of these Regulations and amendments, subject to the following provisions:

1. Such nonconforming use of land shall not be enlarged, expanded, extended, increased nor moved to occupy an area of land which was not occupied before these Regulations were adopted or amended.
2. If any such nonconforming use of land is discontinued for any reason for a period of more than six (6) months, a subsequent use of such land shall conform to the provisions of these regulations and amendments.
3. Any additional structures shall conform to the Elbert County Zoning Regulations and amendments.

C. NONCONFORMING STRUCTURES

A structure which was lawful before the Elbert County Zoning Regulations were adopted or amended, may continue to exist, even though the structure would be prohibited, regulated or restricted under the provisions of these regulations or amendments, subject to the following provisions:

1. Such nonconforming structures shall not be enlarged or altered in a manner which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structures, or positions thereof, be damaged or destroyed by any means, or declared unsafe by the County Building Department to an extent of more than fifty percent (50%) of the original structure, it shall not be reconstructed except in conformity with the Regulations of the Elbert County Building Department. If reconstruction of the building does not exceed fifty percent (50%) of the original structure, the structure may be strengthened or restored to a safe condition provided the original nonconformity is not enlarged, increased or extended and the construction is commenced within ninety (90) days, providing the new building complies with the UBC.



3. Historic Buildings

Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building or structure may be made without conformance to all the requirements of the Uniform Building Code when authorized by the Building Official, provided:

- a. The building or structure has been designed by official action of the legally constituted authority of this jurisdiction as having special historical or architectural significance.
- b. Any unsafe conditions as described in the Uniform Building Code are corrected.
- c. The restored building or structure will be no more hazardous based on life safety, fire safety and sanitation than the existing building.

4. Should such nonconforming structures be moved for any reason for any distance whatsoever, it shall conform to the provisions of the zoning area in which it is located after the move.

D. NONCONFORMING USES OF STRUCTURES

A use of structures which was lawful before these regulations were adopted or amended, may continue to exist even though the use would be prohibited, regulated or restricted under the provisions of these regulations or amendments, subject to the following provisions:

1. Existing structures devoted to a nonconforming use shall not be enlarged, expanded, extended nor altered to accommodate nonconforming uses or other uses not allowed in the zoning area in which the structure is located.
2. A nonconforming use may be extended throughout the same structure if no structural alteration of such structure is proposed or made for the purpose of such an extension, provided a conforming use is not displaced.
3. If a permitted use supersedes a nonconforming use in all or part of an area in a structure, that area shall thereafter conform to the provisions of the Elbert County Zoning Regulations and Amendments.
4. When a nonconforming use of a structure is discontinued or abandoned for six (6) months, any subsequent use of such structure shall conform to the provisions of the Elbert County Zoning Regulations and Amendments.
5. All buildings or structures regulated by the Uniform Building Code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment, is for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are



supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Uniform Building Code, are hereby designated as unsafe building appendages. All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth below.

E. TERMINATION OF NONCONFORMING USES

The Board of County Commissioners may require the termination of a nonconforming use, subject to the following provisions:

1. The Board of County Commissioners may initiate a public hearing through Community and Development Services on their own or upon the recommendation of the Planning Commission and/or Board of Adjustments.
2. Community and Development Services shall schedule meetings before the Planning Commission and/or the Board of Adjustments and the Board of County Commissioners.
3. At least thirty (30) days prior to the Board of County Commissioners hearing, a notice of public hearing will be published by the County in at least one (1) issue of a newspaper of general circulation in Elbert County, Colorado. Said notice shall read as follows:

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"NOTICE OF PUBLIC HEARING"

"Notice is hereby given that on \_\_\_\_\_ (day of week), \_\_\_\_\_ (month) \_\_\_\_\_ (year), at \_\_\_\_\_ (time A.M.), or as soon as possible thereafter, in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado, or at such other time and place as this hearing may be adjourned, a public hearing will be heard upon the application on file with Elbert County Community and Development Services, 215 Comanche Street, Kiowa, Colorado, 80117, Telephone: 621-3136, for a proposed termination of nonconforming use located approximately, \_\_\_\_\_ (distance and direction from nearest major intersection)."

Legal Description: \_\_\_\_\_  
Published In: \_\_\_\_\_ (name of newspaper),  
\_\_\_\_\_ (date of Publication).

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4. At least fourteen (14) days prior to the public hearing before the Board of County Commissioners, Community and Development Services shall mail a notice of said hearing by Certified Mail, Return Receipt Requested to the property owner of affected property and owners of property adjacent to, and within thirteen hundred twenty feet (1320') of the property under consideration as shown in the records of the Office of the Elbert County Assessor.



5. Community and Development Services shall notify the affected property owner, in writing, within ten (10) working days of the Board of County Commissioners hearing, stating the action on the proposed termination of use.
6. If the proposed termination of a nonconforming use is approved by the Board of County Commissioners, the said use may be continued for a period of time, to be determined at the hearing, but not to exceed two (2) years from the date of approval, after which time the said nonconforming use shall cease.