

**ORDINANCE NO. 2009-17**

**AN ORDINANCE AMENDING THE UTAH COUNTY LAND USE ORDINANCE,  
SECTION 1-6, NONCONFORMING USES AND NONCOMPLYING STRUCTURES,  
AND SECTION 2-2-B-65 AND 66, LIST OF DEFINITIONS, NONCOMPLYING  
STRUCTURE AND NONCONFORMING USE**

**WHEREAS**, the Utah County Commission initiated a review of amending the UCLUO to more appropriately address the goals and policies of Utah County, including those contained in the Utah County General Plan; and

**WHEREAS**, the Planning Commission addressed the proposed amendments to the UCLUO, during their regularly scheduled agenda meeting of the Planning Commission, and scheduled and held a public hearing regarding the proposed amendments; and

**WHEREAS**, the Planning Commission recommended that the UCLUO be amended, in accordance with the amendments as set forth herein; and

**WHEREAS**, the Board of County Commissioners has received and carefully reviewed the recommendation from the Utah County Planning Commission regarding the proposed amendment to the UCLUO, including information found in the file and any public comments contained therein; and

**WHEREAS**, the Board of County Commissioners finds that the proposed amendment to the UCLUO will further the goals and policies of Utah County, including those contained in the General Plan; and

**WHEREAS**, the Board of County Commissioners finds that the proposed amendment to the UCLUO is in the best interest of the health, safety, and general welfare of the citizens of Utah County.

**THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:**

**Part I:**

Section 1-6: Nonconforming Uses and Noncomplying Structures-Subsections B through H of the Utah County Land Use Ordinance are hereby amended to read as follows:

**B. CONTINUATION**

1. The property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use. Except as provided in this section, a noncomplying structure or a nonconforming use of land may be continued to the same extent and

character as that which was legally existing and permitted on the effective date of the ordinance provision(s) causing noncompliance or nonconformity if:

- a. No increase or expansion is made; and
- b. The boundaries of the lot on which the structure or use lies are unchanged, except for the addition of more land area to the lot, fence line or boundary agreements that establish historic boundaries, and dedications of road right-of-way, provided, however, that a noncomplying structure consisting of an inhabited structure shall be allowed to continue in its noncomplying status when the boundaries of the parcel on which the inhabited structure is located are changed to create a platted subdivision lot, if the noncompliance is found by the County Public Works Director to not create a hazard to public safety.

2. Recorded noncomplying plats can be amended pursuant to the procedure contained in Section 6-1-E-25-c of the Utah County Land Use Ordinance.

### C. EXPANSION

A noncomplying structure or nonconforming use of land may be expanded only if:

1. The Zoning Administrator approves the expansion after making all of the following findings:
  - a. The specific use and structure to be expanded is a noncomplying, one-family dwelling; and
  - b. The boundaries of the lot on which the one-family dwelling lies are unchanged from those existing when the dwelling became noncomplying, except for the addition of more land area to the lot, fence line or boundary agreements that establish historic boundaries, and dedications of road right-of-way; and
  - c. The proposed expansion meets all the requirements of the zone in which it is located for subdivision, Health Department approval of water supply and sewage disposal, flood protection, parking, and setback, except new construction may be approved within the required front, side, or rear setback distance if the setback of the new construction is equal to or greater than the setback of the existing structure.

Or:

2. The Zoning Administrator approves the expansion after making all of the following findings:
  - a. The specific use and structure to be expanded is an existing church or other structure for religious worship that is located on a legal nonconforming lot of record; and
  - b. The overall use and structure meet all of the requirements of Utah County and the State of Utah for fire protection, water supply for fire suppression, drinking water, sewage disposal, drainage and flood protection, subdivision, parking capacity, construction code compliance, and building setback, except new construction may be approved within the required front, side, or rear setback distance if the setback of the new construction is equal to or greater than the setback of the existing structure.

### D. REPAIRS

Repairs may be made to a noncomplying structure, but only when the repairs are for the purpose of the maintenance of the existing structure. The repairs cannot increase the total square footage of the structure (including all floor levels), cannot alter the footprint of the structure, and cannot create or relocate any exterior walls of the structure.

#### E. REPLACEMENT OF DESTROYED STRUCTURES

A structure which is a noncomplying structure or which constitutes a nonconforming use which is involuntarily destroyed in whole or in part due to fire or other calamity shall not be reconstructed or restored if the structure or use has been abandoned. Abandonment shall be established if any of the following occur:

- (i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or
- (ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

If restoration is permitted, the restoration shall not increase the foot print or the floor area of the structure.

#### F. ABANDONMENT OF NONCOMPLYING STRUCTURE-NONCONFORMING USE

1. A noncomplying structure or nonconforming use which has been abandoned shall not be re-established, and the property shall not thereafter be used except by a structure and use which conform to the regulations of the zone in which the structure and use are located. Abandonment shall be presumed if any of the following occur:
  - (i) a majority of the noncomplying structure or a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the county regarding an extension of the noncomplying structure or nonconforming use;
  - (ii) the nonconforming use has been discontinued for a period of one year;
  - (iii) the primary structure associated with the nonconforming use remains vacant for a period of one year; or
  - (iv) the noncomplying structure is not used for its approved use for a period of one year, or, if a habitable structure, is not inhabited for a period of one year.
2. A noncomplying structure or nonconforming use of property by a school district or charter school shall be presumed to be abandoned if the structure or property are not used for school district or charter school purposes for a period of one year.
3. The property owner may rebut the presumption of abandonment under this subsection by establishing that none of the conditions constituting an abandonment has occurred.

#### G. CHANGE IN USE

A noncomplying structure or a nonconforming use of land shall not be changed to another noncomplying structure or nonconforming use whatsoever; changes shall not be made except in conformity with the current provisions of the Land Use Ordinance. Any noncomplying structure or nonconforming use which has been changed to a complying structure or conforming use shall not thereafter be changed back to a noncomplying structure or a

nonconforming use.

#### H. NO RIGHTS GAINED BY UNPERMITTED OCCUPANCY OR USE

No nonconforming status, nor any right to occupy a structure or use of a structure or parcel of land contrary to the provisions of this ordinance, shall be gained through such occupancy or use in the past when such was illegal or accomplished without a permit, unless otherwise expressly permitted by the terms of this land use ordinance.

### **Part II:**

Section 2-2: Definitions, Subsection B-65, Noncomplying Structure, and Subsection B-66, Nonconforming Use, of the Utah County Land Use Ordinance, are hereby amended to read as follows:

#### 65. Noncomplying Structure

A structure that legally existed before its current zoning designation, or was established as a private summer cottage located in the Recreation-Forestry District 1 as shown on the Utah County Zone Map attached to the Zoning Ordinance passed on November 16, 1942 (R-F 1 District) and such structure was constructed prior to January 1, 1950; and, because of one or more subsequent land use ordinance changes, the structure does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land. To qualify as "legally existing," the structure shall have been properly issued a permit prior to the enactment of this ordinance or, alternatively, legally built prior to November 16, 1942, when the requirement to get building permits was enacted and existed in the same form continuously thereafter.

#### 66. Nonconforming Use

A use of land that legally existed before its current land use designation, or consists of a use established as a private summer cottage located in the Recreation-Forestry District 1 as shown on the Utah County Zone Map attached to the Zoning Ordinance passed on November 16, 1942 (R-F 1 District) and such use was commenced prior to January 1, 1950; the use has been maintained continuously since the time the land use ordinance regulation governing the land changed; 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. To qualify as "legally existing," the use shall have been properly issued a permit prior to the enactment of this ordinance or, alternatively, the use shall have been legally commenced prior to the first enactment of zoning in Utah County on November 16, 1942, and thus used continuously thereafter.

### **Part III:**

The Utah County Land Use Ordinance, as amended herein, is hereby adopted in book form and a copy of said Utah County Land Use Ordinance is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.



4770 S. 5600 W.  
 P.O. BOX 704005  
 WEST VALLEY CITY, UTAH 84170  
 FED.TAX I.D.# 87-0217663

PROOF OF PUBLICATION

CUSTOMER'S COPY

CUSTOMER NAME AND ADDRESS	ACCOUNT NUMBER	DATE
UTAH COUNTY AUDITOR'S OFFICE. ATTN: Tad Rasumssen 100 E CENTER ST #2400 PROVO UT 84606	9001334912 09 JUN 22 P 3:35	6/15/2009

ACCOUNT NAME			
UTAH COUNTY AUDITOR'S OFFICE,			
TELEPHONE	AD ORDER	INVOICE NUMBER	
8018518002	0000464230 /		
SCHEDULE			
Start 06/12/2009		End 06/12/2009	
CUST. REF. NO.			
2009-1132			
CAPTION			
ORDINANCE NO. 2009-17 WAS ADOPTED BY THE			
SIZE			
26	Lines	1.00	COLUMN
TIMES	RATE		
1			
MISC. CHARGES	AD CHARGES		
TOTAL COST			
27.30			

ORDINANCE NO. 2009-17 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON MAY 26, 2009, AMENDING THE UTAH COUNTY LAND USE ORDINANCE, SECTION 1-6, NONCONFORMING USES AND NONCOMPLYING STRUCTURES, AND SECTION 2-2-B-65 AND 66, LIST OF DEFINITIONS, NONCOMPLYING STRUCTURE AND NONCONFORMING USE.

A COMPLETE COPY OF THE ORDINANCE IS AVAILABLE AT THE COUNTY CLERK/AUDITOR'S OFFICE, COMMISSIONER LARRY A. ELLERTSON AND COMMISSIONER STEVE WHITE VOTED IN FAVOR OF THE ORDINANCE. COMMISSIONER GARY J. ANDERSON WAS EXCUSED.

463230 UPAXLP

AFFIDAVIT OF PUBLICATION

AS NEWSPAPER AGENCY CORPORATION LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF ORDINANCE NO. 2009-17 WAS ADOPTED BY THE OFFICE, FOR UTAH COUNTY AUDITOR'S OFFICE, WAS PUBLISHED BY THE NEWSPAPER AGENCY CORPORATION, AGENT FOR THE SALT LAKE TRIBUNE AND DESERET NEWS, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH.

PUBLISHED ON Start 06/12/2009 End 06/12/2009

SIGNATURE *Ann Craft*  
 6/15/2009

Notary Public  
**ELIZABETH G. CORBOVA**  
 6460 West 4200 South  
 West Valley City, Utah 84128  
 My Commission Expires  
 January 10, 2010  
 State of Utah

THIS IS NOT A STATEMENT BUT A "PROOF OF PUBLICATION"  
 PLEASE PAY FROM BILLING STATEMENT

*Elizabeth Corbova*