

PLANNING COMMISSION STAFF REPORT

Legislative Item

SECTION 21A.38.070 ABANDONMENT OR LOSS OF NONCONFORMING USE ZONING TEXT AMENDMENT

PLNPCM2013-00265

Hearing date: May 22, 2013



Planning Division
Department of Community and
Economic Development

Applicant: Salt Lake City Mayor's Office

Staff: Everett Joyce, (801) 535-7930 or everett.joyce@slcgov.com

Master Plan Designation:
City-wide

Council District: City-wide

Community Council: City-wide

Applicable Land Use Regulations:
• Chapter 21A.38

Attachments:
A. Proposed Text Amendment
B. Department Comments
C. Other Abandonment of a Nonconforming Use Codes

Request

This is a request initiated by the Salt Lake City Mayor's Office for the Planning Division to amend the Zoning Ordinance to modify regulations relating to Section 21A.38.070 Abandonment or Loss of Nonconforming Use. The proposed changes are to modify the zoning text to be consistent with State Code in terms of abandonment of a nonconforming use (state code Title 10, chapter 9a section 511).

Recommendation

Based on the analysis and findings listed in the staff report, it is the Planning Staff's opinion that the amendment petition meets the applicable standards. Therefore, the Planning Staff recommends that the Planning Commission transmit a favorable recommendation to the City Council to adopt the proposed zoning text amendment relating to Section 21A.38.070 Abandonment or Loss of Nonconforming Use.

Recommended Motion

Based on the findings in the staff report and the public comment, I move to transmit a favorable recommendation to the City Council to adopt the proposed zoning text amendment relating to Section 21A.38.070 Abandonment or Loss of Nonconforming Use.

Background

At the May 8, 2013 Planning Commission meeting Petition PLNPCM2009-00167 was heard regarding revisions to Chapter 38 Nonconforming Uses and Noncomplying Structures. The proposed text changes being processed at this time through Petition PLNPCM2013-00265 are focused on one specific element of the nonconforming uses and noncomplying structures chapter. This petition focuses on the standards regarding the abandonment or loss of a nonconforming use.

Currently, the City ordinance section 21A.38.070 Abandonment or Loss of Nonconforming Use contains three specific standards related to the rebuttal of a presumption of abandonment that allows a property owner to maintain a right to a nonconforming land use if they can show that the owner of the land:

1. Has been maintaining the land in accordance with the building code and did not intend to discontinue the use; or
2. Has been actively and continuously marketing the land or structure for sale or lease; or
3. Has been engaged in other activities evidencing an intent not to abandon.

These three elements are additional standards above those recognized by the State code with respect to abandonment of a nonconforming use. These standards detract from the fact that a nonconforming use has been effectively discontinued. Maintaining a building and marketing a building are typical activities related to all properties. A property owner can engage in marketing activities when a structure or nonconforming use of land still functions with an active nonconforming use. Discontinuance of a nonconforming use for a period of one year as per State code is an appropriate time period to reestablish a nonconforming use. Modifying the City's nonconforming use abandonment standards to directly reflect State code will strengthen the City's ability to regulate and define when a nonconforming use has been abandoned or lost.

Related State Code

- (2) The legislative body may provide for:
 - (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;
 - (b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and
 - (c) the termination of a nonconforming use due to its abandonment.
- (3) (b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:
 - (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.
- (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, 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.
 - (c) Abandonment may be presumed to have occurred if:
 - (i) 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;
 - (ii) the use has been discontinued for a minimum of one year; or
 - (iii) 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 under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(b) has not in fact occurred.

Proposed Text Changes

Proposed changes to the abandonment regulations for nonconforming uses were developed to provide consistency with State code and to create a more effective ordinance regarding abandonment of a nonconforming use.

Chapter 21A.38 NONCONFORMING USES AND NONCOMPLYING STRUCTURES

Section 21A.070 Abandonment ~~Or Loss~~ Of Nonconforming Use:

- A. ~~Abandonment~~ Termination Of Nonconforming Use: A nonconforming use of land or of a structure ~~in a district that is discontinued or remains vacant for a continuous period of one year shall be presumed to be abandoned and shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of the structure or site must conform with the regulations for the district in which it is located.~~
1. Abandonment may be presumed to have occurred if:
 - a. 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;
 - b. The use has been discontinued for a minimum of one year; or
 - c. The primary structure associated with the nonconforming use remains vacant for a period of one year.
 - (1) Calculation Of Period Of Discontinuance: Any period of such discontinuance caused by government actions, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance pursuant to subsection 1 of this section.
 2. A nonconforming use that has been abandoned shall be terminated and will have lost legal nonconforming status.
- B. Presumption Of Abandonment: Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
- C. Rebuttal Of Presumption Of Abandonment: A property owner may rebut the presumption of abandonment under Subsection (B), and shall have the burden of establishing that any claimed abandonment under Subsection (B) has not in fact occurred.
- ~~B. Rebuttal Of Presumption Of Abandonment: The presumption of abandonment may be rebutted upon a showing, to the satisfaction of the zoning administrator, that during such period the owner of the land or structure: 1) has been maintaining the land and structure in accordance with the building code and did not~~

~~intend to discontinue the use, or 2) has been actively and continuously marketing the land or structure for sale or lease, with the use, or 3) has been engaged in other activities evidencing an intent not to abandon.~~

~~D. Calculation Of Period Of Discontinuance: Any period of such discontinuance caused by government actions, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance pursuant to subsection 1 of this section.~~

Public Notice, Meetings, Comments

The following is a list of public meetings that have been held related to the proposed project:

- Open House held on May 16, 2013. *Any comments received from the Open House will be provided in a separate memorandum to the Planning Commission prior to or at the public hearing on May 22, 2013.*

Notice of the public hearing for the proposal includes:

- Public hearing notice posted in newspaper on May 10, 2013.
- Public hearing notice mailed on May 10, 2013.
- Public hearing notice posted on City and State websites on May 10, 2013.
- Public hearing notice emailed to the Planning Division listserv on May 10, 2013.

City Department Comments

The proposed text amendments were sent to all pertinent City Departments and Divisions for their review and input. Planning Staff did not receive any comments identifying any negative impact that would require modification to the proposed text changes. Comments received are provided in Attachment B Department Comments.

Analysis and Findings

In reviewing this legislative action request, the Planning Commission is required to use the following zoning amendment standards:

21A.50.050 Standards for general amendments.

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard.

A. In making a decision concerning a proposed amendment, the city council should consider the following factors:

- 1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents;**

Analysis: Most of the city's master plans do not contain specific policy regarding nonconforming uses and noncomplying structures. Most of the existing plan policy is older than State revisions to nonconforming use regulations. The following related policies are contained within the community master plans of Salt Lake City.

Central Community Master Plan

The following policies relate to nonconforming uses and noncomplying text changes:

- *Ensure that future amendments to the zoning map or text of the zoning ordinance do not result in a significant amount of nonconforming land uses.*
- *Encourage appropriate reuse of existing nonconforming or noncomplying commercial and industrial structures on a case-by-case basis.*

900 East Station Area Plan

- *Encourage nonconforming manufacturing or warehousing uses should to relocate to appropriate locations in the city.*

Sugar House Community Master Plan

The issue of nonconforming properties deserves particular attention. These are properties that are used for commercial or business purposes, but are zoned residential. As nonconforming property, the business is very limited in terms of expansion or rebuilding, even if a disaster strikes. In some cases, these nonconforming businesses have been present and operating for many decades and have served the surrounding residential area without undue harm to that neighborhood.

Capitol Hill Community Master Plan

The Capitol Hill Community Master Plan contains the following Action Items:

- Provide incentives to encourage nonconforming dwellings to be converted back to single family or duplex dwellings.
- Encourage nonconforming retail commercial uses to relocate to the neighborhood shopping node where appropriate.

Avenues Community Master Plan

The city should not grant variances to rebuild structures containing nonconforming uses. Once the structure has deteriorated, as defined in the nonconforming use ordinance the property should revert to a use conforming to present zoning.

Finding: The proposed abandonment of a nonconforming use standards support the policies of the Central, Capitol Hill, Sugar House and Avenues community master plans. This support comes through the provision of stronger standards that relate to a specific time period, based on actual nonuse of a property by a nonconforming use and not discounted through maintenance of a structure or marketing of property actions. The proposed text changes provide standards more consistent with State code and would have a positive impact on goals, objectives and policies of the city. The proposed text amendments are consistent with related policy of the community master plans.

2. **Whether the proposed text amendment furthers the specific purpose statements of the zoning ordinance;**

Analysis: The proposed text amendment is not site specific. The proposed text establishes criteria for the abandonment of a nonconforming use that are more consistent with Sate code. The proposed text changes also serve the purpose of the zoning ordinance identified below through the provision of more concise standards relating to abandonment of a nonconforming use that would strengthen the implementation of policies of the adopted plans of the city as indentified in standard A.1 above.

21A.02.030: PURPOSE AND INTENT

The purpose of this title is to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Salt Lake City, to implement the adopted plans of the city, and to carry out the purposes of the municipal land use development and management act, title 10, chapter 9, of the Utah Code Annotated or its successor, and other relevant statutes.

This title is, in addition, intended to:

- A. Lessen congestion in the streets or roads;
- B. Secure safety from fire and other dangers;
- C. Provide adequate light and air;
- D. Classify land uses and distribute land development and utilization;
- E. Protect the tax base;
- F. Secure economy in governmental expenditures;
- G. Foster the city's industrial, business and residential development; and
- H. Protect the environment.

Finding: The proposed text changes positively impact the purpose statement of the zoning ordinance.

3. **Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and**

Analysis: The proposed amendments do not directly modify any overlay zoning districts. The proposed text changes provide consistency with State code. All overlay zoning districts would continue to regulate nonconforming uses and noncomplying structures within the parameters of the overlay district.

Finding: The proposed amendments are consistent with the purposes and provisions of applicable overlay zoning districts that may impose additional standards. The amendments do not modify any intent or purpose of applicable overlay zoning ordinance. The proposed text amendment is city-wide and not associated with any specific geographic area. Submittal of individual site applications will include the review of applicable overlay zoning districts.

4. **The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.**

Analysis: In general, the purpose of zoning regulations is to implement the policies of a City's master plans. To that extent, when plan policy and zoning modifications occur either through mapping or text changes to implement land use policy that create nonconforming uses it is with the understanding that nonconformities would eventually go away. Ineffective standards regarding the abandonment of a nonconforming use weakens policy intent that created a nonconforming use.

The current abandonment of a nonconforming use standards are outdated and not considered best practices because they facilitate greater opportunity for the continuation of nonconforming uses once they are abandoned. The proposed text amendment provides consistency with State regulations regarding nonconforming uses and noncomplying structures. State code states that 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.

State code regarding rebuttal of abandonment states: The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(b) has not in fact occurred.

Staff reviewed the abandonment of a nonconforming use regulations of Ogden and Provo and other municipalities within Salt Lake County and Salt Lake County's regulations. What was found is that of the fourteen entities, seventy nine percent do not provide additional ordinance text defining maintenance of land or a building; marketing; or activities evidencing intent not to abandon as rebuttal standards of presumption of abandonment as currently contained within Salt Lake City's nonconforming uses code. The code summaries for other locations are provided in Attachment C.

The proposed text amendments are intended to update the City's abandonment of a nonconforming use regulations to reflect current standards and best practices such as the recent development of the SNB Small Neighborhood Business Zoning District which provides a zoning classification that supports making once commercial nonconforming uses a means to become conforming.

Finding: The proposed amendments reflect current practices in urban planning and will clarify and enhance the City's planning practices as it relates to the abandonment of a nonconforming use. The regulation changes also provide more consistent text with State code. The proposed amendments would have a positive effect on review and the application of the abandonment of a nonconforming use regulations city-wide.

Alternatives

One alternative would be to recommend that the abandonment of a nonconforming use ordinance remain unchanged. This option would continue the current review process and standards, but would also maintain inconsistencies with State code and make the city's rules more lenient than most other places.

Another alternative would be to approve only a portion of the proposed amendments or suggest other amendments. There is some risk with this option in that the modifications or suggestions have not had a chance to be considered by other departments. If suggesting new amendments, additional staff review time should be conducted and followed by another public hearing, if necessary.

Commission Options

If the proposed amendments are denied in their entirety, no changes would be made to the abandonment of a nonconforming use standards.

If the request is modified, depending on the extent, additional city staff review time and public input should occur in order to assess impacts to current practices.

If the amendment is approved as proposed, the revised text and standards could be implemented if adopted by the City Council.

Potential Motions

Not Consistent with Staff Recommendation (modify): Based on the testimony presented and the following findings, I move that the Planning Commission transmit a favorable recommendation to the City Council relating to the proposed amendments to the abandonment of a nonconforming use regulations with the following modifications: *(list the modifications and their section number for clarification)*.

Not Consistent with Staff Recommendation (no amendments): Based on the testimony presented and the following findings, I move that the Planning Commission transmit a negative recommendation to the City Council relating to the proposed amendments to the abandonment of a nonconforming use regulations.

The Planning Commission shall make findings on the zoning text amendment standards as listed below:

1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents;
2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;
3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and
4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.

Attachment A
Proposed Text for Section 21A.38.070
Abandonment or Loss of a Nonconforming Use

Chapter 21A.38

NONCONFORMING USES AND NONCOMPLYING STRUCTURES

Section 21A.070 ~~Abandonment Or Loss Of Nonconforming Use:~~

E. ~~Abandonment~~ Termination Of Nonconforming Use: A nonconforming use of land or of a structure ~~in a district that is discontinued or remains vacant for a continuous period of one year shall be presumed to be abandoned and shall not thereafter be reestablished or resumed.~~ Any subsequent use or occupancy of the structure or site must conform with the regulations for the district in which it is located.

3. Abandonment may be presumed to have occurred if:

- a. 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;
- b. The use has been discontinued for a minimum of one year; or
- c. The primary structure associated with the nonconforming use remains vacant for a period of one year.

(1) Calculation Of Period Of Discontinuance: Any period of such discontinuance caused by government actions, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance pursuant to subsection 1 of this section.

4. A nonconforming use that has been abandoned shall be terminated and will have lost legal nonconforming status.

F. Presumption Of Abandonment: Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

G. Rebuttal Of Presumption Of Abandonment: A property owner may rebut the presumption of abandonment under Subsection (B), and shall have the burden of establishing that any claimed abandonment under Subsection (B) has not in fact occurred.

~~B. Rebuttal Of Presumption Of Abandonment: The presumption of abandonment may be rebutted upon a showing, to the satisfaction of the zoning administrator, that during such period the owner of the land or structure: 1) has been maintaining the land and structure in accordance with the building code and did not intend to discontinue the use, or 2) has been actively and continuously marketing the land or structure for sale or lease, with the use, or 3) has been engaged in other activities evidencing an intent not to abandon.~~

~~H. Calculation Of Period Of Discontinuance: Any period of such discontinuance caused by government actions, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance pursuant to subsection 1 of this section.~~

Attachment B
Department Comments

Fire Department

From: Chase, Mia
To: Joyce, Everett;
Subject: RE: Review of ordinance changes to Chapter 38 Nonconforming Uses
Date: Wednesday, May 01, 2013 1:42:13 PM

Hi Everett – Below is the response from the Fire Prevention Bureau.

The proposed changes should make the Fire Department's job easier at least in the near future. Changing the burden of proof requirements for owners or developers has the potential to increase time in court resolving possible legal challenges.

Thank you,

Mia Chase | Senior Administrative Assistant to the Fire Chief

Engineering

From: Weiler, Scott
To: Joyce, Everett;
Subject: FW: Review of ordinance changes to Chapter 38 Nonconforming Uses
Date: Friday, April 26, 2013 2:31:52 PM

Engineering has no comment.

SCOTT WEILER, P.E.
Development Engineer
ENGINEERING DIVISION

Transportation

From: Walsh, Barry
To: Joyce, Everett;
Subject: RE: Review of ordinance changes to Chapter 38 Nonconforming Uses
Date: Monday, April 29, 2013 11:30:43 AM

RE: PLNPCM2013- 00265 proposed text changes to 21A.38.070 Abandonment or Loss of Nonconforming Use.

Transportation review comment is as follows:

There is no change indicated to transportation issues impacting the public transportation corridors or notation concerning the on site parking compliance for a non compliant site with pre existing status.

Sincerely,

Barry Walsh

Attachment C
Other Abandonment of a Nonconforming Use Codes

Other Entities Abandonment of a Nonconforming Use Text

Entity	Abandonment of a Nonconforming Use Text
Ogden	<p>F. Loss Of Right:</p> <ol style="list-style-type: none"> 1. A nonconforming use of a building or structure shall be terminated if the building or structure in which the use is located is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the property owner that the structure is uninhabitable and that the nonconforming use shall be lost if the building or structure is not repaired or restored within six (6) months. 2. A nonconforming use of a building or structure shall be lost if the property owner voluntarily demolishes a majority of the building or structure that houses the nonconforming use. 3. The nonconforming use of a building, structure or tract of land that has been abandoned shall be terminated and the building or structure not occupied or used thereafter except in conformance with the present use regulations of the zone in which it is located. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment. 4. A use shall be presumed to be abandoned if: <ol style="list-style-type: none"> a. A majority of the primary structure associated with the nonconforming use has been voluntarily demolished; b. The use has been discontinued for a continuous period of one year; or c. The primary structure associated with the nonconforming use remains vacant for a continuous period of one year, excluding vacancies due to: <ol style="list-style-type: none"> (1) Remodeling or renovation under a valid building permit, or (2) Pending court actions which affect occupancy or possession of the property, i.e., probate, ownership disputes. 5. The property owner may rebut the presumption of abandonment under subsection F4 of this section and shall have the burden of establishing that any claimed abandonment has not in fact occurred. 6. The nonconforming status of a school district or charter school use or structure shall terminate 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 year. Such termination shall not prevent the reuse of such building or structure under the other provisions of this chapter.
Provo	<p>14.36.090. Abandonment of Nonconforming Use.</p> <ol style="list-style-type: none"> (1) Burden of Proof. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment. (2) Presumption of Abandonment. Abandonment of a nonconforming use may be presumed to have occurred if: <ol style="list-style-type: none"> (a) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the City regarding an extension of the nonconforming use; (b) the use has been discontinued for a minimum of one (1) year; or (c) the primary structure associated with the nonconforming use remains vacant for a period of one (1) year. (3) Rebutting Presumption of Abandonment - Burden of Proof. The property owner may rebut the resumption of abandonment under Subsection (2), and shall have the burden of establishing that any claimed abandonment under Subsection (2) has not in fact occurred.
Riverton	<p>18.200.060 Abandonment of building or structure.</p> <p>A building or structure or portion thereof occupied by a nonconforming use, which is or hereafter becomes vacant, and remains unoccupied for a continuous period of six months, shall be considered abandoned, whether or not the intent is to abandon the said use, and shall not thereafter be occupied except by a use which conforms to the regulations of the zone in which it is located.</p>

Murray	<p>17.52.070: ONE YEAR VACANCY: A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.</p> <p>17.52.120: NONCONFORMING USE OF LAND: The nonconforming use of land, existing at the time this title became effective, may be continued; provided, that no such nonconforming use of land shall in any way be expanded or extended either on the same or on adjoining property and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provisions of this title.</p>
Sandy	<p>Cessation of Use. A use shall be deemed to have ceased when it has been discontinued for a period of one year or more, whether or not the intent is abandon said use.</p>
Holladay	<p>13.88.130: ABANDONMENT: A nonconforming use shall be deemed abandoned if the use has not applied to the premises for a consecutive period of at least six (6) months.</p>
South Jordan	<p>17.04.270: NONCONFORMING USES AND STRUCTURES: Nonconforming uses, buildings or structures will, under provisions of this title, be eliminated, safely maintained in their current conditions or otherwise brought into conformance with the provisions of this title. Nonconforming uses, buildings or structures may be continued as follows: B. A nonconforming use, except for dwellings, may not be continued or resumed if it has been suspended for longer than a full calendar year.</p>
West Jordan	<p>13-9-6: ABANDONMENT: A. Definition: A lot or structure containing a nonconforming use that is not thus occupied or so used for a continuous period of one year, shall be deemed abandoned and shall not thereafter be reoccupied or used except for a use that conforms to the requirements of this title. B. Presumption Of Abandonment: A nonconforming use shall be presumed abandoned when any of the following occurs: 1. The owner has in writing or by public statement indicated intent to abandon the use. 2. A less intensive use has replaced the original nonconforming use. 3. The structure has been removed through applicable procedures for the condemnation of unsafe structures. 4. The owner has physically changed the structure or its permanent equipment in such a way as to indicate a change in use or activity to something other than the nonconforming use. C. Overcoming Presumption Of Abandonment: A presumption of abandonment may be rebutted upon a showing by the owner that during such period of time the owner has done either of the following: 1. Maintained the lot and structure, if any, in accordance with the building code. 2. Has been actively and continuously marketing the lot or structure for sale or lease.</p>
Draper	<p>Section 9-6-090 Abandonment. Any nonconforming use, structure, or other nonconformity which is not thus occupied or so used for a continuous period of one (1) year shall be deemed abandoned and shall not thereafter be re-occupied or used except in a manner that conforms to the requirements of this Title. (a) Presumption of Abandonment. A nonconforming use, structure, or other nonconformity shall be presumed abandoned when any of the following occurs: (1) The owner has in writing or by public statement indicated intent to abandon the use, structure, or other non-conformity; (2) A less intensive use has replaced the original nonconforming use; (3) The owner has physically changed the structure or its permanent equipment in such a way as to indicate a change in use or activity to something other than the nonconforming use; or (4) The structure has been removed through applicable procedures for the condemnation of unsafe structures. (b) Overcoming Presumption of Abandonment. A presumption of abandonment may be rebutted upon evidence presented by the owner showing no intent to abandon the use, structure, or other</p>

	<p>nonconformity. Such evidence may include proof that during the alleged period of abandonment the owner has done either of the following:</p> <ol style="list-style-type: none"> (1) Maintained the lot and structure, if any, in accordance with the building code; or (2) Has actively and continuously marketed the lot or structure for sale or lease.
South Salt Lake	<p>17.12.090 - Abandonment of nonconforming structure or use.</p> <p>A. Presumption of Abandonment by Passage of Time. Any nonconforming structure or use which is not occupied or used for a continuous period of six months shall be presumed abandoned and shall not thereafter be re-occupied or used except in a manner that conforms to the requirements of this title unless the presumption of abandonment is overcome as provided in subsection (C) of this section.</p> <p>B. Presumption of Abandonment by Event. Independent of the six month requirement set forth in subsection (A) of this section, a nonconforming structure or use shall be presumed abandoned when any of the following events occur:</p> <ol style="list-style-type: none"> 1. The owner has in writing or by public statement indicated intent to abandon the structure, use or other nonconformity. 2. A less intensive use has replaced the original nonconforming use; 3. The owner has physically changed the structure or its permanent equipment in a way that reduces or eliminates the nonconformity; or 4. The structure has been removed through applicable procedures for the abatement or condemnation of unsafe structures. <p>C. Overcoming Presumption of Abandonment. A presumption of abandonment may be rebutted upon evidence presented by the owner showing no intent to abandon the structure or use. Such evidence may include proof that during the alleged period of abandonment the owner has done either of the following:</p> <ol style="list-style-type: none"> 1. Maintained the structure or use, if any in accordance with applicable codes; or 2. Has actively and continuously attempted to sell or lease the property where the structure or uses is located.
Cottonwood Heights	<p>19.88.130 Abandonment.</p> <p>A nonconforming use that has been abandoned shall be deemed to be terminated. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment under the standards specified in UTAH CODE ANN. §10-9a-511, as amended.</p>
Herriman	<p>10-25-10: ABANDONMENT:</p> <p>A nonconforming use shall be deemed abandoned if the use has been discontinued for a minimum of one year.</p> <p>10-25-7: NONCONFORMING USE OF LAND:</p> <p>The nonconforming use of land, existing at the time this title became effective, may be continued; provided, that 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 for a period of one year or more, any future use of such land shall be in conformity with the provision of this title.</p>
Midvale	<p>17-2-14 “Nonconforming use” means a use of a lot or parcel that legally existed on the lot or parcel before its current zoning designation; has been maintained continuously for the preceding twelve months; and does not conform to the zoning regulations that now govern the land. A nonconforming use of land shall be deemed abandoned by nonuse for a period of one year after the use became nonconforming. If a nonconforming use of land has been or shall become abandoned for a period of twelve months, such land shall not thereafter be used or occupied except for a use which conforms to the use regulations of the zone in which the use is located.</p>
Salt Lake County	<p>19.88.120 - Abandonment or one-year vacancy.</p> <p>A structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. If the use has not applied to the premises for a consecutive period of sixty days during any twelve-month period, the use shall be deemed abandoned.</p>