

36.7 Nonconforming Uses – Restoration/Replacement. Where a county code provision provides that a nonconforming use may not be resumed if there is a “discontinuance” for a period greater than one year, the county board of commissioners does not err in interpreting the undefined term “discontinuance” by resorting to the dictionary definition and in applying that interpretation to conclude that a property owner who is actively pursuing permits to complete repairs and upgrades that are required for health and safety reasons, and who is actively responding to appeals of those permits, has not discontinued a nonconforming use. Such an interpretation and application of the term “discontinuance” in the county code provision is not contrary to the term “interruption” in ORS 215.130(7)(a). *Campbell v. Columbia County*, 81 Or LUBA 385 (2020).

36.7 Nonconforming Uses – Restoration/Replacement. Where a city’s zoning ordinance allows damaged nonconforming structures to be restored, the city does not err in interpreting its zoning ordinance not to allow a damaged nonconforming carport to be entirely removed and replaced with a taller bulkier carport that occupies the same footprint as the old carport. *Hatton v. City of Eugene*, 53 Or LUBA 583 (2007).

36.7 Nonconforming Uses – Restoration/Replacement. Where a nonconforming clubhouse is destroyed by fire and the county requires a replacement structure to include a new septic system, installation of a new septic system is sufficient to commence “restoration” or “replacement” of the nonconforming use, within the meaning of ORS 215.130(6). *Jordan v. Columbia County*, 42 Or LUBA 341 (2002).

36.7 Nonconforming Uses – Restoration/Replacement. A building permit is not an absolute requirement for commencing replacement or restoration of a nonconforming use within one year under ORS 215.130(6), where installation of a septic system is sufficient to commence replacement or restoration of a nonconforming clubhouse that was destroyed by fire and the county does not require a building permit to install a septic system. *Jordan v. Columbia County*, 42 Or LUBA 341 (2002).

36.7 Nonconforming Uses – Restoration/Replacement. Once restoration or replacement of a nonconforming use is begun, ORS 215.130(7)(a) requires that restoration or replacement not be interrupted for a period of more than one year. *Jordan v. Columbia County*, 42 Or LUBA 341 (2002).

36.7 Nonconforming Uses – Restoration/Replacement. Where a nonconforming clubhouse is destroyed by fire and restoration or replacement is commenced within 10 years is periodic fundraising activity to complete the restoration, the right to restore or replace the nonconforming clubhouse is lost under ORS 215.130(7)(a). *Jordan v. Columbia County*, 42 Or LUBA 341 (2002).

36.7 Nonconforming Uses – Restoration/Replacement. A decision that approves the rebuilding of a 13,000-square-foot building with a 15,000-square-foot building in a different location is not a “replacement” of a nonconforming use, as that word is used in ORS 215.130(6), even though the new building will require fewer workers to perform the same tasks that were performed in the smaller building. *Hiebenthal v. Polk County*, 41 Or LUBA 316 (2002).

36.7 Nonconforming Uses – Restoration/Replacement. Application of a local zoning ordinance to allow a nonconforming use that has been interrupted or abandoned to be resumed, violates ORS 215.130(7) and must be reversed. *Moore v. Coos County*, 31 Or LUBA 347 (1996).

36.7 Nonconforming Uses – Restoration/Replacement. It is within a county’s authority under ORS 215.130(5), (6) and (9) to adopt code provisions treating “replacement” of a nonconforming structure as a potentially allowable alteration of a nonconforming use, so long as the code requires that the replacement reasonably continues the nonconforming use and has no greater adverse impact on the neighborhood. *McKay Creek Valley Assoc. v. Washington County*, 25 Or LUBA 283 (1993).

36.7 Nonconforming Uses – Restoration/Replacement. Where, under the county code, a lawfully established existing dwelling is not a nonconforming use in a particular zone, even though a new dwelling is not a permitted use in that zone, replacement of an existing dwelling is not the replacement of a nonconforming use subject to the restrictions of ORS 215.130(6). *Heceta Water District v. Lane County*, 24 Or LUBA 402 (1993).