

ARTICLE 14-26

LEGAL NON-CONFORMITY

(Ord. No. 2016-29)

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14-26-1 INTENT

This article establishes provisions for the regulation of non-conforming uses, buildings, structures, lots, and sites. These regulations are designed to identify legal non-conforming rights, but discourage their perpetuation and expansion.

14-26-2 ESTABLISHMENT OF LEGAL NON-CONFORMITY

Legal non-conforming status is the result of a use, building, structure, lot, or site that was legally established prior to the adoption or amendment of this Zoning Ordinance or annexation into the City, but which would be prohibited, regulated, or restricted differently under the terms of this Zoning Ordinance. The burden of establishing lawfulness of a non-conformity shall be upon the owner.

14-26-3 GENERAL PROVISIONS

All legal non-conformities may be continued so long as they remain otherwise lawful, subject to the following provisions:

A. Non-Conforming Buildings and Structures

1. Only routine repair and maintenance, which does not increase the non-conformity are permitted.
2. The replacement of damaged or partially destroyed non-conforming buildings or structures due to fire, flood, or other calamity, to an extent of:
 - a. Fifty percent (50%) or less of the gross floor area may be restored to its previous condition(s), provided a building permit for such restoration has been obtained within one (1) year of calamity.
 - b. Greater than fifty percent (50%) of the gross floor area shall not be reconstructed except in conformance with the regulations for the current zoning district in which it is located.

3. Should any such building or structure be moved for any reason, for any amount of time, any distance, it shall thereafter conform to the regulations for the current zoning district in which it is located after moving.

B. Non-Conforming Uses

1. The expansion of a non-conforming use within an additional building, structure, or land area is prohibited.
2. Whenever a non-conforming use has been discontinued or abandoned for a period of one (1) year, such use shall not thereafter be re-established and any future uses shall be in conformance with the current regulations for the current zoning district in which the property is located.
 - a. If the non-conforming use was forced to cease operations due to a fire, flood, or other calamity, the Zoning Administrator may extend the one (1) year deadline if a delay in recommencing was shown to be caused by unforeseen circumstances beyond the control of the property owner.
 - b. Once changed to a conforming use, no building, structure or land shall be permitted to revert back to a non-conforming use.

C. Non-Conforming Lots

1. A non-conforming lot shall develop in conformance with the regulations for the current zoning district in which it is located.

D. Non-Conforming Sites

1. All sites deemed non-conforming due to non-compliance with current applicable development standards, to include, but not limited to parking, circulation, and landscaping, shall be subject to the Site Plan Amendment process in Article 14-39.

14-26-4 EXCEPTIONS

- A. Additions to a non-conforming single-family dwelling shall be permitted if the added portion conforms to all current development standards as regulated by the current zoning district in which it is located.
- B. Any non-conformity will be required to be brought into conformance, in a timely manner, if such compliance is mandated by State or Federal Law.
- C. Nothing in this section shall prevent the full restoration of a building or structure that is listed on the National Register of Historic Places, the Arizona State Register of Historic Places, or the Peoria Register of Historic Places.
- D. Non-conforming signs shall be subject to Article 14-34.