
CHAPTER 11 - NON-CONFORMING USES

SECTION 11.0 GENERAL:

- A. Except as otherwise required by law, a parcel, structure, or use legally established before the adoption of this Ordinance shall be considered a legal nonconformity and may be maintained or continued unchanged.
- B. Any lot of record within the Desert Rural (**DR**) or Single Residence (**R**) zones considered legally non-conforming because of non-compliance with lot width may be used for any use permitted in the zoning district in which it is located, provided compliance with all other applicable regulations of this Ordinance are met.
- C. Any lot of record within the Desert Rural (**DR**) or Single Residence (**R**) zones considered legally non-conforming because of non-compliance with lot area requirements may be used for any use permitted in the zoning district in which it is located, provided compliance with all other applicable regulations of this Ordinance and the following are met.
 - 1. The following mathematical equation shall be utilized to calculate the maximum allowed lot coverage for existing legal non-conforming lots located within the Desert Rural (**DR**) zones. This adjustment in maximum lot coverage applies only to lots that have been classified as legal non-conforming for falling short of the required gross lot area.

$$\textit{Maximum Lot Coverage} = A + B [(L-C) / D]$$

A = the maximum lot coverage (square footage), based upon the minimum lot size, of the zoning district with the next smallest minimum lot size than the square footage of the subject lot;

B = the difference between the maximum lot coverage (square footage), based upon the minimum lot size, of the zoning districts with the next largest and smallest minimum lot sizes than the square footage of the subject lot;

L = the actual gross lot size (square footage) of the subject lot;

C = the minimum lot size (square footage) of the zoning district with the next smallest minimum lot size than the square footage of subject lot and;

D = the difference between the minimum lot sizes (the square footage) of the zoning districts with the next largest and smallest minimum lot size than the square footage of subject lot.

- D. In other than criminal proceedings, the owner, occupant or user shall have the burden to provide irrefutable evidence that a nonconforming structure, parcel or use was lawfully established prior to the effective date of this Ordinance.
- E. Discontinuance (subject to adopted building codes of the Town):
1. **Vacancy:** Any parcel or structure, or portion thereof, occupied by a legal non-conforming use, which is or hereafter becomes vacant and remains unoccupied by the same legal nonconforming use for one (1) year shall not thereafter be occupied, except by a use which conforms to this ordinance.
 2. **Destruction:** A non-conforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, or other calamity or act of nature may be restored.
- F. Enlargements and Modifications (subject to adopted building codes of the Town):
1. **Maintenance and Repair:** Maintenance, repairs and structural alterations which would not expand the square footage of a legal non-conforming structure or to a building housing a legal nonconforming use may be allowed with valid building permits.
 2. **Modification or Expansion of Nonconformities:** An existing legal non-conformity may not be modified or expanded without approval of a *Non-conforming Use Modification Permit* unless the legal non-conformity is being eliminated or mitigated.

SECTION 11.1 APPLICATIONS:

- A. Applications for modifications of legal nonconforming uses or structures must include the appropriate fee, a list of the Maricopa County Assessor's tax parcel numbers and mailing labels with the names and addresses of all property owners within three hundred feet (300') of the nonconforming use. The applicant shall be responsible for the accuracy of this list. The applicant shall also submit a *Site Plan* and a statement indicating how the proposed modification or expansion meets the requirements of the criteria for approving a *Non-conforming Use Modification Permit*.

SECTION 11.2 REVIEW CRITERIA:

- A. A *Non-conforming Use Modification Permit* may be approved by the Town Council upon receipt of a recommendation from the Planning Commission, if it can be shown that granting the permit will:
 - 1. Not result in:
 - a. Any significant increase in vehicular or pedestrian traffic in adjacent areas.
 - b. Any nuisance arising from the emission or odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
 - c. Any contribution to the deterioration of the neighborhood.
- B. Will assure:
 - 1. Compatibility with existing surrounding structures and uses.
 - 2. Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

SECTION 11.3 EXISTING NON-CONFORMING MANUFACTURED/MOBILE HOME PARKS

- A. Replacement of existing manufactured/mobile homes in existing legal non-conforming manufactured/mobile home parks may be permitted if the replacement manufactured/mobile home is of equal size or smaller than the existing one.
- B. Replacement with a manufactured/mobile home with one of a larger size or any structural additions to existing manufactured/mobile homes in an existing legal nonconforming manufactured/mobile home park shall require approval of a *Non-conforming Use Modification Permit*.
- C. Recreational vehicles may occupy manufactured/mobile home park pads.
- D. Installation of any manufactured/mobile home must be completed in conformance with all applicable Town codes and ordinances.

SECTION 11.4 NON-CONFORMING DESERT RURAL PROPERTIES

- A. Any lot of record within the Desert Rural (DR-190 or DR-89) zones considered legally non-conforming because of non-compliance with lot area requirements may be used for a Private Ranch use as outlined in Chapter 2 of this Ordinance, provided compliance with all other applicable regulations of this Ordinance are met and the parcel is at least one-acre in size.