

CHAPTER 6 - NON-CONFORMING USES

SEC. 6.0 GENERAL

- A. Except as otherwise required by law, a lot, structure, or use legally established before the adoption of this ordinance shall be considered a nonconformity and may be maintained or continued unchanged.
- B. Any lot of record within the Desert Rural (DR) or Single Family Residential (R) zoning districts considered a non-conformity 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 Family zoning districts considered a non-conformity 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 (the Northcott Formula) shall be utilized to calculate the maximum lot coverage for existing legal non-conforming lots located within the Desert Rural (DR) zoning districts. This adjustment in maximum lot coverage applies only to lots that have been classified as legal non-conforming lots due to lot size.

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

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 show that a nonconforming structure, lot or use was lawfully established prior to the effective date of this ordinance.

E. Discontinuance:

1. Vacancy: Any lot or structure, or portion thereof, occupied by a non-conforming use, which is or hereafter becomes vacant and remains unoccupied by the same nonconforming use for one year shall not thereafter be occupied, except by a use which conforms to this ordinance.

2. Destruction: If more than fifty (50) percent of the area under roof of any non-conforming structure is destroyed, it may not be reconstructed. If less than fifty (50) percent is destroyed, it may be reconstructed within a year provided the resulting structure complies with building codes.

F. Enlargements and Modifications:

1. Maintenance and Repair: Maintenance, repairs and structural alterations which would not expand the square footage of a non-conforming structure or to a building housing a nonconforming use may be allowed with valid building permits.

2. Modification or Expansion of Nonconformities: A non-conformity may not be modified or expanded without a modification permit unless the non-conformity is being eliminated or ameliorated.

SEC. 6.1 APPLICATIONS

- A. Applications for modifications of 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 (300) feet 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 modification permits.

SEC. 6.2 REVIEW CRITERIA

- A. A 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, or to the downgrading of property values.
- 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.

SEC. 6.3 EXISTING NONCONFORMING MOBILE HOME PARKS

- A. Replacement of existing mobile homes in existing non-conforming mobile home parks may be permitted if the replacement mobile home is of equal size or smaller than the existing one.
- B. Replacement with a mobile home of a larger size, and structural additions to existing mobile homes in such parks shall require approval of a modification permit.
- C. Recreational vehicles may occupy mobile home park pads without building permit approval.
- D. Installation of any mobile home must be completed in conformance with the Uniform Building Code, the Uniform Plumbing Code, and the National Electric Code.