

## SAHUARITA ORDINANCE NO. 2026-199

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AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF SAHUARITA, PIMA COUNTY, ARIZONA, AMENDING TITLE 18 ZONING, CHAPTER 18.01 GENERAL PROVISIONS, BY AMENDING SECTION 18.01.030 APPLICATION OF ZONING CODE, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Sahuarita has determined it is in the Town's best interest to revise the Town Code Title 18 Zoning, Chapter 18. 01 General Provisions, by amending Section 18.01.030 Application of Zoning Code; and

WHEREAS, that certain document attached hereto as Exhibit A, entitled "TOWN OF SAHUARITA AMENDING TITLE 18 ZONING, CHAPTER 18.01 GENERAL PROVISIONS, AMENDING SECTION 18.01.030 APPLICATION OF ZONING CODE," at least three paper copies, or one paper copy and one electronic copy are on file in the office of the Town Clerk for the Town of Sahuarita in compliance with A.R.S. §9-802, is hereby declared to be a public record and said copies are hereby ordered to remain on file with the Town Clerk; and

WHEREAS, in accordance with Article II, Sections 1 and 2, Constitution of Arizona, and the laws of the State of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town and the probable impact of the proposed ordinance on the cost to construct housing for sale or rent before adopting this ordinance; and

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Sahuarita, Arizona, as follows:

**Section 1.** The Code of Sahuarita, Arizona, is hereby amended by amending Title 18 Zoning, by amending Section 18.01.030 Application of Zoning Code, to read as set forth in the attached Exhibit A entitled "TOWN OF SAHUARITA AMENDING TITLE 18 ZONING, CHAPTER 18.01 GENERAL PROVISIONS, AMENDING SECTION 18.01.030 APPLICATION OF ZONING CODE," which document is hereby adopted and incorporated by reference.

**Section 2.** The various Town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance.

**Section 3.** All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

**Section 4.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the Code adopted herein by reference is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**Section 5.** As stated in Chapter 18.95, Section 18.95.040 Penalties and remedies, as follows:

A. Penalties.

1. Penalties are determined by ruling of the town magistrate.
2. Each day's continuance of a zoning violation shall be deemed a separate offense.
3. The maximum penalty for each offense shall be:
  - a. Seven hundred fifty dollars for an individual; or
  - b. Ten thousand dollars for any corporation, association, labor union, or other legal entity.

B. Remedies.

1. All remedies provided in this code shall be cumulative and not exclusive.
2. The imposition of penalties on any person under this code shall not relieve such person from the responsibility of correcting prohibited conditions or removing prohibited structures or improvements and shall not prevent the enforced correction or removal of such violations.
3. If any structure is erected, constructed, reconstructed, altered, maintained, or used, or any land is used, in violation of this code, the town council, the town attorney, the zoning administrator or any adjacent or neighboring property owner who is specially damaged by the violation may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, abate or remove the violation.

**Section 7.** Pursuant to A.R.S. § 19-142, this Ordinance shall become operative 30 days after its passage.

[ SIGNATURES ON NEXT PAGE ]

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Sahuarita, Arizona, this 26th day of May 2026.

Approved:

*Tom Murphy*

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Mayor Tom Murphy

**CERTIFICATION OF RECORDING OFFICER**

State of Arizona        )  
County of Pima        ) ss.

I, the undersigned, Lisa Cole, MMC, being the duly appointed, qualified Town Clerk of the Town of Sahuarita, Pima County, Arizona, certify that the foregoing Ordinance is a true, correct, and accurate copy of Ordinance No. 2026-199, passed and adopted at a Voting Meeting of the Council of the Town of Sahuarita, Pima County, Arizona, held on the 26th day of May 2026, at which a quorum was present and by 6-0 vote, all voted in favor of the said ordinance.

Given under my hand and sealed this 26th day of May 2026.



*Lisa Cole*

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Lisa Cole, MMC  
Town Clerk

APPROVED AS TO FORM:

*Jon Paladini*

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Jon Paladini, Town Attorney

[Exhibit on File at Town of Sahuarita,  
Town Clerk's Office, 375 W. Sahuarita Center Way, Sahuarita, AZ 85629]

**EXHIBIT A**

**TOWN OF SAHUARITA AMENDING TITLE 18 ZONING,  
CHAPTER 18.01 GENERAL PROVISIONS,  
AMENDING SECTION 18.01.030 APPLICATION OF ZONING CODE**

The Town of Sahuarita Municipal Code is hereby amended by 18 Zoning, Chapter 18. 01 General Provisions, by amending Section 18.01.030 Application of Zoning Code, to read as follows (new text in ALL CAPS; deletions in ~~strikethrough~~):

**Chapter 18.01  
GENERAL PROVISIONS  
Sections:**

\* \* \*

**18.01.030 Application of Zoning Code.**

\* \* \*

**D Provisions for Nonconforming Uses and Buildings.**

~~1. Nonconforming Uses Exempted.~~

~~a. As specified in ARS 9-462.02, nothing in this code shall affect existing property or the right to its continued use for the purpose used on July 19, 1995, or prior to annexation, nor to any reasonable repairs or alterations in buildings or property used for such existing purpose, or for any other use of the same or a more restrictive classification.~~

~~b. A nonconforming business use within any district or zone shall have the right to expansion, provided it does not exceed 100 percent of the area of the original business. Area of the original business is defined as being any land or building, or both, improved for a business purpose.~~

~~c. The term "business use," as used in this subsection, shall be limited to the uses described in Chapter 18.42 STC, STC 18.51.030(B) and (C) (I-1 Light Industrial/Warehousing Zone), and 18.53.030(B) and (F) (I-2 General Industrial Zone).~~

~~2. Nonconforming Use of Land. The lawful use of land existing at the time this code or any preceding town of Sahuarita zoning ordinance became effective, or on the effective date of any amendment of the text or of the maps hereof, although such use does not conform to the provisions hereof for said land, may be continued, but if such nonconforming use is discontinued for a period of 12 months, any future use of said land shall be in conformity with the provisions of this code.~~

~~3. Nonconforming Use of Buildings.~~

~~a. The lawful use of a building existing on July 19, 1995, or prior to annexation, although such use does not conform with the provisions hereof for such building and such use, may be continued provided no structural alterations, except those required by law or ordinance or permitted by the board of adjustment (Chapter 18.93 STC, Board of Adjustment Variances, Temporary Use Permits and Interpretations) under this code, are made therein.~~

~~b. If any such nonconforming use is discontinued for a period of 12 months, any future use of said building shall be in conformity with the provisions of this code; provided, that the owner of any building which was under construction or vacant on July 19, 1995, or date of annexation and was designed for a use not in conformity with the zoning classification in which it was located on said date, may, upon application, have a certificate of nonconforming use issued by the zoning administrator within 60 days from July 19, 1995, or date of annexation, which certificate shall establish the nonconforming character of said building for a period not to exceed 12 months from July 19, 1995, or date of annexation. Occupancy of said building by a use permitted under said certificate during said period shall establish said use as a nonconforming use under this subsection. A certificate for an additional period of not more than 12 months may be granted by the board at or before the expiration of the original certificate upon the showing of extreme hardship and that the surrounding area would not be subject to additional damage thereby.~~

#### 4. Plans for Nonconforming Use.

~~a. Any owner of land zoned under this code shall file in writing with the planning and zoning commission within 180 days after July 19, 1995, or date of annexation, a plan of development for such land, including uses not permitted by the zoning code, and shall be issued a special nonconforming hardship use permit by the board of adjustment for said proposed development, or any part thereof, at any time within two years from July 19, 1995, or date of annexation.~~

~~b. If any temporary governmental regulation prohibiting the proposed development is in full force and effect during said two-year period, the time limit shall be extended for an additional period equal to the time said governmental regulation is in effect, but no such permit shall be issued more than five years after July 19, 1995, or date of annexation.~~

~~c. Said plan of development with necessary plans shall show the legal description of the land and the location of proposed buildings and improvements in sufficient detail to determine the conformity or nonconformity of the proposed uses. Any use proposed in any such plan of development shall conform to the minimum standards of the most restrictive zone in which said use would be a nonconforming use under this code.~~

~~5. Alteration of Nonconforming Buildings. No existing building designed, arranged or intended for or devoted to a use not permitted under the regulations of this code for the zone in which located shall be enlarged, extended, reconstructed or structurally altered unless such building and such enlargement, extension, reconstruction and structural alterations, and the further use thereof, conform in every respect with the regulations specified by this code for such zone in which said building is located, except a nonconforming business use as provided~~

~~in subsection (D)(1) of this section, but nothing in this subsection shall authorize the violation of any setback, health or sanitary law, ordinance or regulation not a part of this code.~~

~~6. Destroyed Nonconforming Buildings.~~

~~a. If, at any time, any building in existence or maintained on July 19, 1995, or date of annexation, and which does not conform to the regulations for the zone in which it is located, shall be destroyed by fire, explosion, act of God or act of the public enemy to the extent of 100 percent of its value, according to the appraisal thereof by competent appraisers, then and without further action by the town council the said building and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all of the regulations specified by this code for the zone in which such land and building are located.~~

~~b. In the event a building is destroyed to the extent of 100 percent of its value, the owner thereof shall have the right to rebuild for said use; provided said structure is rebuilt in conformance with the requirements of the most restrictive zone in which said nonconforming use would otherwise be permitted and provided permits for such construction are obtained within three months of the date of destruction and such construction is started within six months of the date of destruction.~~

~~E. Zoning Clearances. A zoning clearance shall be required for the erection, construction, reconstruction or alteration of any structure, or the change in use of any property or structure, whether or not such activity requires a building permit.~~

~~1. ESTABLISHMENT OF LEGAL NON-CONFORMING USES, STRUCTURES, AND LOTS.~~

~~a. A NONCONFORMING USE OR STRUCTURE IS DEFINED AS A LAWFUL USE OR STRUCTURE MAINTAINED AFTER THE EFFECTIVE DATE OF A ZONING ORDINANCE PROHIBITING SUCH USE OR STRUCTURE IN THE APPLICABLE DISTRICT. A NONCONFORMING USE OR STRUCTURE IS A SOURCE OF VESTED RIGHTS ONLY IF IT WAS IN ACTUAL EXISTENCE AND USE BEFORE THE EFFECTIVE DATE OF A ZONING ORDINANCE PROHIBITING SUCH USE OR STRUCTURE IN THE APPLICABLE DISTRICT.~~

~~b. NONCONFORMING STATUS MAY RESULT FROM ANY INCONSISTENCY WITH THE REQUIREMENTS OF THIS ORDINANCE INCLUDING, BUT NOT LIMITED TO, TYPE OF USE, LOCATION, DENSITY, HEIGHT, YARDS, USABLE OPEN SPACE, BUFFERING, SCREENING, LANDSCAPING, PARKING REQUIREMENTS,~~

PERFORMANCE STANDARDS, OR THE LACK OF AN APPROVED USE PERMIT OR OTHER REQUIRED AUTHORIZATION.

c. ANY LEGALLY ESTABLISHED USE, STRUCTURE, OR LOT THAT DOES NOT CONFORM TO THE REGULATIONS PRESCRIBED IN THE ZONING DISTRICT IN WHICH SUCH USE OR STRUCTURE IS LOCATED AND WAS IN EXISTENCE AND OPERATING PRIOR TO, AND AT THE TIME OF THE EVENT THAT MADE SUCH USE OR STRUCTURE NONCONFORMING, SHALL BE CONSIDERED LEGALLY NONCONFORMING. LEGALLY NONCONFORMING USES, STRUCTURES, AND LOTS MAY BE CONTINUED SUBJECT TO THE REQUIREMENTS OF THIS CHAPTER.

d. THE BURDEN OF ESTABLISHING THE EXISTENCE OF A LEGAL NON-CONFORMITY SHALL BE SOLELY ON THE OWNER OF THE PROPERTY CONTAINING THE NON-CONFORMITY. VERIFICATION OF STATUS MAY BE REQUESTED THROUGH AN APPLICATION TO THE ZONING ADMINISTRATOR FOR A ZONING COMPLIANCE LETTER, ACCOMPANIED BY EVIDENCE OF THE DATE THE USE OR OTHER NON-CONFORMITY WAS ESTABLISHED AND ITS CONTINUOUS OPERATION.

2. EXPANSION OF NONCONFORMING USES. A NONCONFORMING USE IS LIMITED TO THE SITE OR AREA THAT WAS NONCONFORMING WHEN THE ORDINANCE PROHIBITING THE USE WAS ENACTED AND MAY NOT BE EXPANDED EXCEPT AS OTHERWISE PERMITTED BY THIS CODE. A NONCONFORMING USE MAY BE EXPANDED THROUGHOUT THE SAME BUILDING OR STRUCTURE; PROVIDED THAT:

a. NO STRUCTURAL ALTERATION OR EXPANSION OF THE BUILDING (OR PORTION OF SUCH BUILDING CONTAINING THE NONCONFORMING USE IN THE CASE OF BUILDINGS WITH MULTIPLE USES) SHALL BE PERMITTED.

b. SUCH EXPANSION SHALL NOT CREATE ADDITIONAL PARKING REQUIREMENTS THAT CANNOT BE MET THROUGH EXISTING EXCESS PARKING SPACES PURSUANT TO SAHUARITA TOWN CODE SECTION 18.75.030 OFF-STREET PARKING REQUIREMENTS.

c. ANY EXISTING OCCUPIED SINGLE-FAMILY RESIDENTIAL DWELLING UNIT THAT IS DEEMED TO BE A NONCONFORMING USE MAY MAKE IMPROVEMENTS TO THE MAIN AND ACCESSORY STRUCTURES SO LONG AS IMPROVEMENTS DO NOT INCREASE THE HEIGHT OR BUILDING FOOTPRINT. THE LIMITATION ON AN INCREASE TO THE HEIGHT OR FOOTPRINT DOES NOT APPLY IF THE DWELLING IS PART OF A SUBDIVISION THAT WAS LEGALLY PLATTED IN A ZONE WHICH NO LONGER ALLOWS THE DWELLING AS A PERMITTED USE.

3. CONTINUATION AND MAINTENANCE OF NONCONFORMING USES OR STRUCTURES.

a. NONCONFORMITIES MAY CONTINUE TO BE USED AND OCCUPIED, SUBJECT TO THE REGULATIONS ESTABLISHED IN THIS CODE.

b. REASONABLE REPAIRS AND MAINTENANCE ARE PERMITTED PROVIDED THAT THE REPAIRS AND MAINTENANCE DO NOT INCREASE THE DEGREE OF NONCONFORMITY. MINOR REPAIRS AND MAINTENANCE INCLUDE THE FOLLOWING:

(1) REPAIRS NECESSARY TO MAINTAIN AND CORRECT ANY DAMAGE OR DETERIORATION TO THE STRUCTURAL SOUNDNESS OF, OR THE EXTERIOR OR INTERIOR APPEARANCE OF A BUILDING OR STRUCTURE WITHOUT EXPANDING THE HEIGHT OR FOOTPRINT OF THE BUILDING OR STRUCTURE, UNLESS COMPLIANT WITH THIS CODE.

(2) MAINTENANCE OF LAND TO PROTECT AGAINST AND MITIGATE HEALTH AND ENVIRONMENTAL HAZARDS.

(3) REPAIRS THAT ARE REQUIRED TO REMEDY UNSAFE CONDITIONS.

(4) REPAIRS NECESSARY TO COMPLY WITH CURRENT BUILDING CODE REQUIREMENTS.

c. ANY NONCONFORMING STRUCTURE OR A CONFORMING STRUCTURE CONTAINING A NONCONFORMING USE DAMAGED OR DESTROYED BY CASUALTY OR ACT OF GOD, MAY BE RESTORED WITHOUT IMPAIRMENT TO ANY NONCONFORMING STATUS, PROVIDED:

(1) A BUILDING PERMIT FOR THE RESTORATION IS OBTAINED WITHIN TWELVE (12) MONTHS FROM THE TIME OF THE CALAMITY; AND COMPLETION FOR OCCUPANCY IS ACCOMPLISHED WITHIN 18 MONTHS FROM THE TIME OF THE CALAMITY.

(2) THE SIZE AND FUNCTION OF THE NONCONFORMING USE OR STRUCTURE SHALL NOT BE EXPANDED.

5. ABANDONMENT OR CHANGE OF NONCONFORMING USES.

a. WHENEVER A NONCONFORMING USE HAS BEEN DISCONTINUED AND CHANGED TO A CONFORMING USE, OR WHENEVER A NONCONFORMING USE HAS BEEN DISCONTINUED FOR MORE THAN 12 MONTHS ATTRIBUTABLE, AT LEAST IN PART, TO THE PROPERTY OWNER OR OCCUPANT, A PRESUMPTION OF INTENT TO CEASE SAID USE SHALL HAVE BEEN ESTABLISHED AND THE RIGHT TO CONTINUE THE FORMER NONCONFORMING USE SHALL NO LONGER EXIST. SUBSEQUENT OPERATION AS A NONCONFORMING USE SHALL BE UNLAWFUL, UNLESS WITHIN 30 DAYS FOLLOWING WRITTEN NOTICE FROM THE TOWN TO THE PROPERTY OWNER OF THE PENDING LOSS OF THE NONCONFORMING STATUS, THE PROPERTY OWNER SHOWS THE ZONING ADMINISTRATOR PROOF THAT HE DID NOT INTEND TO ABANDON THE USE.

b. THE ZONING ADMINISTRATOR SHALL DETERMINE WHETHER THE USE WAS ABANDONED OR VACATED. WHERE THE ZONING ADMINISTRATOR FINDS THAT AN ABANDONMENT MAY HAVE OCCURRED, THE OWNER/OPERATOR OF THE USE SHALL HAVE THE BURDEN TO PROVIDE EVIDENCE OF CONTINUOUS OPERATION OF THE USE DURING THE TIME PERIOD IN QUESTION TO MAINTAIN THE NONCONFORMING STATUS.

6. NONCONFORMING SIGNS. THE PROVISIONS FOR NONCONFORMING SIGNS ARE SET FORTH IN CHAPTER 18.79.070.