

## **ARTICLE 26 - NON-CONFORMING USES**

### **Section 2601- Continuing Existing Uses.**

Any use of land, building or structure, lawfully existing at the time this Ordinance or amendments thereto become effective, may be continued, even though such uses do not conform with the regulations of this Ordinance or amendment thereto for the zoning district in which it is located.

### **Section 2602 - Discontinuance of Non-Conforming Uses.**

1. In the event that a non-conforming use of land, building or structure is discontinued for a period of twelve (12) consecutive months, any future use thereof shall be in conformity with the regulations of this Ordinance.
2. In the event that a non-conforming use of land, building or structure is destroyed by fire, explosion, act of God or act of the public enemy to the extent that seventy-five percent (75%) of its value, according to the appraisal thereof by competent appraisers, then and without further action by the Board of Supervisors the future use thereof shall from and after the date of such destruction be subject to all the regulations of this Ordinance, or amendments thereto for the zoning district in which such future use is located.

### **Section 2603 - Expansion of a Non-Conforming Use.**

1. A non-conforming use of land, building or structure shall not be enlarged, expanded, reconstructed or structurally altered unless such enlargement, extension, reconstruction or structural alteration, and further use of such property conform with the regulations of this Ordinance for the zoning district in which such property is located, except that a non-conforming business use may expand to one hundred percent (100%) of the business area pursuant to ARS 11-830, paragraph B.

However, because of the potential of substantial impacts on the surrounding area, any and all expansion permitted under ARS 11-830, paragraph B, of such use will require a special use permit, pursuant to Article 20 herein, by which the County may impose reasonable conditions upon the use to protect the public health, safety, convenience and welfare. Proposed expansion of any use beyond the entitled one hundred percent (100%) is subject to all the provisions of Article 20, and may be denied by the Board of Supervisors.

2. For the purposes of this section "expansion" means the following:
  - a. The construction of new buildings.
  - b. The addition to existing buildings.
  - c. The extension of a use into land originally zoned for the use, but not currently utilized by that use.
  - d. An increase in equipment or machinery horsepower by replacement or

improvement by more than fifty percent (50%) per unit intended for like increases in production volume.

3. For the purposes of this section, "expansion" does not mean the following:
  - a. Any improvement required by Federal, State or local environmental or health agency.
  - b. Any increase in production volume utilizing existing equipment.
  - c. Any extension of the use into an existing floor area originally designed for such extension, but not currently utilized by that use.
4. No use established in violation of this ordinance in its original or amended text may be considered as a conforming use or gain rights as a non-conforming use. Further, the express intent of this Article does not waive the requirement for building permits when expanding under the provisions of this section. Under no circumstances do the provisions of this section permit the addition of new uses substantially different from the existing use.

#### **Section 2604 - Change of Non-Conforming Use.**

If no structural alterations are made, any non-conforming use of land, building or structure may be changed to another non-conforming use provided the proposed use is of the same or more restricted classification as evidenced by a finding and resolution of record by the Board of Adjustment having jurisdiction.