

ATTACHMENT B

DRAFT ZONING COMPLIANCE FOR EXISTING SITE IMPROVEMENT  
AMENDMENT

ADOPTED BY THE  
MAYOR AND COUNCIL ON

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ORDINANCE NO. \_\_\_\_\_

RELATING TO PLANNING AND ZONING; AMENDING CERTAIN PORTIONS OF THE LAND USE CODE, CHAPTER 23, ARTICLE V, ADMINISTRATION, DIVISION 3, SPECIAL DEVELOPMENT APPLICATIONS, ADDING SECTION 5.3.12, ZONING COMPLIANCE FOR SITE IMPROVEMENTS IN EXISTENCE ON MAY 1, 2005; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Tucson Code, Chapter 23, Land Use Code, Article V, Division 3, Special Development Applications, is hereby amended to add Section 5.3.12 Zoning Compliance For Site Improvements In Existence on May 1, 2005, to read as follows:

**5.3.12 ZONING COMPLIANCE FOR SITE IMPROVEMENTS IN EXISTENCE ON MAY 1, 2005.**

The owner of property, at the time of a request for a Certificate of Occupancy may concurrently request that site improvements, including outdoor activity areas, in existence as of May 1, 2005 (“existing site improvements”) be granted zoning compliance subject to the following:

5.3.12.1 This Section 5.3.12 shall only apply to developed property with nonresidential zoning that is not subject to Article II Division 8 Overlay Zones, or any change of zoning (rezoning), variance, or special exception

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approved subject to conditions, or the subject of an ~~unresolved~~unabated zoning violation.

5.3.12.2 Existing site improvements shall be determined by referring to May 2005 aerial photography administered by the Pima Association of Governments (PAG) and available on the PAG website.

5.3.12.3 Existing site improvements are not subject to compliance with Section 3.2.3, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, and 3.2.11; 3.3; 3.4; 3.7; and 3.8.

5.3.12.4 Properties granted zoning compliance under the provisions of this Section 5.3.12 may be used for all principal Permitted Land Uses based on the zoning of the site subject to the applicable General Restrictions in each zone, except for the following prohibited uses:

- a. Section 6.3.4.4 Correctional Use
- b. Section 6.3.5.6 Billboard
- c. Section 6.3.9 Restricted Adult Activities Use Group
- d. Section 6.3.5.3 Alcoholic Beverage Service uses unless continuously licensed through the Arizona Department of Liquor Licenses and Control from May 1, 2005, to the present.
- e. Section 6.3.5.13 Food Service uses ~~greater than 2,400 square feet in gross floor area (GFA)~~ unless continuously licensed through the Pima County Health Department from May 1, 2005, to the present.

f. ~~6.3.8.2 Family Dwelling~~

g. ~~6.3.8.3 Group Dwelling~~

h. ~~6.3.8.4 Mobile Home Dwelling~~

i. ~~6.3.8.5 Residential Care Services~~

5.3.12.5 Required drop-off areas may not be deleted.

5.3.12.6 Use of the property shall be in compliance with all applicable performance criteria enumerated in Article III, Division 5 of the Land Use Code.

5.3.12.7 This Section 5.3.12 shall be applied to single or multiple parcels of land but may not be applied to partial parcels.

5.3.12.8 Changes to parking lot striping, maintaining the same number of parking spaces, or increasing the number of parking spaces, are permitted in compliance with Section 3.3.7 so long as no existing elements such as loading zones or dumpsters are deleted except as permitted under current regulations.

5.3.12.9 The owner of the property shall:

- a. submit a sworn affidavit that the use of the property will be in compliance with this Section 5.3.12, or
- b. include the following in any lease/rental agreement for the property:  
“Tenant shall not cause or permit the Property to be used in any way

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which constitutes a violation of any law, ordinance, or governmental regulation. Notwithstanding any contrary provision of this lease agreement, any occupancy or use of the premises in violation of this paragraph shall constitute a material breach of this lease agreement entitling Lessor to invoke all remedies provided hereunder including termination.”

5.3.12.10 A site inspection to verify that the use of the property is in compliance with this Section 5.3.12 may be conducted at the discretion of the Planning and Development Services Director.

5.3.12.11 Zoning compliance granted pursuant to this section shall be valid only so long as the property and site improvements thereon remain in the same condition as on the date zoning compliance is granted. Any subsequent development or modification to the property or site improvements will render zoning compliance under this section void and of no effect. Any modification or improvement not shown on May 2005 aerial photography administered by the Pima Association of Governments (PAG) will be considered a subsequent development of the property.

Requests for zoning compliance pursuant to this Section 5.3.12 must be submitted to the City of Tucson Planning & Development Services Department, and all applicable fees paid, prior to the expiration date of this Section 5.3.12, as provided herein.

SECTION 2. The provisions of this ordinance adding Section 5.3.12 of the Land Use Code shall cease to be effective on January 31, 2012, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to this amending ordinance. The purpose of this sunset clause is to give the City the opportunity to decide whether to continue to implement Section 5.3.12, as added or to revert to those provisions existing prior to this ordinance.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this ordinance become immediately

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effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, \_\_\_\_\_.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:

CITY ATTORNEY

CITY MANAGER

GM/TM/gm  
5/17/10