

City of Prescott Ordinance No. 14

An ordinance establishing regulations and requirements for Zoning, Planning, Development, and Building within the City of Prescott and amending current Zoning Ordinance 12 dated January 5, 2005, to achieve compliance with the requirements of the National Flood Insurance Program (NFIP).

The City of Prescott does ordain as follows:

Section 1. Definitions. The following definitions, words, and phrases as used in this ordinance are defined as follows:

1. **Access:** The way or means by which pedestrians and vehicles enter and leave property.
2. **Accessory building or structure:** A subordinate building or structure, the use of which is clearly incidental to that of the main building or structure on the same lot.
3. **Alley:** A minor public way, which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.
4. **Alteration:** A change in construction or change of occupancy.
5. **Alteration, Structural:** Any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as an alteration or bearing walls, foundation, columns, beams or girders. Also includes any change in the external dimensions of the building.
6. **Apartment:** Any building or portion thereof which is designed, built, rented, leased, let or hired out, to be occupied as a residence of three or more families, living independently of each other and using separate cooking facilities.
7. **Area of Special Flood Hazard:** The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.
8. **Base Flood:** also referred to as the "100-year flood", means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. Designation on flood insurance rate maps (FIRM) always includes the letters A or U.
9. **Base Flood Elevation (BFE):** means the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

10. **Basement:** Any floor level below the first story in a building; except, that a floor level in a building having only one floor level shall be classified as a basement, unless such floor level qualifies as a first "story" as defined herein. For the purpose of complying with this ordinance, basement means any area of the building having its floor subgrade (below ground level) on all sides.

11. **Below-Grade Crawl Space:** means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

12. **Building:** Any structure built for the support, shelter, or enclosure of any persons, animals, chattel, or property of any kind.

13. **Building Codes:** means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.

14. **Building Committee:** Composed of the Building Official and at least two members of the City Council. The Mayor may appoint other members of the Council as well as an equal amount of private citizens from the community or an amount willing to serve.

15. **Building Official:** The Mayor shall be the City Building Official unless the City Council appoints another person by unanimous vote.

16. **Building Height:** The vertical distance measured from the adjoining sidewalk or roadway level to the highest point of the surface of a flat roof, to the deck of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip, or gambrel roof. If a building is set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

17. **Building Line:** A horizontal line that coincides with the front side of the main building.

18. **Development:** Any construction, alteration, repair, maintenance or use of a property that is conducted by a contractor or work that meets the requirements of obtaining a building permit from Columbia County Development Services. Development shall also mean any clearing of brush or shrubbery, major digging or harvesting of timber from property with the intent to change the look or topography of the land. Within the floodplain, development also means mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard. Development shall not mean minor household maintenance, landscaping or, yard maintenance.

19. **District:** An area of the City within which all land use is uniformly regulated. Also known as a Zoning District.

20. **Dwelling, One-family or Single-family:** A building designed for occupancy by one family with one cooking facility. A second cooking facility may be approved if used for what is commonly referred to as a Mother-in-law suite.

21. **Dwelling, Two-family or Duplex:** A building designed for occupancy by two families, which consist of two main entrances and two cooking facilities.

22. **Elevated Building** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

23. **Fence:** A fence, a minimum of 6 feet in height, consisting of wood, metal, or masonry, or an evergreen hedge or other natural planting, arranged in such a way as to obstruct vision

24. **Flood or flooding:** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) the overflow of inland or tidal waters; or

(b) the unusual and rapid accumulation or runoff of surface waters from any source.

25. **Flood Insurance Rate Map (FIRM):** means an official map of a community, issued by the Federal Insurance Administration, delineating the Areas of Special Flood Hazard and/or risk premium zones applicable to the community.

26. **Flood Insurance Study (FIS):** means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood.

27. **Floodway:** means the channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

28. **Historic Structure:** means a structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior, or ;

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

i. By an approved state program as determined by the Secretary of the Interior, or;

ii. Directly by the Secretary of the Interior in states without approved programs.

29. Hotel: A building or portion thereof designated or used for occupancy of individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

30. Lowest Floor: means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the Building Code.

31. Junk Yard: The use of more than two hundred square feet of the area of any lot for the dismantling or wrecking of automobiles or trucks, or for the storage, keeping, or disposal of junk, including scrap lumber, metals, or other scrap materials.

32. Lot: A plot, parcel, or area of land recognized by the City as being under one district ownership.

33. Lot Coverage: The area covered by a building or buildings on a lot, expressed as a percentage of the total lot area.

34. Lot Depth: The average distance from the narrowest street frontage to the lot line opposite.

35. Lot Lines: The lines bounding a lot as defined herein.

36. Lot Line, Front: For an interior lot, a line separating the lot from the street, and for a corner lot, a line separating the narrowest frontage of the lot from the street.

37. Lot Line, Rear: For an interior lot, a line separating one lot from another on the opposite side of the lot from the front lot line; for corner lot either (but not both) interior lot line separating one lot from another; and for an irregular or triangular shaped lot, a straight line ten feet in length that is parallel to and at the maximum distance from the front lot line.

38. Lot Line, Side: Any lot boundary lines that are not a front lot line or a rear lot line.

39. Lot Width: For interior lots the distance between opposite side lot lines; and for corner lots, the distance between the longest street frontage and the lot line opposite.

40. May: As used in this ordinance, May is permissive and Shall is mandatory.

41. Manufactured Dwelling: means a structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "Manufactured Dwelling" does not include a "Recreational Vehicle."

42. Mobil Home: Any vehicle or similar portable structure containing 550 square feet or less of living space. Living space shall be measured from exterior dimensions of the structure, and shall exclude any hitch.

43. Mobil Home Park: Any place where one or more mobile homes are located on one lot.

44. Owner: The person or persons listed of record with the City or County as being in ownership of a subject property.

45. Parking Space: A minimum gross area, ten feet in width and twenty feet in length, available for the parking of a standard automobile.

46. Recreational Vehicle: means a vehicle that is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towed by a light duty truck, and;
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

47. School: Includes private or parochial nursery school, kindergarten, day nursery, primary, elementary, or high school.

48. Shall: As used in this ordinance, shall is mandatory and May is permissive.

49. Sidewalk: A public way adjacent to a street, which provides for pedestrian access.

50. Sign: Any device designed to inform or direct attention to a product, place, activity, person, institution, or business.

51. Sign Area: The greatest width multiplied by the greatest height of the display portion of a sign.

52. **Start of construction:** includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of a building.

53. **Story:** That portion of a building included between a floor and the ceiling next above it, exclusive of a basement or cellar.

54. **Street:** A public way, which provides vehicular and pedestrian access to adjacent properties. It shall include the terms street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, and other such terms.

55. **Structure:** ~~Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground.~~ means a walled and roofed building, a manufactured dwelling, or a gas or liquid storage tank that is principally above ground.

56. **Substantial Damage:** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of its market value before the damage occurred.

57. **Substantial Improvement:** means reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(1) The appraised real market value of the structure prior to the start of the initial repair or improvement, or

(2) In the case of damage, the appraised real market value of the structure prior to the damage occurring. The term does not include either:

(a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

(b) Alteration of an Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

58. Yard: An open space, which is unobstructed from the ground upward except as otherwise provided in this ordinance.

Section 2. Establishment of Zones.

1. For the purpose of this ordinance the following zones are hereby established:

Zone Abbreviated Designation

Residential R

Commercial C

Industrial M

Public P

Flood Plain FP

2. The boundaries for the zones listed in this ordinance are indicated on the Prescott Zoning Map, which is hereby adopted by reference, and shall be displayed at City Hall. The adopted zoning map shall be the same zoning map adopted with the 1988 Zoning Ordinance.

3. The City Council and Building Committee shall prepare a zoning map or a zoning amendment adopted by this section. The City Council shall have final approval of the zoning districts.

Section 3 Residential District (R).

(1) Permitted uses for a Residential District shall be the following:

Single-family dwelling

Accessory buildings common to a residence

Home gardens

(2)The Building Committee shall approve any Conditional Use of a Residential District and shall decide whether or not a conditional use permit shall be granted.

Section 4 Minimum Lot Size

1. 6,000 square feet for a single-family dwelling provided sanitary requirements have been satisfied. For any conditional use, the lot size must be adequate to satisfy the set-back requirements of this ordinance or any sanitary requirements.

Section 5 Set-Back requirements.

1. Set back from the front shall be at least 15 feet.
2. From the side shall be at least 5 feet.
3. From the rear shall be at least 10 feet.
4. Set backs from a corner side lot line shall be at least 15 feet
5. Accessory buildings may be located within 5 feet of side and rear lot lines.

Section 6 Structure Height

1. The maximum height for structures in the R zone is 30 feet or 2 ½ stories.

Section 7 Off Street Parking

1. Single-family dwellings shall provide for at least 2 off street parking spaces. If a conditional use permit is issued for any other type of structure, the City Council and Building Committee shall also indicate the amount of space to be provided for off street parking on a case-by-case basis.

Section 8 Sidewalks

1. If the City issues a development permit, the City may require that the property owner or developer construct sidewalks adjacent to the roadways that abut with the developed property. The City will provide appropriate construction specifications at the time the permit is issued, which may also instruct proper alteration to abutting roadway to insure adequate flow of pedestrian and vehicular traffic.

Section 9 Signs

1. One sign not more than one square foot shall be permitted for each dwelling.

Section 10 Trees

1. Any new mature trees planted shall not exceed 25 feet in height. Property owners shall be responsible for insuring that tree roots and limbs do not overstep lot lines of abutting properties in such a manner to cause a nuisance. The owner of the nuisance tree shall be responsible for removal of overstepping limbs or roots or allowing the affected property owner to remove the nuisance.

2. Trees, roots, limbs, or parts thereof, which constitute a danger or hazard, shall not be permitted.

3. All affected parties must approve placement of trees that may affect the view of an existing dwelling.

Section 11 Commercial District (C)

1. The City of Prescott does not allow any Commercial structure to be built except by variance or conditional use permit. Residential use shall be allowed in a commercial zone provided the requirements of the (R) Zone are satisfied by this ordinance.

Section 12 Industrial District (M)

1. The City of Prescott does not allow any Industrial structure to be built except by variance or conditional use permit. Residential use shall be allowed in an industrial zone provided the requirements of the (R) Zone are satisfied by this ordinance.

Section 13 Public District (P)

1. Any use or structure is permitted provided it is owned by the public and further provided that it complies with all applicable provisions of this ordinance governing the type of use or structure proposed.

Section 14 Flood Plain District (FP)

1. The City of Prescott does not allow development any structure or dwelling to be built in a flood plain except by variance or conditional use permit. The City shall follow the provisions in the National Flood Insurance Program (NFIP) compliant ordinance, which is a separate ordinance referenced below.

2. The City of Prescott has adopted a flood damage prevention ordinance known as the Prescott Floodplain Ordinance Number 15.

Section 15 Development/Building Permit Procedure and Application Process

1. Development/Building permits shall be obtained from the City of Prescott prior to any building or property development. This permit is in addition to the building permit that is also required by Columbia County Land Development. The application shall be completed on a form provided by the City and submitted by the builder or property owner with all information requested. The application must be submitted to the Building Committee for review before any permit shall be granted. No building or development shall be conducted until the permit has been approved and signed by the City Building Official. The City Building Official may require information from the County before any permit is issued. The City may require that a fee be assessed for each issued permit. Fees shall be set by resolution, and shall be subject to periodic change.
2. For all permitted uses, the Building Official shall submit the application for permit to the Building Committee prior to the permit being issued. The Building Committee shall review the application and proposed use for compliance with the provisions of this ordinance. The Building Committee may require the developer or builder to construct, alter, or repair portions of city utilities as seems reasonable as a condition of the new use or development.
3. For any conditional use, the application must be submitted to the Building Committee for review and discussion during a public hearing. For the purpose of this ordinance, all public hearings shall be posted at least one week prior to the hearing. Notice shall be posted at City Hall and two other public places within the city.
4. If a development permit has been approved, the Building Official will notify the applicant, and a development permit will be issued. The Applicant will then be required to follow the process to obtain a Building Permit from the Columbia County Land Development Services. If a permit to build is granted by the County, the applicant shall post a copy of the permit as instructed by Columbia County Land Development Services, and they shall also provide a copy to the Prescott Building Official.
5. If an applicant decides upon a significant change in the design or proposed use after a permit has been issued, the applicant must reapply for a new Development Permit.
6. Development Permits shall be void after one year unless construction has commenced or development is underway.

Section 16 Inspections

1. Inspectors from Columbia County Land Development Services shall conduct all inspections during the building and construction of the proposed use as it relates to their issued permit.

2. The City of Prescott Building Official shall be kept up to date on the progress of the project and shall be granted access to inspect to insure the project is being carried out as approved by the City. The Building Official shall conduct at least three mandatory inspections that shall be coordinated by the builder or developer. The first inspection shall be conducted during the setting of foundation form work or soon thereafter prior to concrete being poured. The second shall be conducted approximately midway to completion, and after project has been "dried-in." The third inspection should be conducted at or near finish and prior to final inspection conducted by Columbia County Land Development.

Section 17 Conditional Uses

1. Conditional uses of property, because of the unique nature, public convenience or effect on the comprehensive plan may be permitted, provided that such use would not be detrimental to adjoining properties or to the purpose or intent of the comprehensive plan.

2. Conditional use may be granted by the Building Committee only for a specific use requested, and may attach conditions and restrictions including time limit, landscaping requirements, off street parking, or any other reasonable conditions, restrictions, or safeguards that will not have any adverse effect upon any adjoining properties or the intent of the comprehensive plan.

3. A person may initiate a process for a conditional use permit by following the procedure addressed in this ordinance for a development permit. A Development Permit for a conditional use shall only be granted after a public hearing has been conducted. The public hearing shall be conducted as outlined and aforementioned in this ordinance.

4. Authorization of a conditional use shall be void after one year or a lesser time if specified unless substantial action has been taken. However, the Building Committee may grant an extension upon request not to exceed one year.

Section 18 Variances

1. The Building Committee may authorize variances from the requirements of this ordinance where it can be shown that strict enforcement of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Committee may attach conditions that they find necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this ordinance.

2. A variance may be granted for but not limited to the following reasons. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and result from lot size, shape, topography, or other circumstances that the owners of the property since enactment of this ordinance have had no control. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess. The variance would not be materially detrimental to the purpose of this ordinance or to any other property, and that the granting of the variance will not conflict with the comprehensive plan.

3. The variance requested must be the minimum variance that would alleviate the hardship.

4. A person may initiate a process for a variance by following the procedure addressed in this ordinance for a development permit. A Development Permit for a variance of use shall only be granted after a public hearing has been conducted. The public hearing shall be conducted as outlined and aforementioned in this ordinance.

5. Authorization of a variance shall be void after one year or a lesser time if specified unless substantial action has been taken. However, the Building Committee may grant an extension upon request not to exceed one year.

Section 19 Amendments

1. The City Council, the Building Committee, or a property owner or their authorized agent may initiate an amendment to the text of this ordinance or to the zoning map.

2. The request for an amendment must be given to the Building Official who will in turn present it to the Building Committee. The Building Committee shall present a recommendation to the City Council, and the Council shall hold a public hearing regarding the amendment prior to any action taken. A public hearing regarding an amendment shall be conducted as previously outlined in this ordinance.

3. A public hearing for an amendment may be recessed to gather further information, to make further notifications, or any other reasonable purpose. If the hearing has been recessed, public notice must be reinitiated prior to resuming deliberation of the amendment issue.

4. If a property owner requested an amendment to this ordinance or the zoning map, and request was denied, the request shall not be made again for a period of one year after the denial unless the Building Committee is presented with new evidence or a change of circumstances that would warrant it.

Section 20 Appeal

1. Decisions or rulings under this ordinance can be appealed to the City Council.
2. Notice of an appeal must be giving to the City Council in writing, and within 15 days of the aggrieved issue. A letter to the City post marked within 15 days shall qualify as a timely notice.
3. The City Council shall schedule to hear the appeal at its next regularly scheduled Council meeting. The Council shall consider the facts of the case as they relate to this ordinance, and they may take statements from the Building Official, the public, and the aggrieved party. The Council may make a decision and a final ruling at the completion of the meeting or render their decision at the next regular Council meeting. The Council shall not delay a decision longer than 60 days. If necessary after a final ruling of the Council, The Building Official shall make appropriate documentation to reflect the decision of the appeal.

Section 21 Enforcement

1. Any violation of this ordinance shall be considered a nuisance. The City may, as an alternative to other legal remedies, abate or remove the unlawful use, construction, maintenance, repair, or alteration of a property or structure.

Section 22 General Provisions

1. If any conditions imposed by this ordinance that are less restrictive as compared to other conditions in this ordinance or any other ordinance, then the more restrictive conditions shall apply.
2. If any section of this ordinance is determined to be invalid by a competent Court, the decision shall not affect the validity of the remaining portions of this ordinance.

Section 23 Exceptions

1. Any nonconforming use or structure that was in place prior to this ordinance shall continue as is without regard for the provisions of this ordinance. The provisions of this ordinance shall only apply if a nonconforming use is continued after the enactment of this ordinance. All new use, development, construction, alteration, repair, maintenance of a nonconforming use or structure must comply with the provisions of this ordinance.
2. If a nonconforming use is replaced, discontinued, abandoned, or left vacant for a period of one year or more, then further use shall conform to the provisions of this ordinance.

3. If a nonconforming structure is destroyed by any cause to an extent to exceed 80 % of its fair market value and is not returned to use and in actual operating condition within one year from the date of destruction, a future structure or use on the site shall conform to the provisions of this ordinance.

4. Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued by the city and construction has commenced prior to the adoption of this ordinance, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.

Section 24 Repeal

1. The enactment of this ordinance shall cause the previous ordinance titled Zoning, Planning, Development, and Building within the City of Prescott dated January 5, 2005 to be no longer valid and repealed.

First reading: September 14, 2010

Second reading: October 12, 2010

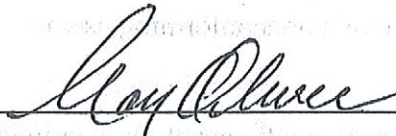
City Council passed and authorized the Mayor to sign on October 12, 2010.



Date: 10-12-2010

Kevin Miller/Mayor

Attested:



10-12-10

City Recorder/Coy Oliver