

Legal Lot of Record

The Santa Fe City Code, Section 14-12.1, defines a "legal lot of record" as follows:

“A lot that was created prior to the date of any applicable provision of law that required the lot to be approved as part of a subdivision, or that has been created as part of a subdivision created in accordance with all applicable laws or ordinances, or that has been created by a court order as provided in Section 14-3.7(A)(6), or for which a certificate of compliance has been issued pursuant to Section 14-3. 7 (A) (7) (b). The lot must be shown on a duly recorded plat or other written instrument that adequately describes the lot, that is recorded with the county clerk, and that documents compliance with this definition.”

Under the City's interpretation of this definition, to constitute a "legal lot of record," the lot:

1. Must be shown or described on a plat or other written instrument that adequately describes the lot and that has been recorded with the Santa Fe County Clerk; AND
2. Must have been created through one of the following four methods:
 - a. Part of a subdivision approved by the City;
 - b. Established before December 5, 1962;
 - c. Established by court order entered under Chapter 42 of the NMSA 1978; or
 - d. Described in a certificate of compliance issued by the land use director or the Planning Commission.

The City will recognize lots created before December 5, 1962, because that was the effective date of Ordinance No. 1962-19 (An Ordinance Relating to Zoning and Providing for its Enforcement), which the Governing Body approved on November 28, 1962. The ordinance set forth minimum lot size requirements, among other things, and provided that a lot established after that date must meet the requirements of the ordinance. The City's long-standing practice has been to recognize a lot that was created by a deed recorded prior to the effective date of Ordinance No. 1962-19, regardless of whether the lot received City approval.

Any lot created prior to that 1962 is considered a legal lot and if filed in the office of the County Clerk, is a lot of record. A legal lot created prior to 1962 may not always comply with current standards. This type of lot is still legal, just non-conforming i.e. it is grandfathered or has legacy status.

A legal non-conforming lot enjoys all the benefits of development as its counterpart with one small caveat: some legal non-conforming lots may have development constraints due to configuration and size or existing conditions as it relates to land and/or structures.

Any lot created after 1962 must have obtained City approvals (which would be listed on the plat of survey) for its creation to be legal and then filed in the Office of the County Clerk making it a lot of record.

There are four methods to prove that a lot is legal;

1) Plat of survey with City signatures of approval;

The City signature block should not be confused with the County Clerk recording stamp and seal. The recording stamp will contain the date, time, plat book, page number, instrument number and County Clerk Seal when the plat was made part of the public records. The City signature block contains signatures of a city planner, subdivision engineer and possibly various other signatures depending on the plat approval process such as City Council, Planning Commission or Public Works.

2) Plat of survey that shows the lot in question predates the Code (September 30, 1962);

3) A warranty deed that describes the property in question in its current boundary configuration that predates the Code (September 30, 1962).

For items 2 and 3 above, the plat and deed will not likely contain a City signature block but only the County Clerk recording stamp and Seal, and only if it was recorded and made part of the County Clerk records.

4) Provide documentation listed above for all adjoining properties identifying the lot as legal by exclusion.

Documentation must be provided demonstrating all legal lots which share a property line(s) with the subject property. With this method, it must be shown that all property lines are either City approved or legal non-conforming (established before September 30, 1962) creating a legal lot by exclusion.

All documents required for proving Legal Lot of Record are filed with Santa Fe County. Please contact the Office of the County Clerk to request a copy of any of the above documents.