

NONCONFORMING USES, STRUCTURES AND PLOTS

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502.01 Purpose

This section is intended to permit the continuation and occupancy of specified uses and maintenance of specified structures that were legally established, but do not conform to the current applicable regulations of the Rural Code. The regulations of this section apply to structures, land and uses that have become non-conforming as a result of the adoption of the Rural Code, as well as to structures, land and uses that become non-conforming due to any amendments to the Rural Code.

502.02 Establishment of Lawful Non-conforming Uses, Structures and Plots

A. Regulations

Any lawfully established use, structure or plot that is in existence on the effective date of the Rural Code, or the date of any subsequent amendment, shall be considered nonconforming if it does not conform to the applicable regulations of the Rural Code. Non-conforming uses and structures may only be continued subject to the regulations of this section.

1. Non-Conformity with development regulations:

While a non-conformity may result from any inconsistency with the requirements of the Rural Code, such as location, FAR or height, a use or structure shall not be deemed non-conforming solely because it does not conform with the parking standards, loading, landscaped area or screening requirements of the base district in which it is located.

2. Right to Continue non-conforming uses and structures:

Right to Continue – Any non-conforming use or structure may only be continued and maintained if it has remained in continuous existence, prior to the adoption of the Code. The right to continue a non-conforming use or structure will become ineffective if the non-conforming use or structure shall become ineffective if the non-conforming use or structure is abandoned or vacated for a period of six (6) months or more. The right to continue a non-conforming use or structure shall attach to the land/plot and shall not be affected by a change in ownership. No substitution, expansion or other change in use, and no alteration or other change in structure is permitted, except as otherwise provided in this section.

3. Non-conforming Plots:

Any plot that is less than the minimum plot size or does not meet any of the applicable dimensional requirements of the Rural Code may be used as a building plot if it is described in an affection plan that has been recorded with the relevant Municipalities prior to the adoption of the Code.

4. Airport Hazards:

No permit or development approval shall be granted that would allow an existing non-conforming structure or non-conforming use to become a greater hazard to air navigation than it was when the previous regulation was adopted, or than it is when any new application is made.

502.03 Continuation and Maintenance of Non-conforming Structures

Lawful non-conforming structures may be continued and maintained in compliance with the requirements of this section, unless deemed to be a public nuisance for public health and safety reasons, as determined by the relevant authority.

Maintenance and non-structural repairs and non-structural interior alterations are permitted to a non-conforming structure or to a structure occupied by a non-conforming use, so long as the changes and improvements do not enlarge or extend the structure.

Structural repairs that do not enlarge or extend the structure shall be permitted when the relevant authority determines that such modifications or repairs are necessary to protect public health and safety of the occupants of the non-conforming structure, or occupants of an adjacent property. Examples of structural repairs include modification or repair of bearing walls, columns, beams or girders.

502.04 Alterations and Enlargements to Non-conforming Structures

A. General

Where the conforming use of a non-conforming structure complies with the Rural Code, the non-conforming structure may be enlarged, extended, structurally altered or repaired to allow the conforming use to continue. The enlargement, extension, alteration or repair shall comply with all applicable regulations in the Rural Code.

1. Non-conforming Setbacks

Additions or enlargements that maintain the width of an existing non-conforming setback and do not result in a decreased width are permitted.

2. Deteriorating or Dilapidated Structures

A non-conforming structure that is deteriorating, dilapidated and/or nearing the end of its useful life shall not be altered or enlarged.