

# Article 1.0 General Provisions

## 1.1. Title

This document is the "Larimer County Land Use Code" and is referred to throughout the text as this "Code" or "LUC."

## 1.2. Authority

Authority to adopt this Code is given by the Colorado Constitution and the following sections of the Colorado Revised Statutes, as amended:

- 1.2.1.** Title 22, Articles 32 and 54 (School District Boards – Powers and Duties; Reservation and Dedication of School Sites);
- 1.2.2.** Title 24, Article 65.1 (Areas and Activities of State Interest);
- 1.2.3.** Title 24, Article 68 (Vested Property Rights);
- 1.2.4.** Title 28, Article 6 (Division of Aviation);
- 1.2.5.** Title 29, Article 20 (Local Government Regulation of Land Use);
- 1.2.6.** Title 30, Article 11 (County Powers and Functions);
- 1.2.7.** Title 30, Article 15 (Regulation Under Police Power);
- 1.2.8.** Title 30, Article 28 (County Planning and Building Code);
- 1.2.9.** Title 32, Article 1 (Special District Provisions);
- 1.2.10.** Title 34, Article 1 (Geological Survey);
- 1.2.11.** Title 34, Article 60 (Oil and Gas Conservation);
- 1.2.12.** Title 38, Article 30.5 (Conservation Easements);
- 1.2.13.** Title 41, Article 4 (Airports); and
- 1.2.14.** Title 43, Article 2 (State, County, and Municipal Highways).

## 1.3. Purpose

The purpose of this Code is to preserve, protect, and improve the health, safety, and general welfare of Larimer County residents and to:

- 1.3.1.** Implement the Larimer County Comprehensive Plan ("Comprehensive Plan") and any future amendments to the plan; the Comprehensive Plan is an informational and guidance document only (not regulatory), and includes all associated master plans and area plans and other plans adopted by the Planning Commission;
- 1.3.2.** Provide standards for the physical development of the county to:
  - A.** Preserve the character and quality of rural and urban areas;
  - B.** Foster convenience and compatibility among land uses; and
  - C.** Prevent excessive population densities and overcrowding of land or buildings and ensure the provision of adequate open space for fire safety, sunlight, and air;
- 1.3.3.** Maintain and enhance property values by stabilizing expectations, fostering predictability in land development, and establishing a process that efficiently and equitably applies this Code to

individual sites while respecting property owner rights and the interests of Larimer County residents. This requires balancing economic development with community values and individual property rights;

- 1.3.4.** Promote the economic stability of existing land uses that are consistent with the Comprehensive Plan and protect them from intrusions by incompatible land uses;
- 1.3.5.** Ensure that service demands of new development will not exceed the capacity of existing roads, streets, utilities, and other public services and that new development, to the extent allowed by state statute, will pay its share of the cost of infrastructure additions and improvements needed to serve such new development;
- 1.3.6.** Protect critical environmental resources, including wetlands, riparian areas, important wildlife habitats, and special places of Larimer County;
- 1.3.7.** Promote the preservation of agricultural land and the continuation of agriculture; and
- 1.3.8.** Prevent or decrease the danger to life and property from flooding, geologic hazards, and wildfire.

## **1.4. Applicability**

- 1.4.1.** This Code applies to the development and use of land in unincorporated Larimer County.
- 1.4.2.** This Code applies to land owned by the County and other local, state, and federal agencies to the extent allowed by law.
- 1.4.3.** This Code and the official zoning map govern the application of the zoning districts and related standards.

## **1.5. Minimum Standards Required**

The provisions of this Code are the minimum standards necessary to accomplish the purposes of this Code and implement the Comprehensive Plan.

## **1.6. Relationship to Other Regulations**

Unless otherwise stated in this Code, whenever provisions in this Code conflict with provisions in other County regulations or with other provisions within this Code, the provision that is more restrictive or particular shall govern over the provision that is less restrictive or general.

## **1.7. Relationship to Private Covenants and Agreements**

This Code is not intended to interfere with, revoke, or repeal any easement, covenant, or other agreement between private parties. No covenant or deed restriction shall excuse any failure to comply with this Code. In no case shall the County be obligated to monitor or enforce any easement, covenant, or agreement between private parties unless the County is a party to such agreement and agrees to pursue enforcement.

## **1.8. Severability**

A determination by a court of competent jurisdiction that a provision of this Code is unconstitutional or invalid does not make the remainder of the Code unconstitutional or invalid. A determination by a

court that the application of this Code to a particular structure or parcel of land is unconstitutional or invalid does not apply to any other structure or parcel of land.

## 1.9. Enforcement

### 1.9.1. Purpose

This section establishes procedures through which the County seeks to ensure compliance with the provisions of this Code and obtain corrections for violations of this Code. This section also establishes the remedies and penalties applicable to violations of this Code.

### 1.9.2. Authority

The provisions of this Code shall be enforced by the County Attorney and the Director at the discretion of the County Commissioners through their authority to abate any violations, and enjoin, restrain, and prosecute any person violating this Code pursuant to Colorado law. The County Commissioners shall determine in their sole discretion whether to pursue a violation of this Code based on the seriousness of the violation, the number of pending violations, and the resources available.

### 1.9.3. Violations

#### A. Approvals and Compliance with This Code

It is a violation of this Code to use real property or improvements on such property; to develop real property; to erect, construct, reconstruct, remodel, restore, or improve a building or structure; to move buildings onto a site; to excavate or fill land; or to alter or change the use of any real property or improvements on such property in any way not in accordance with this Code or without first obtaining all land use approvals and permits required by this Code.

#### B. Building Permits

1. It is a violation of this Code to use real property or the improvements on such property to erect, construct, reconstruct, remodel, or improve any building or structure; to move buildings onto a site; or to alter or change the use of any real property or the improvements on such property without first obtaining all approvals required under this Code and a building permit as required by the Building code adopted by the County Commissioners.
2. The Community Development Department will not approve the issuance of a building permit unless the plans for the proposed use, development, erection, construction, reconstruction, remodel, restoration, improvement, alteration, or change conform to the requirements of this Code.
3. A building permit is not required for residential accessory buildings or agricultural support buildings (not occupied by the public) of 200 square feet or less measured at the interior of the building.

#### C. Terms and Conditions

It is a violation of this Code to use real property or the improvements on such property to develop real property to erect, construct, reconstruct, remodel, restore, or improve a building or structure; to excavate or fill land; or to alter or change the use of any real property or improvements that are inconsistent with the terms and conditions of any land use approval granted under this Code.

**D. Land Division**

Except for parcels 35 acres and larger or parcels established prior to May 5, 1972, it is a violation of this Code to transfer or sell, agree to transfer, or sell, or offer to transfer or sell any divided land before a plat for the land is approved by the County Commissioners and recorded with the County Clerk and Recorder.

**E. Construction of Roads and Other Improvements**

1. It is a violation of this Code to commence construction of roads or other improvements until a development construction permit or right-of-way permit is issued by the County Engineer after final approval by the County Commissioners and all post-approval requirements are met.
2. It is a violation of this Code to construct a road or access serving two or more lots or a use serving the public without first obtaining a private road construction permit.

**F. Continuing Violations**

Each day a violation occurs or remains uncorrected constitutes a separate violation.

**G. Review Criteria**

In the event a matter is brought before the Planning Commission, County Commissioners, Flood Review Board, or Board of Adjustment, all or in part to "cure" a violation or alleged violation of this Code, the review criteria applied shall be those as stated in the Code for the applicable type of approval without regard to past investment in an illegal use.

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**1.9.4. Remedies and Penalties**

**A. Legal Authority**

1. Any person, firm, corporation, or entity violating any provision of this Code is subject to the penalties provided for in the Colorado Revised Statutes, as amended, and any other legal action provided by law.
2. All provisions of this Code may be enforced by any legal or equitable means recognized by the Colorado Revised Statutes and Colorado Court Rules, as amended. In addition to any other remedies that may be recognized in law or equity, for any unlawful use or development Larimer County may:
  - a. Deny and withhold all permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements. This provision applies regardless of whether the current owner is responsible for the violation.
  - b. Revoke any development permit or other authorization if it is determined there is a departure from the approved plans, specifications, or conditions of approval or the development permit was obtained by false representation or issued in error. Written notice of revocation must be served upon the owner, the owner's agent, or the owner's contractor to whom the permit was issued, or the notice may be posted in a prominent location at the place of the violation.
  - c. Initiate injunction or abatement proceedings or other appropriate legal action in district court or other court having jurisdiction against any person, firm, corporation, or entity who fails to comply with any provision of this Code, or any requirement or condition imposed under this Code.
  - d. Seek a court order in the nature of mandamus, abatement, injunction, or other action to abate or remove a violation or otherwise restore the premises to the

condition that existed before the violation, and to cause the costs of such action to be recorded as a lien collected in the same manner and with the same priority as real property taxes.

- e. Withhold all public road improvements and public maintenance from all rights-of-way that have not been accepted for those purposes by the County Commissioners.

**B. Penalties and Remedies are Cumulative**

All penalties or remedies provided for violations of this Code are cumulative.

**C. Damages and Grievances**

Any person who believes they have been damaged or aggrieved by a violation of this Code may institute an action to:

1. Prevent, legally enjoin, abate, or remove any building or structure that is or is proposed to be erected, constructed, reconstructed, altered, maintained, or used in violation of this Code; or
2. Prevent, legally enjoin, or abate the use of any land in violation of this Code.

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**1.9.5. Inspections****A. Authority and Process for Inspections**

1. The Director, Chief Building Official, County Engineer, County Health Department, or other authorized representative ("the enforcing official") is authorized to enter or inspect any building, structure, premises, or real property to ensure compliance with this Code.
2. These inspections will be carried out during normal business hours except in emergency situations described in §1.9.5.B below.
3. Entry onto private property for inspection will be made only after contact with the owner or occupant of the premises, whose permission for the inspection must be obtained. If the owner or occupant of the premises cannot be located or permission to enter cannot be obtained, the enforcing official may seek an administrative search warrant or court order allowing entry by submitting a sworn affidavit to the county or district court detailing facts to support a reasonable belief that a violation is likely to exist and that further investigation of the premises is warranted.
4. Any subsequent entry and inspection must be conducted in accordance with the administrative search warrant or order issued by the court. Signing an application for any development approval constitutes permission to enter and inspect a property. Inspections may be conducted from public property or right-of-way, or from adjacent private property with the permission of the owner of the private property.

**B. Inspections During Emergency Situations**

Notwithstanding the provisions of §1.9.5.A above, permission to enter or a court order is not required in emergency situations in which the enforcing official has reason to believe public health or safety is in imminent danger and could be jeopardized by any delay in obtaining permission to enter or a court order

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**1.9.6. Nonliability of the County**

This Code shall not be construed to hold Larimer County or any of its employees or officials, acting within the scope of their employment in any manner, responsible or liable for any damages to

persons or property resulting from any inspection, enforcement, or review as authorized by this Code. The county and its employees are also not liable for damages resulting from any failure to inspect or enforce or resulting from the issuance or denial of any building permit or the institution or failure to institute any court action as authorized or required. In enacting this Code, County Commissioners intend to preserve all rights of the county, its agencies and departments, its elected and appointed officials, and employees to immunity from liability as described in the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et. seq.

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### 1.9.7. Pending Actions

Nothing in this Code prohibits the continuation of pending enforcement actions undertaken by the county under regulations in effect prior to the effective date of this Code.

## 1.10. Nonconformities

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### 1.10.1. Purpose

This section governs nonconformities which are uses, buildings, structures (except signs), lots, and site features (such as parking and landscaping), that were legally established prior to the adoption of this Code but that do not comply with one or more requirements of this Code. The provisions of this section are intended to recognize the interests of property owners in continuing and putting to nonconformities to productive use, while also encouraging and establishing processes to bring as many aspects of nonconformities into conformance with this Code as is reasonably practicable.

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### 1.10.2. Regulations Applicable to All Nonconformities

#### A. Authority to Continue

Nonconformities may continue to be used and occupied, subject to maintenance of premises and conditions of operations regulations in this Code unless the nonconformity is discontinued as provided in this section.

#### B. Determination of Nonconforming Status

The Director has the authority to determine whether a use, building, structure, lot, or site feature is nonconforming. A property owner shall make a written request for the designation of a nonconformity status. The burden of proof for establishing the existence of a nonconformity shall be the responsibility of the applicant or property owner. The Director's decision may be appealed pursuant to §6.7.2, *Appeals*.

#### C. Continuing Nonconforming Status

1. A nonconforming use is a use that was permitted in the zoning district in which the property is located and which was legally commenced prior to the adoption of this Code. If the use had not been properly approved under a prior version of the Larimer County Land Use Code, it is not a legal nonconforming use.
2. If the use was approved through special review or other use- or site-specific permit process under a prior Land Use Code, that approval carries forward to this Code.
3. If the use was nonconforming under the previous Land Use Code and is conforming in this Code, it will lose its nonconforming status and be considered conforming. If the use was nonconforming under the previous Land Use Code and requires special approval pursuant to this Code, it will remain nonconforming unless the property owner seeks to

change the use, in which case the applicant will be required to either submit an application for approval of the nonconforming use or replace the nonconforming use with a conforming use.

4. A building or structure that is nonconforming because it has not obtained approval by the Flood Review Board or because it does not meet current setbacks or height restrictions may become a conforming building by obtaining Flood Review Board approval and/or obtaining the necessary setback or height variance approval as applicable to address the nonconforming element(s) of the building.

#### **D. Destruction of a Nonconforming Use, Building, or Structure**

Destruction of a nonconformity occurs when a building, structure, or use has been destroyed by a calamity, other than flood, beyond the control of the property owner, and damages incurred exceed 50 percent of the replacement cost of the building or structure. A nonconformity that is destroyed may be replaced as follows:

1. A nonconforming building or structure with regard to setbacks and/or height may be replaced in the same location and at the same size as the original building or structure provided that a complete building permit application for the replacement is submitted within 12 months of the calamity.
2. A nonconforming building or structure with regard to setbacks and/or height may be relocated to a different nonconforming location that minimizes the relative degree of nonconformity, upon written approval of the Director.
3. A nonconforming use may be replaced at its original location and intensity provided that the property owner has demonstrated in writing to the Director that efforts for the replacement have or will commence within 12 months of the calamity.
4. All nonconformities damaged or destroyed by flood shall not be reestablished unless allowed by provisions and the requirements for reestablishment found in §2.7.1, *Floodplain Overlay (FP-O)*.

#### **E. Maintenance and Minor Repair**

Maintenance and minor repairs of nonconformities are permitted and encouraged, provided the repairs and maintenance do not increase the degree of nonconformity. Maintenance and minor repairs include the following:

1. Repairs necessary to maintain and correct any damage or deterioration to the structural soundness of, or the exterior or interior appearance of, a building or structure without expanding the height or footprint of the building or structure;
2. Upkeep and management of land to protect against and mitigate health and environmental hazards;
3. Repairs that are required to remedy unsafe conditions and that do not require a building permit; and
4. Repairs necessary to comply with current building code requirements.

#### **F. Change of Ownership or Tenancy**

Changes in ownership, tenancy, or management of property with an existing nonconformity may occur, but such nonconformities shall continue to be subject to the standards of this §1.10.



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**1.10.3. Nonconforming Uses****A. Discontinuance or Reduction in Intensity of a Nonconforming Use**

1. A nonconforming use that has been discontinued for more than 12 consecutive months shall not be reestablished, unless one of the following occurs:
  - a. The property owner provides competent evidence for a Director determination that the nonconforming use has not been discontinued.
  - b. The Director grants a 12-month extension to the discontinuance based upon a written request by the property owner demonstrating reasonable cause for such discontinuance (e.g., the sale of a property, or disaster).
  - c. A conforming version of the use is approved through the procedures and requirements of this Code.
2. A nonconforming use that has been reduced in intensity for more than 12 consecutive months shall only be used or operated at the reduced intensity, unless one of the following occurs:
  - a. The property owner provides competent evidence for a Director determination that the intensity of the nonconformity is different than being presented by others.
  - b. The Director grants a 12-month extension to the reduction of intensity based upon a written request by the property owner demonstrating reasonable cause for such reduction in intensity (i.e. the sale of a property, or disaster).
  - c. A conforming version of the use is approved through the procedures and requirements of this Code.

**B. Expansion or Change in Character of a Use**

A nonconforming use, including buildings or structures that contain a nonconforming use, cannot be extended, expanded, enlarged, or changed in character without the approval through the process found in §1.10.7, *Procedure for the Expansion or Change in Character of a Nonconformity*.

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**1.10.4. Nonconforming Buildings or Structures****A. Removal and Reconstruction of Nonconforming Decks and Stairs**

A nonconforming deck, at any finished floor elevation and including associated stairs that does not meet setback requirements may be removed and reconstructed “as-is” as long as the size of the deck is not increased and the nonconforming setback is not decreased except as needed to comply with life safety requirements. The replacement deck and stairs must meet all applicable building code requirements. Stairs may extend into required setbacks pursuant to §2.9.4.I, *Allowed Setback Encroachments*.

**B. Expansion of a Nonconforming Building**

1. A nonconforming building may be expanded if all of the following conditions are met:
  - a. The addition is not more than 50 percent of the square footage of the original building;
  - b. The addition is not more than 2,000 square feet; and
  - c. The addition complies with the required setbacks and no portion of the original building and addition is within the future right-of-way identified on the Larimer



County Functional Road Classification Map or a Colorado Department of Transportation Roadway.

- 2.** The addition of accessory buildings or structures to a property containing a nonconforming residence or agricultural use and/or building does not constitute the expansion of the nonconforming building or use.

**2-3.** The addition of Accessory EV Charging to a property containing a nonconforming building or structure does not constitute the expansion of the nonconforming building or use.

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### 1.10.5. Nonconforming Lots

- A.** Nonconforming lots shall meet all requirements of this Code except minimum lot size and minimum lot width-to-depth ratio.
- B.** A nonconforming lot that was made nonconforming by virtue of enactment of this Code may be used for construction of a building allowed in the applicable zoning district provided all other zoning district and dimensional standards are met.

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### 1.10.6. Nonconforming Site Features

#### **A. Purpose**

The purpose of this section is to bring nonconforming site features within the Urban character area into compliance with the requirements of this Code on an incremental basis, as future redevelopment occurs.

#### **B. Applicability**

This section applies only to projects within the Urban character area.

#### **C. Definition of Nonconforming Site Feature**

A nonconforming site feature is any drainage, parking, access, buffer, landscaping, screening element, fence and wall, or exterior lighting feature on a site that was lawfully established but that does not comply with the requirements of this Code.

#### **D. Thresholds for Compliance**

Within the Urban character area, any applicant for a building or land use permit for a multi-unit, commercial, mixed-use, or industrial development on a site that contains nonconforming site features as defined in this section shall upgrade such features in compliance with §4.2.1, *Identification of and Compliance with Development Standards*, except that the total required cost of compliance shall be limited as described in §1.10.6.E, below.

**1.** An application for the development of Accessory EV Charging is excepted from the requirements of §1.10.6.D.

#### **E. Level of Compliance Required**

- 1.** An applicant proposing a project that meets any of the compliance thresholds of §4.2.1, *Identification of and Compliance with Development Standards*, shall be required to spend 10 percent of the total project costs on bringing the nonconforming site features towards compliance with the design and development standards of this Code.
  - a.** For the purposes of this section, "total project costs" shall be determined by the Director and shall be exclusive of all costs of improvements that move the development in the direction of conformity to the requirements of this Code.

- b. The costs of remodeling, renovation, or repair that are interior to a structure not subject to site plan review shall also be excluded where the value of those improvements are less than 50 percent of the replacement value of the structure.
- 2. The portion of the total project costs that are related to increases in conformity shall be credited toward the percentages required.
- 3. The Director, in consultation with the applicant, shall determine which characteristics shall be addressed. The Director and the applicant shall consider how to maximize the public benefit and minimize the economic impact to the property owner.
  - a. Any required improvements shall have a reasonable nexus to the potential impacts of the proposed development, and shall be roughly proportional, both in nature and extent, to the impacts of the proposed development.
  - b. The Director shall not require compliance with a standard that would create non-compliance with a different standard (i.e., the Director shall not require the addition of landscaping that would cause the development to fall under the minimum required number of parking spaces).
- 4. If the applicant can bring the development into full compliance with this Code for less than ten percent of the total project costs, then no additional monies need be spent. The County shall not require more than ten percent, but the applicant may choose to spend more.
- 5. If the applicant chooses to spend more than 15 percent, the amount in excess of 15 percent may be credited, as outlined in the user's guide, towards future improvements under this section.
- F. The applicant may appeal the Director's decision pursuant to §6.7.2, *Appeals*.

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### 1.10.7. Procedure for the Expansion or Change in Character of a Nonconformity

#### A. Purpose

This procedure allows for review of proposals to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure.

#### B. Applicability

This procedure is available for any owner of a nonconformity who wishes to extend, expand, enlarge, or change the character of such nonconformity.

#### C. Procedure

##### 1. Pre-Application Conference

A pre-application conference shall be held in accordance with §6.3.2, *Pre-Application Conference*.

##### 2. Application Submittal and Processing

- a. The application shall be submitted, accepted, and revised, and may be withdrawn, in accordance with §6.3.5, *Application Submittal and Processing*.
- b. Upon receipt of a complete application, the Director shall refer the applicable application materials to all appropriate departments and agencies and mail written notice of the application to property owners in the vicinity of the proposal.

- c. Referral departments and agencies shall have 21 days to review and provide written comments to the Director. Referral departments and agencies may request additional review time in writing.

**3. Neighbor Notification and Comment**

- a. Written notice of the proposal shall be mailed to neighbors pursuant to the requirements of §6.3.7, *Scheduling and Notice of Hearings*.
- b. The comment period for neighbors to respond with any questions or concerns shall be 14 days from the mailing of the notice.
- c. Comments shall be provided in writing (email is acceptable) to the Community Development Department.
- d. The Community Development Department shall provide the applicant with a copy of any comments received.
- e. If neighbors raise comments or concerns, the applicant is encouraged to engage the neighbor(s) to determine if a mutual solution to the comment or concerns can be agreed upon. The applicant and neighbor(s) have 14 days to agree to a solution unless an extension request by either party is approved by the Director. Documentation of the solution shall be provided to the Community Development Department prior to the Director's decision. The administrative determination shall proceed including the agreed-upon mitigation measures.

**4. Administrative Determination**

Within five working days following the 21-day referral and review period, the Director shall provide a written determination stating that the request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure:

- a. Is approved, with or without conditions, and complies with this Code and any other approvals imposed by the County Commissioners, the Board of Adjustment or Flood Review Board;
- b. Requires modifications based upon the referral review or neighbor comments or concerns;
- c. Requires a public hearing based on unresolved neighbor comments or concerns; or
- d. Is denied based upon an inability to comply with this Code, including the review criteria and any other approvals imposed by the County Commissioners, the Board of Adjustment or Flood Review Board.

**5. Effect of Decision**

Upon the determination of the Director that the application:

- a. Requires modifications, the applicant shall be required to make a revised submittal, for a subsequent review, that addresses the referral or other comments. Prior to the revised submittal the applicant may request a meeting to discuss the referral or other comments.
- b. If approved, the applicant shall provide final versions of the site plan and supporting documents as required by the Director for approval signature by the Director.

**6. Appeals**

The decision of the Director may be appealed in writing to the County Commissioners pursuant to §6.7.2, *Appeals*.

**7. Public Hearing**

If neighbor comments or concerns cannot be resolved as part of the administrative determination step, the application will be scheduled for a hearing by the County Commissioners to resolve outstanding issues. To approve the request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure the County Commissioners shall consider the review criteria found in §1.10.7.D.

**8. Conditions of Approval**

The Director or County Commissioners may impose conditions on a request to extend, expand, enlarge, or change the character of a nonconforming use, building or structure to accomplish the purposes and intent of this Code and the Comprehensive Plan; prevent or mitigate adverse effects on the public, neighborhoods, utilities, and county facilities; and ensure compatibility of land uses. These conditions may include a requirement that some or all elements of the nonconforming use or that some or all areas of a nonconforming building, structure, or site be brought into compliance with the standards in Article 4.0, *Development Standards*, of this Code.

**9. Additional Approval Requirements**

Approval of a request for an extension, expansion, enlargement, or change of character of a nonconforming use, building or structure does not relieve the applicant from complying with the building codes as adopted by the county or the building permit submittal requirements.

**10. Number of Approvals**

Only one request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure shall be granted per nonconformity. Additional expansions or changes in character must be accomplished by following the appropriate procedure to make the use, building, or structure conforming in accordance with §1.10.2.C.

**11. Post-Approval Actions and Limitations****a. Minor Deviations**

Technical, engineering, or other considerations may necessitate minor deviations from the approved plans. The Director may approve minor deviations, in writing, provided they comply with this Code and the intent of the original approval.

**b. Amendments**

Changes to the approval that the Director determines not to be minor deviations require approval through the applicable process as described in this Code. If the amendments are not minor deviations, a new application will be required and it will receive full review under the approval processes appropriate to the use as described in this Code.

**c. Vesting and Expiration**

An approved request for an extension, expansion, enlargement, or change of character of a nonconforming use, building, or structure does not create a vested right. Approved plans are effective for two years. If the use has not commenced and/or a building permit and/or development construction permit are not issued

within two years of the approval, the approved plan shall be considered for expiration at a public hearing.

**D. Review Criteria****1. General Criteria**

To approve a request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure, the Director or County Commissioners shall consider the following criteria and find that each has been met or determined to be inapplicable:

- a. The extended, expanded, enlarged, or changed use, building, or structure will not be more than 2000 square feet or 50 percent larger or more intense than the initial use, building, or structure as measured by indoor area and/or outdoor use area or as measured by other means deemed applicable by the Director or County Commissioners;
- b. The request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure complies with all applicable requirements of this Code and any applicable supplementary regulations to the maximum extent practicable;
- c. The request to extend, expand, enlarge, or change the character of a nonconforming use, building, or structure complies with all conditions of approval imposed by the County Commissioners, the Board of Adjustment or Flood Review Board under another approval process authorized by this Code;
- d. The proposed use will be compatible with existing and allowed uses in the surrounding area;
- e. The proposed use will not result in a substantial adverse impact on other property in the vicinity of the subject property.

**2. Determination of Change in Character of Nonconformity**

In determining whether there would be a change in character of a use, building, or structure, the following factors may be considered:

- a. Whether there will be a change in the location, nature, volume, intensity, frequency, quality, or degree of the use, building, or structure. (For example, would there be a significant increase in the number of employees or traffic volume; a change in the days or hours of operation; or would the physical dimensions of the building or structure be increased?);
- b. Whether there would be a change in the activity, products, or services. (For example, a dog grooming facility that has been converted to a retail store for pet supplies could be considered a change in the character of the use.);
- c. Whether the new use, building, or structure would reflect the nature and purpose of the prior use or structure. (For example, an air strip used for seasonal crop-dusting operations that is subsequently used only for recreational parasailing could be considered a change in the character of the use.);
- d. Whether the new use would be different in kind on its effect on the neighborhood. (For example, has there been a change in environmental influences on the neighborhood, such as light, noise, or air quality?).

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**1.10.8. Nonconforming Signs**

Nonconforming signs shall meet the standards in §8.6, *Nonconforming Signs*.

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**1.11. Transition from Previous Ordinances**

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**1.11.1. Projects Approved Prior to the Adoption or Subsequent Amendment of the Code**

- A. Any application approved under previous county land use regulations remains valid until the expiration date. County Commissioners, the Flood Review Board, or Board of Adjustment, as applicable, may grant one extension not to exceed six months following a complete application made to the Director. Any subsequent application for extension must show that the application complies with this Code. Any significant modification to an approved project must comply with this Code.
- B. The Director determines whether a proposed modification is significant. The Director's decision can be appealed to the County Commissioners or Board of Adjustment, as applicable, within 30 days of the decision in accordance with §6.7.2.

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**1.11.2. Projects Under Review Prior to Code Adoption or Amendment**

Any complete application submitted to the Community Development Department for review prior to the adoption of this Code will be reviewed under regulations in effect on the date of the application.

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**1.11.3. Compliance with Permit Conditions**

All projects approved prior to adoption of this Code must comply with all conditions applied to that project by the approval authority.