

**ARTICLE 4  
NONCONFORMING SITUATIONS**

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**CHAPTER 4.1  
DEFINITIONS**

Abandon: To stop the use of property or the occupancy of a building intentionally. Abandonment is presumed when the use of a property or building has ceased and the property or building has been vacant for six (6) months or more.

Nonconforming building or structure: A building or structure that does not meet one or more setbacks for the zoning district in which said building or structure is located, or a building or structure that exceeds the maximum building coverage for the zoning district in which said building or structure is located, or a principal building or accessory structure that otherwise does not comply with dimensional requirements established by this zoning ordinance for the particular principal building or accessory structure or for the zoning district in which the nonconforming building or structure is located.

Nonconforming lot: A lot which does not conform to the lot requirements of the zoning district in which the lot is located as established by this zoning ordinance but which was a lot of record prior to the effective date of this zoning ordinance or its amendment.

Nonconforming use: Any building or use of land or building lawfully existing on or before the effective date of this zoning ordinance or as a result of subsequent amendments to this zoning ordinance, which does not conform to the use provisions of the zoning district in which it is located.

## CHAPTER 4.2 NONCONFORMING SITUATIONS

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### **Section 4.2.1. Nonconforming Lot of Record.**

A lot of record, as defined by this zoning ordinance, that does not conform to the minimum lot size or minimum lot width for the zoning district in which it is located may be used as a building site, provided that the access, height, buffer, setback, and other dimensional requirements of the zoning district in which the lot of record is located are complied with or a variance is obtained, and, provided further, that the lot meets all the current standards and requirements of the Decatur County Health Department.

### **Section 4.2.2. Nonconforming Buildings and Structures.**

A nonconforming building or structure, as defined by this article, may be expanded, enlarged, or extended if such expansion, enlargement, or extension is for a use that conforms to the use requirements for the zoning district in which the building or structure is located. Any such expansion, enlargement, or extension of a nonconforming building or structure shall meet the minimum yard, setback, buffer, height, bulk, and other dimensional requirements for the zoning district in which said non-conforming building or structure is located, and all other requirements of this zoning ordinance.

### **Section 4.2.3. Nonconforming Uses Generally.**

A nonconforming use may be continued even though such use does not conform with the use provisions of the zoning district in which said use is located, except as otherwise provided in this chapter. It shall be the responsibility of the owner of a nonconforming use to prove to the zoning administrator that such use was lawfully established and existed on the effective date of adoption or amendment of this zoning ordinance.

### **Section 4.2.4. Change of Nonconforming Use.**

A nonconforming use shall not be changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged.

### **Section 4.2.5. Abandonment of Nonconforming Use.**

A nonconforming use shall not be re-established after discontinuance or abandonment for six (6) months or more, except as provided in this article. Vacancy and/or non-use of the building,

regardless of the intent of the owner or tenant, shall constitute discontinuance or abandonment under this article. If a business registration is required for said nonconforming use and the business registration pertaining to said use has lapsed in excess of six (6) months, said lapse of business registration shall constitute discontinuance.

**Section 4.2.6. Expansion of Nonconforming Use.**

A nonconforming use shall not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use which complies with the zoning district in which said use is located.

**Section 4.2.7. Repair of Nonconforming Use.**

A nonconforming use shall not be rebuilt, altered or repaired after damage exceeding fifty (50) percent of its replacement cost at the time of damage as determined by the building inspector, except for a use which conforms with the zoning district in which said use is located, and provided such rebuilding, alteration or repair is completed within six (6) months of such damage.