

## ARTICLE 4 NONCONFORMING SITUATIONS

### **Section 401. Nonconforming Lots.**

A lot of record, as defined by this 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 from the Board of Adjustment, and, provided further, that the lot meets all the current standards and requirements of the Habersham County Health Department.

### **Section 402. Nonconforming Buildings and Structures.**

A nonconforming building or structure, as defined by this Ordinance, 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 nonconforming building or structure is located, and all other requirements of this zoning ordinance.

### **Section 403. Nonconforming Uses.**

**403.1. Generally.** A nonconforming use, as defined by this zoning ordinance, 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 ordinance.

**403.2. Change of 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.

**403.3. Discontinuance.** A nonconforming use shall not be reestablished after discontinuance for one (1) year. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision. 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.

**403.4. Expansion.** 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.

**403.5. Repair.** 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 one (1) year of such damage.