

Article 1. – Adoption, Purpose and Applicability

Sec. 101 - Purpose of article 1.

This Article provides for the adoption of the Unified Development Code, sets out its purpose and intent, describes the lands and development to which the Code applies, shelters approved permits from changes in the regulations, and provides for the continuation of preexisting uses, structures, lots and signs that are not in conformity with the provisions of this Code.

Sec. 102 - Title and authority.

102 (a) Short title.

This Code shall be known as and may be cited as "The Unified Development Code of Douglas County, Georgia" or, for brevity, "The Development Code" or "UDC."

102 (b) Authority.

This Development Code is enacted pursuant to Douglas County's authority to adopt plans and exercise the power of zoning granted by the Constitution of the State of Georgia, Article 9, Section 2, Paragraph 4; by Douglas County's authority to enact regulations and exercise powers granted by the Constitution of the State of Georgia, Article 9, Section 2, Paragraphs 1 and 3; 1981 Ga. Laws p. 4304 et seq., as amended, including but not limited to Section 9(a)(10); by Official Code of Georgia Annotated (O.C.G.A.) Section 3666-2(b); by that authority set forth in the Code of Douglas County, as amended; by the County's general police powers; and by other powers and authority provided by federal, state and local laws applicable hereto.

Sec. 103 - Adoption.

For the purposes stated herein, the Board of Commissioners of Douglas County does hereby enact as law the articles and sections contained in this Unified Development Code.

103 (a) Components of the development code.

This Code and the official zoning maps of the county on file and maintained in the office of the Department of Development Services shall together constitute the Unified Development Code of Douglas County, Georgia.

103 (b) Conflict with other regulations.

Whenever the regulations of the Code require or impose other more restrictive standards than are required in or under any other statute, the regulations and requirements of the resolution shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Code, the provisions of such statute shall govern.

103 (c) Severability and validity.

It is hereby decreed to be the intention of the Board of Commissioners of Douglas County that the sections, paragraphs, sentences, clauses and words of the Code are severable and if any word or words, clause or clauses, sentence or sentences, paragraph or paragraphs, section or sections of this Code shall

be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, clauses, sentences, paragraphs, and sections of this Code as the same would have been enacted by the Board of Commissioners of Douglas County without the incorporation in this Code of any such unconstitutional word or words, clause or clauses, sentence or sentences, paragraph or paragraphs, section or sections.

103 (d) Effective date.

This Development Code shall take effect upon its adoption by the Board of Commissioners of Douglas County, Georgia. Any subsequent amendments thereto shall likewise take effect upon their adoption.

Sec. 104 - Purpose and intent.

104 (a) Purpose of the development code.

The purpose of this Development Code is to promote the health, safety, morals, aesthetics, and general welfare of the community, and is intended:

- (1) To lessen congestion in the streets;
- (2) To secure safety from fire panic and other dangers;
- (3) To provide adequate access to light and air;
- (4) To prevent the overcrowding of land and avoid undue concentration of population;
- (5) To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, in accordance with a comprehensive plan;
- (6) To promote the orderly and beneficial development and expansion of the County; and
- (7) To promote the orderly and desirable development of public and private utilities and services.

104 (b) Purposes of the comprehensive plan.

The Douglas County, Georgia, comprehensive land use and thoroughfare plan is hereby adopted for the following purposes, among others:

- (1) To guide and direct growth and development in Douglas County;
- (2) To protect, preserve and enhance the county's cultural, environmental, economic and social resources;
- (3) To identify current land uses in order to assist the county in making budgetary, utility and other resource allocations;
- (4) To enable Douglas County to predict future land uses for planning purposes;
- (5) To assist the county in fulfilling its statutory and other legal obligations; and
- (6) To provide a public document which will serve as a means of general information on land use and development for the citizens of Douglas County and other interested parties.

104 (c) Intent in interpretation.

In the interpretation and application of this Development Code all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the property owner; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

104 (d) Intent relative to private property agreements.

This Code is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided that, when the regulations of this Code are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this Code shall govern.

104(e) Interpretation.

1. Responsibility for interpretation.

- a. The Zoning Official shall have sole and final administrative authority and responsibility for the interpretation of the requirements, standards, definitions or any other provision of this Development Code, the zoning map or Comprehensive Plan and Future Land Use Map. Upon written request for an interpretation, the Zoning Official shall respond in writing within seven days. Interpretations or actions made by any other administrative official of the County under this Development Code may be affirmed by the Zoning Official. Interpretations or actions of any County staff shall first be affirmed by their respective administrative official and then may be affirmed by the Zoning Official. An administrative official is defined as the head of any department subject to, or responsible for, these regulations.
- b. Interpretations or actions of the Zoning Official, County staff or administrative officials shall be appealed to the Board of Appeals under the provisions of this Development Code relating to appeals. Upon any request for an interpretation, the Zoning Official may decline to provide an interpretation and request a ruling by the Board of Appeals at their next regularly scheduled meeting, and such proceeding shall be considered an appeal.

2. Use of figures for illustration. Figures associated with defined terms or regulatory paragraphs in this Development Code are provided for illustration only and do not limit or change the meaning of the term as defined or the requirements of the regulation as written.

3. Use of words and phrases. For the purpose of this Development Code, the following shall apply to the use of words and phrases:

- a. Words used in the present tense include the future tense. Words used in the singular number include the plural number, and words used in the plural number include the singular number. The masculine person "he" or "his" also means "her" or "hers."
- b. References to the "County" and to the County Commission and any public officials or appointed bodies of the County not otherwise named by political jurisdiction or defined in this Development Code shall always mean Douglas County, Georgia, and its governing body, appointed or employed officials, and appointed bodies as named. These include:
 - 1) The County Manager, appointed as such by the Commissioners, or the County Manager's designee.

- 2) The Zoning Official, appointed as such by the County Commissioners, or the Zoning Official's designee.
 - 3) The Building Official, appointed by the Development Services Director as such under the building code, or the Building Official's designee.
 - 4) The Planning and Zoning Board, as designated by the County Commissioners to consider and make recommendations under the Zoning Procedures Act, including zoning changes and special use requests as well as to hear and make final decisions on appeals.
- c. References to an administrative department of the county shall always mean the department created by the County Commissioners as such. These include:
- 1) Development Services Department: References to action by the "Development Services Department" shall mean action by that administrative official to whom responsibility for that action has been assigned by the Development Services Director.
 - 2) Fire Department: A reference to action by the "fire department" shall mean action by that administrative official of the Douglas County Fire Department to whom responsibility for that action has been assigned by the fire chief.
 - 3) Planning and Zoning Department: References to action by the "Planning and Zoning Department" shall mean action by that administrative official to whom responsibility for that action has been assigned by the Development Services Director., including but not limited to the Planning and Zoning Manager, Zoning Administrator, all Code Compliance Officers, and any Acting Zoning Official.
 - 4) Transportation Department: A reference to action by the "Department of Transportation" shall mean action by the Director or his designee, who is responsible for the operation, maintenance, expansion and future development of the County Transportation System and all related facilities. This responsibility includes but is not limited to, planning, access management, design review/approval, utility permit approval and jurisdictional coordination of transportation plans with other state and local agencies.
- d. References to public officials, departments or appointed bodies of jurisdictions other than Douglas County shall always mean such persons or bodies having jurisdiction over or relative to Douglas County, Georgia. These include:
- 1) The Clerk of the Superior Court of Douglas County, Georgia.
 - 2) The Douglas County Health Department.
 - 3) The West Georgia Soil and Water Conservation District.
 - 4) The Atlanta Regional Commission.
 - 5) The Georgia Departments of Natural Resources (DNR) and Transportation (GDOT).
 - 6) The Georgia Regional Transportation Authority (GRTA).

- 7) The United States Army Corps of Engineers, the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), the Federal Emergency Management Agency (FEMA) and the Environmental Protection Agency (EPA).
- 8) The Water Sewer Authority (WSA) of Douglasville-Douglas County.
- e. The word "person" is intended to include any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.
- f. The words "shall," "will," "is to" and "must" are always mandatory and not discretionary, while the word "may" is permissive.
- g. The word "and" indicates that all the conditions, requirements or factors so connected must be met or fulfilled, while the word "or" indicates that at least one condition, requirement or factor so connected must be met.
- h. The term "such as" is intended to introduce one or more examples in illustration of a requirement or point and is intended to mean "including but not limited to the following."
- i. The verbs "zone" and "rezone" have the same meaning and refer to the act of amending the official zoning map through the process established by this Development Code.
- j. The nouns "zone," "zoning district" and "district" have the same meaning and refer to the zoning districts established under this Development Code.
- k. The word "day" means a calendar day unless otherwise specified as a business day, which means Monday through Friday.
- l. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."
- m. The word "map" or "zoning map" means the official Zoning Map of Douglas County, Georgia, and may include a series of maps in sections.
4. Meaning of words and phrases.
 - a. All words and phrases are to be interpreted within the context of the sentence, subparagraph, paragraph, subsection, section and article in which they occur.
 - b. Words and phrases defined.
 - 1) Words and phrases defined in this Development Code shall be interpreted as defined without regard to other meanings in common or ordinary use, unless the context of the word or phrase indicates otherwise.
 - 2) Words and phrases not defined in this Development Code or in any other ordinance of the County shall be construed to have the meaning given by common and ordinary use as defined by a common English dictionary.
5. Computation of time. Except as otherwise provided, when a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted; and, if the last day falls on Saturday or Sunday or a county holiday

when county offices are closed, the party having such privilege or duty shall have through the next business day to exercise the privilege or to discharge the duty. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and county holidays shall be excluded in the computation.

6. Measuring Distance limitations when identified—Except as otherwise provided, when a minimum distance separation is required between land uses, all measurements shall be made by the most direct legal route of travel on the ground. The measurement shall start at the front door of the proposed use, down the closest drive or sidewalk to the nearest travelled road, street, or highway leading to the property that requires the separation and then:
 - (a) If the property or use requiring a minimum distance separation is on the opposite side of the street from the proposed use, or on another street than the proposed use, then down the right-of-way to the nearest crosswalk or intersection and then back up the public right-of-way to the property requiring a minimum separation; or
 - (b) If the property or use requiring a minimum distance separation is on the same side of the street as the proposed use, then down the right-of-way to nearest drive or walkway into the property and use.
 - (c) If the property or use requiring a minimum distance separation is a residential dwelling, it shall be measured from the corner of the building of the proposed use to the closest property line of the residential dwelling. The aforesaid distance requirements may be waived with the written consent of all property owners adjoining the proposed use.
7. Decision making responsibilities.
 - a. There are three basic categories of development reviews pursuant to this Development Code:
 - 1) Legislative reviews — involve a change in land use policy. A public hearing is required, and final approval must be made by the County Commissioners after or upon planning commission recommendation. Examples include rezoning decisions, special use permits, preliminary plat approvals, and comprehensive plan amendments.
 - 2) Quasi-judicial reviews — involves the application of discretionary standards required by this Development Code to an application. It requires procedural due process and a public hearing before the board of appeals. Examples include, variances, and appeals of administrative decisions, as well as design reviews that require interpretation of a set of design standards.
 - 3) Administrative reviews — involve the application of the standards of the Development Code by the Development Services Director or their designee to an application for approval. A public hearing is not required. Examples include development plans not requiring rezoning, building permits, sign permits, special event permits, and certificates of occupancy.
8. Supplementation of the Development Code.

Upon adoption of amendments to this Development Code, it may become necessary to make other non-substantive changes to article sections not associated with the actual amendment after supplemental sections are inserted into the Code. Said non-substantive changes being

necessary to preserve the original meaning and intent of this Development Code, shall not require Board of Commissioner approval. Such supplemental modifications shall be prepared by the person authorized to prepare such supplements, which may consist of formal, non-substantive changes in articles and parts of articles included in the supplemental, insofar as it is necessary to do so to embody all components into a unified code. For example, the person may:

- a) Organize the article materials into appropriate subdivisions;
- b) Provide appropriate catch-lines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catch-lines, headings, and titles;
- c) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- d) Make other non-substantive changes necessary to preserve the original meaning of article sections when amended sections are inserted into the Code.
- e) Correct typographic or grammatical errors as needed.

Sec. 105 - General applicability.

105 (a) Lands to which this Code applies.

This Development Code applies to all lands and the buildings, structures and uses thereon within the unincorporated areas of Douglas County, Georgia.

105 (b) Applicability of the development code.

- (1) All buildings and structures erected hereafter, all uses of land, water, buildings or structures established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this Development Code which are applicable to the zoning district in which such buildings, structures, uses or land are located.
- (2) Existing buildings, structures and uses that comply with the regulations of this Code shall be subject to all regulations of this Development Code. Existing buildings, structures and uses that do not comply with the regulations of this Development Code shall be authorized to continue subject to the provisions of this Article relating to nonconformities.
- (3) All subdivisions, planned developments and land development projects proposed for approval and permitting hereafter shall be subject to all regulations of this Development Code.

105 (c) Exemptions.

- (1) Previously Issued Permits.

The provisions of this Development Code and any subsequent amendments shall not affect the validity of any lawfully issued and effective preliminary plat approval, site development plan approval, building permit or development permit if:

- a. The development activity or building construction authorized by the approval or permit has been commenced prior to the effective date of this Development Code or the amendment, or will be commenced after such effective date but within 6 months of issuance of the permit; and
- b. The development activity or building construction continues without interruption (except because of war or natural disaster) until the development or construction is complete. If the approval or permit expires, any further development or construction on that site shall occur only in conformance with the requirements of this Development Code in effect on the date of the permit expiration.

(2) Recently approved rezoning.

In order to provide a smooth transition to the new Unified Development Code, any property rezoned or granted special use approval within the six calendar months preceding adoption of the Unified Development Code, but for which such use is not allowed under the Unified Development Code, shall nonetheless be allowed to be used for such purpose as previously approved, provided that:

- a. A development permit or building permit authorizing such use is issued within six calendar months after the date of adoption of the Unified Development Code; and
- b. The development activity or building construction continues without interruption (except because of war or natural disaster) until the development or construction is complete. If the permit expires, any further development or construction on that site shall occur only in conformance with the requirements of the Unified Development Code in effect on the date of the permit expiration.

(3) Previously submitted applications.

Any valid and complete application accepted by Douglas County prior to adoption of the Unified Development Code for the development of, construction upon or use of land shall be processed and issued under the applicable County regulations in effect prior to adoption of the Unified Development Code, provided that the application is approved within six calendar months after the date of adoption of the Unified Development Code.

(4) Effect of unified development code on exempt properties.

- a. To the extent that exemption under this Section 105 (c) results in nonconformity with the provisions of this Development Code, such properties shall be governed by the requirements of Sec. 107, Nonconformities.
- b. Any new application for a zoning change, a variance, a subdivision plat, a development permit, a building permit or any other action affecting a property covered under this Section 105 (c) shall be considered and applied under the provisions of this Development Code, as applicable.

(5) Governmental Exemption Effect on Unified Development Code

- a. This Development Code applies to all lands and the structures and uses thereon within the unincorporated areas of Douglas County, Georgia. All lands within the unincorporated areas of Douglas County have been properly zoned under the authorities

cited above in Section 102(b). The Douglas County Commissioners acknowledge the precepts of Governmental Exemption and Sovereign Immunity granted the County itself and other governmental or semi-public entities with those certain immunities providing the option to develop property without regard to the standards and restrictions of this Development Code when said development is within the purview of their respective governmental purposes. However, it shall be the expressed requirement of the Douglas County Commissioners that, absent a specific legislative conferral of immunity on said other governmental and semi-public entities, all property owned or proposed for development by semi-public or governmental entities should be developed according to the standards set forth within this Development Code.

(6) Authority to dispose of property, roads, rights-of-way or easements no longer needed for public purposes.

- a. Having been properly placed into the Public-Semi-Public Zone District at the time of adoption of this Development Code, in the event that governmental or semi-public exempt real property lands might be acquired by a non-exempt entity, said lands must seek approval of a rezoning request through the application and hearing process herein provided. If said exempt lands were not rezoned to the Public-Semi-Public district at the time of adoption of this Development Code, said lands and structures shall automatically be governed by the zone district within which they were properly placed at the time of adoption of this Development Code according to the official Zoning Map.
- b. Under the authority of OCGA §32-7-1 et. Seq., whenever deemed in the public interest that a dedicated section of road or alley right-of-way or public easement has for any reason ceased to be used by the public to the extent that no substantial public purpose is served by it or that its removal from the county system is otherwise in the best public interest, the county may declare that section of county right-of-way or public easement abandoned. Thereafter, that section of right-of-way or public easement shall no longer be part of the county system and the rights of the public in and to the section of road or alley right-of-way or public easement for public use shall cease. The abandoned section shall be governed by the zoning district extant on adjoining private property at the time of abandonment and the public ownership interest shall be deeded back to private ownership. - Whenever a street or alley is vacated, the presumption is that the fee is in the adjacent landowners, and that the right of each extends to the middle of the way. *Calvary Independent Baptist Church v. City of Rome*, 208 Ga. 312, 66 S.E.2d 726 (1951) unless otherwise agreed to and approved by the Commissioners.

Sec. 106 - Application of the regulations.

Except as hereinafter provided:

106 (a) General prohibitions.

- (1) No building or structure, and no use of any building, structure, land, or property, and no lot of record, now or hereafter existing, shall hereafter be established, constructed, expanded, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this Development Code.

- (2) No subdivider shall proceed with any construction work on a proposed subdivision before obtaining preliminary plat approval from the County in conformity with the provisions of this Development Code.
- (3) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a plat of a subdivision that has not been given final approval by the County and recorded in the office of the Clerk of the Superior Court of Douglas County is prohibited, and the description by metes and bounds in the instrument of transfer or other document shall not exempt the transaction from compliance with this and all other provisions of this Development Code.
- (4) No land dedicated as a public street shall be accepted, opened or improved, nor shall any utilities or other facilities be installed therein, unless such street shall have been accepted or opened as, or otherwise shall have received the legal status of, a public street prior to the adoption of these regulations, or unless such street corresponds in its location and lines with a street shown on a final plat given final approval by the designated subdivision review staff with its stamps and signatures properly placed to the velum, mylar or archival paper copy that will be recorded in the Clerk of the Superior Court's office.
- (5) No building permit shall be issued on a lot that gains its access from a street that has not been improved to the standards required by this Development Code, unless:
 - a. The lot, in its current size and configuration, existed as a legal lot of record on the date of adoption of this Development Code and was not created as part of a five-lot split minor subdivision or a major subdivision, as defined in the Subdivisions and Planned Developments Article of this Development Code; or
 - b. The lot was created through approval by a judge of a Court-ordered procedure such as probate or divorce or through approval of any of the following minor subdivisions: recombination, two-lot split or large lot subdivision, as defined in the Subdivisions and Planned Developments Article of this Development Code.

106 (b) Use.

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

106 (c) Height and density.

No building or other structure shall hereafter be erected or altered:

- (1) To exceed the height limits;
- (2) To accommodate or house a greater number of families or occupy a smaller lot area per family;
or
- (3) To have narrower or smaller rear yards, front yards, side yards or other open spaces than are herein required or specified; or in any other manner contrary to the provisions of this Development Code.

106 (d) Yard service to one building.

No part of a yard, or other open space or off-street parking or loading space required about, or in connection with, any building for the purpose of complying with these regulations, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

106 (e) One principal house on a lot.

With respect to single-family detached dwellings, only one principal residence and its customary accessory buildings and structures may be erected on any one lot.

106 (f) Commercial Use on a lot

With respect to commercial uses, there shall be one principal use that may occupy a lot or structure except as otherwise provided herein for planned commercial centers and such other requirements as for example lot coverage, floor area ratios, parking ratios and life safety codes and standards pertaining to occupancy capacities or managing street addressing.

106 (g) Reduction of lot area.

No lot, even though it may consist of one or more adjacent lots of record shall be reduced in size so that the lot width or depth, front, side or rear yard, lot area per family, or other requirements of these regulations, are not maintained. This section shall not apply when a portion of a lot is acquired for public purposes.

Sec. 107 - Nonconformities.

This Section sets out the provisions that protect uses, structures, lots and signs that lawfully existed prior to the adoption of this Development Code or a subsequent amendment, but no longer conform to the new regulations. The primary intent of the treatment of nonconformity is to allow continuation of these uses, structures, lots and signs until the end of their useful life, while encouraging conformance to the new regulations when it becomes reasonable to do so.

107 (a) Nonconforming development; purpose and intent of provisions.

- (1). Treatment of nonconformity. This section sets out the provisions that protect uses, structures and lots that lawfully existed prior to the adoption of this Development Code or a subsequent amendment, but no longer conform to the new regulations. The primary intent of the treatment of nonconformity is to allow continuation of these uses, structures, lots and signs until the end of their useful life, while encouraging conformance to the new regulations when it becomes reasonable.
- (2). Nonconforming development declared incompatible. Lawful nonconforming uses, structures and lots are declared by this ordinance to be incompatible with land uses, structures, lots and signs that conform to the requirements of the zoning districts in which the nonconformity exists. However, such nonconforming development may be "grandfathered" and may continue under the circumstances presented in this article for each type of development.
- (3). Registration and recording. The Development Services Director, or his/her designee, at the request of the landowner of record or an authorized representative, may issue a certificate of nonconformance, a parcel of record certificate and/or a merger by contiguity certificate to the owner of each known nonconforming use, nonconforming parcel or nonconforming structure. The Development Services Director shall then record a copy of the certificate(s) in the office of the Clerk

of Superior Court within 30 days of its issuance at the applicant's expense. No use of land or structures so registered shall be other than specified on the certificate(s), unless said use is in conformity with the provisions of the zone district in which the parcel is located.

107 (b) Nonconforming uses.

(1) Nonconforming uses; defined.

A nonconforming use is a use or activity that was lawfully established prior to the adoption, revision or amendment of this Development Code, but which, by reason of such adoption, revision or amendment, no longer meets or conforms to one or more such requirements of this Development Code.

(2) Continuance of nonconforming uses.

- a. To avoid undue hardship, the lawful but nonconforming use of any structure or land at the time of the enactment of this Development Code or any subsequent amendment may be continued even though the use does not conform to the provisions of this Development Code, except that the nonconforming use:
 1. Shall not be changed to another nonconforming use.
 2. Shall not be extended to occupy a greater area of land.
 3. Shall not be extended to occupy a greater area of a building or structure unless such additional area of the building or structure existed at the time of the passage or amendment of this Development Code and was clearly designed to house the same use as the nonconforming use occupying the other portion of the building or structure.
- b. If an existing use was lawfully established in a zoning district that is subsequently amended to require Special Use approval for such use, the existing use shall not be subject to the provisions of this subsection.
- c. Any intended but not yet existing nonconforming use for which a vested right was acquired prior to the adoption of this Development Code or the adoption of an amendment to it shall be prohibited unless such intended nonconforming use for which a vested right was acquired is actually commenced within 6 months of the adoption of this Development Code or the adoption of an amendment to it regardless of the intent or expectation to commence or abandon such nonconforming use.

(3) Re-establishment of a discontinued nonconforming use.

A lawful but nonconforming use of any structure or land shall not be re-established after its removal from the property, or after its discontinuance for 6 months or more, regardless of the intent of the owner or occupier to resume the nonconforming use. The nonconforming use of a property for occupancy by a manufactured home may not be resumed once the manufactured home is removed from the property.

107 (c) Nonconforming structures.

(1) Nonconforming structures; defined.

A nonconforming structure is a structure or building whose size, dimensions, location on a property or other features were lawful prior to the adoption, revision or amendment of this Development Code, but which, by reason of such adoption, revision or amendment, no longer meets or conforms to one or more such requirements of this Development Code.

(2) Continuance of nonconforming structures.

a. A nonconforming structure may continue to be occupied and used, except that:

1. A nonconforming structure shall not be remodeled, repaired, rebuilt or altered to restore or maintain any nonconformity if the total gross square footage of new construction exceeds 50 percent of the gross square footage of the structure prior to destruction or alteration, unless the structure is an owner-occupied single-family residence.
2. A nonconforming structure may be repaired, rebuilt or altered to its original configuration after damage or destruction not exceeding 50% of its gross square footage, provided that:
 - a) Allowed reconstruction is to begin within 6 months after the damage or destruction is incurred; and
3. A nonconforming structure shall not be enlarged or altered in a way that increases its nonconformity, but it may be repaired to the extent necessary to maintain it in a safe and sanitary condition.

b. The strengthening or restoration to a safe condition of any nonconforming structure or part thereof declared to be unsafe by an official charged with protecting the public safety or health shall be allowed upon order of such official.

(3). Exceptions.

- a. If the public acquisition of a portion of a lot reduces any yard dimension to less than that required by this Development Code, the structure shall not be considered nonconforming.
- b. For residential lots, where any structure has encroached into a required setback and such encroachment was lawful at the time of construction, then further construction within the setback area vertical to the encroachment or parallel to the property line shall be allowed, so long as new construction does not encroach closer to the property line than the existing nonconformity. For residential lots, the remaining foundation of any partially demolished encroachment is sufficient evidence as a "structure" to vest the nonconformity under this provision.

107 (d) Nonconforming lots.

(1) Nonconforming lots; defined

A nonconforming lot is a lot of record whose area, frontage, width or other dimensions, or location were lawful prior to the adoption, revision or amendment of this Development Code, and which, by reason of such adoption, revision or amendment, no longer meets or exceeds one or more such requirements of the applicable zoning district.

(2) Continuance of nonconforming lots.

- a. Where the owner of a lot at the time of the adoption of this Development Code or the owner's successor in title thereto does not own enough land to enable such person to conform to the dimensional requirements of this Development Code, either:
 1. Such lot may be used as a building site for a single-family residence in a district where residences are permitted; or
 2. Such lot may be used as a building site for any other use permitted in the zoning district provided that said lot requirements or building setbacks are not reduced below the minimum specified in this Development Code by more than 25%.
 - b. Lot dimensional reductions greater than the 25% maximum reduction set forth in this Section may be approved upon appeal, provided that:
 1. The reduction is approved as a special exception variance under the appeals procedures of this Development Code;
 2. The decreased dimensional requirements conform as closely as possible to the required dimensions; and
 3. Access in conformance with this Development Code to a public street is provided directly or through a recorded easement.
- (3) Combination of nonconforming lots; where required.
- If two or more adjoining lots with contiguous frontage are in a single ownership at any time after the adoption of this ordinance and such lots individually are too small to meet the yard width and area requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted sizes and the lot or lots in one ownership shall be subject to the requirements of this ordinance.
- (4). Exceptions
- (a) If the public acquisition of a portion of a lot reduces the lot area, frontage, width or other dimension to less than that required by this Development Code, such lot shall NOT be considered nonconforming and shall be eligible for non-conformance certificate registration and recordation, as well as, building permit authorization.
 - (b) The lot was created through approval by a judge of a Court ordered procedure such as probate or divorce. Such lot shall NOT be considered nonconforming and shall be eligible for non-conformance certificate registration and recordation, as well as, building permit authorization.

107 (e) Non-conforming signs.

- (1) Nonconforming signs; defined.

A nonconforming sign is a sign that was lawfully erected and maintained prior to the adoption of this Code, and which by reason of such adoption fails to conform to all applicable regulations and restrictions of the Sign Regulations Article of this Code.

- (2) Continuance of nonconforming signs.

A nonconforming sign that is permanently affixed to the ground or to a building may continue to be used, except that the nonconforming sign:

- a. Shall not be moved or replaced except in conformity with the provisions of this Development Code. The substitution or interchange of poster panels, painted boards or demountable material on nonconforming signs shall be permitted.
- b. Shall not be repaired, rebuilt, or altered after damage or destruction of 50% or more of its gross square footage, based on the installed size of the sign.
- c. Shall not be enlarged or altered in a way that increases its nonconformity, but it may be repaired to the extent necessary to maintain it in a safe and well-maintained condition.
- d. These provisions shall not have the effect of excusing any violation of any other ordinance or law of Douglas County. Nor shall these provisions have the effect of permitting the continued existence of any unsafe sign or any sign that is not in a good state of repair.

(3) Temporary signs to be removed.

- a. Any nonconforming sign that is temporary in nature and not permanently affixed to the ground or to a building, such as a streamer or pennant, shall be removed within 90 days of adoption of this Development Code.
- b. Failure to remove such nonconforming temporary sign or bring it into conformance following 30 days notice to the owner or occupant of the property by the Development Services Director shall authorize the County to institute enforcement procedures pursuant to this Development Code.

(4) Treatment of illegal signs.

- a. Illegal signs located within a public right-of-way or on public lands:
 1. Signs located illegally within any public right-of-way or other public lands shall be removed within sixty (60) days of adoption of this Development Code.
 2. The Development Services Director, other county employees, and private individuals, corporations and entities, if so authorized by the Board of Commissioners, shall be authorized to remove and dispose of nonconforming signs from public rights-of-way and other public lands with or without notice to and at the expense of the owner, builder or other parties responsible for placement of said sign.
- b. Illegal signs not located within a public right-of-way or on public lands:
 1. A sign that was not lawfully existing under the County's regulations prior to adoption of this Code shall, within 90 days of adoption of this Code, either (a) be removed or (b) be brought into conformance with all provisions of this Code.
 2. Failure to remove such illegal sign or bring it into conformance following 30 days notice to the owner or occupant of the property by the Development Services Director shall authorize the County to remove the sign at the expense of the owner or occupant of the property.

(5) Removal due to road improvements.

If a nonconforming sign must be removed due to a road improvement project, the Development Services Director may authorize the relocation of said sign to a new location that meets the setbacks, location, spacing or other provisions of the Sign Regulations Article of this Development Code.

- (6) Continuing maintenance of nonconforming signs.
 - a. Nothing in this Subsection shall be deemed to prevent keeping nonconforming signs in good repair.
 - b. No repairs other than minor maintenance and upkeep of nonconforming signs shall be permitted except to make the sign comply with the requirements of this Development Code.
 - c. A nonconforming sign that has been declared by the County to be unsafe because of its physical condition shall not be repaired, rebuilt, or restored unless such repair or restoration will result in a sign that conforms to all applicable provisions of the Sign Regulations Article of this Code.