

ARTICLE 1. GENERAL

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ARTICLE 1. GENERAL

Sec. 1-1. Title and authority.

(a) Title.

This Development Code regulates the use of land, the location and use of buildings and other site improvements, and the construction of public facilities and private improvements related to the development of land. This Development Code shall be known as and may be cited as "The Unified Development Code of Powder Springs, Georgia" or, for brevity, "The Development Code."

(b) Authority.

This Development Code is adopted under authority of Article 9, Section 2, Paragraph 3 and 4 of the Constitution of the State of Georgia, and pursuant to the Zoning Procedures Law (O.C.G.A. 36-66-1 *et seq.*) and other applicable laws enacted by the General Assembly.

Sec. 1-2. Adoption.

(a) Repeal of conflicting laws.

All conflicting laws or parts of laws of the City of Powder Springs are hereby repealed to the extent of their conflict. Where this Development Code overlaps with other requirements adopted by the Mayor and City Council, whichever imposes the more stringent restrictions shall prevail.

(b) Severability.

If any section, subsection, sentence, clause, phrase or portion of this Development Code or any amendment to it is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Development Code or an amendment to it.

(c) Effective date.

This Development Code shall take effect upon its adoption by the Mayor and City Council of the City of Powder Springs, Georgia.

Sec. 1-3. Purpose and intent.

(a) Purpose.

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

- (1) To promote the orderly and beneficial development and expansion of the City;
- (2) To provide adequate access to natural light and air;
- (3) To provide adequate water, sewerage, and surface drainage;
- (4) To prevent undesirable overcrowding of population;
- (5) To secure safety from fire, panic and other dangers;
- (6) To promote the orderly and desirable subdivision and development of land;
- (7) To insure the orderly and desirable construction of streets;
- (8) To promote the orderly and desirable development of public and private utilities and services; and,
- (9) To insure proper legal description and recodification of all subdivided land.

(b) 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.

(c) Intent relative to private property agreements.

This Development Code is not intended to repeal, abrogate, or impair any valid easement, covenant or deed restriction duly recorded with the Clerk of the Superior Court, to the extent that such easement, covenant or deed restriction is more restrictive than the requirements imposed by this Development Code.

Sec. 1-4. General applicability.

(a) Lands to which this Code applies.

- (1) This Development Code applies to all lands within the incorporated areas of the City of Powder Springs, Georgia, except as provided in paragraph (2) of this subsection.
- (2) The Zoning District Regulations of this Development Code do not apply to lands under which lease or easement with any public agency (as defined in O.C.G.A. 50-14-1), contractor for said public agency, or subcontractor for said public agency exists, for the purposes of completing a publicly funded transportation improvement project, including road resurfacing and park and ride lots, but only where such public lease or easement:
 - a. has been submitted to Mayor and Council, in writing, in advance, for review and approval; and
 - b. is limited in time, scope and conditions specified by the Mayor and Council; and
 - c. requires the holder of said lease or easement to remove any equipment and debris and plant grass at the conclusion of the publicly funded project; and
 - d. prohibits the removal of trees or other vegetation, except as allowed by Mayor and Council; and
 - e. requires the holder of the lease or easement to screen said temporary land use from public view with landscaping or fencing; and
 - f. limits the use of the land to the smallest area required to complete the publicly funded project as established by the public agency holding the lease or easement.

(b) Use of land or structures.

- (1) No structure or land shall hereafter be used or occupied, located, extended, moved, converted or structurally altered except in full compliance with the provisions of this Development Code.
- (2) No part of a yard, buffer or off-street parking spaces required in connection with any

use or structure for the purpose of complying with this Development Code shall be included as part of a yard, buffer or off-street parking spaces required for any other use or structure, unless specifically allowed under the provisions of this Development Code.

- (3) Street rights-of-way shall not be considered a part of a lot or front yard setback for the purpose of meeting the minimum requirements of this Development Code.

(c) Acceptance of public streets.

- (1) The City shall not accept a public street unless such street substantially corresponds in its location and lines with a street shown on a preliminary subdivision plat approved under the provisions of this Development Code.
- (2) There shall not be any water mains, sewers, connections or other facilities or utilities in any street unless such street is shown on a final plat approved by the City or the street has attained the legal status of a public street.

(d) Recordation and transfer of property.

- (1) The Clerk of Superior Court shall not file or record a plat that would result in the division of a property into 2 or more lots that have not been approved as required by this Development Code.
- (2) Any deed or other instrument of conveyance, including a security deed, bond for title, or any other document purporting to convey, then or in the future, title to real estate, filed for record with the Clerk of the Superior Court, wherein the property to be conveyed is described in some manner other than by reference to a recorded plat, shall be accompanied by a certificate signed by the party filing such deed or other instrument, which certificate shall be in the following form:

I, _____, do hereby certify that the instrument herewith filed for record in the Office of the Clerk of the Superior Court of Cobb County, Georgia, does not result in the subdivision of a tract of land into 2 or more tracts or lots.

This _____ day of _____, 20____.

(Signature)

- (3) No person, firm or corporation shall transfer, sell, or agree to sell any land by reference to, or exhibition of, or by other use of a plat of the subdivision of such land before such plat has been appropriately approved by the City and recorded with the Clerk of the Superior Court; provided further, that the description of metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring such land shall not exempt the transaction from the requirements of this Development Code.

(e) Street frontage required.

No building permit shall be issued on any lot unless the street giving access to the lot shall be accepted and opened as a public street prior to that time, or shall be a private street authorized by the Mayor and City Council, or shall otherwise be maintained as a street by the City.

(f) One principal house on a lot.

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

(g) Lot reduction prohibited.

No yard or lot existing prior to the effective date of this Development Code or any subsequent amendment to it shall be reduced in dimension or area below the minimum requirements set forth in this Development Code. Yards or lots created after the effective date of this Development Code shall meet at least the minimum requirements established by this Development Code.

(h) 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 building permit or development permit if:

- a. The development activity or building construction authorized by the 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 or expiration of the permit, whichever is later; 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 this Development Code in effect on the date of the permit expiration.

- (2) Governmental Bodies.

All governmental bodies and authorities legally exempt from regulation under the police power of Powder Springs are exempt from the regulations contained in this Development Code.

Sec. 1-5. Interpretation.

(a) Responsibility for interpretation.

- (1) The City Manager shall be responsible for the interpretation of the requirements, standards, definitions or any other provision of this Development Code.
- (2) Interpretations of the City Manager may be appealed under the provisions of this Development Code relating to Appeals.

(b) 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.

(c) Use of words and phrases.

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

- (1) Words used in the present tense include the future tense. Words used in the singular tense include the plural tense, and words used in the plural tense include the singular tense. The masculine person "he" or "his" also means "her" or "hers."
- (2) References to the "City" and to the Mayor and City Council and any public officials or appointed bodies of the City not otherwise named by political jurisdiction or defined

in this Development Code shall always mean Powder Springs, Georgia, and its governing body, appointed or employed officials, and appointed bodies as named. These include:

- a. The City Manager, appointed as such by the Powder Springs Mayor and City Council, or the City Manager's designee.
 - b. The Director of Planning, appointed as such by the City Manager, or the Planning Director's designee.
 - c. The Director of Public Works, appointed as such by the City Manager, or the Public Works Director's designee.
 - d. The Planning Commission, created as the Planning and Zoning Commission and appointed by the Powder Springs Mayor and City Council.
 - e. The Chief Building Official (referred to also as the "building inspector") appointed as such under the Building Code, or the Chief Building Official's designee.
- (3) References to an administrative department of Powder Springs shall always mean the department created by the Mayor and City Council as such. These include:
- a. *Planning Department*: References to action by the "Planning Department" shall mean action by that administrative official to whom responsibility for that action has been assigned by the Director of Planning.
 - b. *Public Works Department*: A reference to action by the "Public Works Department" shall mean action by that administrative official of the Powder Springs Public Works Department to whom responsibility for that action has been assigned by the Director of Public Works.
- (4) References to public officials, departments or appointed bodies of jurisdictions other than Powder Springs shall always mean such persons or bodies having jurisdiction over or relative to Powder Springs, Georgia. These include:
- a. The Clerk of the Superior Court of Cobb County, Georgia.
 - b. The Cobb County Health Department.

- c. The Cobb County Soil and Water Conservation District.
- d. The Cobb County Fire Department.
- e. The Atlanta Regional Commission.
- f. The Georgia Departments of Natural Resources (DNR) and Transportation (DOT).
- g. The United States Army Corps of Engineers, the Federal Aviation Administration (FAA), the Federal Emergency Management Agency (FEMA) and the Environmental Protection Agency (EPA).

- (5) 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.
- (6) The words "shall," "will," "is to" and "must" are always mandatory and not discretionary, while the word "may" is permissive.
- (7) The word "and" indicates that all of 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.
- (8) 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."
- (9) 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.
- (10) The nouns "zone," "zoning district" and "district" have the same meaning and refer to the zoning districts established under this Development Code.
- (11) The word "day" means a calendar day unless otherwise specified as a work day, which means Monday through Friday.
- (12) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "ar-

ranged,” or “designed to be used or occupied.”

- (13) The word “map” or “zoning map” means the official Zoning Map of Powder Springs, Georgia, and may include a single map or a series of maps in sections.

(d) Meaning of words and phrases.

- (1) All words and phrases are to be interpreted within the context of the sentence, paragraph, subsection, section and Article in which they occur.
- (2) Words and phrases specifically relating to a category of use of land or a structure that are 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. Words and phrases not defined in this Development Code shall be construed to have the meaning given by common and ordinary use, the meaning of which may be further clarified by use of the word or phrase in the North American Industrial Classification System (NAICS) published by the U.S. Department of Commerce.
- (3) Other 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. Words and phrases not defined in this Development Code shall be construed to have the meaning given by common and ordinary use, the meaning of which may be further clarified by definition of the word or phrase in a dictionary of the English language in current circulation.
- (4) Definitions are clearly identified as such and are located throughout this Development Code in the Articles or Sections to which they most readily refer. All definitions, regardless of location within an Article of this Code, apply equally to the use of such terms throughout the Code. A glossary of all defined terms is appended to the end of this Code for convenience. However, if differences in wording occur between definitions of a term, the definition contained within an Article of this Code shall control.

Sec. 1-6 Annexed Property

- (a) All property annexed into the City of Powder Springs is hereby zoned, without further action, for the same use for which that property was zoned by Cobb County immediately prior to such annexation, including any stipulations to such zoning, provided that nothing herein shall affect the ability of the City to make zoning decisions associated with an annexation in accordance with O.C.G.A. 36-66-4 (d) and this Unified Development Code.
- (b) In the event that said zoning district classification is not provided for by this Unified Development Code, then such property shall assume the zoning district classification under this Unified Development Code which is most similar, but no more intense, in terms or permitted uses and zoning district regulations to that classification held by the property under the zoning ordinance of Cobb County. In such event, all stipulations of zoning which were applicable to such property under the zoning ordinance of Cobb County shall also continue to apply to said property upon annexation to the corporate limits of the City of Powder Springs.
- (c) The classification, district regulations, and stipulations of zoning applicable to the property at the time of annexation shall remain in effect until subsequent zoning decisions are made as provided herein.

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