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Division I. Title, Authority, Purposes and Applicability.

Sec. 1-1. Title.

This ordinance shall be known as and may be cited as “the unified development code of Powder Springs, Georgia.”

Sec. 1-2. Authority.

- (a) This unified development code is adopted under authority of article 9, section 2, paragraphs 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, as well as the Charter of the City of Powder Springs, Georgia.
- (b) The Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989, pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use.
- (c) The Georgia Department of Community Affairs has promulgated Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia

Department of Community Affairs) to implement the Georgia Planning Act of 1989, said standards and procedures were ratified by the Georgia General Assembly, and have since been amended, and said rules require local governments to describe regulatory measures and land development regulations needed to implement local Comprehensive Plans.

- (d) The Georgia Department of Natural Resources has promulgated Rules for Environmental Planning Criteria, commonly known as the “Part V” Standards, said rules were ratified by the Georgia General Assembly, and said rules require local governments to plan for the protection of the natural resources, the environment, and vital areas of the State.
- (e) The Metropolitan North Georgia Water Planning District is authorized to develop and has developed regional and watershed-specific plans for storm-water management, waste-water treatment, water supply, water conservation, and the general protection of water quality, and such plans are required pursuant to Georgia Code Section 12-5-572 to be implemented by local governments in the district. Local governments are required to implement said plans by Georgia Code Sections 12-5-582 and 12-5-583, and failure to do so means that the local government shall be ineligible for state grants or loans for water supply and conservation projects determined by the Director of the Environmental Protection Division to be inconsistent with such plans. Said district pursuant to state law has prepared model ordinances for local governments to follow.
- (f) Pursuant to the Municipal Home Rule Act of 1965 (Georgia Code Section 36-35-3) the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto.
- (g) Pursuant to Georgia Code Section 36-65-1, it is declared by the General Assembly of Georgia that in the exercise of powers specifically granted to them by law, local governing authorities of cities and counties are acting pursuant to state policy.

Sec. 1-3. Purposes.

The city has adopted a comprehensive plan in accordance with the requirements of the Georgia Planning Act of 1989, Rules of the Georgia Department of Community Affairs, and Rules of the Georgia Department of Natural Resources, and said plan has been revised from time to time. The unified development code helps assure the implementation of the adopted comprehensive plan.

This unified development code is needed and intended to: promote the health, safety, welfare, morals, convenience, order, and prosperity of the citizens of the city; promote responsible growth, lessen congestion in the public thoroughfares, secure safety from fire and health dangers, and promote desirable living conditions; regulate the distribution and density of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population; maintain the integrity and individual character of established communities and settlements, and promote desired character in new developments; prevent the encroachment of incompatible land uses within residential areas and preserve property values; and provide for economically sound and

stable land development by assuring the provision in land developments of adequate streets, utilities, services, traffic access and circulation, public open spaces, and maintenance continuity.

This unified development code is also intended to serve the several purposes articulated in different articles of this code.

Sec. 1-4. Jurisdiction.

This unified development code applies to all lands within the incorporated areas of the City of Powder Springs, Georgia, as now exists or as hereafter lawfully established.

Sec. 1-5. Applicability.

No building, structure, device or land or water shall hereafter be used or occupied, erected, located, extended, established, moved, converted, or structurally altered except in full compliance with the provisions of this unified development code.

Sec. 1-6. Minimum Requirements.

Within each zoning district established by this development code, the regulations set forth shall be minimum requirements and shall apply uniformly to each class or kind of building, structure or land, except as may be altered through conditions of zoning applied to specific properties.

Sec. 1-7. Definitions.

Definitions are provided throughout the articles of this development code. This section provides definitions primarily related to zoning lots and dimensional regulations for buildings.

Abutting: Having property lines in common, or having property separated by only an alley. Separation by a street right-of-way is not considered abutting.

Buildable area of lot: The portion of a lot which is not located within any minimum required yard, landscape strip, landscaped area, buffer, or natural undisturbed buffer; that portion of a lot wherein a building or structure may be lawfully placed.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building coverage: The horizontal area measured within the outside of the exterior walls of the ground floor (i.e., “footprint”) of all principal buildings, accessory buildings, and accessory structures on the lot, not including steps, terraces, and uncovered porches.

Building coverage, maximum: The percentage of a given lot that may be lawfully occupied by all principal and accessory buildings and structures on said lot, measured within the outside of the

exterior walls of the ground floor (i.e., “footprint”) of all principal and accessory buildings and structures on the lot, not including steps, terraces, and uncovered porches.

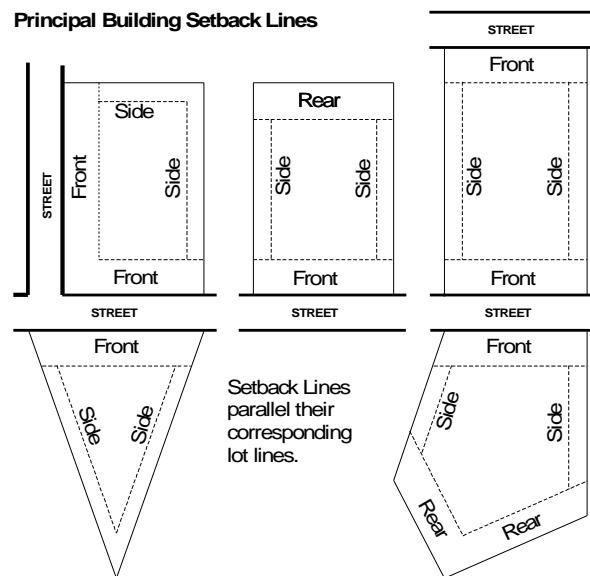
Building floor area: The total floor area of all heated spaces within a building as measured within the outside of the exterior walls, exclusive of uncovered porches, terraces, and unheated stairwells, storage areas, garages and loading docks.

Building height: The vertical distance measured to the highest point of a building from the average finished grade across those sides of a building that face a street.

Building setback line: A line delineating the minimum allowable distance between a property line or the right-of-way line of an abutting street and a building on a lot. Building setbacks established by zoning district in this development code apply to principal buildings. For purposes of this development code, a minimum required building setback line and minimum required yard shall be considered the same. Accessory buildings and accessory uses may have different setbacks established by this development code.

Building setback, front: The minimum allowable distance between the right-of-way line of any abutting street and any part of a principal building on a lot. The front setback distance is applied along the full length of the right-of-way line and is parallel to it. Corner lots and double-frontage lots have more than one front building setback per this definition.

Building setback, rear: The minimum allowable distance between a rear lot line and any part of a principal building on a lot. The rear building setback extends along and parallel to the full length of the rear lot line.



Building setback, side: The minimum allowable distance between a side lot line and any part of a principal building on a lot. The side building setback extends along and parallel to the side lot line between the front building setback and a rear building setback (if any).

Comprehensive plan: The Comprehensive Plan for the City, adopted by the Governing Body, as amended from time to time in accordance with the Georgia Planning Act of 1989 and administrative rules of the Georgia Department of Community Affairs. Comprehensive plan also broadly includes any other functional plans adopted by the Governing Body pertaining to land use, transportation, community facilities, natural and historic resources, and the environment.

Density: The quantity of building per unit of area; for example, the number of dwellings per gross square foot or per acre.

Development: (1) a land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center; (2) any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials; (3) the act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

Finished grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Floor: The top surface of an enclosed area in a building, including basement, i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles or storage, or the floor area of an attic used exclusively for storage.

Floor area: The sum of all square footages (areas) of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The following areas are excluded from the measurement of floor area: unfinished attics, attached garages or spaces used for off-street parking and loading, breezeways, and enclosed or unenclosed decks and porches.

Frontage: The width in linear feet of a lot where it abuts the right-of-way of any street from which access may be directly gained.

Ground elevation: The original elevation of the ground surface prior to cutting or filling.

Highest adjacent grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a building.

Impermeable: Something that water cannot pass through or be absorbed by, such as a layer of rock.

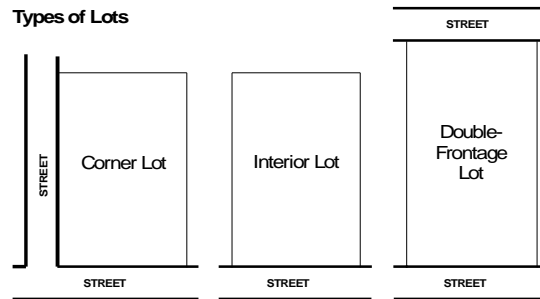
Impervious surface: A surface that rainwater cannot penetrate or be absorbed by, such as a paved parking lot, paved road, or building.

Lot: A parcel or tract of land held in single ownership.

Lot, corner: Any lot bounded by two streets at their intersection.

Lot, double frontage: A lot bounding by two or more streets which do not intersect with one another.

Lot, interior: a lot having frontage on only one street.



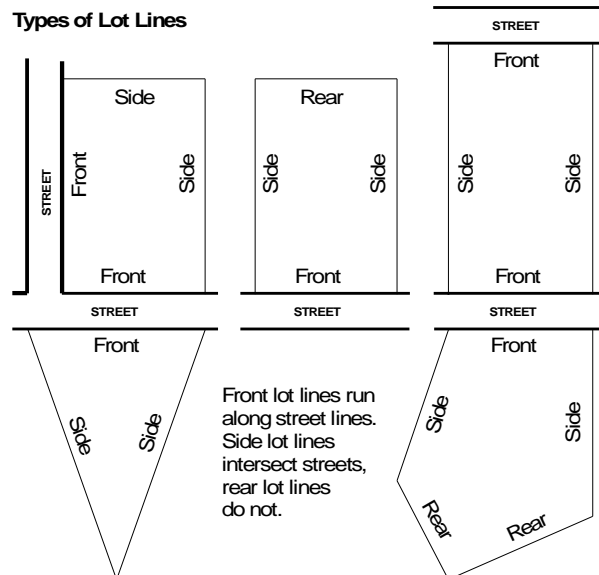
Lot area: The total horizontal area included within lot lines.

Lot line: The boundary dividing a given lot from the street or adjacent lots; the boundary defining the limit of ownership of a property.

Lot line, front: Any boundary line of a lot that abuts a public street right-of-way line. A lot adjacent to more than one street will have more than one front lot line.

Lot line, rear: Any boundary line of a lot that does not intersect with a public street right-of-way line and is not a front lot line.

Lot line, side: Any boundary line of a lot that intersects with a public street right-of-way line and is not a front lot line.



Lot of record: A lot which is part of a subdivision lawfully recorded in the plat books of the office of the Clerk of the Superior Court of Cobb County, Georgia, or a lot described by metes and bounds, the description of which has been lawfully recorded. A tax parcel is not necessarily a lot of record. A lot of record may or may not conform to the requirements of this development code, in which case it is a nonconforming lot of record. A lot shall not be considered a lot of record if it is: (1) described in a deed recorded in the county deed books with reference to an attached boundary survey or plat that has not been recorded in the plat books; (2) not described in a deed recorded prior to the original adoption of zoning regulations in the City of Powder Springs.

Lot width: The distance, in feet, measured across the lot between side lot lines. The lot width is measured parallel to the street frontage. Lot frontage may differ from lot width. Where this development Code requires a minimum lot width, the lot width is measured either at the front building setback line required by this development Code or as established on a recorded plat. In

the case of “flag” and cul-de-sac lots, a deeper minimum front building setback line may be required to meet the minimum lot width required by this development code.

Natural ground surface: The ground surface in its original state before any grading, excavation or filling.

Open space: An area of land or water that is permanently set aside through dedication, designation, or reservation to remain in a natural and unimproved state or that may be improved only for active or passive recreation or enjoyment.

Person: 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.

Setback: The shortest straight-line distance between a street right-of-way or lot line and the nearest point of a structure or building or projection therefrom (excluding the ordinary projections of roof overhangs, belt courses, cornices, eaves, chimneys, buttresses and other ornamental and architectural features, provided that such features do not encroach more than three feet into any required setback and if such projection is at least 5 feet from the vertical plane of any lot line.)

Setback, minimum: The shortest distance allowed between a street right-of-way line or any other lot line and any principal or accessory building on a lot. Minimum setback requirements for buildings are associated with the type of lot line from which the setback is taken; for instance, a “side yard setback” is measured from a side lot line.

Story: That portion of a building comprised between a floor and the floor or roof next above. The first floor of a two (2) or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy.

Structure: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, and extending vertically from the ground by one foot or more. Among other things, structures include but are not limited to buildings, walls, fences, signs, and swimming pools.

Structure height: For all structures other than buildings (see “building height.”), the vertical distance to the highest point of a structure, as measured from the average grade at the base of the structure or directly below a projecting structure.

Yard: A space on the same lot with a principal building and that lies between the principal building on a lot and the nearest lot line. For purposes of this development code, a minimum required building setback line and minimum required yard shall be considered the same. A yard is unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

Yard, front: A yard situated along any public street right-of-way or private street easement.

Yard, rear: A yard situated along a rear lot line.

Yard, side: A yard situated along a side lot line, but not extending into a front or rear yard.

[Secs. 1-8 to 1-10 Reserved].

Division II. Uses.

Sec. 1-11. Use, Occupancy, and Erection.

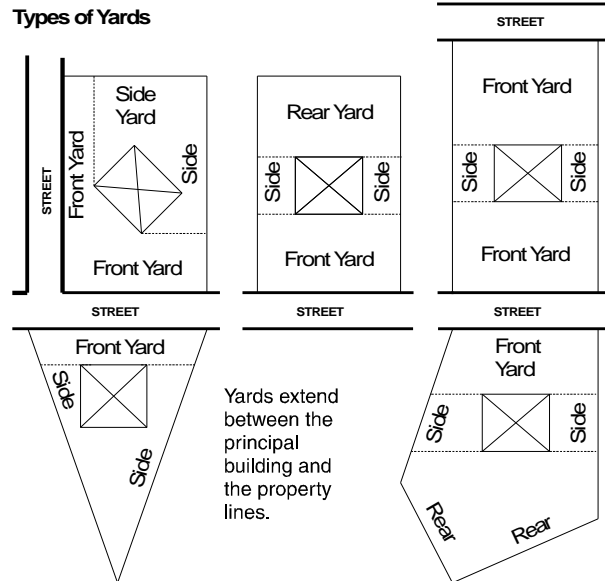
- (a) No building, structure, land, or water shall hereafter be used or occupied, and no building or structure or part hereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity the use provisions for the zoning district in which it is located, as established in article 2 of this development code.
- (b) For those uses that have specific restrictions associated with them, a reference is given in article 2 to the pertinent section in article 4. No building, structure, use, or activity shall commence or be established or maintained except in conformity with the provisions in article 5 as applicable for the building, structure, use, or activity.

Sec. 1-12. Use Prohibited When Not Specified.

Unless otherwise specifically provided in this development code, any use not specifically permitted as a use by right or specifically indicated as a special use in any given zoning district as provided under article 2 of this development code shall be prohibited in that zoning district.

Sec. 1-13. Every Use Must Be Upon a Lot of Record.

No building or structure shall be erected or use established unless upon a lot of record as defined by this development code unless specifically provided otherwise in this development code.



Sec. 1-14. One Principal House on a Lot.

Unless otherwise specifically provided in this development code, only one single-family detached dwelling and its customary accessory buildings and structures may be erected on any one lot.

[Secs. 1-15 to 1-20 Reserved].

Division III. Lots.

Sec. 1-21. Lot Frontage.

- (a) No lot shall hereafter be created or subdivided unless it meets or exceeds the minimum lot frontage requirement for the zoning district in which the lot is located as established by article 2 unless specifically provided otherwise by this development code.
- (b) No lot shall be reduced in width below the minimum lot frontage for the zoning district in which said lot is located as established by article 2 except as otherwise specifically provided in this development code.

Sec. 1-22. Lot Width.

- (a) No lot shall hereafter be created or subdivided unless it meets or exceeds the minimum lot width established for the zoning district in which it is located by article 2 of this development code.
- (b) No lot shall be reduced below the minimum lot width for the zoning district in which said lot is located as established by article 2, except as otherwise specifically provided in this development code.

Sec. 1-23. Lot Size.

- (a) No lot shall hereafter be created or subdivided unless it meets or exceeds the minimum lot size for the zoning district in which the lot is located as established by article 2 of this development code, except as otherwise specifically provided in this development code.
- (b) No lot shall be reduced below the minimum lot size of the zoning district in which said lot and building are located as established by article 2, except as otherwise specifically provided in this development code.

Division IV. Building Density and Intensity.

Sec. 1-31. Density and Intensity.

- (a) No lot shall hereafter be developed to exceed the maximum number of dwelling units per acre for the zoning district in which the lot is located as established by article 2 of this development code, except as otherwise specifically provided.
- (b) No lot shall hereafter be developed to exceed the maximum floor-area ratio for the zoning district in which the lot is located as established by article 2 of this development code, except as otherwise specifically provided in this development code.

Sec. 1-32. Impervious Surface Coverage.

No lot shall hereafter be developed to exceed the maximum impervious surface for the zoning district in which the lot is located as established by article 2 of this development code, except as otherwise specifically provided in this development code.

Sec. 1-33. Floor Area per Dwelling Unit.

- (a) No new dwelling shall hereafter be constructed or occupied that fails to meet the minimum heated floor area for a dwelling unit as established by the zoning district in which the property is located as established by article 2 of this development code, except as otherwise specifically provided in this development code.
- (b) No dwelling shall be reduced below the minimum heated floor area for a dwelling unit as established by the zoning district in which the property is located as established by article 2 of this development code, except as otherwise specifically provided in this development code.

Sec. 1-34. Floor Area per Establishment.

No building shall be erected or occupied that exceeds the maximum heated floor area per establishment for the zoning district in which the property is located as provided by article 2 of this development code, except as otherwise specifically provided in this development code.

[Secs. 1-35 to 1-40 Reserved].

Division V. Building Height and Setbacks.

Sec. 1-41. Height of Buildings and Structures.

No building or structure shall hereafter be erected, constructed, reconstructed, or altered, to exceed the maximum height of buildings and structures or the number of stories established for the zoning district in which the building is located as provided by article 2, except as otherwise specifically provided in this development code.

Sec. 1-42. Exceptions to Height Regulations.

The height limitations established by this development code shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, public monuments, observation towers, water towers, non-commercial radio and television towers, electricity transmission towers, utility poles, and similar structures.

Sec. 1-43. Minimum Required Buffers, Yards and Building Setbacks.

- (a) No building or structure shall hereafter be erected in a manner to have narrower or a smaller than minimum required buffer or front yard, side yard, or rear yard (building setback) than specified for the zoning district in which the property is located as established in article 2, or for the specific use if a minimum required buffer or yard (building setback) established for specific uses as provided in Article 4 of this development code.
- (b) The buffer requirements established in article 2 and article 12 of this development code supersede these minimum required yards, when applicable.
- (c) No lot shall be reduced in size so that the minimum required front, side, or rear yards (building setbacks) of the zoning district in which said lot and building are located are not maintained, except as otherwise specifically provided in this development code.
- (d) No part of a yard shall be included as a part of the yard required for another building.

Sec. 1-44. Minimum Required Front Landscape Strip.

Development, as applicable, shall observe the minimum required average front landscape strip specified for the zoning district in which the property is located as established in article 2 and article 12, except as otherwise specifically provided in this development code.

Sec. 1-45. Principal Building Separation.

On lots where more than one principal building is permitted, the building separation between principal buildings shall observe the following minimum principal building separation requirements, unless another building separation requirement is approved as a part of conditions of zoning approval:

- (a) 10 feet between one-story buildings;
- (b) 20 feet when one or both principal buildings are two-story structures; and
- (c) 30 feet when one or both are three-story or taller buildings.

[Secs. 1-46 to 1-50 Reserved].

Division VI. Nonconformities.

Sec. 1-61. Definitions.

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 development code 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 development code but which was a lot of record prior to the effective date of this development code or its amendment.

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

Sec. 1-62. Nonconforming Use – 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 Division. It shall be the responsibility of the owner of a nonconforming use to prove to the community development director that such use was lawfully established and existed on the effective date of adoption or amendment of this unified development code.

Sec. 1-63. Nonconforming Use – 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.

Sec. 1-64. Nonconforming Use – Abandonment.

A nonconforming use shall not be re-established after discontinuance or abandonment for 6 months. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance or abandonment under this section. If a business registration is required for said nonconforming use and the business registration pertaining to said use has lapsed in excess of 6 months, said lapse of business registration shall constitute discontinuance.

Sec. 1-65. Nonconforming Use – Expansion.

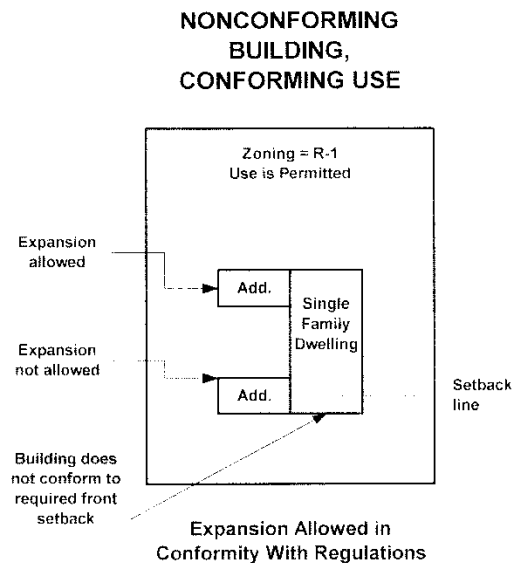
A nonconforming use shall not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use which complies with the zoning district in which said use is located; or any other exceptions outlined in Article 4 Specific Use Provisions outlined in the Unified Development Code.

Sec. 1-66. Nonconforming Use – Repair.

A nonconforming use shall not be rebuilt, altered or repaired after damage exceeding 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 year of such damage.

Sec. 1-67. Nonconforming Building or Structure.

A nonconforming building or structure 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 development code.



Sec. 1-69. Nonconforming Lot.

- (a) A lot of record, as defined, 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 county health department.

Sec. 1-69. Nonconforming Situations.

- (a) **Intent.** It is the intent of this section to require the complete correction of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation can physically be made to comply with the requirements of this unified development code. It is the intent

of this section to require the reduction in the extent of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation cannot be physically be made to comply entirely with the requirements of this development code. It is the intent of this section to provide authority to the community development director to administer the provisions of this section in a manner that meets these intentions, and that the community development director shall exercise that authority, subject to more specific guidance as provided in this section.

- (b) **Definition.** For purposes of this section, “nonconforming situation” shall mean any development, land improvement, or activity, not otherwise included within the definition of nonconforming lot, nonconforming building or structure, or nonconforming use, which does not meet the provisions of this development code at the time of its adoption or amendment. Examples of nonconforming situations include but are not limited to, noncompliance with off-street parking regulations, access requirements, failure to adhere to landscape strip requirements, tree protection, signs not meeting height or area restrictions, and insufficient landscaping.

- (c) **Determination of nonconforming situations.** For any proposed building or development, or modification of a building or development, it shall be the duty of the community development director to identify the extent to which the improvements on land on which the building or development is proposed constitutes a nonconforming situation, as defined in this section. The community development director shall conduct a review and identify such nonconforming situation(s) at the time plans for such proposed building or development are submitted for review, and at any earlier opportunity, if presented. In the event that one or more nonconforming situations are found to exist by the community development director, they shall be documented and notice of the need to correct or reduce said nonconforming situations shall be provided by the community development director to the building or development applicant.

Sec. 1-70. Correction of Nonconforming Situations.

In determining the need to completely correct or reduce the noncompliance of nonconforming situations, the community development director shall be guided by the following standards:

- (a) **Strict compliance.** A standard of “strict compliance” (complete correction of all nonconforming situations) shall be applied by the community development director where physical standards can clearly be made in the subject development proposal without significant alteration of the development as proposed.

- (b) **Reasonable progress toward compliance.** In lieu of strict compliance, a standard of “reasonable progress toward compliance” shall be applied by the community development director in cases where complete correction or compliance with the nonconforming situation would require undue hardship, practical difficulty, or might unreasonably reduce the size, scale, or other significant aspect of the development proposal to a point where strict compliance would jeopardize the building or development

proposal. In applying a standard of reasonable progress toward compliance, the community development director shall have authority to approve the building, development, or improvement even though it does not meet a standard of strict compliance, if the relief granted is the minimum necessary to effectuate the building, development, or improvement.

- (c) **Proportionality.** Whenever something less than strict compliance is authorized by the community development director, in determining the amount or extent of compliance required, the director shall apply a standard of “proportionality,” meaning that the scope, scale, extent, and cost of requirements to correct nonconforming situations are more or less the same as the scope, scale, extent and cost of the improvement or development proposed.

Determinations by the community development director pursuant to this section may be appealed as an administrative decision under the provisions of this development code relating to appeals.

[Secs. 1-71. – 1-80. Reserved].

Division VII. Additional Requirements.

Sec. 1-81. Homeowner’s Association.

- (a) **Required.** For any residential development containing community open space, stormwater detention facilities or other lands in common ownership, a homeowner’s association, which provides for building and grounds maintenance and repair, insurance and working capital shall be required. The homeowner’s association must be maintained as the responsible owner of such facilities and lands and shall not be dissolved unless another ownership entity is accepted by the city of Powder Springs.
- (b) **Mandatory membership.** Membership in the homeowner’s association must be mandatory for each property in the development.
- (c) **Bylaws and covenants.** Such associations must also include homeowner’s declaration and bylaws, including covenants, conditions and regulations applicable to each property in the development. The covenants, conditions and regulations shall, at a minimum, regulate and control the following: animals, including household pets; signs exterior items such as fences, lawn ornaments, and landscape areas and buffers; building improvements; outside storage; overnight parking of vehicles; decorations and holiday lighting, trash collection containers.
- (d) **Approval.** Covenants are subject to approval by the city attorney and such approval shall be obtained prior to recording.
- (e) **Reserve account.** At the time control of the association is passed from the declarant to the property owners, the association shall have a reserve account of not less than \$125.00 per occupied residence. There shall be no debt incurred to the association.

- (f) **Enforcement.** The declaration and bylaws shall be enforced by an association management company, which shall have the power to compel the payment of membership dues and assessments.
- (g) **Condominium association.** For condominium projects, incorporation of a condominium association consistent with state law will serve in lieu of the requirements of this section.

Sec. 1-82. Business Owner’s Association.

- (a) For each retail, commercial or office development there shall be established a mandatory business owners association, which shall adopt a Declaration of Covenants containing architectural controls and maintenance requirements for the entire property included in the development.
- (b) The mandatory business owners association shall be responsible for the upkeep and maintenance of all common areas within all non-residentially zoned areas of the development, including but not limited to, landscape areas, fences, signage, and lighting.

[Secs. 1-83 – 1-90 Reserved].

Division IX. Legal Status Provisions.

Sec. 1-91. Adoption and Effective Date.

The Mayor and City Council of the City of Powder Springs hereby ordains that the following articles and sections, which collectively constitute the City of Powder Springs unified development code, are hereby adopted. This ordinance shall take effect and be in force from and after the adoption and enactment of this ordinance, the public health, safety, and welfare demanding it.

Sec. 1-92. Conflict with Other Laws.

Whenever the regulations of this unified development code require: a greater width or size of yards; a lower height of buildings; a smaller number of stories; a greater percentage of lot to be left unoccupied; or impose other more restrictive standards than are required in or under any other statute, the requirements of this code shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this development code, the provisions of such more restrictive statute shall govern.

Sec. 1-93. Severability.

Should any article, section or provision of this unified development code be declared invalid or unconstitutional by any court of competent jurisdiction, such declarations shall not affect the validity of the unified development code as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Sec. 1-94. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict herewith are repealed.

Sec. 1-95. Codification and Recodification.

It is the intention of the Mayor and City Council of Powder Springs, and it is hereby ordered that this ordinance shall become and be made a part of the code of ordinances of the City of Powder Springs, Georgia, and the articles, divisions, and sections of this ordinance may be renumbered if necessary to fit most appropriately into the code of ordinances of the city.

Sec. 1-96. Relationship to Private Agreements.

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

Sec. 1-97. Status of Prior Zoning Approvals.

Notwithstanding the repeal of prior ordinances in conflict with this ordinance upon its adoption, if a property was zoned subject to conditions or use approved subject to certain conditions existing and in effect at the time of adoption of this ordinance by the Powder Springs Mayor and City Council, such zoning conditions or conditions of use approval shall continue to apply to said property.

Sec. 1-98. Status of 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 the development activity or building construction authorized by the permit has commenced prior to the effective date of this unified development code or the amendment or will be commenced after such effective date but within 6 months of issuance of the permit. If the permit expires, any further development or construction on that site shall occur only in conformance with the requirements of this unified development code in effect on the date of the permit expiration.

[Secs. 1-99 and 1-100 Reserved].