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# Article 1. Adoption, Purpose and Applicability

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## **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.**

#### **Sec. 102.01. Short title.**

This Code shall be known as and may be cited as "The Unified Development Code of the City of Bogart, Georgia" or, for brevity, "The Development Code."

#### **Sec. 102.02. Authority.**

- a. This Development Code is adopted pursuant to the authority conferred by the Georgia Constitution, and for purposes of promoting the health, safety, aesthetics, convenience, order, prosperity or the general welfare of the present and future inhabitants of City of Bogart as contained and detailed herein.
- b. Pursuant to the statement of purpose and intent herein, and the authority and requirements of the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1 *et seq.*) and other applicable State laws and requirements, this Development Code contains provisions regulating the location, height, number of stories and size of buildings and other structures; the uses of land, buildings, and structures for industry, commerce, agriculture, conservation, recreation, residences, public activities, and other purposes; creating districts for said purposes and establishing boundaries thereof; defining certain terms used herein; providing for the method of administration, amendment and enforcement and for the Appeals Procedure; and repealing conflicting Regulations and other matters.

### **Sec. 103. Adoption.**

Under the authority and for the purposes stated herein, the Mayor and Council of Bogart, Georgia does hereby enact as law the Articles and Sections contained in this Unified Development Code.

#### **Sec. 103.01. Components of the development code.**

This Code and the official zoning maps of the City on file and maintained in the City Clerk and the office of the Oconee County/ City of Bogart Planning Department shall together constitute the Unified Development Code of the City of Bogart, Georgia.

#### **Sec. 103.02. Conflict with other regulations.**

Whenever the regulations of this Development Code require a greater lot width or depth or size of yard or impose other more restrictive standards than are required in or under any other statute or covenants, the requirements of this Development Code shall govern. Whenever the provisions of any other statute or covenants require more restrictive standards than those of this Development Code, the provisions of such statutes or covenants shall govern.

#### **Sec. 103.03. Repeal of conflicting resolutions or ordinances.**

All Resolutions or Ordinances and parts of Resolutions or Ordinances in conflict with this Development Code are hereby repealed to the extent of such conflict.

Sec. 103.04. **Severability and validity.**

- a. Should any Article, Section, paragraph, sentence, clause or word of this Code be declared invalid or unconstitutional by any Court of Competent Jurisdiction, such declaration shall not affect the validity of the Code as a whole nor any part thereof that is not specifically declared to be invalid or unconstitutional.
- b. It is hereby decreed to be the intention of the Mayor and Council of Bogart, Georgia that the Articles, Sections, paragraphs, sentences, clauses and words of this Development Code are severable and if any word or words, clause or clauses, sentence or sentences, paragraph or paragraphs, Section or Sections, Article or Articles 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, Sections and Articles of this Development Code as the same would have been enacted by the Mayor and Council of Bogart, Georgia 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, Article or Articles.

Sec. 103.05. **Effective date.**

This Development Code shall take effect August 12, 2024 as approved by the Mayor and Council of Bogart, Georgia

**Sec. 104. Purpose and intent.**

Sec. 104.01. **Purpose of the development code.**

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

- a. To lessen congestion in the streets;
- b. To secure safety from fire, panic and other dangers;
- c. To provide adequate access to light and air;
- d. To prevent the overcrowding of land and avoid undue concentration of population;
- e. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, in accordance with a comprehensive plan;
- f. To protect property against blight and depreciation;
- g. To promote the orderly and beneficial development and expansion of the City ;
- h. To promote the orderly and desirable development of public and private utilities and services;
- i. To encourage the most appropriate use of land, buildings and other structures throughout the City;
- j. To securing economy in government expenditures;
- k. To encourage the development of an economically sound and stable community so as to help conserve and protect the natural, economic, and scenic resources of City of Bogart, Georgia;
- l. To assure the provisions of the required streets, drainage, utilities, and other facilities and services in new land developments to help prevent and reduce traffic congestion, health and safety hazards;
- m. To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, and to help insure that all building lots will be accessible to firefighting equipment and other emergency and service vehicles;

- n. To encourage the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, and other public purposes;
- o. To help eliminate the costly maintenance problems which develop when streets and lots are laid out without proper consideration being given to the drainage characteristics of the tract of land at the time the land is being subdivided into streets and lots; and
- p. To assure adequate identification of property on the public records.

Sec. 104.02. **Purposes of the Community Agenda.**

The City of Bogart, Georgia, Community Agenda is intended for the following purposes, among others:

- a. To guide and direct growth and development in the City of Bogart;
- b. To protect, preserve and enhance the City's cultural, environmental, economic and social resources;
- c. To identify current land uses in order to assist the City in making budgetary, utility and other resource allocations;
- d. To enable the City of Bogart to predict future land uses for planning purposes;
- e. To assist the City in fulfilling its statutory and other legal obligations; and
- f. To provide a public document which will serve as a means of general information on land use and development for the citizens of the City of Bogart and other interested parties.

Sec. 104.03. **Intent in interpretation.**

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

- a. Considered as minimum requirements;
- b. Liberally construed in favor of the property owner; and
- c. Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 104.04. **Intent relative to private property agreements.**

This Code is not intended to abrogate, annul or otherwise interfere with any private easement, covenant or other agreement or legal relationship between private parties; provided that, when the regulations of this Code are more restrictive or impose higher standards or requirements than such private easements, covenants, or other private agreements or legal relationships, the regulations of this Code shall govern. In no case, however, shall City of Bogart be required to enforce such private easements, covenants, or other private agreements or legal relationships, whether they are more restrictive or less restrictive than the standards or requirements of this Development Code.

**Sec. 105. General applicability.**

Sec. 105.01. **Lands to which this code applies.**

This Development Code applies to all lands and the buildings, structures and uses thereon within the City of Bogart, Georgia.

Sec. 105.02. **Exemptions.**

- a. Subdivisions with Prior Approval

Subdivisions which received preliminary plat approval prior to the adoption of this Development Code shall be allowed to continue development according to said preliminary plat under the Subdivision Regulations in effect at the time the preliminary plat was approved. This provision shall expire 2 years following the date of preliminary plat approval, unless Site Development and/or Construction Plans are approved by the City within that time. Furthermore, Site Development and/or Construction Plans approved

pursuant to such subdivisions or approved prior to the adoption of this Development Code shall expire within 1 year from date of approval, unless construction has begun and continuous work is being performed on the project.

b. Previously Issued Permits.

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

- (1) 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
- (2) 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.

c. 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:

- (1) 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
- (2) 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.

d. Previously submitted applications.

Any valid and complete application accepted by City of Bogart 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 City 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.

e. Effect of unified development code on exempt properties.

- (1) To the extent that exemption under this Sec. 105.02 results in nonconformity with the provisions of this Development Code, such properties shall be governed by the requirements of Sec. 107, Nonconformities.
- (2) Any new application for a zoning change, a variance, a preliminary subdivision plat, a site development plan, a development permit, a building permit or any other action affecting a property covered under this Sec. 105.02 shall be considered and applied under the provisions of this Development Code, as applicable.

**Sec. 106. Application of the regulations.**

Except as hereinafter provided:

Sec. 106.01. **Use, occupancy and construction.**

- a. No building or structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or altered except in conformity with this Development Code.
- b. 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.
- c. 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.
- d. All subdivisions, planned developments and land development projects proposed for approval and permitting hereafter shall be subject to all regulations of this Development Code.

Sec. 106.02. **General prohibitions.**

- a. 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.
- b. No subdivider shall proceed with any construction work on a proposed subdivision before obtaining preliminary plat approval and issuance of a development permit from the City in conformity with the provisions of this Development Code.
- c. Unless conditioned upon final plat approval and containing notice that there is no currently approved plat, the transfer of, sale of, or contractual agreement to sell land by reference to or exhibition of, or other use of a plat of a subdivision that has not been given final subdivision plat approval by the City in conformity with the provisions of this Development Code and recorded in the office of the Athens-Clarke or Oconee County Clerk of the Superior Court 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 provision.
- d. No land dedicated as a public street shall be accepted, opened or improved, nor shall any utilities or other facilities be installed therein, unless:
  - (1) 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 this Development Code; or
  - (2) Unless such street corresponds in its location and lines with a street shown on a final subdivision plat given final approval by the designated subdivision review staff in conformity with the provisions of this Development Code with its stamps and signatures properly placed on the plat and said plat has been recorded in the Athens-Clarke or Oconee County Clerk of the Superior Court's office.
- e. 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:
  - (1) The lot, in its current size and configuration, existed as a legal lot of record on the date of adoption of this Development Code; or
  - (2) The lot was created through approval of a subdivision in which improvement of the street was not required under the provisions of this Development Code.

Sec. 106.03. **Division of property.**

- a. No person shall divide or subdivide or cause a subdivision to be made, by deed or map, of any parcel of land which is located within the boundaries of the City of Bogart, except in conformity with the provisions of this Development Code.
- b. Any owner or developer of any tract of land situated within the City who subdivides the same shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the Athens-Clarke or Oconee Clerk of Superior Court. No such plat of subdivision shall be recorded unless and until it shall have been submitted to and approved by City of Bogart as provided herein. No land shall be subdivided for residential use if it is not zoned for residential development as specified on the zoning maps of the City.
- c. This Development Code bears no relation to any private easement, covenant, agreement, or restriction, and the responsibility of enforcing such private easement, covenant, agreement, or restriction is not implied herein to any public official. When this Development Code calls for more restrictive standards than those required by private contract, the provisions of this Development Code shall control.

Sec. 106.04. **Height and density.**

No building or structure shall hereafter be erected, constructed, reconstructed or altered to:

- a. Exceed the height limits.
- b. Be occupied by more dwelling units per acre or occupy a smaller lot area per family than are herein required.
- c. Have narrower or smaller front, rear or 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.

Sec. 106.05. **Yards and other spaces; service to one building.**

No part of a yard or the off-street parking or loading spaces that are required in connection with any building or use for the purpose of complying with this Development Code shall be included as part of the yard or off-street parking or loading spaces required for another building, except as specifically provided herein.

Sec. 106.06. **One principal building or use on a lot.**

- a. 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.
- b. With respect to two-family dwellings, only one principal building (containing two dwelling units) and its customary accessory buildings and structures may be erected on any one lot.

Sec. 106.07. **Reduction in lot size.**

No lot shall be reduced in size so that lot width or depth, size of yards, lot area per family or any other requirement of this Development Code is not maintained. This limitation shall not apply when a portion of a lot is acquired for a public purpose.

**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 regulations herein. 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.



Sec. 107.01. **Nonconforming development; in general.**

- a. Lawful nonconforming uses, structures, lots and signs are declared by this Development Code 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 continue under the circumstances presented in this Section for each type of nonconformity.
- b. For the purpose of this Sec. 107, "value" shall be computed from the amount a building or structure, as applicable, is appraised for tax purposes by City of Bogart.

Sec. 107.02. **Nonconforming uses.**

- a. Nonconforming uses; defined.

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

- b. Continuance of nonconforming uses.

(1) 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 shall not be:

- (a) Extended to occupy a greater land area;
- (b) 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 adoption or amendment of this Development Code and was clearly designed to house the same use as the non-conforming use occupying the other portion of the building or structure;
- (c) Reestablished after discontinuance for 12 months (or 24 months for agricultural uses which require rotation); or
- (d) Changed to another nonconforming use.

(2) A building occupied by a nonconforming use at the time of adoption or amendment of this Development Code, or because of changes in the use of adjoining properties, may be retained Under the following circumstances:

- (a) It shall not be enlarged or altered except in conformance with this Development Code. It may be repaired to the extent necessary to maintain it in a safe and sanitary condition;
- (b) If the building is destroyed by natural or other causes to the extent of less than 50 percent of its value, it may be rebuilt to its original specifications, if completed within twelve months;
- (c) If the building is destroyed by natural or other causes to the extent of 50 percent or more of its value, it may be rebuilt only in conformance to the requirements of this Development Code; or
- (d) 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.

(3) 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 Section.

(4) 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 one year 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.

Sec. 107.03. **Nonconforming structures.**

a. 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 or amendment of this Development Code, but which, by reason of such adoption or amendment, no longer meets or conforms to one or more such requirements of this Development Code.

b. Continuance of nonconforming structures.

(1) A nonconforming structure may continue to be occupied and used, except that:

(a) A nonconforming structure shall not be repaired, rebuilt or altered after damage or destruction of 50 percent or more of its value, unless the structure is an owner-occupied dwelling.

(b) A nonconforming structure may be repaired, rebuilt or altered to its original configuration after damage or destruction not exceeding 50 percent of its value, provided that allowed reconstruction begins within 1 year after the damage or destruction is incurred.

(c) 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.

(d) A nonconforming manufactured home shall not be replaced with another nonconforming manufactured home.

(2) 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.

Sec. 107.04. **Nonconforming lots.**

a. 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 or amendment of this Development Code, and which, by reason of such adoption or amendment, no longer meets or exceeds one or more such requirements of the applicable zoning district.

b. Treatment of nonconforming lots.

Any lot of record existing at the time of the adoption or amendment of this Development Code, may be used subject to the following exceptions and modifications:

(1) Adjoining lots.

When two or more adjoining lots of record with contiguous frontage are in one ownership at any time after the adoption or amendment of this Development Code and such lots, individually, have an area or width that is less than is required by this Development Code, then such contiguous lots shall be considered as a single lot or several lots of the minimum width and area required in the Zoning District in which they are located.

(2) Individual lot not meeting minimum lot size requirements.

(a) Except as set forth in Sec. 107.04.b(1), in any Zoning District in which single-family dwellings are permitted, any lot of record existing at the time of adoption or amendment of this Development Code which has an area, width

or depth less than that required by this Development Code may be used as a building site for a single-family dwelling.

- (b) In the case of such a lot, when it is not possible to provide the required side yards and at the same time build a minimum width single-family dwelling, a Special Exception Variance to reduce the side-yard requirements for such lot the minimum amount necessary for a reasonable dwelling may be requested. See the Appeals Article of this Development Code for procedures.

Sec. 107.05. **Nonconforming signs.**

- a. Nonconforming signs; defined.

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

- b. Grandfathered 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 shall not be replaced, expanded, relocated or substantially renovated except in conformity with the provisions of this Development Code.

- c. Temporary signs to be removed.

Any nonconforming sign that is temporary in nature and not permanently affixed to the ground or to a building, such as but not limited to a portable sign, a streamer or pennant, shall be removed within 30 days of becoming a nonconforming sign.

- d. Treatment of illegal signs.

- (1) Illegal signs located within a public right-of-way or on public lands:

- (a) Signs located illegally within any public right-of-way or other public lands shall be removed immediately upon adoption of this Development Code.
- (b) The Code Enforcement Director of Oconee County or other City of Bogart employee(s), (and/or private individuals, corporations and entities, if so authorized by the Mayor and Council of Bogart, Georgia), 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.

- (2) Illegal signs not located within a public right-of-way or on public lands:

- (a) A sign that did not lawfully exist under the City's regulations prior to adoption of this Development Code shall, within 30 days of adoption of this Development Code, either (a) be removed or (b) be brought into conformance with all provisions of this Development Code.
- (b) 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 Code Enforcement Director shall authorize the City to remove the sign at the expense of the owner or occupant of the property.

- e. Removal due to road improvements.

If a nonconforming sign must be removed due to a City, county or state road improvement project, the Mayor and Council of Bogart, Georgia may authorize the relocation of said sign even though the new location may not meet the setbacks, location and/or spacing or other provisions of this Development Code.

- f. Nonconforming sign replacement.

Within 180 days of the adoption of this section, the Code Enforcement Director shall prepare a list of signs within the City which would not be permitted under the current ordinance due to size limitations, but which signs were validly permitted and constructed under the rules and regulations applicable at that time. Any such sign which is removed, destroyed or significantly damaged may be replaced with a new sign of substantially similar dimensions at the same location, notwithstanding any provisions of this Article and upon compliance with the provisions of this Article not related to size.

- (1) Replacement sign construction shall begin within 1 year of the date of demolition of the previously existing sign.