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**INTEROFFICE MEMORANDUM**

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**TO:** MAYOR AND COUNCIL

**FROM:** DINA RIMI, COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT:** MULTI USE TRAIL

**DATE:** 1/24/2022

**CC:** HAROLD SIMMONS

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During a workshop on 12/29/2021 members of the council directed staff to put together a draft document addressing the utilization of multi –use trails as a density bonus. During the meeting the Mayor and Council relayed to staff that it is their desire for multi-use trails to not be a project for a developer to use to qualify for a density bonus.

Staff is recommending that the language referencing this change be place in the R-40 C portion of the zoning ordinance, since this is the only section of the zoning ordinance that references projects being used for the allowance of a density bonus.

The staff is requesting that attached verbiage in Article VII of the zoning ordinance be considered by the Mayor and Council for adoption in the near future ( see attached)

**ARTICLE VII. R-40 CONSERVATION SUBDIVISION DISTRICT**  
**Adopted December 1, 2003**

**Sec. 74-111. Purpose.**

The purpose of the R-40 conservation subdivision district (R-40C) is:

- (a) Provide opportunities for flexibility in lot design and building arrangement not afforded by the R-40 traditional subdivision district, fostering the location of buildings and other improvements to accommodate site conditions, with street, blocks and lot layout sensitive to environmental constraints;
- (b) Provide a more varied, innovative and efficient land development pattern;
- (c) Promote new development compatible with existing uses, architecture, landscapes and local character;
- (d) Provide standards reflecting the varying circumstances and interests of individual landowners, and the distinctive characteristics of their properties;
- (e) Preserve unique and sensitive landscapes and site features by locating new building lots outside of such areas;
- (f) Foster clustering of dwellings and structures on less environmentally sensitive soils to reduce the amount of paved surfaces and utilities;
- (g) Minimize erosion and sedimentation by minimizing land disturbance and removal of vegetation;
- (h) Preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
- (i) Conserve scenic vistas from encroachment by development;
- (j) Reduce perceived density by maximizing the number of dwelling with direct access to and views of greenspace;
- (k) Retain and protect greenspace within residential developments for aesthetic, watershed protection and nonstructural stormwater management purposes;
- (l) Promote interconnected greenways and corridors throughout the community, and
- (m) Provide a means to attain the goals and objectives of the City of Senoia Comprehensive Plan relative to orderly growth, enhancement of environmental resources and preservation of rural character.

(Ord. No. 07-05, Art. 7, § 1, 12-3-2007)

**Sec. 74-112. General regulations.**

- (a) Applicants shall comply with all applicable provisions of the City of Senoia Zoning and Land Development Ordinances.
- (b) Development of a conservation subdivision is available in the R-40(C) zoning district as a use by right.
- (c) A public, community or individual potable water system shall serve all R-40 conservation subdivision district developments.

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- (d) Conservation subdivision district development shall be served by public sewer.
  - (e) The proposed development will be generally consistent with the goals and objectives of the City of Senoia Comprehensive Plan.
  - (f) The tract of land to be developed shall be in one ownership or, if in multiple ownership, shall be developed according to a single plan with common legal authority and responsibility.

(Ord. No. 07-05, Art. 7, § 2, 12-3-2007)

**Sec. 74-113. Area and bulk requirements under the R-40 conservation subdivision district.**

- (a) *Density of development.* The maximum number of dwelling units allowed shall be the gross total acreage multiplied by 0.9.
  - (1) In addition to the maximum permitted number of lots or dwellings otherwise permitted within this district, applicant may contribute to elements specifically mentioned as goals and objectives in the City of Senoia Comprehensive Plan, including but not limited to street connectivity and greenways. A density bonus shall be determined by increasing the density factor. Such bonuses shall be subject to the approval of mayor and council.  
**(2) The construction of a multi-use trail cannot be used as a density bonus.**
- (b) *Minimum floor area of principal structures.* The minimum floor area for single-family detached structures within this district shall be 2,000 square feet.
- (c) *Minimum restricted greenspace.* Designated restricted greenspace shall comprise no less than 40 percent of the gross tract acreage and shall comply with all standards and criteria for greenspace contained in this article.
- (d) *Minimum lot and yard areas.* No minimum lot area is prescribed, rather, the following lot and yard area regulations shall apply to any principal residential structure or any other building:
  - (1) Siting of principal dwellings located on laterally adjacent lots shall maintain a minimum separation of 20 feet, at any point. Siting of all buildings located on lots adjacent to the rear shall maintain a minimum separation of 50 feet measured perpendicularly from the rear wall of any residential structure to any point on any other building not accessory to such residential structure.
  - (2) Minimum separation between accessory buildings and the principal structures to which they are accessory at any point shall not be less than that prescribed by applicable provisions of the Georgia Statewide Minimum Construction Codes; minimum separation between accessory buildings and any other buildings shall comply with subsection 1.
  - (3) No exterior windows, doors, or other openings shall be permitted in any portion of any principal or accessory structure located less than five feet from any lot line.
  - (4) Where any portion of any principal or accessory structure is located less than five feet from any lot line, a perpetual easement providing for maintenance of such structure, and measuring no less than five feet in width from the affected walls shall be provided on the adjacent lot(s). This provision shall not apply to lot line(s) that separate two-family or multifamily dwelling units on the interior of the same principal structure.
  - (5) The building setback from the right-of-way of any street shall be a minimum of 25 feet.
  - (6) All proposed dwellings shall be sited as to be setback a minimum of 50 feet from the perimeter boundary of the tract. Existing dwellings and dwellings resulting from the conversion of existing structures shall be exempt from this standard.

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- (7) While conformance to these area and bulk regulations is not dependent upon any specific minimum lot area or dimensions, applicants shall be required to demonstrate to the satisfaction of the mayor and council that any lots established under the provisions of this section are of appropriate size and shape relative to the following factors:
    - a. Establishment of suitable private yard areas for all residences; and
    - b. Management of any adjacent greenspace areas.
  - (8) In submission of subdivision and/or land development plans, applicant shall indicate the maximum feasible building envelope for each lot created in compliance with these area and bulk requirements. The setbacks and separation distances between building envelopes on adjacent lots must meet the provisions of subsections 1—4, above. Such plans shall indicate where the provisions of subsections 3 and 4 apply.
  - (9) The side setback for the R40C zoning category shall be a minimum of ten feet.
  - (e) *Maximum tract coverage—15 percent of gross tract area.* Applicant shall calculate total permitted structure coverage in square feet and shall indicate on the conceptual plan the maximum coverage in square feet that will be assigned to each lot or parcel that will result from the proposed development.
- (Ord. No. 07-05, Art. 7, § 2, 12-3-2007; Ord. No. 19-11, § 1, 10-7-2019)

#### **Sec. 74-114. Special provisions for conservation of historic resources.**

Historic resources shall be preserved to the greatest degree practical through incorporation into development plans and design. Such resources shall include historic structures, ruins or sites, historic road or other transportation traces, paths and trails and any other historic landscape features.

- (a) *Density bonus.* In addition to the maximum permitted number of lots or dwellings otherwise permitted within this district, applicant may establish dwelling units on lots through renovation or adaptive reuse of structures listed in the state or national register of historic places, determined by the state department of natural resources to be eligible for such listing or designated by the City of Senoia as historic in accordance with Historical Preservation Ordinance. Such bonuses shall be subject to compliance with the standards of subsection b., below. Except where physically infeasible due to location and/or structural characteristics, all such dwellings must comply with the requirements of this district.
- (b) *Standards for historic resources.* Applicant shall comply with the following standards where renovation or reuse of any structure is proposed in order to develop dwelling units in addition to the maximum otherwise permitted.
  - (1) Construction plans for rehabilitation, alteration or enlargement of any historic structure shall be in substantial compliance with the Historic Neighborhood Ordinance.
  - (2) Applicant shall demonstrate preservation of sufficient landscaped or buffer area surrounding historic structures to retain the integrity of the historical landscape setting. Applicant may demonstrate mitigation of impacts to historical landscape setting through introduction of vegetation or other screening in harmony with such landscape setting and through retention of view lines, which visually link historic structures to their landscape setting.
  - (3) Facilities and equipment for heating and air conditioning, trash collection and compaction and other structural elements inconsistent with historical architectural themes shall be concealed architecturally or otherwise screened from view.

(Ord. No. 07-05, Art. 7, § 4, 12-3-2007)

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## Sec. 74-115. Greenspace protection standards.

In utilizing the R-40 conservation subdivision district, the proposed design shall limit disturbance of all greenspace identified in the required conservation plan submitted in accordance with section 74-118(a) of this article.

- (a) Applicant shall demonstrate maximum conservation of scenic views from public roads and neighboring residential properties, utilizing existing vegetation, structures or topography or providing landscaping to screen the proposed development from view. At its sole discretion, mayor and council may reduce screening requirements where applicant submits individual building plans with sufficient detail to demonstrate, in terms of how buildings may be viewed from public roads or neighboring residential properties, reasonable maintenance of the tract's traditional rural character. Distance from public roads or neighboring residential properties may also be considered as a mitigating factor in review of building plans.
- (b) Applicant shall demonstrate compliance with all applicable state and/or federal regulation of streams and wetlands. Copies of all documentation concerning any proposed activity requiring submission of a wetlands delineation report, stream or wetland encroachment permit, or mitigation plan to the Georgia Department of Environmental Protection and/or U.S. Army Corps of Engineers shall be submitted to the City of Senoia at the time of submission to the agency or agencies having jurisdiction. Receipt of such documentation shall not be a prerequisite for plan approval; however, approval shall be conditioned upon ultimate demonstration of compliance with all applicable regulation(s).
- (c) Existing stands of trees and individual trees having a DBH of eight inches (8") or greater and other significant natural features, including streams, ridge lines, steep slopes, peaks and rock outcroppings, shall be inventoried. Such features shall be preserved to the greatest feasible degree. Removal or disturbance of such landscape features shall not occur on more than 25 percent of the total area they occupy, except where mayor and council are satisfied that overall community planning and greenspace protection objectives are best served through allowance of additional disturbance. For the purposes for this section, the extent of area occupied by any tree or tree mass shall be measured from the outermost drip line of such tree or stands of trees.
- (d) Inappropriate alteration of the natural terrain shall be prohibited. Developers of conservation subdivisions shall achieve a lot and street layout and grading plan that minimizes such alteration. All plans shall be subject to approval of the city engineer who shall offer alternate layouts at the sole expense of the developer in instances in which such public objectives are not met.

(Ord. No. 07-05, Art. 7, § 5, 12-3-2007)

## Sec. 74-116. Standards for designation and use of greenspace.

- (a) *Location.* The location and layout of greenspace shall be configured to promote adherence to resource protection standards established above, and shall further conform to the following criteria:
  - (1) The greenspace shall be a minimum of 40 percent of the gross tract acreage.
  - (2) A minimum of 75 percent of greenspace shall be in a contiguous tract; interconnections having a width of less than 50 feet shall not be considered contiguous for the purpose of compliance with this standard.
  - (3) A natural or landscaped buffer having a minimum horizontal dimension of 60 feet along arterials and major collectors and 25 feet along minor collectors shall be provided.
- (b) *Characteristics.* No portion of greenspace shall be credited toward the minimum greenspace area where such greenspace is characterized as follows:

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- (1) Encompassed within the right-of-way or anticipated greenspace of any public or private street;
  - (2) Located within 25 feet of any structure, except structures devoted to permitted open space uses;
  - (3) Less than 50 feet in the narrowest dimension at any point, except public recreational trail or providing access to greenspace or common areas;
  - (4) Occupied by any utility easement or anticipated utility easement; above-ground utility rights-of-way may be included within greenspace; however, may not be credited as greenspace. Large areas of impervious surface shall be excluded from the open space.
  - (5) Occupied by storm water management facilities;
  - (6) Encompasses bodies of open water exceeding 5,000 square feet in contiguous area.
  - (7) Encompasses impervious surfaces exceeding 2,000 square feet in contiguous area.
- (c) *Mandatory greenspace designation.* The following lands are considered "primary conservation areas" and shall be encompassed within greenspace, unless the applicant demonstrates to the satisfaction of the city administrator that this provision would constitute an unusual hardship and be counter to the purposes of this article. These lands shall receive a 100 percent credit toward the total acreage of greenspace:
- (1) The regulatory 100-year floodplain;
  - (2) Buffer zones having a minimum width of 75 feet along all perennial and intermittent streams;
  - (3) Slopes greater than 25 percent and having a minimum contiguous area of 5,000 square feet;
  - (4) Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
  - (5) Populations of endangered or threatened species, or habitat for such species; and,
  - (6) Archaeological sites, cemeteries and burial grounds.
- The following lands are considered "secondary conservation areas" and shall be encompassed within greenspace to the maximum feasible extent. These lands shall receive a 50 percent credit toward the total acreage of greenspace:
- a. Important historic sites;
  - b. Existing healthy, native forests having a minimum contiguous area of one acre;
  - c. Individual existing healthy trees greater than 8 inch DBH;
  - d. Other significant natural features and scenic view sheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
  - e. Prime agricultural lands having a minimum contiguous area of five acres; and,
  - f. Existing trails that connect the tract to neighboring areas.
- (d) *Greenspace uses.* The following uses may be established in greenspace:
- (1) Agriculture, horticulture, silviculture, crop or pasture uses, provided that all applicable best management practices are followed to minimize environmental impacts, that such activities are not conducted within primary conservation areas and provided further that such uses are subject to submission of a conservation plan approved by the City Council of Senoia;
  - (2) Woodlands, meadows, wetlands, wildlife habitats, game preserves or similar conservation use deemed appropriate by mayor and council;
  - (3) Public, common or private park or passive recreation area;

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- (4) Active recreation areas, provided that such areas comprise no more than 10 percent of the total greenspace and are not located within primary conservation areas. Active recreation areas may include impervious surfaces;
  - (5) Walking or bicycle trails, provided such facilities are made of porous paving materials;
  - (6) Natural, archeological or historical resource conservation areas;
  - (7) Land application of wastewater, including individual systems, where permitted and where mayor and council are satisfied that adequate provision(s) for long term management and maintenance of the wastewater system are guaranteed;
  - (8) Non-structural stormwater management installations;
  - (9) Easements for drainage, access, and underground utility lines;
  - (10) Structures clearly accessory to greenspace uses; and
  - (11) Other conservation-oriented uses compatible with the purposes of this article.

The following uses are prohibited in greenspace:

1. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
  2. Agricultural and forestry activities not conducted according to accepted best management practices; and
  3. Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.
- (e) *Interconnection.* Greenspace shall be interconnected with greenspace on abutting tracts wherever possible. Provisions for pedestrian pathways for general public use to create linked systems within Senoia shall be encouraged. No such interconnection shall have a dimension of less than 50 linear feet.

A minimum of 75 percent of the greenspace shall be in a contiguous tract. Greenspace should adjoin any neighboring areas of greenspace, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future greenspace.

- (f) *Easements.* Subject to provisions for designating minimum required greenspace as stipulated in this article, utilities may be located entirely or partially within easements encroaching upon designated greenspace areas. Where utility facilities are so located, the appropriate parties shall establish easements satisfactory to mayor and council or the utility provider for the purpose of accessing and maintaining such facilities.
- (g) *Development restriction.* Except to provide for permitted greenspace uses, designated greenspace shall be legally restricted from further subdivision or development by deed restriction, conservation easement or other legal agreement in a form acceptable to mayor and council, upon advice of the city attorney, and duly recorded in the Office of the Clerk of Superior Court of Coweta County.
- (h) *Multi-phased development designation.* Where development under the R-40 conservation subdivision district is permitted to occur in two or more development phases, a proportionate amount of designated greenspace shall be permanently recorded with each phase.

(Ord. No. 07-05, Art. 7, § 6, 12-3-2007)

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**Sec. 74-117. Standards for ownership of greenspace.**

- (a) *Ownership.* Subject to permanent conservation restrictions in accordance with section 74-116(e) above, legal title to designated greenspace may be held by an incorporated homeowner's association, a land trust or any conservation organization or similar entity recognized by the city.
- (b) *Offer of dedication.* The city may, but shall not be required to, accept dedication in the form of fee simple ownership of greenspace provided that each of the following conditions exists:
  - (1) Such land is publicly accessible unless the city determines otherwise;
  - (2) No cost of acquisition other than costs incidental to the transfer of ownership, such as title insurance and recording fees are assessed to the city; and
  - (3) The city agrees to, and has access to, maintain such lands.
  - (4) The property is zoned as a PR zoning district.

Where the city accepts dedication of greenspace that contains improvements, mayor and council may require the posting of financial security, either in the form of a commercial surety bond or unqualified letter of credit (UCC format), to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed 12 months from the date of acceptance of dedication. The amount of financial security shall not exceed 50 percent of the actual cost of installation of said improvements.

- (c) *Homeowner's association.* A homeowner's association may hold title to the greenspace and associated facilities in common ownership. The association shall be formed and operated under the following provisions:
  - (1) The developer shall provide a certificate of incorporation for the association from the Georgia Secretary of State, including bylaws and methods for financing the cost of maintaining the greenspace.
  - (2) The association shall be financially subsidized by the developer until at least 75 percent of the lots within the development have been sold.
  - (3) Membership in the association shall be mandatory for all purchasers of lots in the development and their successors or assigns. The conditions and timing of transferring control of the association from the developer to homeowners shall be identified.
  - (4) The association shall be responsible for securing and maintaining comprehensive liability insurance on greenspace land, naming the City of Senoia as an additional insured; proof of coverage shall be filed with the city, upon written request.
  - (5) All members of the association shall equitably share the costs of maintaining greenspace. Shares shall be defined within the association bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair and maintenance of any capital facilities.
  - (6) In the event of a proposed transfer of ownership or maintenance of greenspace by the association to another entity permitted by this article, notice of such action shall be given to all members of the association. The consent of the city is required to effect any such transfer.
  - (7) The association shall maintain or hire adequate staff to administer common facilities and property and maintain the greenspace in perpetuity.

(Ord. No. 07-05, Art. 7, § 7, 12-3-2007)



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## Sec. 74-118. Greenspace management provisions.

- (a) *Greenspace management plan.* Any application for rezoning to the R-40 conservation subdivision district shall include a long term plan for management of the greenspace that is to be created as part of the development. Such plan shall include maintenance and management of any wastewater disposal, water supply, storm-water management or any other common facilities which may be located within or adjacent to greenspace. Such a plan shall also include a narrative describing:
- (1) The manner in which the greenspace and any facilities included therein will be owned and by whom the greenspace will be managed and maintained;
  - (2) The conservation, land management and agricultural techniques and practices that will be used to conserve and perpetually protect the greenspace, including conservation plan(s) approved by mayor and council;
  - (3) The professional and personnel resources that will be necessary to maintain and manage the property;
  - (4) The planned nature of public or private access to the greenspace; and
  - (5) The funding source that will be available for such perpetual management, preservation and maintenance.

The greenspace management plan shall be recorded in Office of the Clerk of Superior Court of Coweta County together with the final subdivision plat. The applicant shall provide a draft of the greenspace management plan with sufficient detail to demonstrate feasible compliance with the provisions of this article with the filing of the preliminary plat submission. Mayor and council may require that appropriate management contracts be established as evidence of the ability to adhere to the provisions of the approved management plan as a condition of approval. The greenspace management plan shall contain a provision that prohibits any amendment without written application to, and approval of, mayor and council to allow for changing circumstances inherent to the perpetual management of land. Approval of such application by mayor and council shall not be unreasonably withheld or delayed, provided the proposed amendment is feasible and consistent with the purposes of preservation of greenspace as set forth in this article and provided further that the plan for such amendment avoids the likelihood that the obligation for management and maintenance of the land may become a responsibility of the city without the consent of mayor and council.

- (b) *Provisions for maintenance of greenspace upon default.*
- (1) In the event the legal entity holding title to greenspace shall, at any time after establishment of a development containing designated greenspace, fail to maintain such land in reasonable order and condition in accordance with the greenspace management plan, the city may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the greenspace land in reasonable condition.
  - (2) Failure to adequately maintain the greenspace in accordance with the approved greenspace management plan constitutes a violation of this zoning ordinance. The zoning administrator is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant of any violation, directing the owner to remedy the same within 20 calendar days.
  - (3) Upon default by any entity responsible for maintenance of greenspace and/or associated facilities, where such maintenance is required under the terms of an approved greenspace management plan, any subdivision and/or land development plan for the property, zoning approval for the property, or under any applicable requirement of any city ordinances, permits, approvals or where such maintenance is otherwise necessary to abate a nuisance, emergency, hazard or other condition threatening persons, property, public health, safety or welfare, the city may, but shall not be obligated to, upon 20 calendar days (or lesser time period in instances of emergency) written notice to the entity

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responsible to perform the necessary maintenance and otherwise remedy the condition set forth in the city's notice, enter upon the greenspace, accessing the same through any other lands of such entity as may be necessary to correct the condition provided in the city's notice. Within 30 calendar days, the responsible entity shall pay any and all costs incurred by the city in connection with such action upon written demand by the city. Upon failure of the responsible entity to pay such costs by the time required, there shall be added interest at the rate of 18 percent per annum as well as costs incurred by the city in collection of same. The city may also lien other property of the entity, if any, for the full amount due, plus interest, and foreclose such lien in the same manner as liens for taxes, or make demand upon any bond or letter of credit held in favor of the city.

(Ord. No. 07-05, Art. 7, § 8, 12-3-2007)

### **Sec. 74-119. Greenspace performance bond.**

Where intended as common or public amenities, all landscapes improvements, plantings, access ways, and recreational facilities within designated greenspace shall be provided by the developer. A performance bond or other security shall be required to cover costs of installation of such improvements in the greenspace. The performance bond or other security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements in the land development ordinance.

(Ord. No. 07-05, Art. 7, § 9, 12-3-2007)

### **Sec. 74-120. Application and approval procedures.**

- (a) *Pre-application procedures.* To promote better communication and avoid unnecessary expense in the design of acceptable subdivision proposals, each developer is encouraged to meet with the zoning administrator and planning commission prior to filing an application for rezoning to the R-40 conservation subdivision district.
- (b) *Application requirements.* The application for rezoning to the conservation subdivision district shall include a conceptual plat as outlined in the Land Development Ordinance for the City of Senoia. In the event any portion of the land development ordinance is inconsistent with this article, the more stringent regulation shall apply.
- (c) The following additional information shall also be included in the application:
  - (1) Property boundaries;
  - (2) All streams, rivers, lakes, wetlands and other hydrologic features;
  - (3) Topographic contours depicting a maximum interval of 10 feet;
  - (4) All primary and secondary conservation areas identified by type, as described in section 74-116 of this article;
  - (5) General vegetation characteristics;
  - (6) General soil types;
  - (7) The planned location of greenspace;
  - (8) Existing roads and structures; and
  - (9) Potential connections with existing greenspace and trails.
- (d) All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

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(e) Except as modified herein, The Code of Senoia, Georgia, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter.

(f) This article shall become effective immediately upon adoption on second and final reading.

(Ord. No. 07-05, Art. 7, § 10, 12-3-2007)

**Secs. 74-121—74-131. Reserved.**