

**ARTICLE I.
BUILDING ORDINANCE***

Editor's note: A resolution adopted Sept. 24, 2001, repealed in their entirety Arts. I and II of this Ch. 5, and replaced them with provisions which have been codified as Art. I, Div. 1, §§ 5-1–5-15 and Div. 2, §§ 5-21– 5-24. Former Art. I pertained to similar subject matter and derived from the 1979 Code and Ords. of Dec. 13, 1988; Apr. 11, 1989; Dec. 12, 1989; and Feb. 13, 1990; and Res. of May 14, 1996.

**DIVISION 1.
GENERAL PROVISIONS, ENFORCEMENT, ADMINISTRATION, AND PENALTIES**

Sec. 5-1. Short title.

This ordinance shall hereafter be known, cited, and referred to as the "Whitfield County Building Ordinance."

(Ord. of 9-24-01, § 1-1)

Sec. 5-2. Whitfield County Engineer– Creation of office and function.

The office of Whitfield County Engineer is hereby created. The duties of the Whitfield County Engineer shall include the enforcement of the provisions of all ordinances of Whitfield County relating to land development, specifically including, but not limited to, the Whitfield County Building Ordinance and to perform all other duties of the office as provided for in this chapter and related federal, state, and/or local laws. In performing such duties, the Whitfield County Engineer may designate such other Whitfield County employees as he or she shall deem appropriate, necessary, or proper in the enforcement of this division.

(Ord. of 9-24-01, § 1-2)

Sec. 5-3. Authority and powers generally.

The Whitfield County Engineer or his or her designee is authorized and empowered, but is not limited to, the following:

- (1) To enforce this chapter and all related laws relating to the construction, equipment, management and condition of all real property within the unincorporated area of the county, and to issue citations for violations of this division.
- (2) To supervise the construction or reconstruction of all buildings or structures within the unincorporated areas of Whitfield County, Georgia.

(3) To carry out such other related duties as may be ordered from time to time by the Whitfield County Board of Commissioners and/or the Whitfield County Administrator.

(Ord. of 9-24-01, § 1-3)

Sec. 5-4. Enforcement and penalties.

The Whitfield County Engineer or his or her designee shall be the general administrative and enforcement officer of this division. In the enforcement of this division, the Whitfield County Engineer may delegate certain enforcement authority to other Whitfield County employees.

(1) Pursuant to O.C.G.A. § 36-1-20(b), any person violating any provision of this division shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000.00, or by imprisonment in the county jail for not more than 60 days, or both.

(2) Each day during which a violation of any provision of this division continues shall be considered a separate offense.

(3) The owner, lessee, tenant, or occupant of any real property or part thereof or general contractor or builder, as appropriate, where anything in violation of this division shall be placed, exist, or conducted, and any person who may have assisted in the commission of any such violation, shall be guilty of separate offenses.

(4) The Whitfield County Magistrate Court shall have original jurisdiction upon any offense charged pursuant to this division unless removed to the Whitfield County Superior Court for a jury trial pursuant to O.C.G.A. § 15-10-61.

(5) In any circumstance in which any lot or parcel is, or is proposed to be, utilized in violation of this division, Whitfield County may, in addition to other remedies provided by law, seek equitable relief, injunction, abatement, or any appropriate action or actions, or proceeding to prevent, to enjoin, or to abate such use.

(Ord. of 9-24-01, § 1-4)

Sec. 5-5. Interpretation, conflict, and severability.

(1) In their interpretation and application, the provisions of this division shall be held to be minimum requirements.

(2) Where the conditions imposed by any provision of this division are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this division or of any other applicable federal, state, or local law, ordinance, resolution, rule, or regulation, the regulation which is more restrictive and which imposes higher standards or requirements shall govern.

(3) If any section, subsection, sentence, clause, or phrase of this division is, for any reason, held by any court of competent jurisdiction to be unconstitutional or void, the validity of the remaining portions of this division shall not be affected thereby. The intent of the Whitfield County Board of Commissioners in adopting this division is that no portion hereof or provision of the regulations contained herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, or provision of this division.

(Ord. of 9-24-01, § 1-5)

Sec. 5-6. Definitions.

For the purpose of this division and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined in the Whitfield County Definitions Ordinance [Appendix B]. The definitions contained therein are incorporated herewith as if set forth fully.

(Ord. of 9-24-01, § 1-6)

Sec. 5-7. Interpretation.

Words used in the present tense shall include the future tense; words used in the singular number include the plural, and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; the "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."

(Ord. of 9-24-01, § 1-7)

Sec. 5-8. Administrative liability.

No officer, agent, or employee of Whitfield County shall be personally liable for any damages which may accrue to persons or property as a result of any act required or permitted in the discharge of such person's duties pursuant to this division.

(Ord. of 9-24-01, § 1-8)

Sec. 5-9. Codes adopted and incorporated by reference.

It is the intent of Whitfield County to enforce the latest edition of the following Georgia State Minimum Standard Codes as adopted and amended by the Georgia Department of Community Affairs:

(1) International Building Code;

- (2) International Residential Code;
- (3) International Fire Code;
- (4) International Plumbing Code;
- (5) International Mechanical Code;
- (6) International Fuel Gas Code;
- (7) National Electrical Code;
- (8) International Energy Conservation Code;
- (9) International Property Maintenance Code;
- (10) International Existing Building Code.

(Ord. of 9-24-01, § 1-9; Ord. of 4-11-05, § 1; Ord. of 9-10-07, § 1; Res. of 5-14-07)

Sec. 5-10. Fees.

A schedule of permit, application, and/or use fees, as adopted from time to time by the Whitfield County Board of Commissioners, shall be attached hereto as Appendix "A" and incorporated herein by reference.

(Ord. of 9-24-01, § 1-10)

Sec. 5-11. Unlawful to do any work without permit.

It shall be unlawful for any person to commence or to perform any work upon any building or structure for which a permit fee is prescribed or for which a permit is required without first obtaining a permit as required.

(1) Surcharge for commencing work without permit. Any person who commences work upon any building, structure, electrical, gas, mechanical or plumbing system for which a permit fee is prescribed or for which a permit is required, without first obtaining a permit, shall be subject to a \$100.00 surcharge in addition to the usual permit fee. Such surcharge may be waived in the discretion of an authorized representative of the Whitfield County Building, Zoning, and Development Department if a person commencing or performing such work demonstrates a reasonable, prior good-faith belief, that no permit was required.

(Ord. of 9-24-01, § 1-11; Ord. of 9-13-04, § 1)

Sec. 5-12. Application for a building permit.

In applying for a permit, the building inspector may require the applicant to submit a dimensioned sketch or scale plan, indicating the shape, size, and location, with respect to the boundaries of the lot or parcel, of any structure(s) or accessory structure(s) to be erected, altered, or moved and of any structure(s) or accessory structure(s) already upon the lot or parcel. Such dimensioned sketch or scale plan, if required, shall depict also the number of dwelling units the building is designed to accommodate, if any, the setback lines of structure(s) or accessory structure(s) on adjoining lots, off-street parking spaces, and such other information concerning the lot or adjoining lots as may be necessary for determining whether the provisions of this division and other ordinances of Whitfield County are observed. Additionally, applicants shall submit to the building inspector and/or code enforcement officer all such information as is reasonably required for the determination of whether the proposed use is appropriate for and in compliance with the applicable zoning for the subject lot.

(Ord. of 1-12-04, § 2)

Sec. 5-13. Utilities; requirements for connection.

Utilities (including but not limited to, gas, water, electricity and sewerage) shall not be connected to any building, dwelling, structure, accessory structure, or manufactured home without first having obtained the written approval of the Whitfield County Engineer or his or her designee and after having first obtained a permit as provided herein.

(Ord. of 9-24-01, § 1-12; Ord. of 1-12-04, § 1)

Sec. 5-14. Appeals.

All appeals from any decision of the Whitfield County Engineer or his or her designee relating to any requirement of this division shall be heard by the Whitfield County Board of Zoning Appeals upon such procedures as set forth in the by-laws of the Whitfield County Board of Zoning Appeals. Said board of zoning appeals shall be empowered to grant variances where appropriate, upon the conditions therefor set forth in such board's by-laws.

(Ord. of 9-24-01, § 1-13; Ord. of 1-12-04, § 1)

Sec. 5-15. Self-inspection.

The governing authority of Whitfield County, pursuant to Section 3 of Act No. 1046 enacted by the General Assembly of the State of Georgia, does exempt Whitfield County from the provisions of the Act codified at O.C.G.A. § 8-2-26(d), allowing master plumbers and utility contractors to self inspect their own installation of water and sewer lines.

(Ord. of 9-24-01, § 1-14; Ord. of 1-12-04, § 1)

Sec. 5-16. Continued use of other federal, state, and/or local laws, ordinances, rules, or regulations.

Nothing herein shall be construed to abrogate or impair the powers of the court or of Whitfield County, Georgia to enforce any provision of any local enabling act, ordinance, law, rule, ordinance, or regulation, nor to prevent or to punish violations thereof. The powers conferred herein shall be in addition to and supplemental to the powers conferred by any local enabling act, ordinance, law, rule, ordinance, or regulation.

(Ord. of 9-24-01, § 1-15; Ord. of 1-12-04, § 1)

Secs. 5-17– 5-20. Reserved.