

1 **AN ORDINANCE ESTABLISHING THE**
2 **FULTON COUNTY BOARD OF CODE ENFORCEMENT**
3 **FOR UNINCORPORATED FULTON COUNTY**
4

5 **WHEREAS**, in the exercise of its lawful authority, the Board of Commissioners
6 of Fulton County may enact policies, resolutions and ordinances to promote and protect the
7 health, safety and welfare of the public;

8 **WHEREAS**, House Bill 1206, effective July 1, 2000, authorizes local
9 government to create local code enforcement boards;

10 **NOW, THEREFORE, BE IT ORDAINED** that the Board of Commissioners of
11 Fulton County hereby creates the Fulton County Board of Code Enforcement with the authority
12 and procedures set forth below:

13 Section 1: That the findings and recitals contained in the preamble of this Ordinance
14 are declared to be true and correct and are hereby adopted and made a part of this Ordinance.

15 Section 2. That the Fulton County Code of Laws is amended to add a new chapter,
16 Code Enforcement and shall read as follows:

17
18 **CODE ENFORCEMENT**
19 **ARTICLE I. IN GENERAL**

20 **Section 1. Intent**

21 The intent of this Chapter is to promote, protect, and improve the health, safety, and
22 welfare of the citizens of unincorporated Fulton County by creating a code enforcement board
23 which will provide an equitable, expeditious, effective, and inexpensive method of enforcing the
24 Fulton County Code of Laws, where pending or repeated violations exist.

25
26 **ARTICLE II. BOARD OF CODE ENFORCEMENT**

27 **Section 2. Creation**

28 The Board of Commissioners hereby establishes the Fulton County Board of Code
29 Enforcement for unincorporated Fulton County to be structured and to function as provided in
30 this article.

1 **Section 3. Definitions**

2 **Act** – The Georgia Local Government Code Enforcement Boards Act, O.C.G.A. Section
3 36-74-1, et seq., as may be amended from time to time.

4 **Board** -- The Board of Code Enforcement for Fulton County Georgia

5 **Code of Laws** -- Fulton County’s Code of Laws, as it may be amended from time to time,
6 and which is deemed to include all other codified or uncodified County ordinances, as they may
7 be amended from time to time, as well as all codes or laws adopted by reference in the Code of
8 Laws..

9 **Code Inspector** – Any authorized agent or employee of Fulton County whose duty is to
10 assure code compliance.

11 **County** -- Fulton County, Georgia. Unless otherwise specified, the rules and regulations
12 herein apply to all land lying within the unincorporated portion of Fulton County as now or
13 hereafter constituted.

14 **Department** -- The Department of Environment and Community Development
15 Department for Fulton County, Georgia.

16 **Violator** -- Any person, firm, partnership or corporation, tenants, agent or other entity
17 which has committed a violation of one or more provisions of the Code of Laws or which has
18 assisted in the commission of any such violation.

19 **Section 4. Authority of the Board of Code Enforcement**

20 The Fulton County Board of Code Enforcement shall have the following powers and
21 duties under the provisions of this ordinance:

- 22 1. To hear and decide cases alleging violations of the Code of Laws, to the
23 maximum extent allowed by the Act;
- 24 2. To adopt rules for the conduct of its hearings and ensure that each side has an
25 equal opportunity to present evidence and argument in support of its cases;
- 26 3. Subpoena alleged violators and witnesses to its hearings, with the approval of the
27 Fulton Magistrate Court or other court with jurisdiction over criminal violations
28 of the Code of Laws;
- 29 4. To subpoena evidence to its hearing in accordance and provided in paragraph (3)
- 30 5. To take testimony under oath;

- 1 6. To issue findings of fact based on evidence of record and conclusions of law;
- 2 7. To issue orders having the force of law to command whatever steps are necessary
- 3 to bring a violation into compliance;
- 4 8. To impose fines and liens upon violators and real and personal property of
- 5 violators; and
- 6 9. To exercise any and all other powers set forth in the Act.

7 **Section 5. Membership**

8 The Board shall consist of seven (7) members, each of whom shall be appointed by the

9 Board of Commissioners of Fulton County, except the initial appointments shall be staggered as

10 follows:

- 11 A. Three (3) Board members shall be appointed for a term of two years; and
- 12 B. Four (4) Board members shall be appointed for a term of four years each.

13 Upon expiration of the initial terms specified in this section all terms shall be for three

14 years. Any member of the Board may be removed for cause by the Board of Commissioners

15 following notice and opportunity to be heard. The Board of Commissioners may, with or without

16 cause, refuse to reappoint any member of the Board at the expiration of his or her term of office.

17 No member of the Board shall hold any other appointive or elective public office or position in

18 unincorporated Fulton County during the period of appointment. An appointment to fill any

19 vacancy on the Board shall be for the remainder of the unexpired term of office. A member may

20 be reappointed upon approval of the Fulton County Board of Commissioners.

21 **Section 6. Qualifications of Board Members**

22 One or more individuals shall have either training, education, experience or expertise

23 relevant to one or more of the County codes under the jurisdiction of the enforcement board, such

24 as property management, engineering (structural and civil), construction, and/or law experience.

25 The absence of such individuals from any meeting of the Board shall in no way limit the

26 authority and jurisdiction of the Board.

27 **Section 7. Compensation of Members**

28 Board members shall serve without compensation except reimbursement for travel,

29 mileage and per diem as authorized by the Board of Commissioners.

30 **Section 8. Officers and Rules**

1 The members of the Fulton County Board of Code Enforcement shall elect a chairperson
2 and vice-chairperson, from among the members of the board. The present of four (4) or more
3 members shall constitute a quorum. The affirmative vote of at least four (4) members shall be
4 required for official action of the Board. The County Attorney or designee shall represent and be
5 counsel to the Board.

6 If a Board member fails to attend two of three successive meetings without cause or
7 without approval of the chairperson, the enforcement board shall declare the members' office
8 vacant and ask the Board of Commissioners to promptly fill the vacancy.

9 The Board shall adopt and publish policies, procedures and rules in keeping with the
10 provisions of this ordinance. Such shall be available in the office of the Environment and
11 Community Development Department. These procedures shall not require compliance with strict
12 rules of evidence but shall mandate that only relevant information be received.

13 **Section 9. Staff to the Board of Code Enforcement**

14 The Director of Environment and Community Development or his/her designee shall
15 serve as the secretary to the Board. The secretary or his/her designee shall keep minutes and a
16 detailed record of all proceedings, showing the vote of each member on each case and shall keep
17 records of evidence and official actions, all of which shall be filed in the Department and shall
18 be available for public inspection.

19 **Section 10. Meetings**

20 The Board of Code Enforcement shall meet at least the second and fourth Tuesday of
21 each month to dispose of matters scheduled. Additional meetings may be called by the chairman
22 depending on the volume of cases.

23 All hearings before the Board of Code Enforcement shall be open to the public except as
24 provided by law. The alleged violator, the alleged violator's representative, the Code Inspector,
25 the county attorney and any person whose interests are affected shall be given an opportunity to
26 be heard.

27 **Section 11. Hearing Notification**

28 Notification to the alleged violator shall be given by the Director of Environment and
29 Community Development by certified mail, return receipt requested or hand delivery by the code
30 enforcement Inspector or other persons designated by Fulton County to the alleged violator's

1 usual place of residence; or by leaving said notice at the violator's usual place of residence with
2 any person therein who is 18 years of age or older upon proof of age, and informing such person
3 of the contents of the notice, no later than the 15th day before the date of the hearing. The notice
4 shall be in a form approved by the Director of the Department of Environment and Community
5 and shall include the provisions of the Code of Laws and/or conditions of zoning being violated,
6 the date, time and location of the hearing.

7 At the option of the Board, notice of the hearing may be published 30 days prior to the
8 hearing once a week for four consecutive weeks in the newspaper in which the sheriff's
9 advertisement are printed for Fulton County. Proof of publication shall be provided and
10 maintained for the official record.

11 **Section 12. Postponed hearing**

12 When four members are not present to hear an appeal, the hearing shall be postponed
13 until the next hearing with notification provided in accordance with Section 11 of these
14 regulations.

15 **Section 13. Hearing**

16 A. General. If a violation of any provisions of the Code of Laws is found, the Code
17 Inspector shall notify the violator and specify a reasonable time to correct the
18 violation. If a repeat violation is found, the Code Inspector shall so notify the
19 violator, but is not required to give the violator a reasonable time to correct the
20 violation. If a violation is not corrected within the time specified, the Code
21 Inspector shall request a hearing before the Board. This matter shall be scheduled
22 for the next available hearing before the Board, and notice of the hearing shall be
23 given as provided in Section 11. For the purpose of this ordinance, a repeat
24 violation is a violation of the Code of Laws by a person whom the Board has
25 previously found in violation of the same provision within one (1) year prior to
26 the repeat violation.

27 If the violation is corrected and then recurs or if the violation is not corrected by
28 the time specified for compliance, the case may be presented to the Board even if
29 the violation has been corrected prior to the Board hearing, and the notice shall so
30 state.

1 If the Code Inspector has substantial reason to believe a violation presents a
2 serious threat to the public health, safety, and welfare or if the violation is
3 irreparable or irreversible in nature, the Code Inspector shall make a reasonable
4 effort to notify the violator and immediately notify the Board and request a
5 hearing.

6 B. Continuance. The Board of Code Enforcement may continue the hearing from
7 time to time for good cause. The Board shall, in all instances, reach a decision
8 within fifteen (15) calendar days from the date of the final hearing at which
9 receipt of all evidence has been concluded.

10 C. Order to Comply. If, after the conclusion of the hearing, the Board finds that a
11 violation does exist, an Order to Comply shall be prepared outlining findings and
12 specifying the nature of the violation and the method and time within which the
13 violation must be brought into compliance. The Order to Comply shall set forth
14 the street address or a description of the structure and/or premises sufficient for
15 identification. The order shall be relevant to the violation and the Board shall
16 consider the following factors in determining the content of the Order to Comply:

- 17 1. Existence or nonexistence of a life, health or other types of hazard to the
18 occupant or others in the building of premises;
- 19 2. Severity of the hazard or negative effect upon the community;
- 20 3. Number and extent of separate items that must be completed in order to
21 bring the building or premises into compliance with the relevant codes;
- 22 4. Length of time the violation (s) has been known to exist and the amount of
23 time the Code Inspector has previously given for compliance;
- 24 5. The existence or nonexistence of mitigating factors which caused the
25 building or premises to be in violation or which may affect the amount of
26 time for compliance; and
- 27 6. The Board may divide the violation(s) into groups requiring compliance at
28 various intervals with inspection to be conducted at each stage by the Code
29 Inspector.

30 The Board, upon notification by the Code Inspector that an Order to Comply has

1 not been complied with by the time specified, may order the violator to pay an
2 administrative fine in accordance with Section 14.

3 Every Order to Comply and/or fine entered by the Board shall be executed by the
4 chairperson, or, in the chairperson's absence, the vice-chairperson, and shall be
5 filed in the office of the secretary to the Board.

- 6 D. Notification of Decision. The Board of Code Enforcement shall provide the
7 violator a copy of the Order to Comply and any subsequent order to pay a fine by
8 certified United States mail, postage prepaid and return receipt requested, within a
9 reasonable period of time after the decision.

10 **Section 14. Fines and Fees**

11 The Board may impose fees and fines if a violator fails to comply with the Order to
12 Comply in the time prescribed in the order as follows:

- 13 1. A fine not to exceed \$1,000 per day for those violations involving the health or
14 safety of a third party.
- 15 2. A fine not to exceed a total of \$1,000 for those violations not involving the health
16 or safety of a third party.
- 17 3. The Board of Code Enforcement shall determine fines considering the following
18 factors:
- 19 a. The gravity of the violation;
- 20 b. Any actions taken by the violator to correct the violation; and
- 21 c. Any previous violations committed by the violator
- 22 4. Notification of an order imposing a fine shall be provided in accordance with
23 Section 13(D) of this Ordinance.
- 24 5. The Board may reduce a fine imposed pursuant to this section.

25 **Section 14. Failure to Pay Fine**

26 If the violator fails to pay a fine imposed within thirty (30) days of receipt of the fine, the
27 Board shall ask the County Attorney to file and record a lien on the subject property. The lien
28 may be recorded in the public records of any County and shall constitute a lien against the land
29 on which the violation exists and upon any real or personal property by the violator. Said lien
30 shall remain until the fine is paid or as otherwise allowed by law. If the fine remains unpaid for

1 three (3) months after filing of the lien, the Board may request that the County Attorney foreclose
2 on the lien.

3 **Section 15. Remedies**

4 The County and its representative shall have the right to institute any appropriate civil
5 action to enforce, enjoin, prevent, restrain, correct or abate any violation of the provisions of the
6 Code of Laws, including any or all remedies available pursuant to the laws of the State of
7 Georgia. Any civil remedy shall be in addition to, and not in lieu of, any criminal prosecution
8 and penalty.

9 Criminal enforcement proceedings and penalties, if any, for violations of other codes,
10 ordinances or regulations shall be governed by the applicable section of such codes, ordinances
11 and penalty.

12 **Section 17. Appeal**

13 Any person aggrieved by a decision of the Board may appeal to the Superior Court of
14 Fulton County within thirty (30) days after execution of the order to appealed

15 **Section 18. Effective Date**

16 This ordinance shall become effective July 1, 2000, upon the provisions of the Georgia
17 Local Government Code Enforcement Boards Act becoming effective.

18 **Section 19. Severability**

19 It is declared to be the intent of the Board of Commissioners that, if any section,
20 subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or
21 unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate,
22 distinct and independent provision, and such holding shall not effect the validity of the remaining
23 portions thereof.

24 **Section 20. Conflict**

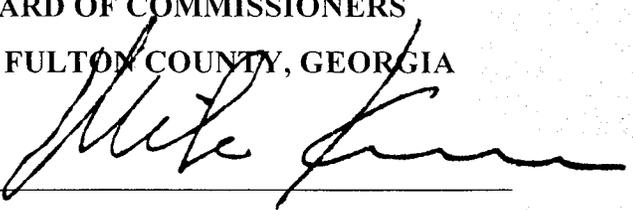
25 Any ordinance of part thereof in conflict with the ordinance or nay part thereof is hereby
26 repealed to the extent of the conflict.

27 **Section 21. Inclusion in the Code**

28 The provisions of this ordinance shall be included and incorporated within the Code of
29 Laws of Fulton County (1997), and may hereafter be renumbered or relettered to accommodate
30 the inclusion.

1 PASSED AND ADOPTED by the Board of Commissioners of Fulton County, Georgia.
2 this 7th day of June, 2000.

3
4 BOARD OF COMMISSIONERS
5 OF FULTON COUNTY, GEORGIA

6
7 By: 

8 Mike Kenn, Chairman

9 ATTEST:

10 
11
12 Justine Boyd, Clerk to the Commission

13
14 APPROVED TO FORM:

15 
16
17 Overtis Hicks Brantley, County Attorney

ITEM # 0783 RM 6/7/00, A.M. - REGULAR MEETING