

## ARTICLE VII. - THIRD PARTY INSPECTION

### Sec. 18-201. - Definitions.

- (a) For purposes of this third party inspection ordinance, the following definitions shall apply unless the context clearly indicates otherwise:

*Approved third party inspectors and plans reviewer list.* A list maintained by the department comprised of the names of approved third party inspectors and plans reviewers that have complied with the application and renewal requirements of the Forsyth County Third Party Inspection and Plans Review Program and have been approved to perform third party inspections and plans review pursuant to this article of the Forsyth County Code in unincorporated Forsyth County.

*Approved third party inspector.* A registered professional engineer or registered professional architect that has complied with the application and renewal requirements of the Forsyth County Third Party Inspection and Plans Review Program and has been approved to perform third party inspections pursuant to this article of the Forsyth County Code in unincorporated Forsyth County. An approved third party inspector is intended to constitute a "private professional provider" for the purposes of performing inspections as described in the State Act.

*Approved third party plans reviewer.* A registered professional engineer or registered professional architect that has complied with the application and renewal requirements of the Forsyth County Third Party Inspection and Plans Review Program and has been approved to perform third party plans review pursuant to this article of the Forsyth County Code in unincorporated Forsyth County. An approved third party plans reviewer is intended to constitute a "private professional provider" for the review of reviewing building construction plans as described in the State Act.

*Convenience fees.* Fees established by the department to be paid to the county upon the election by an applicant to use a third party inspector or third party plans reviewer or despite the department otherwise being able to provide inspection and plan review services within the time frames required by the State Act. Such fees shall be the same as any regulatory fees assessed by the department for inspections and plan review services performed by the department.

*County.* Forsyth County outside of the municipal limits of the City of Cumming.

*Department.* The Forsyth County Department of Planning and Community Development, or such other department as may be assigned by the Forsyth County Board of Commissioners the responsibility of performing inspections and overseeing the third party inspection and plans review system described herein.

*Inspection.* The observance of work and the performance of test for certain components and elements to establish conformance with Forsyth County approved construction documents, building codes and ordinances adopted by Forsyth County, and the requirements of the state minimum standards as adopted and amended by the Georgia Department of Community Affairs.

*Inspection certification.* A written statement signed by an approved third party inspector or his/her approved technician, which shall indicate that the item(s) being inspected, in the approved third party inspector's professional opinion and to the best of their knowledge, complies with Forsyth County approved construction documents, building codes and ordinances adopted by Forsyth County, the requirements of the state minimum standards as adopted and amended by the Georgia Department of Community Affairs, and any other applicable inspections that are typically performed by inspectors employed by Forsyth County.

*Inspection field report.* A written report prepared by an approved third party inspector or a technician working under the direct supervision of an approved third party inspector describing the work conducted and findings of an inspection.

*Plans review affidavit.* A written affidavit on a form adopted by the department of community affairs that is completed and signed under oath by an approved third party plans reviewer, which shall indicate the plans which have been reviewed for the purpose of a building permit for the application in question, in the approved third party plans reviewer's professional opinion and to the best of their knowledge, complies with the regulatory requirements as designated by Forsyth County, including the Georgia State Minimum Standard Codes most recently adopted by the department of community affairs and any locally adopted ordinances and amendments to such codes, applicable zoning ordinances and conditions, design standards, and any other applicable laws and regulations that would otherwise be required of staff employed by the Forsyth County Planning and Community Development Department.

*Registered professional architect.* An individual that holds a certificate of registration issued under O.C.G.A. tit. 43, ch. 4.

*Registered professional engineer.* An individual that holds a certificate of registration issued under O.C.G.A. tit. 43, ch. 15.

*Regulatory fees.* All fees established by the department to be paid to the department for any regulatory action, inspection services, or plan review services as provided by the State Act and this article.

*State Act.* O.C.G.A. § 8-2-26.

*Technician.* An individual that performs inspections under the direct supervision of an approved third party inspector.

*Third party inspection.* Inspection performed in conformance with this program by approved third party inspectors.

*Third party inspection and plans review program.* The rules and procedures described in this third party inspection and plans review ordinance.

*Third party plans review.* Building construction plans review performed in conformance with this program by approved third party plans reviewers.;hn0; (Ord. No. 117, § I, 5-3-2012; Ord. No. 117-A, § 1(Exh. A), 3-7-2019; Ord. No. 117-B, § 1(Exh. A), 8-1-2019)

Sec. 18-202. - Third party inspection and plans review program.

- (a) The department will establish and maintain an approved third party inspectors and plans reviewers list from whom the department will accept third party inspections and third party plans reviews in accordance with this third party inspection and plans review ordinance.
- (b) In full compliance with the requirements of the State Act, Forsyth County shall allow owners, developers, and contractors to submit inspection certifications by approved third party inspectors and plans review affidavits by approved third party plans reviewers in order to satisfy certain inspection and plans review requirements.
- (c) The department will only consider inspection certifications and plans review affidavits from individuals listed on the approved third party inspector and plans reviewer list. Forsyth County makes no representation concerning the approved third party inspectors and approved third party plans reviewers other than that they have submitted evidence showing that they have met the minimum criteria necessary to qualify for the third party inspection and plans review program described herein.
- (d) In order for an inspection certification or plans review affidavit to be accepted by the department for a particular project, an approved third party inspector or approved third party plans reviewer must be independent of, and must not be an employee of or otherwise affiliated with or financially interested in the person, firm or corporation engaged in the construction project to be inspected.
- (e) The person, firm or corporation retaining an approved third party inspector or approved third party plans reviewer to conduct an inspection or plans review shall be required to pay to the county the same regulatory fees and charges which would have been required had the inspection or plans review been conducted by a county inspector or county

plan reviewer. Should the department determine that it cannot conduct a particular inspection or plans review in a time as determined by the State Act, the applicable regulatory fees shall be reduced by 50 percent. Should the department determine that it can conduct a particular inspection or plans review in a time as determined by the State Act, a convenience fee shall be paid to the county. Upon paying in full of the convenience fees associated with the complete application, the applicant may nevertheless choose to retain, at its own expense, an approved third party inspector or approved third party plans reviewer to provide the required inspection or plan review, subject to the requirements set forth in this article. Any regulatory fees or convenience fees paid to the county are nonrefundable.

- (f) All other fees and costs related to the performance of the third party inspections or third party plans review are matters solely between the approved third party inspector or approved third party plans reviewer and the person, firm, or corporation engaging the approved third party inspector or approved third party plans reviewer.
- (g) Notwithstanding the submission of an inspection certification or plans review affidavit, the department retains the authority to make all code interpretations and to monitor the quality of all third party inspections and third party plans reviews and nothing in this article shall be construed as authorizing any approved third party inspector or approved third party plans reviewer to issue a certificate of occupancy.
- (h) The department will continue to provide full support to customers that choose not to utilize the services of approved third party inspectors or approved third party plans reviewers.
- (i) The department will follow all applicable procedures set forth in the State Act for all inspections and plans reviews. For purposes of processing applications in compliance with the State Act, an application submitted to the department shall not be considered complete until all applicable fees have been paid, and all applicable county departments have previously received the application and provided any required approvals.

(Ord. No. 117, § II, 5-3-2012; Ord. No. 117-A, § 1(Exh. A), 3-7-2019; Ord. No. 117-B, § 1(Exh. A), 8-1-2019)

#### Sec. 18-203. - Inspections types.

- (a) The department will, at a minimum, accept third party inspections in compliance with the State Act for any construction inspections required by the Unified Development Code. A comprehensive list of the various inspections types, their allowed timing and other related details are established by department policy. This document is available from the department and is published on the department's website.
- (b) Approved third party inspectors shall be authorized to conduct any inspection required by the county necessary or required to determine compliance with all regulatory requirements and for the issuance of a building permit or certificate of occupancy, provided that the inspection being performed is within the scope of the approved third party inspector's area of competency. However, nothing in this article shall be construed as authorizing third party inspections for compliance with state or local fire safety standards or erosion control standards.

(Ord. No. 117, § III, 5-3-2012; Ord. No. 117-A, § 1(Exh. A), 3-7-2019; Ord. No. 117-B, § 1(Exh. A), 8-1-2019)

#### Sec. 18-204. - Approved third party inspector qualifications.

- (a) Individuals wishing to be placed on the approved third party inspectors and plans reviewer list as an approved third party inspector must submit an initial application along with an application fee as established by the Forsyth County Board of Commissioners to the department.
- (b) In order to qualify as an approved third party inspector, an individual must:
  - (1) Be, or be a partner in or employed by, an engineering or architect firm, in full compliance with chapter 22 of the Forsyth County, Georgia Code of Ordinances, including timely payment of the occupational tax and registration required thereunder.

- (2) Be a registered professional engineer or a registered professional architect as defined in this article.
  - (3) Otherwise be in good standing with all pertinent certification and professional accreditation boards.
  - (4) Possess and maintain minimum insurance as described herein.
  - (5) Demonstrate relevant experience of at least one year.
- (c) An individual shall not be qualified to be placed on the approved third party inspectors and plans reviewer list if he/she has had his/her authority to issue third party inspection certifications in any other jurisdictions revoked. If an individual previously qualified to be on the approved third party inspectors and plans reviewer list and subsequently has his/her authority to issue third party inspection certifications revoked, the individual shall be removed from the approved third party inspectors and plans reviewer list.
- (d) An approved third party inspector may not submit an inspection certification if the approved third party inspector is an officer or employee of the owner, developer, contractor or other party or if the approved third party inspector is employed by or a partner in a firm that is affiliated with or financially interested in the owner, developer, contractor or other party on whose behalf the inspection certification is submitted.
- (e) Technicians may perform inspections under the supervision of an approved third party inspector provided that the technician has satisfied any specific requirements as may be designated by the building official.
- (f) Technicians performing inspections under the supervision of an approved third party inspector shall possess ICC certifications relevant to the types of inspections performed. For zoning inspections, technicians shall provide documentation demonstrating three years previous experience and/or training that includes general building construction, construction trades, and code enforcement/interpretation, or any equivalent combination of education, training, and experience to be determined in the discretion of the building official.
- (g) Approved third party inspectors shall obtain and maintain the following minimum insurance coverages and provisions, evidence of which shall be submitted to the department with the initial application:
- (1) Comprehensive general liability insurance for liability and property damage in an amount of not less than \$1,000,000.00 per occurrence.
  - (2) Professional liability insurance for errors and omissions in an amount of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 in aggregate coverage for any project with a construction cost of \$5,000,000.00 or less. For any project with a construction cost of more than \$5,000,000.00, the amount of professional liability insurance for errors and omissions shall not be less than \$2,000,000.00 per claim and \$2,000,000.00 in aggregate coverage.
  - (3) Such insurance may be a practice policy, or may be project-specific coverage. If the insurance is a practice policy, it shall contain prior acts coverage for the private professional provider. If the insurance is project-specific, it shall continue in effect for two years following the issuance of the final certificate of occupancy or certification of completion for the project.
  - (4) The cancellation provision shall provide for 30 days' notice of cancellation.
  - (5) Forsyth County, Georgia, its officers, officials, employees and representatives shall be named as additional insureds on the required insurance policies.
  - (6) The required insurance coverages shall be provided by an insurance company licensed to do business by and in good standing with the Georgia Department of Insurance at all times.
  - (7) Approved third party inspectors shall maintain the minimum insurance coverage as required above at all times during which they are listed as approved third party inspectors. Approved third party inspectors shall provide the department with evidence of minimum insurance coverages and provisions on an annual basis prior to the expiration of any policy or coverage and upon request by the department. Should any insurance coverage or

information change, the approved third party inspector shall provide written notice of any such change to the county within ten business days. If at any time an approved third party inspector fails to maintain the required insurance coverage, the department may remove them from the approved third party inspectors and plans reviewer list.

(h) Suspension of technicians and approved third party inspectors:

- (1) An individual who performs inspections under this article, whether a Technician or an individual approved third party inspector, shall be subject to suspension from the approved third party inspector and plans reviewer list, and from submitting inspection field reports and inspection certifications for the following infractions:
  - a. Providing inspections without appropriate license or certification.
  - b. Providing inspection services prior to issuance of a valid building permit.
  - c. Failing to identify any noncompliance with any applicable code, as amended, governing individual and public safety and welfare (including, but not limited to, sections 308, 310-312, 314, and 315 of the 2012 edition of the International Residential Code, Section 607 of the 2012 edition of the International Plumbing Code, Sections 406, 502, and 503 of the 2012 edition of the International Fuel Gas Code, and Sections 210, 240, and 250 of the 2017 National Electric Code, etc.) as determined in the sole good faith discretion of the Chief Building Official of the County. However, it is the express intent of the County not to impose sanctions on an individual under this Article for failing to identify multiple instances of noncompliance in one inspection such as that each such failure constitutes an individual and separate infraction. Rather, multiple failures contained in a single inspection under this paragraph shall be treated as a single infraction.
  - d. Authorizing any deviation from the approved permit.
  - e. Falsifying reports.
  - f. Unauthorized employee performing inspections.
  - g. Performing unauthorized types of inspections.
  - h. Inspections passed with hold on project or under stop work.
  - i. Failure to identify noncompliance with any applicable code not captured in subsection (c) above, upon identification of such failure by the county on multiple occasions, as determined in the sole good faith discretion of the chief building official of the county.
- (2) Suspension for submitting inspection field reports and inspection certifications for infractions by a technician or individual approved third party inspector shall be progressive based on the number of infractions in the previous 12-month period. For any combination of infractions within a 12-month period, the following actions and suspensions against a technician or individual approved third party inspector shall be assessed:

First infraction:	Warning letter
Second infraction:	7-Day suspension from eligibility to perform inspections and submit inspection field reports and inspection certifications
Third infraction:	30-day suspension from eligibility to perform inspections and submit inspection field reports and inspection certifications
Fourth infraction:	90-day suspension from eligibility to perform inspections and submit inspection field reports and inspection certifications

Fifth infraction:	1-year suspension from eligibility to perform inspections and submit inspection field reports and inspection certifications
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- (3) An approved third party inspector shall be subject to progressive action based on the number of infractions in the previous 24-month period by individuals performing inspections, including the individual approved third party inspector or any one or more technicians acting under the supervision of the approved third party inspector (which shall include technicians serving as employees, independent contractors, agents, etc.). Violations under this paragraph shall accrue upon every third infraction by an individual contemplated in paragraph (2) above, and shall subject approved third party inspectors to the following actions and suspensions for any combination of infractions within a 24-month period:

First violation (upon third individual infraction):	Written letter of reprimand from the county manager
Second violation (upon sixth individual infraction):	Seven-day suspension from approved third party inspector and plans reviewer list
Third violation (upon ninth individual infraction):	30-day suspension from approved third party inspector and plans reviewer list
Fourth violation (upon 12th individual infraction):	90-day suspension from approved third party inspector and plans reviewer list
Fifth violation (upon 15th individual infraction):	Two-year suspension from approved third party inspector and plans reviewer list

The county shall send written notice to the approved third party inspector for each infraction as contemplated in paragraph (2) above, the purpose of which shall be to inform the approved third party inspector of the number of infractions accruing under paragraph (2), to put the approved third party inspector on notice of possible violations under this paragraph (3), and so the approved third party inspector has the opportunity to take any remedial action necessary to prevent future infractions and/or violations.

- (4) Notwithstanding any other provision of this article, in the event a technician or individual approved third party inspector is found to have violated subsection (h)(1)e. - falsifying reports, the progressive actions and suspensions of this article may, in the discretion of the county, be bypassed with an immediate suspension and/or disqualification imposed.
- (5) Appeal of suspensions and/or disqualifications shall be processed through the zoning board of appeals at its next scheduled meeting as appeals of administrative decisions.

(Ord. No. 117, § IV, 5-3-2012; Ord. No. 117-A, § 1(Exh. A), 3-7-2019; Ord. No. 117-B, § 1(Exh. A), 8-1-2019)

Sec. 18-205. - Procedures for conducting third party inspections.

- (a) An approved third party inspector shall not suggest, direct, or authorize any deviation from approved construction documents without first obtaining approval from the department.
- (b) The following procedures shall apply to all third party inspections:
  - (1) To ensure quality control of the third party inspection and plans review program, a copy of all inspection field reports shall be provided to the department within one business day from the date the inspection is performed.
  - (2) All inspection field reports shall note the type of inspection and any deficiencies observed.
  - (3) Inspection certifications shall be submitted one business day from the date the inspection is performed. Once the inspection certification is received, the inspection status will be updated by the department in the normal course of business.
  - (4) Final inspections will not be scheduled until all outstanding reinspection fees have been paid.
  - (5) When performing re-inspections for violations initially noted by department staff, each corrected item shall be addressed individually.
- (c) The department shall have a right of entry to any premises inspected by an approved third party inspector or technician to ensure compliance with this article and the State Act.

(Ord. No. 117, § V, 5-3-2012; Ord. No. 117-A, § 1(Exh. A), 3-7-2019; Ord. No. 117-B, § 1(Exh. A), 8-1-2019)

Sec. 18-206. - Approved third party plans reviewer qualifications.

- (a) Individuals wishing to be placed on the approved third party inspectors and plans reviewer list as an approved plans reviewer must submit an initial application along with an application fee as established by the Forsyth County Board of Commissioners to the department.
- (b) In order to qualify as an approved third party plans reviewer, an individual must:
  - (1) Be, or be a partner in or employed by, an engineering or architect firm, in full compliance with chapter 22 of the Forsyth County, Georgia Code of Ordinances, including timely payment of the occupational tax and registration required thereunder.
  - (2) Be a registered professional engineer or registered professional architect as defined in this article.
  - (3) Otherwise be in good standing with all pertinent certification and professional accreditation boards.
  - (4) Possess and maintain minimum insurance as described herein.
  - (5) Demonstrate relevant experience of at least one year.
- (c) An individual shall not be qualified to be placed on the approved third party inspectors and plans reviewer list if he/she has had his/her authority to issue third party plans review affidavits in any other jurisdictions revoked. If an individual previously qualified to be on the approved third party inspectors and plans reviewer list and subsequently

has his/her authority to issue third party plans review affidavits revoked, the individual shall be removed from the approved third party inspectors and plans reviewer list.

- (d) An approved third party plans reviewer may not submit a plans review affidavit if the approved third party plans reviewer is an officer or employee of the owner, developer, contractor or other party or if the approved third party plans reviewer is employed by or a partner in a firm that is affiliated with or financially interested in the owner, developer, contractor or other party on whose behalf the plans review affidavit is submitted.
- (e) Approved third party plans reviewers shall obtain and maintain the following minimum insurance coverages and provisions, evidence of which shall be submitted to the department with the initial application:
  - (1) Comprehensive general liability insurance for liability and property damage in an amount of not less than \$1,000,000.00 per occurrence.
  - (2) Professional liability insurance for errors and omissions in an amount of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 in aggregate coverage for any project with a construction cost of \$5,000,000.00 or less. For any project with a construction cost of more than \$5,000,000.00, the amount of professional liability insurance for errors and omissions shall not be less than \$2,000,000.00 per claim and \$2,000,000.00 in aggregate coverage.
  - (3) Such insurance may be a practice policy, or may be project-specific coverage. If the insurance is a practice policy, it shall contain prior acts coverage for the private professional provider. If the insurance is project-specific, it shall continue in effect for two years following the issuance of the final certificate of occupancy or certification of completion for the project.
  - (4) The cancellation provision shall provide for 30 days' notice of cancellation.
  - (5) Forsyth County, Georgia, its officers, officials, employees and representatives shall be named as additional insureds on the required insurance policies.
  - (6) The required insurance coverages shall be provided by an insurance company licensed to do business by and in good standing with the Georgia Department of Insurance at all times.
  - (7) Approved third party plans reviewers shall maintain the minimum insurance coverage as required above at all times during which they are listed as approved third party plans reviewers. Approved third party plans reviewers shall provide the department with evidence of minimum insurance coverages and provisions on an annual basis prior to the expiration of any policy or coverage and upon request by the department. Should any insurance coverage or information change, the approved third party plans reviewer shall provide written notice of any such change to the county within ten business days. If at any time an approved third party plans reviewer fails to maintain the required insurance coverage, the department may remove them from the approved third party inspectors and plans reviewer list.
- (f) Suspension of approved third party plans reviewers:
  - (1) An individual who performs plans review under this article shall be subject to suspension from the approved third party inspector and plans reviewer list, and from submitting plans review affidavits for the following infractions:
    - a. Providing plans reviews without appropriate license or certification.
    - b. Failing to identify any noncompliance with any applicable code, as amended, governing individual and public safety and welfare (including, but not limited to, Sections 308, 310—312, 314, and 315 of the 2012 edition of the International Residential Code, Section 607 of the 2012 edition of the International Plumbing Code, Sections 406, 502, and 503 of the 2012 edition of the International Fuel Gas Code, and Sections 210, 240, and 250 of the 2017 National Electric Code, etc.) as determined in the sole good faith discretion of the chief building official of the county. However, it is the express intent of the county not to impose sanctions on an



individual under this article for failing to identify multiple instances of noncompliance in one inspection such as that each such failure constitutes an individual and separate infraction. Rather, multiple failures contained in a single inspection under this paragraph shall be treated as a single infraction.

- c. Falsifying plans review affidavits.
  - d. Performing unauthorized types of plan reviews.
- (2) Suspension for submitting plans review affidavits for infractions by an approved third party plans reviewer shall be progressive based on the number of infractions in the previous 12-month period. For any combination of infractions within a 12-month period, the following actions and suspensions against an approved third party plans reviewer shall be assessed:

First infraction:	Written letter of reprimand from the county manager
Second infraction:	Seven-day suspension from approved third party inspector and plans reviewer list
Third infraction:	30-day suspension from approved third party inspector and plans reviewer list
Fourth infraction:	90-day suspension from approved third party inspector and plans reviewer list
Fifth infraction:	One-year suspension from approved third party inspector and plans reviewer list

- (3) The county shall send written notice to the approved third party plans reviewer for each infraction as contemplated in paragraph (2) above, the purpose of which shall be to inform the approved third party plans reviewer of the number of infractions accruing under paragraph (2) and so the approved third party plans reviewer has the opportunity to take any corrective action necessary to prevent future infractions.
- (4) Notwithstanding any other provision of this article, in the event an approved third party plans reviewer is found to have violated subsection (f)(1)c. - falsifying plans review affidavits, the progressive actions and suspensions of this article may, in the discretion of the county, be bypassed with an immediate suspension and/or disqualification imposed.
- (5) Appeal of suspensions and/or disqualifications shall be processed through the zoning board of appeals at its next scheduled meeting as appeals of administrative decisions.

(Ord. No. 117-B, § 1(Exh. A), 8-1-2019)

Sec. 18-207. - Procedures for conducting third party plan reviews.

- (a) Any plan review conducted by an approved third party plans reviewer shall be no less extensive than plan reviews conducted by county personnel.
- (b) The following procedures shall apply to all third party plans review:
  - (1) To ensure quality control of the third party inspection program, a copy of all plans review affidavits shall be provided to the department within five business days of its completion.
  - (2) All plans review affidavits shall certify that:
    - a. The plans were reviewed by the affiant who is duly authorized to perform plan review pursuant to the third party inspection and plans review program;

- b. The plans comply with all applicable regulatory requirements; and
- c. The plans submitted for plan review are in conformity with plans previously submitted to obtain county approvals required in the plan submittal process and do not make a change to the project reviewed for such approvals.

(Ord. No. 117-B, § 1(Exh. A), 8-1-2019)

Secs. 18-208—18-225. - Reserved.