

ARTICLE VII

ADMINISTRATION AND ENFORCEMENT

SECTION

- 7.010 Administration of the resolution
- 7.020 The enforcement officer
- 7.030 Zoning compliance permits (building permits)
- 7.040 Temporary use permits
- 7.050 Inspections of Compliance
- 7.060 Procedure for authorizing special exceptions
- 7.070 County Board of Zoning Appeals
- 7.080 Variances
- 7.090 Amendments to the resolution
- 7.100 Penalties
- 7.110 Remedies
- 7.120 Separability
- 7.130 Interpretation
- 7.140 Effective date

7.010. Administration of the resolution. Except as otherwise provided, no structure or land after the effective date shall be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application of this resolution the provisions shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other resolutions or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other resolutions or regulations is mandatory.

7.020. The enforcement officer. The provisions of the resolution shall be administered and enforced by the Building Commissioner who is empowered to make inspections of buildings or premises necessary to carry out his duties in the enforcement hereof. The Building Commissioner is accountable to the Board of County Commissioners through the County Mayor who shall administratively supervise his activities. In performance of administering and enforcing this resolution, the Building Commissioner shall:

- A. Issue all building permits and make and maintain records thereof.
- B. Conduct all Inspections of Compliance and make and maintain records thereof.
- C. Issue and renew, where applicable all Temporary Use Permits and make and maintain records thereof.
- D. Maintain and keep current zoning maps and records of amendments thereto.
- E. Receive, file and forward to the Board of Zoning Appeals all applications for variances, appeals or other matters on which the Board is required to act.

- F. Conduct inspections as required in this resolution and such other inspections as are necessary to insure compliance with the various other general provisions of this resolution. The Building Commissioner shall possess the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his authorized duties.

7.030. Zoning compliance permit (Building Permits).

- (a) It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving alteration, or repair of any structure including expansion, including accessory structures, to use a building or structure or to change the use of a building or structure, or to commence the filling of land without a permit thereof, issued by the Building Commissioner. Agriculturally related construction is exempt. (See Section 5.070).
- (b) No Building Permit shall be issued by the Building Commissioner except in conformity with the provisions of this resolution, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided herein.

A. Application

Application for a Building Permit shall be made in writing to the Building Commissioner on forms provided for that purpose. All applications for Building Permits shall be accompanied by a plan or a plat in duplicate, drawn to scale, and showing the following:

1. The actual shape, location, and dimensions of the lot to be built upon.
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot and the elevation of the building site.
3. The existing and intended use of all such buildings or other structures.
4. Location and design of off-street parking areas and off-street loading areas, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this resolution are being observed.

B. "Sealed Plans" shall not be required for structures classified as business, factory-industrial, hazardous, mercantile, residential, and storage if such structures meet the following criteria:

1. Less than 3 stories in height.
2. Less than 5,000 sq. ft. in total gross area.
3. Is a one or two family dwelling or domestic out building.

4. Farm buildings not designed or intended for human habitation.
5. Except as stated above, all other plans must be "sealed plans", that is plans prepared by a registered architect or engineer.

C. Fees.

The Hickman County Commission shall from time-to-time establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the Office of the Building Commissioner. Only the County Commission may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.

D. Issuance of Permit.

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this resolution, the Building Commissioner shall issue a Building Permit for such excavation or construction. If an application for a Building Permit is not approved, the Building Commissioner shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed a waiving of any provisions of this resolution.

E. Construction Progress.

Any Building Permit issued becomes invalid if work authorized is not commenced within twelve (12) months of the date of issuance or if the work authorized by the permit is suspended or discontinued for a period of one (1) year.

7.040. Temporary Use Permits. It shall be unlawful to commence construction or development of any use of a temporary nature unless a permit has been obtained from the Building Commissioner as provided for in ARTICLE III, SECTION 3.030. Application for a Temporary Use Permit shall be made in writing to the Building Commissioner on the form provided for that purpose. A schedule of fees shall be established from time-to-time by the Hickman County Commission. Such schedule shall be posted in the office of the Building Commissioner. Until the appropriate fee has been paid in full no action shall be taken on any application.

7.050. Inspections of Compliance. After a building or premise or any part thereof is ready for occupancy and within one (1) year following occupancy, the Building Commissioner shall conduct a second inspection to insure compliance with this resolution. It is the owner's responsibility to correct deficiencies or be held in violation.

7.060. Procedure for authorizing special exceptions. The following procedure is established to provide procedures for review of a proposed use as a conditional use or special exception by the Board of Zoning Appeals. The procedure shall be the same whether review is

required under Sections 13-7-107 and 13-7-108 of the Tennessee Code Annotated, by this resolution, or whether a review is requested by the Building Commissioner to determine whether a proposed use is potentially noxious, dangerous or offensive.

A. Application.

An application for review shall be filed with the Board of Zoning Appeals. Said application shall show the location and intended uses of the site, the names of the property owners, existing land uses within two hundred (200) feet, and any other material pertinent to the request which the Board may require.

B. General Requirements. A conditional use permit (a special exception) shall be granted provided the Board finds that it:

- a. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
- b. Will not adversely affect other property in the area in which it is located.
- c. Is within the provision of "Special Exceptions" as set forth in this resolution.
- d. Conforms to all applicable provisions of this resolution for the district in which it is to be located as well as the provisions cited in Section 7.060 and is necessary for public convenience in the location planned.

C. Criteria for Review.

Prior to the issuance of a special exception, the Board shall make written findings certifying that satisfactory provisions and arrangements have been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
2. Off-street parking and loading areas where required, with particular attention to the items in item 1. above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering with reference to type, dimensions and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
7. Required yard and other open space.

8. General compatibility with adjacent properties and other property in the district.

D. Restrictions.

In the exercise of its approval, the Board may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this resolution.

E. Validity of Plans.

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

F. Time Limit.

All applications reviewed by the Board shall be decided within thirty (30) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

7.070. County Board of Zoning Appeals. A Hickman County Board of Zoning Appeals is hereby established in accordance with 13-7-106 through 13-7-109 of the Tennessee Code Annotated. The Board of Zoning Appeals shall consist of five (5) members appointed by the Hickman County Commission. The Board members shall be appointed to five-year terms; however, the initial appointments shall be arranged so that the term of one (1) member will expire each year.

A. Procedure.

Meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence, the vice chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

B. Appeals to the Board.

An appeal to the Hickman County Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by any decision of the Building Commissioner based in whole or in part upon the provisions hereof. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Building Commissioner shall transmit to the Board all papers constituting the record upon which the appeal is taken. The Board shall fix a reasonable time for the hearing of the appeal, given a minimum of fifteen (15) days public notice thereof, as well as due notice (by registered mail) to the parties in interest, and decide the same within thirty (30) days of the meeting. At any hearing, any person or party may appear in person, by agent, or by attorney.

C. Stay of Proceedings.

Any appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Commissioner certifies to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Building Commissioner, and on due cause shown.

D. Appeal to the Court.

Any person aggrieved by any decision of the Board may seek review by a court of competent jurisdiction of such decision in a manner provided by the laws of the State of Tennessee.

E. Powers of the Board.

The Board of Zoning Appeals shall have the following powers:

1. Administrative Review.

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the Building Commissioner or other administrative official in the carrying out or enforcement of any provision of this resolution. The fee shall be the same as stated in 7.080.B.

2. Special Exceptions.

To hear and decide applications for special exceptions as allowed in this resolution, hear requests for interpretation of the Zoning Atlas, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass. The fee shall be the same as stated in 7.080.B.

3. Variances.

To hear and decide applications for variances from the terms of this resolution.

7.080. Variances. The purpose of this variance is to modify the strict application of the specific requirements of this resolution in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. Variances shall be granted from zoning restrictions such as heights, setback and lot density where such variances are reasonable and necessary to assure unobstructed access to direct sunlight. Variances shall not be granted which would cause an unreasonable obstruction of direct sunlight to adjacent property if there is a reasonable probability of utilization of passive or

active solar radiation on said adjacent property. The variance shall be used only where necessary

to overcome some obstacle which is preventing an owner from using his property under this resolution.

A. Application.

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

B. Variance Fee.

A fee as established from time-to-time by the Hickman County Commission shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

C. Hearings.

Upon a receipt of the application and fee, the Board shall hold a hearing to decide whether a variance is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

D. Standards for Variances.

In granting a variance, the Board shall ascertain that the following criteria are met.

1. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the Board, do not apply generally in the district.
2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
3. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this resolution would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land.
4. The granting of any variance shall be in harmony with the general purposes and intent of this resolution and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the persons applying therefore.

6. Variances shall not be granted within any flood prone area if an increase in the level of the 100-year flood would result from the proposed development.

7.090. Amendments.

- (a) The regulations, restrictions, and boundaries set forth in this resolution may from time to time be amended, supplemented, changed, or repealed by the Hickman County Commission.
- (b) Any member of the County Commission may introduce such legislation, or any official, board, or any other person may present a petition to the County Commission requesting an amendment or amendments. Amendments must be in relation to the Hickman County Plan and the general welfare of the county.
- (c) No change or departure from the text or maps as certified by the Planning Commission shall be made, unless such change or departure be first submitted to the Planning Commission.
- (d) No amendment shall be adopted unless it shall have been proposed by or shall have first been submitted to the Planning Commission for review and recommendation. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.
- (e) Before finally adopting any such amendment, the County Commission shall hold a public hearing thereon, at least thirty (30) days' notice of the time and place of which shall be given by at least one (1) publication in a newspaper of general circulation in the County.

A. Zoning Amendment and Rezoning Fees.

A fee as established from time-to-time by the Hickman County Commission shall be due and payable at the time of filing of any petition with requests to amend. The fee is to be used by Hickman County to defray costs resulting from action required upon such petition and any subsequent amendment.

7.100. Penalties. Any person or persons violating any provisions of this resolution shall be guilty of a misdemeanor, and upon conviction shall be fined appropriately for each offense. Each day such violations continue shall constitute a separate offense.

7.110. Remedies. In addition to the provisions for criminal sanctions provided by State law, in case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, in violation of this resolution, the Building Commissioner or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

7.120. Separability. Should any section, clause, or provision hereof be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity hereof as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

7.130. Interpretation. Whenever the conditions hereof require more restrictive standards than are required in or under any other statute, the requirements hereof shall govern. Whenever the conditions of any other statute require more restrictive standards than are required herein, the conditions of such statute shall govern.

7.140. Effective date. This resolution shall take effect from and after its passage, the public welfare requiring it.

Certified by the Hickman County Regional Planning Commission

Date

Secretary

Date of Passage of Resolution by the Hickman County Commission

Date

County Mayor