



Hamilton County Board of Commissioners RESOLUTION

No. 323-24

A RESOLUTION APPROVING THE REVISED RULES AND REGULATIONS OF THE HAMILTON COUNTY HEALTH AND SAFETY HEARING BOARD.

WHEREAS, the Hamilton County Health and Safety Hearing Board ("Board") was created in 1999 by this county legislative body's adoption of Resolution No. 599-14; and

WHEREAS, said Board initially was comprised of ten (10) members as appointed by the County Mayor and each member of the then County Commission, but has since been expanded to twelve (12) members in recognition of this county legislative body's expansion to eleven (11) members; and

WHEREAS, the Rules and Regulations of said Board as initially adopted and administered by said Board (in 1999) has been updated (as evidenced in the attached document) to properly address the various issues and circumstances that have arisen over the years in appreciation of said needs; and

WHEREAS, it is the opinion of this county legislative body that said Rules and Regulations as presented to this body are proper and should be adopted as presented.

NOW, THEREFORE, BE IT RESOLVED BY THIS COUNTY LEGISLATIVE BODY IN SESSON ASSEMBLED:

That the attached Rules and Regulations for the Hamilton County Health and Safety Hearing Board as revised and attached hereto are adopted.

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

CERTIFICATION OF ACTION

Approved:

Rejected:

Approved:

Vetoed:

County Clerk

County Mayor

March 15, 2023

Date

HEALTH AND SAFETY BOARD

SECTION I - ESTABLISHMENT OF HEALTH & SAFETY BOARD

There is hereby created the Hamilton County Health & Safety Board herein after referred to as the "Board". Said Board shall be administered and assisted by the Hamilton County Health Department, Environmental Health Division, and shall enforce the provisions of Tennessee Code Annotated Section 5-1-115, *et seq.*

The Board shall consist of twelve (12) members. Eleven (11) members of the Board are to be confirmed by the Hamilton County Board of Commissioners upon appointment of the County Commissioner from each District. One (1) member-at-large is recommended by the County Mayor. At no time shall a member of the Hamilton County Commission serve as a member of the Board.

All members of the Board shall be appointed for four (4) year terms.

The Board shall elect a Chairman annually, and any other officer as the Board deems necessary. Roberts Rules of Order (newly revised edition) are to be used, except as changed or amended by the Hamilton County Board of Commissioners.

Any policy for compensation or authorization for reimbursement of travel or other expenses for the members of the Board shall be established by the Hamilton County Board of Commissioners.

Any vacancy which occurs on the Board shall be filled by appointment of the Commissioner from the District where the vacancy occurs or the County Mayor for the at-large appointment, and confirmed by the Hamilton County Board of Commissioners. Such replacement member shall serve the remainder of the term of the vacant position.

Any member of the Board may be removed at any time by the Hamilton County Board of Commissioners for just cause. Just cause shall include the absence of any member for three consecutive meetings; the absence of any member for four meetings within any calendar year; or any actions of the member as found by the Hamilton County Board of Commissioners to be contrary to the effective administration and enforcement of these rules and regulations. Any member whose removal is sought shall be provided written notice and an opportunity to be heard prior to removal.

The Board shall seek to provide information about community resources for assistance to citizens who are not financially or physically able to provide self-compliance.

These Regulations shall be enforced by the Administrator of the Health Department or his/her designee, who shall be known as the Hamilton County Enforcement Officer, (hereinafter referred to as "Enforcement Officer").

The Enforcement Officer shall be charged with the responsibility of inspecting properties that have been brought to, or comes to, the attention of the Hamilton County Health Department as posing a danger to the health and/or safety of individuals and animals who might come upon or about said properties due to the dangers said properties present by being open for unauthorized entry and/or occupancy, and exposing those individuals and/or animals to other health-related risks.

The Enforcement Officer shall be in uniform; provided with a clearly-marked Hamilton County vehicle which identifies his/her authority to inspect properties within Hamilton County; furnished with a personal communication system which affords him/her with immediate contact with the Health Department as well as local law enforcement authorities; and authorized to carry a County-issued firearm while in the performance of his/her duties.

SECTION II - PROPERTY STANDARDS

A. It shall be unlawful for any owner(s) or parties in interest of property to create, maintain, or permit to be maintained on property a structure that is unfit for human occupation or use. A structure is unfit for human occupation or use and therefore unlawful if conditions exist in or around such structure which are dangerous or injurious to the health or safety of the occupants of such structure or the occupants of neighboring structures or other residents of the county, assuming ordinary health and sensibilities. Such conditions may include: defects or conditions which increases the hazards of fire, accidents or other calamities; dilapidation; disrepair; structural defects; unsanitary conditions; and/or a property or structure that is inaccessible to emergency personnel. The Enforcement Officer may also consult with the Hamilton County Department of Building Inspection as to the structural safety of a property/structure in considering the factors to be used in determining if structures are unfit for human occupation or use in order to determine if such building violates any building codes adopted by the Hamilton County Board of Commissioners for the regulation of building structures in Hamilton County.

B. It shall be unlawful for any owner or parties in interest of property to create, maintain or permit to be maintained on property the overgrowth of vegetation, the accumulation of discarded or worthless personal property, debris, trash, litter, garbage, rubbish, refuse, etc. or any combination of the preceding elements, or a vacant dilapidated building or structure, so as to encourage the infestation of rodents or other harmful animals, or to endanger the health, safety, or welfare of other citizens of ordinary health and sensibility.

C. It shall be unlawful for any owner or parties in interest of property to create, maintain, or permit to be maintained on residential property a swimming pool or any other type of receptacle capable of retaining water that is uncovered and/or stagnant so as to cause and/or accommodate a gathering site of mosquitos and other insects as well as present a safety hazard to persons (especially children) by exposing them to said receptacle. All residential swimming pools shall be maintained pursuant to the Swimming Pool Code as enforced by the Hamilton County Department of Building Inspection.

D. It shall be unlawful and a violation of these Rules and Regulations for any owner(s) or parties in interest to allow any condition of property to exist as set out in subsections (a) or (b) above and/or as set out in T.C.A. 5-1-115 to exist or continue in, on, or around any building, structure or property affected by these Regulations.

SECTION III - OWNER AND OCCUPANT RESPONSIBILITIES

It is the obligation of the owner(s) and any parties in interest of any property to maintain their property so as not to endanger the health, safety, or welfare of anyone and/or so as not to violate the terms of these Regulations. If said property fails to comply with these Regulations, and any statutes adopted by the Hamilton County Board of Commissioners, the property owner(s) and parties in interest are responsible for the violation and subject to the penalties set out herein.

SECTION IV - INSPECTION PROCEDURES

Whenever a complaint alleging a violation of these regulations is brought to the attention of the Enforcement Officer; or whenever the Enforcement Officer on his own visibly observes from a public road, from adjoining property (where the Enforcement Officer has been granted permission to be upon); or where the Enforcement Officer has been granted access to the subject party by a party in interest thereof (unless a "No Trespassing" sign is posted thereon), and observes what is considered to be a violation of these regulations, the Enforcement Officer shall issue and cause to be served upon the owner(s) and parties in interest of such property(ies) a notice notifying them of the violation(s) and requesting the condition to be remedied immediately.

The Enforcement Officer shall be issued whatever equipment and technology as available to identify his/her employment as a Hamilton County official authorized to perform his/her duties; markings on his/her vehicle; and such devices as to insure his/her safety by use of a body camera, two-way radio, and GPS tracker.

SECTION V - PENALTIES AND REMEDIES FOR VIOLATIONS

A. When the Enforcement Officer makes his/her finding that property exists in such a condition to be in violation of these Regulations, notice of such initial finding shall be given either by personal service upon the owner, personal contact or by United States Mail, Certified Return Receipt Requested, or such other means consistent with the laws of this State to ensure notice is received. The notification shall be addressed to the last known address of the owner(s) and parties in interest of record. The notice of violation shall state that the owner(s) and parties in interest of the property are entitled to a hearing and the opportunity to be heard by the Board. The affected owner(s), or parties in interest (including the mortgagee and/or a tenant) must make the request for a hearing in writing to the Enforcement Officer within ten (10) business days of the notice of violation(s). In the event the owner(s) or parties in interest of the property is/are a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas liquids, steam, sewage or other materials, the ten (10) business days' notice of a Request for Hearing shall be twenty (20) business days. The notice of violation shall be written in plain language and shall include, but not be limited to, the following elements:

- (1) A brief statement of the condition constituting a violation of these regulations;
- (2) A brief statement of these regulations, which shall contain the consequences and penalty for failing to remedy the violations;
- (3) The person, office, address and telephone number of the department or person giving notice;
- (4) A cost estimate, if available, for remedying the noted condition which cost estimate shall be in conformity with the standard of cost in the community;
- (5) An address wherein the notified property owner(s) or parties in interest may return a copy of the notice of violation indicating the desire for a hearing or wavier of hearing and agreement to remedy; and
- (6) A statement informing the property owner(s) or parties in interest that at the hearing before the Board a penalty may be levied against them or further legal proceedings initiated.

If the whereabouts of the owner(s) and parties in interest of record are unknown and the same cannot be ascertained by the Enforcement Officer in the exercise of reasonable diligence or if for any reason actual notice or notice by Certified Mail, Return Receipt Requested, cannot be obtained, the Enforcement Officer shall make an affidavit to that effect. Then the serving of such notice of violation or order upon such person(s) may be made by publishing the notice in the local newspaper. A copy of such notice of violation or order may also be filed for record in the Register's Office of Hamilton County and such filing of the notice of violation or order shall have the same force and effects as other lien lis pendens notices provided by law.

B. Upon receipt of the notice of violation from the Enforcement Officer the property owner and/or parties in interest shall proceed forthwith to take appropriate measures to bring the subject property into compliance with these Regulations, by eliminating the conditions which caused the violation(s). In the event the property owner and/or parties in interest dispute the finding by the Enforcement Officer, they may request a hearing before the Board by sending written notice to the Enforcement Officer within ten (10) business days following receipt of the notice from the Enforcement Officer. The Enforcement Officer shall provide notice to the aggrieved property owner and/or parties in interest of the time and place for the hearing. The hearing shall be held before the Board as part of its regularly set monthly meeting(s).

If the property owner(s) or parties in interest requests a hearing as provided herein, the Board shall, within a reasonable time following the receipt of the request hold a hearing. The time period for correction of the property set by the Enforcement Officer shall be stayed, pending the hearing by the Board. There shall be kept a record of all hearings by the Board. At the hearing, the Enforcement Officer shall be charged with establishing, by a preponderance of the evidence, that the use or condition of the property does violate these Regulations. Failure by the property owner and/or parties in interest to make the request for a hearing within the time limit allowed by these Regulations, or to attend a hearing as set and to which notice was given, shall constitute a waiver of right to a hearing. After the hearing, or upon the interested parties' failure to request a hearing within the above-stated period, the Board may, by an affirmative vote of a majority of the Board Members, order one or more of the following:

- (1) Dismiss the notice of violation and such notice shall become ineffective;
- (2) Find that violations exist and require the property owner and/or parties in interest to remedy said violation(s) by a certain date established by the Board. T.C.A. §§ 5-1-115, 5-1-121, 39-14-504, 5-1-123, 5-1-18, and 6-2-201(28);
- (3) Modify the notice of violation;
- (4) Grant a continuance upon its own motion, the request of the property owner(s) or parties in interest, or the Enforcement Officer if the Board finds the continuance appropriate;
- (5) Owner(s) and parties in interest, individually and/or jointly, of property found by the Board to be in violation of these Regulations may be assessed a monetary penalty not to exceed Five Hundred Dollars (\$500) for each violation. T.C.A. § 5-1-121.
- (6) To use funds allocated by the County to contract with private entities for the remediation of property where a documented financial hardship is preventing the owner from bringing a property into compliance.

The Board may enforce the imposition of and collection of any fine(s) imposed through any Court authorized to hear such cases.

C. If the property owner(s) or parties in interest fail or refuse to remedy the condition within thirty (30) days of: (1) receipt of the notice from the Enforcement Officer if no request for a hearing is asked for by the owner(s) or parties in interest or if the owner(s) or parties in interest fail to comply with the Board's decision announced at the hearing, or any subsequent hearing, or (2) a finding by the Board that a violation exists, the Board may, in addition to the penalties listed above, cause such property or condition to be repaired, remedied, removed or demolished as necessary to remedy the violation, or initiate legal proceedings against the property owner(s) and/or parties in interest seeking a judicial mandate for the remediation of the subject property. The cost shall be in conformance with reasonable standards of this County. Upon either the County or agent of the County performing the remediation, the actual cost of such repairs, alterations or improvements or vacating and closing or removal or demolition shall be calculated, and the Board shall file a Notice of Lien with the office of the Register of Deeds in favor of the County against the real property on which such cost was incurred, second only to liens of the state and County for taxes; any lien of the County for special assessments; and any valid lien, right or interest in such property duly recorded or duly perfected by filing prior to the filing of such notice. These costs shall be collected by the County tax collector at the same time and in the same manner as property taxes are collected, or within such time period as authorized by the Board. These costs may also be collected by any other means allowed by law. The Notice of Lien to be filed in the Register's Office shall be in a form established by the Board to allow recordation, but shall contain at least the following: the property owner(s) address; a description of the property sufficient to identify it; and the amount of the obligation secured by the lien.

Each and every day during which such violation or condition exists or continues shall be deemed a separate offense. The fine(s) shall not commence to run until all matters before the Board have been concluded, and the Board issues a final Order.

All matters before the Board should be resolved and/or corrected as expediently as possible. In the event violations of these Regulations are not corrected within ninety (90) business days after finding of violation(s) by the Board, the Board may file suit in any Court of competent jurisdiction seeking all relief available, including injunctive relief.

SECTION VI - EXCEPTIONS

A. The provisions of this resolution shall apply county-wide exclusive of incorporated municipalities lying within Hamilton County.

B. This Resolution shall not apply to any business operated pursuant to the Tennessee Solid Waste Disposal Act, Tennessee Code Annotated SS 68-31-101, *et seq.*

C. Any property which the Enforcement Officer has found to have repeated the same violation or violations of the Regulations within a twelve (12) month period, and which has not had a change of ownership, shall be referred directly to the Hamilton County Attorney's Office for enforcement and shall not be subject to the procedures for notice and action by the Board as set out above.

SECTION VII - RULES

A. The Hamilton County Board of Commissioners may establish or amend these Regulations.

B. The Enforcement Officer shall keep detailed records of the following information:

- (1) All documents filed with his/her office;
- (2) The address including the civil district of any property determined by him/her or the Board to be in violation of these Regulations;
- (3) Address mileage and expenses of his investigation;
- (4) All notices delivered to property owner(s) or parties in interest found to be in violation of these Regulations and any expenses associated therewith;
- (5) All waivers of hearing and agreements to remedy;
- (6) All requests for hearing received;
- (7) Orders and Decisions issued by the Board; and
- (8) All requests for judicial review and final decision of the judicial review. This journal may be reviewed monthly by the Board. The Enforcement Officer will submit such report to the County Commission at such other times as requested by the Hamilton County Board of Commissioners.

SECTION VIII - EFFECTIVE DATE

After passage, the County Clerk shall cause this Resolution to be published in a newspaper of general circulation within the County.

SECTION IX - CONSTITUTIONALITY AND CONFLICT WITH OTHER RESOLUTIONS

If any section, clause, provision, or portion of these Regulations shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of these Regulations which is not of itself invalid or unconstitutional.

SECTION X - APPEALS

Any person aggrieved by an act of the Board under the provisions of these Rules and Regulations may seek judicial review as authorized by law. All Orders of the Enforcement Officer and the Board shall be stayed, pending judicial review of the Board's Orders.

SECTION XI - DEFINITIONS

The following terms whenever used or referred to in these Regulations shall have the following respective meanings, unless a different meaning clearly appears from the context:

- A. "Board" shall mean the Hamilton County Health and Safety Board.
- B. "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, with the exception of separately composted vegetable waste;
- C. "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in 39-17-1503 and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked;
- D. "Overgrowth of vegetation" means vegetation which, in the opinion of the Enforcement Officer and given its proximity to surrounding properties, creates a nuisance, could harbor harmful animals, and/or could conceal dangerous objects;
- E. "Owners" shall mean the holder of a fee simple title, any legal interest, any trustee or mortgage of record.
- F. "Parties in Interest" shall mean all individuals, associations and corporations who have an interest of record in a dwelling or building or are in possession thereof.
- G. "Public Record" shall mean deeds, deeds of trust and other instruments of record in the Register's Office of Hamilton County, Tennessee.
- H. "Refuse" includes all putrescible and nonputrescible solid waste; and
- I. "Rubbish" includes nonputrescible solid waste consisting of both combustible and noncombustible waste, including brush piles that could be a fire hazard.
- J. "Violation" shall mean the failure of a property, structure, or other development to be fully compliant with the regulations and requirements of this resolution.