

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".

The Board shall consist of ten (10) members appointed by the Hamilton County Board of Commissioners for terms set out below. The members of the Board are to be approved by the Hamilton County Board of Commissioners upon recommendation of the County Commissioner from that District. A member at-large is recommended by the County Mayor. At no time shall more than one 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, however, the initial appointment shall be made for the following terms in an effort to, achieve subsequent staggered four year terms:

Hamilton County District One	Initial Term One Year
Hamilton County District Two	Initial Term Two Years
Hamilton County District Three	Initial Term Two Years
Hamilton County District Four	Initial Term Three Years
Hamilton County District Five	Initial Term Three Years
Hamilton County District Six	Initial Term Four Years
Hamilton County District Seven	Initial Term Four Years
Hamilton County District Eight	Initial Term Four Years
Hamilton County District Nine	Initial Term Four Years
County Mayor At Large	Initial Term Four Years

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

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 his removal.

The Board shall also be charged with the responsibility of actively recruiting community organizations, neighbors, churches, the Job Corps, and/or solicit other opportunities to provide 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").

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, 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; and/or unsanitary conditions. The Enforcement Officer may also consider as elements to be used to determine if structures are unfit for human occupation or use if such building obstruction violates any building codes adopted by the Hamilton County Board of Commissions 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 growth of trees, vines, grass, underbrush and/or 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 rats 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 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 this resolution.

As used in this part, unless the context otherwise requires:

(1) "Commercial purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity;

(2) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;

(3) "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;

(4) "Refuse" includes all putrescible and nonputrescible solid waste; and

(5) "Rubbish" includes nonputrescible solid waste consisting of both combustible and noncombustible waste.

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 it is brought to the attention of the Enforcement Officer, or whenever the Enforcement Officer on his own can visibly observe what has been determined a violation of these regulations from a public road, the Enforcement Officer shall, after making an investigation of the property, and if the condition or use of the property violates these Regulations, he/she shall issue and cause to be served upon the owner(s) and parties in interest of such properties a notice notifying them of the violation(s) and requesting the condition to be remedied immediately.

SECTION V - PENALTIES AND REMEDIES FOR VIOLATIONS

A. When the Enforcement Officer makes his/her initial finding that property exist in such a condition to be in violations 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 insure 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 must make the request for a hearing in writing to the Enforcement Officer within ten (10) 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) days Notice of a Request for Hearing shall be twenty (20) days exclusive of Saturdays, Sundays and Legal Holidays. 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 waiver 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.

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 once each week for two (2) consecutive weeks in the local newspaper, and posting the notice in a conspicuous place on the property. A copy of such notice of violation or order may also be filed for record in the register's office of the 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. (1) Upon receipt of the notice of violation from the Enforcement Officer the property owner and parties in interest shall proceed forthwith to take appropriate measures to comply with these regulations, and eliminate the conditions which caused the violation(s). In the event the property owner or parties in interest disputes 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) days following receipt of the notice from the Enforcement Officer. The Enforcement Officer shall provide notice to the aggrieved property owner or parties in interest of the time and place for the hearing. The hearing shall be held before the Board.

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 de novo hearing. The time period for correction of the property set by the Enforcement Officer shall be stayed pending the hearing by the Board. All hearings by the Board shall be evidentiary hearings de novo on the record. The Enforcement Officer will have to establish by a preponderance of the evidence that the use or condition of the property does violate these Regulations. Failure to make the request for a hearing within the time limit allowed by this regulation shall constitute a waiver of right to a hearing. After the hearing, the Hearing Board may by an affirmative vote of a majority of the Board Members order one or more of the following:

- a) Dismiss the notice of violation and such notice shall become ineffective;
- b) Find that violations exist and establish remedies and/or penalties as authored by law including Injunctive Relief in any Court of competent jurisdiction, and such remedy authorized by T.C.A. §§ 5-1-115, 5-1- 121, 39-14-504, 5-1-123, 5-1-18, and 6-2-201(28);

- c) Modify the notice of violation;
- d) 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;
- e) 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 Fifty Dollars (\$50.00) for each violation.

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

D. If the property owner(s) or parties in interest fail or refuses to remedy the condition within thirty (30) days of: (1) receipt of the notice from the Enforcement Office if no request for a hearing is asked for by the owner(s) or parties in interest, or (2) a finding by the Board that a violation exists, the Board may in addition to the penalties listed above, and after consideration by the Hamilton County Board of Commissioners cause such property or condition to be repaired, remedied, removed or demolished as necessary to remedy the violation. The cost shall be in conformance with reasonable standards of this County. Upon completion by the Board, the actual cost of such repairs, alterations or improvements or vacating and closing or removal or demolition, 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 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 is 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 Rules and Regulations are not corrected within one hundred twenty (120) days after finding of violation by the Board, the Board shall (1) bring such matter to the attention of the Hamilton County Board of Commissioners for such consideration as the Board of Commissioners deems appropriate, or (2) 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) The provisions of Section V (D) of this resolution permitting Hamilton County to remedy conditions pursuant to Tennessee Code Annotated § 5-1-115(c) shall not apply to any owner-occupied residence.
- c) This Resolution shall not apply to any business operated pursuant to Tennessee Solid Waste Disposal Act, Tennessee Code Annotated SS 68-31-101, *et seq.*

SECTION VII - RULES

- a) The Hamilton County Board of Commissioners may establish or amend the Rules and Regulations.
- b) The Enforcement Officer shall keep a daily journal recording the following information:
 - (i) All documents filed with his office;
 - (i i) The address including the civil district of any property determined by him or the Board to be in violation of this Resolution and Rules and Regulations;
 - (i i i) Address mileage and expenses of his investigation;
 - (i v) All notices delivered to property owner(s) or parties in interest found to be in violation of this Resolution and any expenses associated therewith;
 - (v) All waivers of hearing and agreements to remedy;
 - (v i) All requests for hearing received;
 - (v i i) Orders and Decisions issued by the Board;
and
 - (v i i i) All request for judicial review and final decision
of the judicial review

This journal may be reviewed monthly by the Hearing 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 this resolution 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 this resolution 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 this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) "Owners." Shall mean the holder of a fee simple title, any legal interest, any trustee or mortgage of record.
- (2) "Public Record." Shall mean deeds, deeds of trust and other instruments of record in the Register's Office of Hamilton County, Tennessee.
- (3) "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.
- (4) "Board." Shall mean the Hamilton County Health and Safety Board.