

Board of County Commissioners
RESOLUTION

No. 01-06-29

TITLE

**A RESOLUTION ADOPTING REGULATIONS GOVERNING
THE HEALTH AND SAFETY STANDARDS OF
RESIDENTIAL AND NONRESIDENTIAL PROPERTIES**

WHEREAS, the purpose of this resolution is to provide regulatory standards for health and safety conditions of residential and nonresidential properties within the confines of Maury County; and

WHEREAS, Tennessee Code Annotated, Section 5-1-115, Public Chapter No. 530, Senate Bill No. 3506, Effective Date 4/19/2006, authorizes counties to make any rules and regulations necessary for the prevention of dangerous conditions resulting from overgrown vegetation; accumulation of debris, trash, liter and garbage; or the presence of a vacant dilapidated building or structure; and

WHEREAS, there is a need in Maury County for the regulation of residential and nonresidential property for the health, safety, convenience and welfare of residents of the County; and

WHEREAS, the regulations set out herein are intended to address this need.

NOW, THEREFORE, BE IT RESOLVED by the Maury County Board of County Commissioners meeting in regular session on this the 17th. day of January 2006, that the following resolution be adopted:

**REGULATIONS GOVERNING THE HEALTH AND SAFETY STANDARDS OF
RESIDENTIAL AND NONRESIDENTIAL PROPERTIES**

SECTION 1 – Appointment of Enforcement Officer and Hearing Board

- (a) These regulation shall be enforced by the Maury County Building Commissioner (or his or her designee) who shall also be known as the Maury County Codes Enforcement Officer (hereinafter referred to as "Enforcement Officer").
- (b) The Maury County Health and Safety Standards Board (hereinafter referred to as "Hearing Board") shall consist of five (5) members to be appointed by the County Mayor subject to confirmation by the County Legislative Body. All members of the Hearing Board shall be appointed for four-year terms; however, the initial appointment shall be made on the following terms in an effort to achieve subsequent staggered four-year terms:

Board Member One Representative	Initial One Year Term
Board Member Two Representative	Initial Two Year Term
Board Member Three Representative	Initial Three Year Term
Board Member Four Representative	Initial Four Year Term
Board Member Five Representative	Initial Five Year Term

Any compensation or authorization for reimbursement of expenses for the member of the Hearing Board shall be established by the County Legislative Body. Any vacancy, which occurs on the Hearing Board, shall be filled by the County Mayor subject to confirmation by the County Legislative Body for the remainder of the term of the vacant position.

In addition to its responsibilities in hearing grievances pursuant to Section VI of these regulations, the Hearing Board shall also be charged with the responsibility of recruiting or coordinating efforts of community organizations, neighbors, religious institutions, and other agencies to provide assistance to persons who are not financially or physically able to comply on their own with the requirements of these regulations.

SECTION II - Property Standards

(a) Definitions:

As used in these regulations, the following terms are defined below. Any term not defined by this regulation shall be interpreted as having the meaning established by the 11th Edition of the Merriam-Webster's Collegiate Dictionary.

1. "Accumulation of debris, trash, litter, or garbage" means a state in which a significant quantity of solid waste products, decomposing matter, or personal property that has been discarded, damaged or which has little or no economic value or practical use is located on the property such that one or more of the following conditions results: the accumulation contributes to the infestation of the property by insects, rodents or the accumulation creates an attractive nuisance or other danger to children; the debris, trash, litter or garbage spread to adjacent properties by natural action of wind or water; the accumulation produces offensive odors that affect reasonable enjoyment of adjacent properties; the accumulation creates a risk to the health and safety of occupants of the property or other residents of the county; or the accumulation noticeably depresses the value of adjacent properties. This term includes the accumulation of one or more junk motor vehicles, as defined below, on the property. This term would not include the brief, temporary storage of debris, trash, litter or garbage for regularly scheduled waste disposal or transfer.
2. "Dilapidated building or structure" means a structure that is unfit for human occupation or use due to conditions in or around such structures that are dangerous or injurious to the health or safety of the occupants of such structure, the occupants of neighboring structures or to the health or safety of other residents of the county, assuming ordinary health and sensibilities of a reasonable person. Such conditions may include but are not limited to: defects within the structure increasing the hazard of fire, accidents or other calamities, disrepair; structural defects; and unsanitary conditions.
3. "Junk Motor Vehicles" as used in definition 1 above, mean an abandoned or junked car is defined as any motor vehicle; including cars, trucks, buses, motorcycles, campers, and trailers; which does not have lawfully affixed thereto an un-expired license plate and the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned, or discarded. This shall not include tractors and farm equipment. It shall be unlawful and considered to be a violation of this resolution to park, store, leave, or permit the same of any abandoned or junked motor vehicle on any lot or parcel or any public right-of-way for a period in excess of one (1) week. The presence of any such vehicle or part thereof is hereby declared to be evidence of a violation of this resolution. The term shall not include items on the premises of an establishment constituting an automobile graveyard within the meaning of T.C.A. Section 54-20-201. et seq., and operating in compliance with the requirements of that part or establishments having facilities for processing scrap metal.
4. "Owner" means the owner of record of the real property as established in the records of the register of deeds and assessor of property.

5. "Neglect and overgrowth of vegetation" means a condition where trees, vines, grass, underbrush or other vegetation has been allowed to grow in such a manner as to endanger the health, safety or welfare of occupants of the property or other persons of the county or encourage the infestation of rats, insect or other harmful animals.
6. "Structure" means a building intended for human occupancy or use for residential, commercial, industrial or storage purposes. The term includes, but is not limited to houses, garages, commercial and industrial building, shops, storage buildings, and sheds. The term does not include structures built solely for occupancy by animals.

(b) Regulations:

1. It shall be a violation of these regulations for any owner of property to create, maintain or permit to be maintained on property the obvious neglect and overgrowth of vegetation or the accumulation of debris, trash, litter, or garbage so as to endanger the health, safety, or welfare of other persons.
2. It shall be a violation of these regulations for any owner of property to create, maintain or permit to be maintained on property a vacant dilapidated building or structure that endangers the health, safety, or welfare of other persons.
3. It shall be a violation of these regulations for any owner of property to create, maintain or permit to be maintained on property any combination of the preceding elements so as to endanger the health, safety, or welfare of other persons.
4. It shall be a violation of these regulations for any owner of property to allow any violation identified in 1 through 3 above to continue in, on or around any building, structure or property affected by this regulation.
5. Each day that one or more of the conditions described above exists or continues to exist shall constitute a separate violation of these regulations except to the extent that enforcement of the regulations are stayed pending a hearing as describe din Section VI, below.

SECTION III-Owner Responsibilities

It is the obligation of the owner(s) of property to maintain such property so as not to endanger the health, safety, or welfare of county residents and/or as not to violate the term of these Regulations. If said property fails to comply with the above-stated regulations, the property owner(s) is ultimately responsible and liable regardless of whether such condition was caused by a tenant, leaseholder or other person.

SECTION IV- Inspection Procedures

Whenever a complaint is filed with the Enforcement Officer by at least one (1) owner or occupants of property that lies within one hundred (100) yards of the boundary of the property in question alleging that violation(s) of any of these regulation exists; or whenever the Enforcement Officer on his or her own can visibly observe a violation from a public road, the Enforcement Officer shall, after making a preliminary investigation which discloses a basis for such violation, issue and cause to be served upon the owner of record of such properties a notice, in accordance with the provisions of Section V, stating the violations and requesting the condition to be remedied immediately.

SECTION V – Notice of Violation

- (a) The Enforcement Officer shall notify the owner of the property of the violation(s) of these regulations by personal service upon the owner or by United States Postal Service, Return Receipt Requested, addresses to the last known address of the owner(s) of record. The notice of violation shall state that the owner of the property is entitled to a hearing. The notice of violation shall be written in plain language and shall also include, but not be limited, to the following elements:
1. A summary of the requirement of these regulation and a brief statement of the violation noted by the Enforcement Officer including the date the violations were noted;
 2. A brief statement of the authority granted to counties under T.C.A. Section 5-1-115 and an explanation of the consequences and penalty of failing to remedy the violation of the regulations;
 3. The person, office, address and telephone number of the department or person giving notice;
 4. Instructions regarding what actions should be taken to remedy the violation together with a cost estimate for such which shall be in conformity with the standards of cost in the community; and
 5. An indication of the time frame during which the alleged violator must remedy the violation or request a hearing with information regarding the place where the notified party may return a copy of the notice of violation indicating the desire for a hearing or waiver of hearing and agreement to remedy the violation.
- (b) If the whereabouts of the owner(s) of record is unknown and the same cannot be ascertained by the Enforcement Officer in the exercise of due diligence or if for any reason notice by Certified Mail, Return Receipt Request, cannot be obtained, the Enforcement Officer, after making an affidavit to that effect, may then serve notice of violation upon such person(s) by publishing the same once each week for (2) consecutive weeks in 2 newspapers of local circulation. A copy of such notice of violation shall be posted in a conspicuous place on the premises affected by the notice or order. A copy of such notice of violation shall also be filed for record in the county register's office and such filing of the notice of violation or order shall have the same force and effects as other lis pendens (pending lawsuit) notices provided by law.

SECTION VI – Compliance and Appeals

- (a) Upon receipt of the notice of violation as provided herein above, the property owner shall proceed forthwith to take appropriate measures to comply with these regulations or to request a hearing before the Hearing Board established in Section 1 of these regulations. Pursuant to T.C.A. Section 5-1-115 a request for hearing shall be made within ten (10) days following receipt of said notice of violation. If the property owner does not request a hearing, he or she shall take appropriate action to remedy the violation within ten (10) days of receipt of the notice of violation unless the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas liquids, steam, sewage or other material in which case the owner shall have twenty (20) days to

remedy the violation, excluding Saturdays, Sundays and legal holidays.

- (b) If the property owner timely requests a hearing as provided herein, the Hearing Board shall, within a reasonable time following the receipt of the request for hearing, hold a hearing on the issues of the appropriateness of the requirements imposed on the property owner and the issue of cost of remedying the condition. The time period established herein for remedying violation shall be stayed pending review by the Hearing Board. Failure to make the request for a hearing within the time limit allowed by this regulation shall, without exception, constitute a waiver of right to a hearing and judicial review.
- (c) The hearing shall be conducted as an initial hearing with the burden of proof resting on the Enforcement Officer to demonstrate, by a preponderance of the evidence, that the alleged violation exists. Immediately following the hearing, the Hearing Board may:
 - 1. Dismiss the notice of violation and such notice shall be come ineffective;
 - 2. May confirm the notice of violation;
 - 3. May modify the notice of violation; or
 - 4. Grant a continuance at the request of either party if the Hearing Board considers the continuance appropriate.

The affirmative vote of three Hearing Board Members shall constitute action by the Hearing Board.

- 5. Any person aggrieved by an act of the Hearing Board under the provisions of this regulation may seek judicial review of same under Tennessee Code Annotated, Title 127, Chapter 8, Part 1.

SECTION VII – Remedies and Penalties

- (a) If the owner fails to comply with the notice within ten (10) days of receipt of same, subject to stay pending review and any modifications made pursuant to review as provided for above, the Enforcing Officer or Hearing Board may cause such property to be repaired, altered or improved or be vacated and closed, removed or demolished as necessary to remedy the condition. Subject to approval by the County Legislative Body, the Enforcing Officer or Hearing Board may contract with a private entity to perform the work or request such work to be performed by a department or agency of the county. In contracting for such services from a private entity, the Enforcing Officer or Hearing Board shall comply with all applicable purchasing procedures of the county. The cost of such action shall be assessed against the owner of the property. Upon performance, the actual cost of such repairs, alterations or improvements or vacating and closing or removal or demolition by the county or its agent shall, upon the filing of a notice with the office of the register of deeds, be a lien in favor of the county against the real property on which such costs 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. The notice of lien shall identify the owner of record of the real property, contain the property address, describe the property sufficiently to identify it and recite the amount of the obligation secured by the line. These costs shall be collected by the county trustee at the same time and in the same manner as property taxes are collected.

- (b) Owner(s), individually and/or jointly, of property found to be in violation of these Regulations shall be subject to a civil penalty of not more than fifty dollars (\$50.00) for each offence. Each and every day during which such violation exists or continues after notice has been provided to the property owner and the time for appeal or compliance has expired shall be deemed a separate offense.
- (c) Pursuant to T.C.A. Sections 5-1-121 and 5-1-123, such penalties may be assessed by the General Session Court of Maury County in exercise of its powers to enforce these regulations. Action to pursue such penalties in the General Session Court shall be instituted at the request of the Enforcement Officer or Hearing Board by the County Attorney or other legal counsel designated by the County Legislative Body.

SECTION VII – Exceptions

- (a) The county shall only undertake to remove vehicles in accordance with the provision of T.C.A. Sections 55-16-101, et seq. and in accordance with the limitation of T.C.A. Section 55-5-122. If removal by the county of junk motor vehicles that are in violation of these regulations would conflict with the provisions of those statutes, any violation of these regulations that is caused solely by the presence of junk motor vehicles on private property shall only be enforced by civil penalties.
- (b) This regulation shall not apply to any business operated pursuant to the Tennessee Solid Waste Disposal Act, Tennessee Code Annotated, Section 68-221-1101, et seq.

SECTION IX – Rules and Record Keeping

- (a) In addition to these regulation, the Hearing Board may promulgate any additional rules and regulations necessary for the administration and enforcement of these regulations subject to approval by the County Legislative Body.
- (b) The Enforcement Officer shall serve as the record keeper for the Hearing Board and shall maintain all minutes and records of the Hearing Board. The Enforcement Officer shall also keep a record of the following information regarding petitions, inspections and enforcement actions:
 - 1. all petitions filed with his or her office;
 - 2. the address of any property found to be in violation of this regulation;
 - 3. the mileage driven in performing investigations;
 - 4. a copy of all notices delivered to property owners found to be in violation of this regulation and any expenses associated therewith;
 - 5. all waivers of hearing and agreements to remedy violations;
 - 6. all request for hearing received;
 - 7. orders and decisions issued by the Hearing Board; and
 - 8. copies of all requests for judicial review and final decision of the judicial review.

The Enforcement Officer shall submit an annual report summarizing the information to the County Legislative Body each year at the first meeting of the County Legislative Body each calendar year.

SECTION X – Effective Date

After passage of this regulation, the county clerk shall cause the regulation to be published in a newspaper of general circulation within the county. This regulation shall become effective sixty (60) days after its passage, the public welfare requiring it.

SECTION XI – Severability and Conflict with Other Resolutions

- (a) If any provision of this regulation or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are declared to be severable.
- (b) Where the conditions imposed by a provision of this regulation are less restrictive than comparable conditions imposed by any other provision of this regulation or any other Resolution or regulation, the provision which are more restrictive shall govern.

SECTION XII

Any building that is used or could be used for farming use is exempt from these regulations.

RESOLUTION ADOPTING TCA 5-1-115 CONCERNING
DILAPIDATED BUILDINGS AND DEBRIS

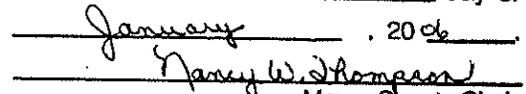
WHEREAS, TCA 5-1-115 permits counties to adopt its provisions concerning dilapidated buildings and debris as provided therein; and

WHEREAS, Maury County desires to adopt these provisions to improve and insure the health, safety and appearance of Maury County.

NOW, THEREFORE, BE IT RESOLVED that the Maury County Legislative Body hereby adopts TCA 5-1-115; and the Community Development Department shall provide enforcement of it.

This the 17th day of January, 2006.


JAMES L. BAILEY, JR.,
County Mayor

STATE OF TENNESSEE ---- MAURY COUNTY
I the undersigned clerk, do hereby certify that
this is a true and correct copy of the original
of this instrument filed this 17th day of
January, 2006.

Nancy W. Thompson
Maury County Clerk