

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

SECTION

- 8.010 Administration of the Resolution
- 8.020 The Enforcement Officer
- 8.030 Building Permits
- 8.040 Temporary Use Permits
- 8.050 Certificate of Occupancy
- 8.060 Procedure for Authorizing Special Exceptions
- 8.070 Tipton County, Tennessee, Board of Zoning Appeals
- 8.080 Variances
- 8.090 Amendments to the Resolution
- 8.100 Penalties
- 8.110 Remedies
- 8.120 Separability
- 8.130 Interpretation
- 8.140 Effective Date

8.010 ADMINISTRATION OF THE RESOLUTION

Except as otherwise provided, no structure or land shall after the effective date of this resolution 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, the provisions of this resolution 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 ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

8.020 THE ENFORCEMENT OFFICER

The provisions of this resolution shall be administered and enforced by the Building Inspector's Office. In the performance of administering and enforcing this resolution, the office shall:

- A. Issue all Building Permits and maintain all records thereof.
- B. Issue all Certificates of Occupancy and maintain all records thereof.
- C. Issue and renew, where applicable, all Temporary Use Permits and maintain all records thereof.

- D. Maintain and keep current zoning maps and records of all amendments.
- E. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this resolution.
- 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 Inspector shall possess the right to enter upon any premises for the purpose of making inspections of building or premises necessary to carry out his authorized duties.
- G. Enforcement of the Zoning Codes and Regulations.

8.030 BUILDING PERMITS

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 substantial improvement or repair of any structure or to change the use of a building or structure, or to commence the filling of land without a permit therefore, issued by the Building Inspector's Office.

No Building Permit shall be issued by the Building Inspector's Office, 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 Exceptions, or variance as provided by this resolution.

A. Application

Application for a Building Permit shall be made in writing to the Building Inspector's Office on forms provided for that purpose, See Form 2 in Appendix A. 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 in relation to mean sea level of the proposed lowest floor if said building site is located in a floodplain, as defined in the Tipton County Floodplain Zoning Resolution.
3. The existing and intended use of all such buildings or other structures.
4. Location and design of off-road parking areas and off-road 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. Fee

The Tipton County Commission shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the Building Inspector's Office. 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.

C. 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 Inspector shall issue a Building Permit (See Form 3 in Appendix A) for such excavation or construction. If an application for a Building Permit is not approved, the Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving of any provisions of this resolution.

D. Construction Progress

Any Building Permit issued becomes invalid if work is not started within six (6) months from the date of issue, or if work ceases for any six (6) month period of time from the date of issue.

8.040 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 Inspector's Office, as provided for in Article IV, Section 4.030, of this resolution. Application for a Temporary Use Permit shall be made in writing to the Building Inspector on the form provided for that purpose. A fee established by the Tipton County Commission of \$50 shall be charged to cover review, inspection and processing of each application. Such schedule shall be posted in the Building Inspector's Office. Until the appropriate fee has been paid in full, no action shall be taken on any application.

8.050 CERTIFICATE OF OCCUPANCY

No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof, is found to be in conformity with the provisions of this resolution. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with provisions of this resolution, or, if such certificate is refused, to state the refusal in writing with the cause for such refusal. No Certificate of Occupancy shall be issued for a residence or business (commercial or industrial) that does not have road address numbers visible from the road.

8.060 PROCEDURE FOR AUTHORIZING SPECIAL EXCEPTIONS

The following procedure is established to provide procedures for review of a proposed use by the Board of Zoning Appeals. The procedure shall be the same whether review is required by this resolution or whether a review is requested by the Building Inspector's Office to determine whether a proposed use is potentially noxious, toxic, dangerous, offensive or determined to be a public nuisance.

A. Application

An application shall be filed with the Board of Zoning Appeals along with a fee of \$100 to cover costs for review, inspection and processing. Such 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 that the Board may require. If the Use has already been approved, and the applicant is requesting an addition to the Use on the same parcel size that was originally presented, then only site plan approval by the Tipton County Regional Planning Commission is required, as regulated in Article III, Section 3.120

B. Criteria for Review

Prior to the issuance of a Special Exception, the Board shall make written findings certifying compliance with the specific rules governing individual Special Exceptions and that satisfactory provision and arrangement has been made concerning 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-road parking and loading areas where required, with particular attention to the items in Item 1, above, and the economic, noise, glare or odor effects of the Special Exceptions on adjoining properties and properties generally in the district.
3. Proof of residency at the location where the special exception is proposed.

C. Special Conditions for Accessory-Agricultural Occupations

1. Property must be located in an FAR District and meet minimum lot size and dimensional requirements for the district.
2. No proposed use shall occupy more than one (1) accessory building with total square footage not to exceed three thousand (3,000) square feet.
3. Accessory buildings may not be altered so that the character of agricultural function is not maintained.

4. Any site within one hundred (100) feet of any residential structure on any adjoining lot shall maintain a twenty-five (25) foot buffer between the residential structure.
5. Provide an adequate parking area in compliance with Section 4.010, of this resolution.
6. Any proposed sign shall be limited to one (1) ground, graphic sign, and no more than five (5) feet in height and twenty (20) square feet in area and must be setback a minimum of ten (10) feet from the right-of-way.
7. No outside storage of goods or materials shall be visible from any public road. Uses involving the storage, transfer or disposal of hazardous materials shall not be permitted.
8. All automobiles or trucks parked on the site are required to have a current registration and license plates.

D. Customary Incidental Home Occupations (Minor or Major) (Amended 1/9/06)

1. The proposed use shall be located and conducted within the principal or accessory building only.
2. Employees engaged in the proposed use shall be residents of the dwelling unit in which the proposed use is located, with a maximum of one (1) paid assistant.
3. Not more than twenty-five (25%) of the total floor area in a dwelling unit shall be designated for the proposed use.
4. The proposed use shall not be the primary or incidental storage facility for a business conducted elsewhere.
5. No activity, materials, goods or equipment indicative of the proposed use shall be visible from any public road or alley, nor located outside the principal or accessory building.
6. The proposed use shall not be advertised by the use of signs on the lot that exceed six (6) square feet in area and no more than four (4) feet in height.
7. The proposed use shall not generate noise, odor, fumes, smoke, nor be determined a public nuisance that would tend to depreciate the character of the neighborhood in which the proposed use is located.

8.070 TIPTON COUNTY, TENNESSEE BOARD OF ZONING APPEALS

A Tipton 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 Tipton County Commission. The Board members shall be appointed to five (5) year terms; however, the initial appointments shall be arranged so that the term of one (1) member will expire each year. (Amended 6/15/09)

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 acting 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 Tipton County Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any government office, department, board, or bureau affected by any decision of the Building Inspector's Office based in whole or in part upon the provisions of this resolution. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Building Inspector's Office shall transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board shall fix a reasonable time of the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

C. Stay of Proceeding

An appeal stays all legal proceedings in furtherance of the action appealed from unless the Building Inspector's Office 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 Inspector's Office, and on due cause shown.

D. Appeal to the Court

Any person or persons or any board, taxpayer, department, or bureau of the County 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, requirements, permit, decision, determination or refusal made by the Building Inspector or other administrative official in the carrying out or enforcement of any provision of this resolution, including the interpretation of the location of district boundaries shown on the Official Zoning Map of Tipton County.

2. Special Exceptions

To hear and decide applications for special exceptions as specified in this resolution, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass. If work has not commenced within one (1) year of the approval of the special exception, the special exception becomes void and the applicant shall be required to resubmit all materials for approval.

3. Variances

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

8.080 VARIANCES

The purpose of a variance is to modify the strict application of the specific requirements of this resolution in the case of exceptionally irregular, narrow, shallow, or road lots, or other exceptionally 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 that 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 that might be made available by the Board of Zoning Appeals.

B. Fee

A fee as established by the Tipton County Commission of \$200 shall be charged to cover review, inspection and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

C. Hearings

Upon receipt of an application and fee, the Board shall hold a hearing to decide whether a variance to the resolution provisions is, in fact, necessary to relieve unnecessary hardships that 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 hearings 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 for the variance.

8.090 AMENDMENTS TO THE RESOLUTION

The regulations, restrictions, and boundaries set forth in this resolution may from time to time be amended, supplemented, changed, or repealed by the Tipton County Commission; but in accordance with Tennessee enabling legislation.

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 to this resolution. These amendments must be in relation to the Tipton County Growth Plan and the general welfare of the community.

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 and approved by it, or, if disapproved, receive the favorable vote of a majority of the entire membership of the County Commission.

No amendment to this resolution shall become effective unless it shall have been proposed by or shall have first been submitted to the Tipton County Regional Planning Commission for review and recommendation. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission disapproves the amendment within thirty (30) days it shall require the favorable vote of a majority of the County Commission to become effective. 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.

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. Fee

A fee established by the Tipton County Commission of \$200 shall be due and payable at the time of filing of petition and shall be posted with request to amend the zoning resolution. The fee is to be used by Tipton County to defray costs resulting from such petition and any subsequent amendment of the zoning resolution except that the fee shall be waived for a governmental agency.

8.100 PENALTIES

Any persons violating any provisions of this resolution shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten (10) dollars nor more than fifty (50) dollars for each offense. Each day such violations continue shall constitute a separate offense.

8.110 REMEDIES

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 Inspector 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.

8.120 SEPARABILITY

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

8.130 INTERPRETATION

Whenever the conditions of this resolution require more restrictive standards than are required in or under any other statute, the requirements of this resolution shall govern. Whenever the conditions of any other statute require more restrictive standards than are required by this resolution, the conditions of such statute shall govern.

8.140 EFFECTIVE DATE

This resolution shall take effect from and after the effective date of its passage and publication as required by law, the public welfare requiring it.

Certified by the Tipton County Regional Planning Commission

July 7, 2003
Date

Chairperson, Tipton County Planning Commission

Date of Passage of Resolution by the Tipton County Commission

November 10, 2003
Date

Jeff Huffman, Tipton County Executive

Attested by:

Tipton County Clerk