

**RESOLUTION 2003-27**

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

**WHEREAS**, the purpose of this resolution is to provide regulations of health and safety standards of residential and nonresidential properties to those areas within the confines of Weakley County outside the municipal limits of Martin, Dresden, Greenfield, Gleason, and Sharon; and

**WHEREAS**, Tennessee Code Annotated, Section 5-1-118, authorizes counties that do not have zoning regulations in effect throughout the county to exercise certain municipal powers by resolution, including the power to regulate uses of property detrimental or liable to be detrimental to the health, morals, comfort, safety, convenience, or welfare of inhabitants of unincorporated areas of the County; and

**WHEREAS**, there is a need in Weakley 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 here are deemed to address this need.

**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Weakley County, Tennessee meeting in regular session on March 17, 2003 in Dresden, Tennessee that the following regulations be adopted:

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

**SECTION I - APPOINTMENT OF ENFORCEMENT OFFICER AND HEARING BOARD**

This resolution shall be enforced by the Sheriff (or his designee) who shall be known as the Weakley County Code Enforcement Officer (hereinafter referred to as "Enforcement Officer"). The Weakley County Health and Safety Standards Board (hereinafter referred to as "Hearing Board") shall consist of five (5) members to be appointed by the County Executive subject to confirmation by the County Legislative body. All members of the Hearing Board shall be appointed for four-year terms; however, the initial appointments shall be made on the following terms in an effort to achieve subsequent staggered four-year terms:

- |  |                                |
|--|--------------------------------|
| <b>Board Member One Representative</b>   | <b>Initial One Year Term</b>   |
| <b>Board Member Two Representative</b>   | <b>Initial Two Year Term</b>   |
| <b>Board Member Three Representative</b> | <b>Initial Three Year Term</b> |
| <b>Board Member Four Representative</b>  | <b>Initial Four Year Term</b>  |
| <b>Board Member Five Representative</b>  | <b>Initial Four Year Term</b>  |

Any compensation or authorization for reimbursement of travel expenses for the members 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 Executive subject to confirmation by the County Legislative body for the remainder of the term of the vacant position. Any member of the Hearing Board may be removed at any time by the county legislative body for cause specified in writing served on the member and after hearing, of which such member shall be given not less than fifteen (15) days written notice.

The Hearing Board shall also be charged with the responsibility of actively recruiting community organizations, neighbors, churches, and/or solicit other

opportunities to provide assistance to citizens who are not financially or physically able to provide self-compliance.

## **SECTION II – PROPERTY STANDARDS**

- a) 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 therein increasing the hazard of fire, accidents or other calamities, dilapidation; disrepair, structural defects; and/or unsanitary conditions.
- b) It shall be unlawful for any owner of property to create, maintain or permit to be maintained on property the obvious neglect and overgrowth of vines, grass, underbrush and/or the accumulation of discarded or worthless person property, debris, trash, litter, garbage, rubbish, refuse, etc., or any combination of the preceding elements, or a vacant dilapidated building or structure, or to encourage the infestation of rats or other harmful animals, so as to endanger the health, safety, or welfare of other citizens of ordinary health and sensibility.
- c) It shall be unlawful to allow any violation identified in subsections (a) or (b) above to exist or continue in, on or around any building, structure or property affected by this resolution.

## **SECTION III – OWNER AND OCCUPANT 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 terms of these Regulations. If said property fails to comply with the above-stated regulation, the property owner(s) is responsible and liable.

## **SECTION IV – INSPECTION PROCEDURES**

Whenever a petition is filed with the Enforcement Officer by at least two (2) property owners living within one mile of the boundary of the property in question; or whatever the Enforcement Officer on his own can visibly observe a violation from a public road that violation(s) of any of these regulations exist, 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 stating the violations and requiring the condition to be remedied immediately.

## **SECTION V – PENALTIES AND REMEDIES FOR VIOLATIONS**

- A. For owners of and parties in interest of properties found by the Enforcement Officer to be in violation of the above-mentioned regulation, a notice of violation shall be given by personal service upon the owner or by United States Certified Mail, Return Receipt Requested, addressed 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 brief statement of the violations and penalty date noted;
  - 2) A brief statement which shall contain the consequences and penalty of failing to remedy the violation;
  - 3) The person, office, address and telephone number of the department or person giving notice;

- 4) A place wherein the notified party may return a copy of the notice of violation indicating the desire for a hearing and or waiver of hearing and agreement to remedy.

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 reasonable diligence or if for any reason notice by Certified Mail, Return Receipt Requested, cannot be obtained, and the Enforcement Officer shall make affidavit to the effect, then the serving of such notice of violation or order upon such person(s) may be made by publishing the same once each week for two (2) consecutive weeks in the Dresden Enterprise or the Weakley County Press. A copy of such notice of violation or order shall be posted in a conspicuous place on the premises affected by the notice or order. A copy of such notice of violation or order shall 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 lis pendens notices provided by law.

- B. Upon receipt of the notice of violation as provided hereinabove, the property owner shall proceed forthwith to take appropriate measures to comply with these regulations. The county shall provide for a hearing upon request by an aggrieved property owner, said hearing to be held before a board known as the "Weakley County Health & Safety Standards Board."

A request for hearing shall be made within thirty (30) days following receipt of said notice of violation. 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, upon a record hold a hearing on the issue 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 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. Immediately following the hearing, the Hearing Board may:

- 1) Dismiss the notice of violation and such notice shall become ineffective;
- 2) May confirm the notice of violation;
- 3) May modify the notice of violation; or
- 4) Continuance if at the request of either party or if the Hearing Board consider the continuance appropriate.

The affirmative vote of three Hearing Board Members shall be the act of the Hearing Board.

- C. Any person aggrieved by an act of the Hearing Board under the provisions of this resolution may seek judicial review of same. The time period established herein shall be stayed pending judicial review.

- D. If the owner fails to comply with the notice within thirty (30) days of receipt of same, subject to stay pending review any modifications made pursuant to review as provided for above, the 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 and the costs 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 Hearing Board shall upon the filing of a notice with the office or the register of deeds be a lien 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.

- E. Owner(s), individually and/or jointly, of property found to be in violation of these Regulations shall be guilty of an offense and upon conviction shall pay a penalty of not more than fifty dollars (\$50.00) for each offense. Each and every day during which such illegal condition or use exists or continues is deemed a separate offense.

#### **SECTION VI – EXCEPTIONS**

- a) The provisions of this resolution shall apply countywide exclusive of incorporated municipalities lying with Weakley County.
- b) The provision of Section V (D) of this resolution permitting Weakley County to remedy conditions pursuant to Tennessee Code Annotated Section 5-1-115 (c) shall not apply to any parcel of property upon which an owner-occupied residence is located.
- c) This resolution shall not apply to any business operated pursuant to the Tennessee Solid Waste Disposal Act, Tennessee Code Annotated Section 68-31-101, et seq.

#### **SECTION VII – RULES**

- a) The County Legislative body may establish any rules and regulations necessary for the administration and enforcement of this resolution.
- b) The Enforcement Officer shall keep a journal recording the following information:
  - i) all petitions filed with his office
  - ii) the address including the civil district of any property in violation of this resolution;
  - iii) addresses and mileage of all preliminary investigations;
  - iv) all notices delivered to property owners found to be in violation of this resolution and any expenses associated therewith;
  - v) all waivers of hearing and agreements to remedy
  - vi) all requests for hearing received
  - vii) orders and decisions issued by the Hearing Board; and
  - viii) all requests for judicial review and final decision of the judicial review.

The aforesaid journal shall be reviewed monthly by the Hearing Board. The Enforcement Officer shall submit a report to the County Commission at the regular session of March, June, September, and November of each year.

#### **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. This resolution shall become effective sixty (60) days after its passage, the public welfare requiring it

**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.

**BE IT FURTHER RESOLVED**, that all resolutions of the Board of County Commissioners of Weakley County, Tennessee, which are in conflict with this resolution, are hereby repealed.

**BE IT FURTHER RESOLVED**, that this resolution take effect in accordance with Section VIII, the public welfare requiring it. This resolution shall be spread upon the minutes of the Board of County Commissioners.

**Pursuant To The Rules Of The Commission, This Resolution Is Sponsored By The Following Members Of The Weakley County Board Of County Commissioners:**

SPONSORED BY: *James Westbrook* SPONSORED BY: *Mac Buckley*

ACKNOWLEDGED AND APPROVED: *James Westbrook*  
Chairman, Health, Education, & Welfare Committee

Motion made by Commissioner Westbrook that the foregoing resolution be adopted:

Motion seconded by Commissioner Page.

Upon being put to a roll call vote, Motion carried by a vote of 17 Yeas, 0 Nays,

0 Passed and 1 Absent.

Attested: *Pat Scarborough*  
Pat Scarborough, County Clerk

Approved: *Ron Gifford*  
Ron Gifford, County Executive

**THIS THE 17th DAY OF MARCH, 2003.**