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Planning and Zoning

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Planning and Zoning

Private Acts of 1939 Chapter 460

SECTION 1. GRANT OF POWER. That the Quarterly County Courts coming under the provisions of this Act are hereby empowered, in accordance with the conditions and the procedure specified in the subsequent sections of this Act, to regulate, in the portions of counties which lie outside of municipal corporations, the location, height and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes.

SECTION 2. REGIONAL ZONING TO BE PRECEDED BY AND BASED ON PLANS SUBMITTED BY REGIONAL PLANNING COMMISSION. That from and after the time when the Regional Planning Commission of the planning region defined and created by the State Planning Commission makes and certifies to the Quarterly County Court of any county located in whole or part in such region a zoning plan, including both the text of a zoning resolution and the zoning maps, representing the recommendations of such planning commission for the regulation by districts or zones of the location, height and size of buildings and other structures, the percentage of lots that may be occupied, the sizes of yards, courts and other open spaces, the density and distribution of population, the location and uses of buildings and structures for trade, industry, residence, recreation or other purposes and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes, then such County Court may, by resolution, exercise the powers granted in Section 1 of this Act and, for the purpose of such exercise, may divide the territory of the county which lies within said region but outside of municipal corporations into districts of such number, shape or area as it may determine and within such districts may regulate the erection, construction, reconstruction, alteration and uses of buildings and structures and the uses of land. All such regulations shall be uniform for each class or kind of buildings throughout any such district, but the regulations in one district may differ from those in other districts. The Regional Planning Commission may make and certify a single plan for all the territory of the county which lies within said region but outside of municipal corporations, or may make and certify separate and successive plans for parts of such territory which it deems to be suitable for urban or nonurban development or which for other reasons it deems to be an appropriate territorial unit for a zone plan; and correspondingly any ordinance enacted by the County Court may cover and include the said whole territory of the county which lies within said region but outside of municipal corporation covered and included in any such single plan or in any such separate and successive plans. No resolution covering more or less than the entire area covered by any such certified plan shall be enacted or put into effect until or unless it be first submitted to the Regional Planning Commission and be approved by said commission or, if disapproved, receive the favorable vote of not less than two-thirds of the entire membership of said County Court.

SECTION 3. PURPOSE OF ZONING REGULATIONS. That such regulations shall be designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the State of Tennessee in the counties covered by the provisions of this Act, including, among other things, lessening congestion in the roads or reducing the wastes of excessive amount of roads; securing safety from fire and other dangers; promoting adequate light and air; preventing on the one hand excessive concentrations of population and, on the other hand, excessive and wasteful scattering of population or settlement; promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunity, recreation, soil fertility, food supply and the protection of both urban and non-urban development.

SECTION 4. METHOD OF PROCEDURE. That after the certification of a zone plan from the Regional Planning Commission and before the enactment of any such zoning resolution the County Court shall hold a public hearing thereon of the time and place of which at least thirty (30) days notice shall be given by one publication in a newspaper of general circulation in the county. Such notice shall state the place at which the text and maps as certified by the Planning Commission may be examined. No change in or departure from the text or maps as certified by the Regional Planning Commission shall be made, unless such change or departure be first submitted to the certifying Planning Commission for its approval, disapproval or suggestions, and, if disapproved, shall receive the favorable vote of a majority of the entire membership of the County Court; and the Planning Commission shall have thirty days from and after such

submission within which to send its report to the County Court. Any such ordinance shall be published at least once in the official newspaper of the county or in a newspaper of general circulation in the county, and shall not be in force until it is so published.

SECTION 5. Amendments. That the County Court may from time to time amend the number, shape, boundary, area or any regulation or within any district or districts or any other provision of any zoning resolution; but any such amendment shall not be made or become effective unless the same be first submitted for approval, disapproval or suggestions to the Regional Planning Commission of the region in which the territory covered by the resolution is located, and, if such Regional Planning Commission disapproves within thirty (30) days after such submission, such amendment shall require the favorable vote of a majority of the entire membership of the County Court. Before finally adopting any such amendment, the County Court 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 publication in a newspaper of general circulation in the county; and any such amendment shall be published at least once in the official newspaper of the county or in a newspaper of general circulation in the county.

SECTION 6. BOARD OF APPEALS. That the County Court of any county which enacts zoning regulations under the authority of this Act shall create a County Board of Zoning Appeals of three or five members. The County Court shall be the appointing power of the members of such Board of Appeals and may fix their compensation and their terms, which terms shall be of such length and so arranged that the term of one member will expire each year. The County Court may remove any member for cause upon written charges and after a public hearing. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. The County Court may appoint associate members of said Board, and, in the event that any regular member be temporarily unable to act owing to absence from the county, illness, interest in a case before the Board, or other cause, his place may be taken during such temporary disability by an associate member designated for the purpose by the County Court. The County Court of two or more counties may, by resolution enacted by both or all of them, arrange and provide for a joint or common Board of Zoning Appeals.

The County Court may provide and specify in its zoning or other resolution, general rules to govern the organization, procedure and jurisdiction of said Board of Appeals, which rules shall not be inconsistent with the provisions of this Act; and the said Board may adopt supplemental rules of procedure, not inconsistent with this Act or such general rules.

The zoning resolution may provide that the Board of Appeals may, in appropriate cases and subjects to appropriate principles, standard, rules, conditions and safeguards set forth in the resolution, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. The County Court may also authorize the Board of Appeals to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions as they arise in the administration of the zoning regulations.

Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer, department or board of the county affected, by any grant or withholding of a building permit or by any other decision of a building commissioner or other administrative official based in whole or part upon the provision of any resolution under this Act.

The Board of Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the County Building Commissioner or any other administrative official in the carrying out or enforcement of any resolution enacted pursuant to this Act.
2. To hear and decide, in accordance with the provisions of any such resolution; requests for special exceptions or for interpretation of the map or for decisions upon their special questions upon which such board is authorized by any such resolution to pass.
3. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property to authorize upon an appeal relating to said property, a variance from such district application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning resolution.

SECTION 7. BUILDING COMMISSIONER. That the County Court may provide for the enforcement of its zoning regulations by means of the withholding of building permits and, for such purpose, may establish and fill a position of County Building Commissioner and may fix the compensation attached to said

position. From and after the establishment of such position and the filling of same, it shall be unlawful to erect, construct, reconstruct, alter or use any building or other structure without obtaining a building permit from such County Building Commissioner, and such building Commissioner shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration or use fully conform to all zoning regulations then in effect.

SECTION 8. OTHER ENFORCEMENT AND REMEDIES. That it shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any regulation in or of any provision of any resolution or any amendment thereof enacted or adopted by any County Court under the authority of this Act. Any person, firm or corporation violating any such regulation or provision or any other provision of this Act shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law. Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used or any land is or is proposed to be used in violation of this Act or of any regulation or provision enacted or adopted by any County Court under the authority granted by this act, such County Court, the Attorney General, the District Attorney for the judicial circuit in which such violation occurs or is threatened, the County Building Commissioner or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent or enjoin or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

SECTION 9. CONFLICT WITH OTHER LAWS. That wherever the regulations made under authority of this Act require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or less number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute, the provisions of the regulations made under authority of this Act shall govern. Whenever the provisions of any other statute require a greater width or size of yards, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the standards that are required by the regulations made under authority of this Act, the provisions of such statute shall govern.

SECTION 10. That, for the purposes of this Act, "Regional Planning Commission" means the Regional Planning Commission established by the State Planning Commission as authorized by law; provided further, that where the word county or County Court appears in this Act either or both shall be construed to include only counties within a planning region as officially designated by the State Planning Commission, having a population of at least one hundred fifty-nine thousand (159,000) and not more than two hundred thousand (200,000); provided, further, that the population of a county or of counties shall be determined by reference to the Federal Census of 1930 or any subsequent Federal Census.

SECTION 11. That this act shall not be construed as repealing or modifying any provision of any Private Act heretofore enacted relating to the powers of any county therein designated or of any municipality therein designated to enact zoning regulations in such county or in territory lying outside such municipality.

SECTION 12. That should any section or provision of this Act be held unconstitutional, the same shall not affect the validity of this Act as a whole or any part thereof other than the part so held to be unconstitutional.

SECTION 13. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 10, 1939.

Planning Commission Fees

Private Acts of 1970 Chapter 325

SECTION 1. That Hamilton County is hereby authorized from time to time to set and establish a filing fee commensurate with the cost of processing applications to the Planning Commission. Said fee is to be paid by applicant to the Commission.

SECTION 2. That this Act shall have no effect unless same shall have been approved by two-thirds of the County Council of Hamilton County, Tennessee, on or before the next regular meeting of said County Council occurring more than thirty days after its approval by the Chief Executive of this State. Its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

SECTION 3. That this Act shall take effect from and after its passage, the public welfare requiring it.
Passed: February 18, 1970.

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