

ARTICLE VII

ADMINISTRATION AND ENFORCEMENT

SECTION

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7.010. Administration of the ordinance. Except as otherwise provided, no structure or land shall after the effective date of this ordinance 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 ordinance 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 public 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.

7.020. The enforcement officer. The provisions of this ordinance shall be administered and enforced by the City Building Inspector. In performance of administering and enforcing this ordinance, he shall:

- A. Issue all Building Permits and make and maintain records thereof.
- B. Issue all Certificates of Occupancy and make and maintain records thereof.
- C. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
- D. Maintain and keep current zoning maps and records of amendments thereto.
- 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 ordinance.

- F. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The Building Inspector shall possess the right to enter upon any premises for the purpose of making inspections of said buildings or premises as are necessary to carry out his authorized duties.

7.030. 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 repair of any structure, including accessory structures, to use a building or structure, or to change the use of a building or structure, or to commence the filling of land without a permit thereof, issued by the Building Inspector. If said excavation or construction is begun without a proper building permit, the building permit fee shall be double or twice the original cost of the permit if legal compliance has been obtained as is required.

No Building Permit shall be issued by the Building Inspector except in conformity with the provisions of this ordinance, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided for by this ordinance.

The approval of any plot plan (site plan) granted under the provisions of Section 3.120, or any plan approved as a special exception (conditional use) under the provisions of Section 7.060 of this ordinance shall become expired in any situation wherein a building permit has not been officially obtained, under the provisions of this section within one (1) year of the official approval of said plot plan (the date wherein the planning commission approved said plot plan) or special exception (the date wherein the board of zoning appeals approved said plan). Any application for a building permit for any land use depicted on an approved plot plan or plan approved as a special exception which is made beyond a year after the approval of such plans shall be denied and no such permit shall be granted until new plans are prepared and approved under all the terms established within Sections 3.120 and 7.060, of this ordinance. Any such resubmittals shall be stamped by the preparing professionals utilizing the current date.

A. Application:

Application for a Building Permit shall be made in writing to the Building Inspector on forms provided for that purpose. 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.
3. The existing and intended use of all such buildings or other structures.

4. Location and design of off-street parking areas and off-street loading areas, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

B. Fee:

The Kingston Springs City Commission shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the office of the Building Inspector and City Hall. Only the City 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 ordinance, the Building Inspector shall issue a Building Permit 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 any of the provisions of this ordinance.

D. Construction Progress:

Any Building Permit issued becomes invalid if work authorized by it is not commenced within six (6) months of the date of issuance, or if the work authorized by the permit is suspended or discontinued for a period of six (6) months.

7.040. 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 City Building Inspector, as provided for in ARTICLE IV, SECTION 4.030, of this ordinance. Application for a Temporary Use Permit shall be made in writing to the Building Inspector on the form provided for that purpose. A schedule of fees shall be established by the Kingston Springs City Commission. Such schedule shall be posted in the office of the Building Inspector and City Hall. Until the appropriate fee has been paid in full, no action shall be taken on any application.

7.050. 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 ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy of 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 ordinance, or, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

7.060. 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 ordinance, or whether a review is requested by the Building Inspector to determine whether a proposed use is potentially noxious, dangerous or offensive.

A. Application:

An application shall be filed with the Board of Zoning Appeals for review. Said 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 which the Board may require.

B. Fee:

A fee of twenty-five (25) dollars payable to the City of Kingston Springs shall be charged to cover partial review and processing of each application for a special exception, except that the fee shall be waived for a governmental agency.

C. 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 provisions and arrangements have been made concerning all 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-street parking and loading areas where required, with particular attention to the items in item 1. above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering, landscaping treatment, with reference to type, dimensions and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
7. Required yard and other open space.

8. General compatibility with adjacent properties and other property in the district.
9. Other special conditions as cited within this section of the ordinance.

D. Restrictions:

In the exercise of its approval, the Board may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.

E. Validity of Plans:

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

F. Time Limit:

All applications reviewed by the Board shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

G. Special Conditions for Review Pertaining to Bed and Breakfast Home Residences

In addition to the requirements of the applicable district and the general requirements set forth in Section 7.060, C, the following special conditions shall be met prior to issuing a conditional use permit:

1. Bed and breakfast residences shall be established only within preexisting single family residences.
2. Bed and breakfast residences shall continuously maintain current licenses and permits as required by local and state agencies.
3. Bed and breakfast residences shall be solely operated by members of the family residing in the residence.
4. The only meal to be provided to guests shall be breakfast, and it shall only be served to guests taking lodging in the facility.
5. No food preparation or cooking for guests shall be conducted within any bedroom made available for rent.
6. Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed or remodeled for rental purposes.

7. Bed and breakfast residences shall be limited to a single on-premises sign which shall be no greater than eight (8) square feet in size, and shall be located no closer to the street right-of-way line than fifteen (15) feet.
8. One (1) off-street parking space shall be provided for each room rented in addition to the required two (2) spaces required for the single family residence. All such spaces shall be screened from view from adjoining property and shall not be located within any required front yard.
9. If food is prepared or cooked, a menu made available, and a price is charged therefor, a food server's license must be obtained from the Tennessee Department of Health.
10. A smoke detector shall be installed in each sleeping room, and a fire extinguisher ten pounds in size or larger shall be installed and made easily accessible on each floor or story.
11. An evacuation plan must be approved by the town's fire chief prior to the issuance of a use and occupancy permit for a bed and breakfast residence.
12. Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood, and the intent of the zoning district in which it is located.
13. Prior to the issuance of a use and occupancy permit for the establishment of any bed and breakfast residence not connected to the town's public sewerage system, certification shall be provided by the county health department approving the subsurface disposal system as being adequate to serve the total number of bedrooms occupied.

H. Special Conditions for Review Pertaining to Adult-oriented Business Establishments. In addition to the requirements of the applicable district and the general requirements set forth in Section 7.060, C, the following special conditions shall be met prior to issuing a conditional use permit:

1. No adult-oriented establishment shall be operated or maintained in the Town within two thousand (2,000) feet, as measured in a straight line from the closest point from building to building, of a school, church, public recreation facility, day care facility, playground, or park.
2. No adult-oriented establishment shall be operated or maintained in the Town within one thousand (1,000) feet, as measured in a straight line from the closest point from intended building to property line, of a boundary of any residential zone (R1-A, R-1, R-2, and/or R-3), or any lot devoted to residential use.

3. No adult-oriented business establishment shall be operated or maintained in the Town within one thousand (1,000) feet, as measured in a straight line from the closest point from building to building, of another adult-oriented business establishment.

I. Special Conditions for Special Institutional Care Facilities

In those districts where authorized as a conditional use, the following supplementary regulations shall apply to all uses classified in the special institutional care activity type.

1. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
2. The traffic generated by such facility shall be safely accommodated along designated arterial or collector streets as shown on the official major thoroughfare plan without traversing local minor streets.
3. The purpose(s) of the facility must be clearly established by the agency responsible and the appropriate staff services must be provided to achieve the stated purpose(s).
4. The facility providing residence facilities shall have resident twenty-four (24) hour staff and appropriate professional services shall be supplied.
5. The off-street parking requirements shall be determined by the Board of Appeals.
6. The minimum side and rear yards shall be one hundred (100) feet for a one (1) and two (2) story building, increased by ten (10) feet for each additional story.
7. All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.
8. No facility permitted under the provisions of this section shall be located within one thousand (1,000) feet of any church, day care center, nursery school or public park. The distance shall be measured by a straight line from the nearest corner of the building of a potential licensee to the nearest corner of the main entrance of the church, day care center, nursery school or public park, where the centerline intersects with the margin of the public road.

7.070. Board of Zoning Appeals. In accordance with 13-7-205 Tennessee Code, a Kingston Springs Board of Zoning Appeals, consisting of three members, is hereby established. All members of such Board shall be appointed by the City Commission.

A. Term of Office of Board Members, Removal, and Vacancies

The members of the Board of Zoning Appeals, shall serve for a three (3) year term, or until their respective successors are appointed and qualified. The board first appointed shall serve respectively for three following terms: two for (1) year, two for (2) years, and one for (3) years. All members of the Board of Zoning Appeals shall serve with such compensation as may be fixed by the City Commission and may be removed from membership on the Board of Zoning Appeals for continued absence or just causes. Any member being so removed shall be provided, upon his/her request, a public hearing upon the removal decision. Vacancies of said Board of Zoning Appeals shall be filled for the unexpired term of those members whose position has become vacant in the manner provided herein for the appointment of such member.

B. 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.

C. Appeals to the Board:

An appeal to the Kingston Springs Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by, any decision of the Building Inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board shall fix a reasonable time for 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.

D. Stay of Proceedings

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

E. Appeal to the Court:

Any person or persons or any board, taxpayer, department, or bureau of the City 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.

F. 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, requirement, 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 ordinance.

2. Special Exceptions:

To hear and decide applications for special exceptions as specified in this ordinance, 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.

3. Variances:

To hear and decide applications for variances from the terms of this ordinance.

7.080. Variances. The purpose of this variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional 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. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

A. Application:

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

B. Fee:

A fee of twenty-five (\$25.00) dollars payable to the City of Kingston Springs shall be charged to cover partial review 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 ordinance provisions is, in fact, necessary to relieve unnecessary hardships which 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 hearing 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 ordinance 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 ordinance 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 therefore.

7.090. Amendment to the ordinance. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed by the City Commission of Kingston Springs. Any member of the City Commission may introduce such legislation, or any official, board, or any other person may present a petition to the City Commission requesting an amendment or amendments to this ordinance. These amendments must be in relation to the Comprehensive Plan and the general welfare of the community.

No amendment to this ordinance shall become effective unless it shall have been proposed by or shall have first been submitted to the Kingston Springs Municipal Planning Commission for review and recommendation. Such proposal shall be submitted to City Hall at least fifteen (15) days prior to the next Planning Commission meeting if it is to be entertained by the Planning Commission. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission disapproves the amendment within the thirty (30) days, it shall

require the favorable vote of a majority of the City 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.

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, received the favorable vote of a majority of the entire membership or the City Commission.

Before enacting amendment to this ordinance, the City Commission shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of which shall be published in a newspaper of general circulation in the City of Kingston Springs.

A. Fee:

A fee of twenty-five (25) dollars due and payable at the time of filing of petition shall be posted with requests to amend the zoning ordinance. The fee is to be used by the City of Kingston Springs to defray costs resulting from such petition and any subsequent amendment of the zoning ordinance.

Whenever an application for an amendment to the text of this ordinance or for change in the zoning classification of any property is denied, the application for such amendment, shall not be eligible for reconsideration for one year following such denial, except in the following cases:

- A. Upon initiation by the Mayor and Board of Commissioners, or Planning Commission;
- B. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made;
- C. When the previous application was denied for the reason that the proposed zoning would not conform with the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

7.100. Penalties. Any persons violating any provision of this ordinance shall be guilty of a misdemeanor, and shall be fined not less than twenty-five (25) dollars nor more than fifty (50) dollars for each offense. Each day such violations continue shall constitute a separate offense.

7.110. 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 ordinance, 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 an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, or reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

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

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

7.140. Effective date. This ordinance (84-005) which repeals ordinance (82-005) shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

Certified by the Kingston Springs Municipal Planning Commission.

March 14, 1985

Date

Chairman, Planning Commission

Approved and adopted by the City Commission of the City of Kingston Springs, Tennessee.

March 21, 1985

Date

Mayor, Kingston Springs

ATTEST:

City Recorder

Approved as of form and legality

City Attorney

Passed 1st Reading: 10-18-84
Passed 2nd Reading: 1-17-85
Passed 3rd Reading: 3-21-85