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# Private Acts of 1972 Chapter 360

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Sincerely,

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## Private Acts of 1972 Chapter 360

**SECTION 1.** The quarterly county court of Carter County is authorized to create a county planning commission, to consist of not less than seven (7) members nor more than twelve (12) members, the number of members within such limits to be determined by the quarterly county court. One (1) of the members shall be the chairman of the county court and one (1) of the members shall be a member of the quarterly county court selected by the quarterly county court. All other members shall be appointed by the quarterly county court in such manner as to give each school district equal representation on said commission among the appointed members. All members of the commission shall serve as such without compensation except when they are also members of the board of zoning appeals as provided under Section 20. The terms of appointive members shall be of such length as may be specified by the quarterly county court not to exceed six (6) years and may be arranged by the quarterly county court so that the terms of one (1) or more members expire each year. Any vacancy in an appointive membership shall be filled for the unexpired term by the quarterly county court.

(a). Members of the planning commission shall receive, as compensation for each day's attendance at commission meetings, the same amount of compensation received by a county commissioner for a committee meeting, which amount shall be paid from the county's general fund.

As amended by:

Private Acts of 1975, Chapter 46

Private Acts of 1992, Chapter 189

Private Acts of 1993, Chapter 47

**COMPILER'S NOTE:** Private Acts of 1975, Chapter 46, added an unnumbered section which provided that the members of the planning commission should receive fourteen dollars (\$14.00) each for each day's attendance at commission meetings to be paid from the county's general fund. This unnumbered section was amended by Private Acts of 1992, Chapter 189, raised the amount to seventeen dollars and fifty-cents (\$17.50). This unnumbered section was amended by Private Acts of 1993, Chapter 47, deleting the section and substituting instead a new section, Section 1(a).

**SECTION 2.** The commission shall elect its chairman from among the appointive members. The term of chairman shall be one (1) year with eligibility for reelection. The commission shall adopt rules for the transactions, findings and determinations, which record shall be a public record. The commission may appoint such employees and staff as it may deem necessary for its work, and may contract with county planners and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the quarterly county court.

**SECTION 3.** It shall be the function and duty of the commission to make and adopt an official general plan for the physical development of the county, outside any municipal limits. The plan, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the commission's recommendations for such physical development, and may include among other things, the general location, character and extent of streets, bridges, viaducts, parks, parkways, waterways, waterfronts, playgrounds, airports and other public ways, grounds, places and spaces, the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, sanitation, transportation, communication and other purposes; also the removal relocation, widening, extension, narrowing, vacating, abandonment, change of use or extension of any of the foregoing public ways, grounds, places, spaces, buildings, properties or utilities; also a zoning plan for the regulation of the height, area, bulk, location and use of private and public structures and premises and of population density; also the general location, character, layout and extent of community centers and neighborhood units; also the general location, character, extent and layout of the replanning of blighted districts and slum areas; also regulation of subdivisions. The commission may from time to time amend, extend or add to the plan or carry any part of subject matter into greater detail.

**SECTION 4.** The commission may adopt the plan as a whole by a single resolution, or, as the work of making the whole plan progresses, may from time to time adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. The adoption of the plan or any part, amendment or addition shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the commission. The resolution shall refer expressly to the maps, descriptive matter and other matters intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the adopted plan or part thereof and descriptive matter by the identifying signature of the secretary of the commission, and a copy of the plan or part thereof shall be certified to the quarterly county court.

**SECTION 5.** In the preparation of the plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and future growth of the county and its environs. The plan shall be made with the general purpose of guiding and accomplishing a coordinate, adjusted and

harmonious development of the county which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development.

**SECTION 6.** The commission may make reports and recommendations relating to the plan and development of the county to public officials and agencies, public utility companies, to civic, educational, professional and other organizations and to citizens. It may recommend to the executive or legislative officials of the county programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the commission, within a reasonable time, such available information as it may require for its work. The commission, its members and employees, in the performance of its work, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the commission shall have powers as may be necessary to enable it to perform its purposes and promote county planning.

**SECTION 7.** Whenever the commission shall have adopted the plan of the county or any part thereof, then and thenceforth no street, park or other public way, ground, place or space, no public building or structure, or no public utility whether publicly or privately owned, shall be constructed or authorized in the county outside of municipal boundaries until and unless the location and extent thereof shall have been submitted to and approved by the planning commission. In case of disapproval, the commission shall communicate its reasons to the quarterly county court of the county and the court by a vote of a majority of its membership, shall have the power to overrule such disapproval and, upon such overruling, the court shall have the power to proceed. However, if the public way, ground, place, space, building, structure or utility is one the authorization or financing of which does not, under the law governing the same, fall within the province of the quarterly county court, then the submission to the planning commission shall be by the state, county, district, municipal or other board or official having such jurisdiction, and the planning commission's disapproval may be overruled by such board by a majority vote of its membership, or by such official. The widening, narrowing, relocation, vacation, change in the use, acceptance, acquisition, sale or lease of any street or public way, ground, place, property or structure shall be subject to similar submission and approval, and the failure to approve may be similarly overruled. The failure of the commission to act within thirty (30) days after the date of official submission to it shall be considered approval, unless a longer period is granted by the quarterly county court or other submitting board or official.

**SECTION 8.** For the purpose of this act, "street" or "streets" includes streets, avenues, boulevards, roads, lanes, alleys and other ways; "subdivision" means the division of a tract or parcel of land into two (2) or more lots, sites or other division for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided; and "plat" includes plat, plan plot or replot.

**SECTION 9.** After the planning commission adopts a master plan which includes at least a major street plan or shall have progressed in its master planning to the stage of the making and adoption of a major street plan, and files a certified copy of such major street plan in the office of the county register of the county, no plat of a subdivision of land lying wholly or partly within the county and wholly or partly outside of municipal boundaries shall be filed or recorded until it is submitted to and approved by the planning commission and such approval is entered in writing on the plat by the secretary of the commission.

The county register shall not file or record a plat of subdivision of such land without the approval of the planning commission as required by this section. Violation of this provision is a misdemeanor.

**SECTION 10.** In exercising the powers granted to it by this act, the planning commission shall adopt regulations governing the subdivision of land within the county. Such regulations may provide for the harmonious development of the county, for the coordination of streets within subdivisions with other existing or planned streets or with the plan of the county for adequate open spaces for traffic, recreation, light and air, and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience and prosperity.

Such regulations may include requirements of the extent to which and the manner in which streets shall be graded and improved and water, sewer and other utility mains, piping, connections or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the commission may provide for the tentative approval of the plat previous to such improvements and installation, but any such tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completion of such work previous to the final approval of a plat, the commission may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the county the actual construction and installation of such improvements and utilities within a period specified by the commission and expressed in the bonds. The county is authorized to enforce such bonds by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of

such work previous to the final approval of a plat, for an assessment or other method whereby the county is put in assured position to do said work and make said installations at the cost of the owners of the property within the subdivision.

Before adoption of its subdivision regulations, or any amendments thereof, a public hearing thereon shall be held by the commission.

**SECTION 11.** The commission shall approve or disapprove a plat within thirty (30) days after the submission thereof, otherwise the plat shall be considered to have been approved and a certificate to that effect shall be issued by the commission on demand. However, the applicant for the commission's approval may waive this requirement and consent to the extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address of a person to whom notice of hearing shall be sent. No plat shall be acted upon by the commission without affording a hearing thereon, notice of the time and place of which shall be sent by mail to said address not less than five (5) days before the date fixed for the hearing.

**SECTION 12.** The approval of a plat shall not be considered to constitute or effect an acceptance by the county or public of the dedication of any street or other ground shown upon the plat.

**SECTION 13.** Whoever, being the owner or agent of the owner of any land, transfers or sells or agrees to sell or negotiates to sell such land by reference to or exhibition of or by other use of a plat of subdivision of such land without having submitted a plat of such subdivision to the planning commission and obtained its approval as required by this chapter and before such plat be recorded in the office of the county register, is guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from being in violation of this section. The county may enjoin such transfer or sale or agreement by action for injunction.

**SECTION 14.** After the time when the platting jurisdiction of the planning commission attaches, as provided in Section 9, the county shall not, nor shall any public authority, accept, lay out, open, improve, grade, pave, or light any street or lay or authorize water mains, or sewers or connection to be laid in any street within the county, outside of municipal boundaries unless such street has been accepted or opened as, or shall have otherwise received the legal status of, a public street prior to the attachment of the commission's subdivision jurisdiction, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the planning commission or with a street plat made and adopted by the commission. However, the quarterly county court may locate and construct or may accept any other street, provided the resolution, ordinance or other measure for such location and construction or for such acceptance is first submitted to the planning commission for its approval, and, if disapproved by the commission, is passed by a majority of the entire membership of the quarterly county court. A street, approved by the planning commission upon such submission or constructed or accepted by majority vote of the quarterly county court after disapproval by the commission, shall have the status of an approved street as fully as though it had been originally shown on a subdivision plat approved by the commission or on a plat made and adopted by the commission.

**SECTION 15.** After the time when the platting jurisdiction of the planning commission attaches, as provided in Section 9, no building permit shall be issued and no building shall be erected on any lot within the county, outside of municipal boundaries unless the street giving access to the lot upon which the building is proposed to be placed shall have been accepted or opened as, or shall have otherwise received the legal status of, a public street prior to that time, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the commission, or with a street located or accepted by the quarterly county court of the county after submission to said planning commission and, in case of the commission's disapproval, by the favorable vote required in Section 14. Any building erected or to be erected in violation of this section shall be an unlawful structure and the county may bring action to enjoin such erection or cause it to be vacated or removed.

**SECTION 16.** For the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare, the quarterly county court is empowered, in accordance with the conditions and the procedure specified in this act, to regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts, and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes. Special districts or zones may be established in those areas considered subject to seasonal or periodic flooding, and such regulations may be applied therein as will minimize danger to life and property, and as will secure to the citizens of Carter County the eligibility for flood insurance under Public Law 1016, 84th Congress or subsequent related laws or regulations promulgated thereunder.

**SECTION 17.** Whenever the planning commission makes and certifies to the quarterly county court a

zoning plan, including both the full text of a zoning ordinance and the maps, representing the recommendations of the planning commission for the regulation by districts or zones of the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the size of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes, then the quarterly county court may exercise the powers granted and for the purposes mentioned in Section 15 and may divide the county into districts or zones of such number, shape and areas it may determine, and, for said purposes, may regulate the erection, construction, reconstruction, alteration and uses of buildings and structures and the uses of land.

**SECTION 18.** Before enacting the zoning ordinance or any amendment thereof, the quarterly county court 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 county. No change in 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 quarterly county court.

**SECTION 19.** The zoning ordinance, including the maps, may from time to time be amended, but no amendment shall become effective unless it is first submitted to and approved by the planning commission or, if disapproved, shall receive the favorable vote of a majority of the entire membership of the quarterly county court.

**SECTION 20.** The quarterly county court may create a board of zoning appeals of three (3) or five (5) members, may specify the mode of appointment of members of such board and their terms, which terms shall be of such length and so arranged that the term of one (1) member shall expire each year, or the quarterly county court may designate the planning commission as the board of zoning appeals. The compensation of members of said board shall be as fixed by the quarterly county court.

The quarterly county court may provide and specify, in its zoning or other resolution or ordinance, general rules to govern the organization and procedure and jurisdiction of the board of zoning appeals, which rules shall not be inconsistent with the provisions of this act, and the board of zoning appeals may adopt supplemental rules of procedure, not inconsistent with this act or such general rules.

**SECTION 21.** The zoning resolution or ordinance may provide that the board of zoning appeals may, in appropriate cases and subject to the principles, standards, rules, conditions and safeguards set forth in the resolution or ordinance, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. The quarterly county court may also authorize the board of zoning 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 zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any grant or refusal of a building permit or other act or decision of the building commissioner of the county or other administrative official based in whole or part upon the provisions of the regulation or ordinance enacted under this act.

**SECTION 22.** The board of zoning 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, permit, decision, or refusal made by the county building commissioner or any other administrative official in the carrying out or enforcement of any provision of any resolution or ordinance enacted pursuant to this act.
- (2) To hear and decide, in accordance with the provisions of any such resolution or ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which the board is authorized by any such resolution or ordinance 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 zoning 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 exception or undue hardship upon the owner of such property to authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning resolution or ordinance.

**SECTION 23.** The quarterly county court may provide for the enforcement of any resolution or ordinance enacted under this act. A violation of any such resolution or ordinance is declared to be a misdemeanor. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any

resolution or ordinance enacted under this act, the county or any adjacent or neighboring property owner who would be specially damaged by such violation, may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

**SECTION 24.** If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**SECTION 25.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the quarterly county court of Carter County before December 1, 1972. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

**SECTION 26.** For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 25.

Passed: March 29, 1972.

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