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# Private Acts of 1978 Chapter 261

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Sincerely,

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# Private Acts of 1978 Chapter 261

**SECTION 1.** There is hereby established the Hawkins County Planning Commission to be composed of one (1) member-at-large from the county, selected by the commission, one (1) member from each magisterial district selected by the district magistrate, and the County Road Commissioner. The County Judge and the Chief Executive Officer of the County Industrial Commission shall be ex-officio non-voting members. The initial at-large and magisterial district members shall be as follows: for one (1) year terms, member-at-large for the county, William Lyons, Jr., and from the first magisterial district, Larry Hagood; for two (2) year terms, from the second magisterial district, Dr. R.B. Baird, and from the third magisterial district, Charles Taylor; for terms of three (3) years, from the fourth magisterial district, William Phillips and from the fifth magisterial district, Claude Cain; for terms of four (4) years, from the sixth magisterial district, Clay Johnson; and from the seventh magisterial district, Sidney Snodgrass. Thereafter the member-at-large and all members appointed by magistrates shall serve four (4) year terms. The terms of the planning commission of the County Judge, the County Road Commissioner, and the Chief Executive Officer of the County Industrial Commission shall be coterminous with their respective terms in office.

The Quarterly County Court shall fill vacancies in any unexpired term. If the Quarterly County Court does not fill a vacancy within thirty (30) days of its occurrence it shall be filled by the remaining members of the County Planning Commission. If the Quarterly County Court, as provided above, does not appoint a replacement that district shall not be represented on the commission and no action of the commission shall be declared invalid based on such a vacancy so long as a quorum is present. The quorum required for planning commission action is a majority of the members to which the commission is entitled under this Act. Members of the Planning Commission shall receive the sum of fifty dollars (\$50.00) per meeting for attendance at any and all sessions of the Hawkins County Planning Commission or the same amount as members of committees appointed from the Hawkins County Legislative Body are paid per each meeting, whichever is greater. Members must be present at an authorized meeting of the commission in order to receive the above compensation.

As amended by: Private Acts of 2007, Chapter 9

**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 election. 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 that 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 general plan for the physical development of the county, outside of, but up to, the corporate boundaries of any municipalities in the county.

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, recreation areas, parkways, waterways, waterfronts, playgrounds, airports and other public ways, grounds, places and spaces, the general location of public buildings and other public property, 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. The commission may also serve in an advisory capacity to the Quarterly County Court for the purpose of formulating a zoning plan for the regulation of the height, areas, 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. 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 two-thirds ( $\frac{2}{3}$ ) vote of all voting 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 County Planning Commission is also authorized to meet, negotiate, contract, and cooperate with one or more municipal planning commissions in the county for the purpose of formulating a countywide plan of development.

**SECTION 7.** 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 examination 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 8.** Upon ratification of this Act as provided herein, no street, park or other public recreation facility or subdivision 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 commission. The failure of the commission to act within thirty (30) days after the date of official submission to it shall be considered approval unless the commission notified the applicant of an extension not to exceed one hundred twenty (120) days.

**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 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 land without the approval of the 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 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 street 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 uses of a plat of subdivision of such land without having submitted a plat of such subdivision to the planning commission and obtain 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 commission or with a street plat made and adopted by the commission.

**SECTION 15.** For the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare, the planning commission is empowered, in accordance with the conditions and the procedure specified in this act, to regulate the subdivision of land and the construction and maintenance of streets in the county according to the standards set forth herein. 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 Hawkins County the eligibility for flood insurance under Public Law 1016, 84th Congress or subsequent related laws or regulations promulgated thereunder.

**SECTION 16.** In case any subdivision or street is proposed to be erected, constructed, reconstructed, altered, converted or maintained or is proposed to be used in violation of any regulation 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.

**SECTION 17.** Any person aggrieved by an action of the planning commission may bring an action for review of such action in a court of competent jurisdiction in the county.

**SECTION 18.** Chapter 150 of the Private Acts of 1975 and Chapter 154 of the Private Acts of 1977, are repealed.

**SECTION 19.** If any provision 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 20.** This Act shall have no effect unless it is approved by a majority of the number of qualified voters of the county voting in an election on the question of whether or not the Act should be approved. The ballots used in the May election held subsequent to the enactment of this Act shall have printed on them the following question:

Do you favor the creation of a county-wide planning commission for Hawkins County and the approval of (insert private chapter number) authorizing this and repealing Chapter 150, Private Acts of 1975 and Chapter 154, Private Acts of 1977 which are in conflict with this Act?

For

Against

The votes cast on the question shall be canvassed and the results proclaimed by the County Election

Commission and certified by them to the Secretary of State as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this Act.

**SECTION 21.** For the purpose of approving or rejecting the provisions of this Act, as provided in Section 20, it shall be effective upon becoming a law, but for all other purposes it shall be effective only upon being approved as provided in Section 20.

PASSED: March 20, 1978.

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