CARTER COUNTY COMMISSION MEETING, REGULAR SESSION, JULY 21, 2008

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BE IT REMEMBERED, that the County Commissioners of Carter County, Elizabethton, Tennessee, met in Regular Session on July 21, 2008, at 7:00 P.M in the main courtroom of the Carter County Courthouse. Present and presiding were the Honorable Johnny Holder, County Mayor/Chairman; the Honorable Keith Bowers, Jr.,County Attorney; and the Honorable Mary Gouge, County Clerk. The following Commissioners were present: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L. C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terry Montgomery, Ken Arney, Larry McKinney, Richard Tester, Bill Armstrong, Robert Davis and Robert Gobble. Gebe Ritchie and Lynn Tipton were absent.

ROLL CALL.....QUORUM PRESENT

PRAYER.....RICHARD TESTER

PLEDGE.....ROBERT DAVID

Johnny L. Holder
Carter County Mayor

801 E. Elk Avenue
Elizabethton, TN 37643
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PUBLIC NOTICE OF A REGULAR SESSION OF THE CARTER COUNTY COMMISSION

NOTICE IS HEREBY GIVEN to all members of the Carter County Commission, to all residents of the County of Carter, Tennessee, and to all persons interested, that the Regular Session of the Carter County Commission will be held Monday, July 21, 2008, 7:00 p.m., Main Courtroom, Carter County Courthouse, 801 E. Elk Avenue, Elizabethton, Tennessee.

Agenda

- Call to Order
- Roll Call
- Opening Prayer
- Pledge of Allegiance
- Presentations from Health Care Providers regarding Health Care Contract for Carter County Jail
- Public Comments
- Michael Hughes, WRRWA
- Don Hurst, Carter County Tomorrow
- Recognition of Elected Officials/Guests
- Acceptance of Minutes from Previous Meeting
- Notaries/Bonds
- Resolution Fixing the Tax Levy In Carter County, FY 2008-2009
- Resolution Making Appropriating For the Various Funds, Department Institutions, Offices and Agencies of Carter County, FY 2008-2009
- Resolution to Change Litigation Taxes for Session Court Judge
- Appointments to Industrial Development Board
- Approval of Franchise Agreement with Rapid Communications
- Committee Reports/Recommendations
- Commissioner Comments
- Adjourn

All matters that may be normally considered may be taken up and acted on at such meetings.

Johnny Holder, County Chairman
Carter County, Tennessee

Health care for the jail inmates was the first item on the agenda. Representatives from three (3) providers that had submitted bids on the health care program contract addressed the Commissioners detailing what their contract included. The bids submitted were as follows:

Daniel J. Paul, M.D.	$360,000.00
Christina Kinley, PAC	345,000.00
Advanced Correction Healh Care	392,000.00

When the Sheriff was asked to comment on his choice of contracts, he stated his preference was Christina Kinley, PAC, and that the amount budgeted for inmate health care was $325,000.00. Motion was made by Jim Whaley, seconded by Ken Arney, to approve the contract submitted by Dr. Daniel Paul, M.D.who has provided the health care for the jail for the past several years. After additional discussion among the Commissioners, motion was made by R. L. Miller, seconded by Richard Tester, to TABLE Commissioner Whaley's motion. Roll call vote to TABLE as follows:

AYES: Lawrence Hodge, Nancy Brown, R. L. Miller, L. C. Tester, Steve Lowrance, Charlie Bayless, Dickie Renfro, Terry Montgomery, Richard Tester & Bill Armstrong

NAYS: Jack Buckles, Jeff McKinney, Jim Whaley, Harry Sisk, Jerry Pearman, Tom Bowers, Jo Ann Blankenship, Ken Arney, Larry McKinney, Robert Davis & Robert Gobble

PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 10 ayes, 11 nays, 0 passing and 2 absent, motion to TABLE failed to carry this July 21, 2008, and the original motion was back on the floor. Roll call vote to approve Dr. Daniel Paul, M.D. as the healh care provider for the jail inmates was as follows:

AYES: Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, Tom Bowers, Jo Ann Blankenship, Terry Montgomery, Ken Arney, Larry McKinney, Bill Armstrong, Robert Davis & Robert Gobble

NAYS: Jack Buckles, Lawrence Hodge, L. C. Tester, Steve Lowrance, Charlie Bayless, Dickie Renfro & Richard Tester

PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 14 ayes, 7 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

Under Public Comments on the agenda, Charles VonCannon, Hansel Winters and Dale Moeller voiced their opionions in favor of downsizing the County Commission to eight (8) members, with the County Mayor casting the 9th vote in the event of a tie. Eddie Forbes stated that he was not in favor of downsizing the Commission, but rather reducing their pay. He went on to say the the 7th District had not been properly represented since the resignation of Commissione Jack Campbell in April. Peter and Jo Voight spoke out on behalf of the Sheriff

Department, as did Dale Moeller. They stated that the Sheriff was highly educated and experienced with an experienced staff that were met only with inadequate funding from the County to meet even minimum standards. Wanda Markham informed the Commissioners that she had five break-ins on her property resulting in the theft of several items of monetary value as well as sentimental value and and as yet was unable to get investigators from the Sheriff's Department to respond. A resident of Sugar Hollow Road complained of a neighbor's property, comparing it to a dump, and asked that the Planning and Zoning Committee check into the matter. She was told that steps were already being taken.

The elected and appointed Officials in the audience were recognized by Mayor Holder at this time. He also thanked them for being present and for showing their interest in the future of their County.

Motion was made by Jerry Pearman, seconded by Lawrence Hodge to approve the minutes of the June 16, 2008, County Commission meeting as presented. The Clerk duly noted the statement from Ken Arney that he was shown to have seconded a motion in those minutes that was actually seconded by Commissioner McKinney. By voice roll call vote, motion duly carried this July 21, 2008.

Motion was made by Ken Arney, seconded by Larry McKinney to approve the following Notary applications and/or bonds. By voice roll call vote, motion duly carried this July 21, 2008.

Melissa D. Elsea	William J.Goodman
Monique M. Firmin	Kimberly Ann Hall
William J. Byrd	Angela Michelle Erwin
Tammy A. Street	Robert J. Murphy, Jr.
John W. Wagner, Jr.	George W. Trent
Barbara Ballard	Penny Bowling
Roger Snodgrass	Carolyn Lyons
Terry Blevins	Amy C. Stateson

The County Attorney read the following Resolution No. 486 fixing the tax levy in Carter County at $2.22 for the fiscal year beginning July 1, 2008. Motion was made by Jack Buckles, seconded by Harry Sisk, to approve the resolution as presented. Roll call vote as follows:

AYES: Jack Buckles, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, Steve Lowrance, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Larry McKinney, Bill Armstrong & Robert Davis

NAYS: Lawrence Hodge, L.C. Tester, Tom Bowers, Terry Montgomery, Ken Arney, Richard Tester & Robert Gobble

PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 14 ayes, 7 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

Resolution No. 486

RESOLUTION FIXING THE TAX LEVY IN CARTER COUNTY, TENNESSEE, FOR THE FISCAL YEAR BEGINNING JULY 1, 2008 (2008-2009)

SECTION 1. BE IT RESOLVED by the County Commissioners of Carter County, Tennessee, assembled in Elizabethton, Tennessee, at the Courthouse on the 21st day of July, 2008, that the combined property tax rate of Carter County Tennessee, for the fiscal year beginning July 1, 2008, and ending June 30, 2009, shall be $2.22 on each $100.00 of taxable property, both real and personal property, which is to provide revenue for each of the following funds and otherwise conform to the following levies;

FUND	RATE
General Purpose/Schools	$ 0.960
County General Fund	$ 0.748
Debt Service	$ 0.410
County Road Fund	$ 0.102
Total	$ 2.220

SECTION 2. BE IT FURTHER RESOLVED that all resolutions of the County Commission of Carter County, Tennessee, which are in conflict with this Resolution are hereby repealed.

SECTION 3. BE IT FURTHER RESOLVED that all business, occupations, and other matters which are declared taxable privileges by the State of Tennessee, as provided by state laws, be and the same are hereby declared privileges for County purposes in Carter County, Tennessee, and the same rate and amount shown and provided in the statutes, to which full reference is, has and made, and this Resolution shall also apply to any future effective statue and laws.

SECTION 4. BE IT FURTHER RESOLVED that this Resolution take effect from and after its passage, the public welfare requiring it, and this resolution will be spread upon the minutes of the County Commission of Carter County, Tennessee, in the County Clerk's records.

The foregoing Resolution having been presented, duly considered, after preparation, was upon motion of Jack Buckles, seconded by Harry Sisk on roll call there being 14 ayes, 7 nays, 0 abstaining, 2 absent, having received a constitutional majority, was declared duly adopted in open court by the County Executive of Carter County and the tax rate set at $2.22 for the year beginning July 1, 2008 and ending June 30, 2009.

Johnny Holder, County Mayor
Carter County, Tennessee

ATTEST:
Mary Gouge
Mary Gouge, County Clerk
Carter County, Tennessee

Motion was made by Dickie Renfro, seconded by Jerry Pearman to approve the following Resolution No. 487 appropriating the budgeted funds for the various funds, departments, institutions, offices and agencies of Carter County for the fiscal year July 1, 2008 to June 30, 2009. suspending its reading. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Herry Pearman, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terry Montgomery, Ken Arney, Larry McKinney, Richard Tester, Bill Armstron Robert Davis & Robert Gobble

NAYS: 0
PASSING: L. C. Tester
ABSENT: Gebe Ritchie & Lynn Tipton

There being 20 ayes, 0 nays, 1 passing and 2 absent, motion duly carried this July 21, 2008.

Resolution No. 487

A RESOLUTION MAKING APPROPRIATING FOR THE VARIOUS FUNDS, DEPARTMENTS, INSTITUTIONS, OFFICES AND AGENCIES OF CARTER COUNTY, TENNESSEE FOR THE YEAR BEGINNING JULY 1, 2008 AND ENDING JUNE 30, 2009.

SECTION 1. BE IT RESOLVED by the Board of County Commissioners of Carter County, Tennessee, assembled in regular session on the 21st day of July, 2008, that the amount hereafter set out are hereby appropriated for the purpose of meeting the expenses of the various funds, departments, institutions, offices and agencies of Carter County, Tennessee, for the capital outlay, and for meeting the payment of principal and interest on the County's debt maturing during the year beginning July 1, 2008 and ending June 30, 2009, according to the following schedule:

GENERAL FUND	
County Commission	80,800.00
Board of Equalization	3,325.00
County Executive	173,139.00
County Attorney	50,648.00
Election Commission	284,204.94
Register of Deeds	252,706.27
Planning	265,300.08
County Buildings	575,604.00
Other General Administration	500.00
Accounting and Budgeting	391,060.00
Property Assessor's Office	412,529.46
Reappraisal Program	99,394.68
County Trustee's Office	289,587.48
County Clerk	422,124.91
Circuit Court	647,497.92
General Sessions Court	216,992.29
Chancery Court	289,664.22
Judicial Commissioners	37,949.25
Other Administrative of Justice	14,900.00
Sheriff's Department	2,683,101.03
Jail	1,966,426.06
Juvenile Services	130,882.46
Fire Prevention	294,500.00
Rescue Squad	241,000.00
EMA	89,517.94
Inspection and Regulation	6,500.00
County Corner	5,800.00
Other Public Safety	950.00
Local Health Center	169,000.00

Rabies and Animal Control	59,682.40
Ambulance and Medical Services (911)	76,712.50
Crippled Children Services	20,727.00
Aid to Dependent Children	1,500.00
Other Local Welfare Services	1,600.00
Other Public Health	1,425.00
Senior Citizens Assistance	46,010.00
Libraries	36,587.50
Park and Recreation	22,562.50
Other Social, Cultural, & Recreation	6,764.89
Agricultural Extension Service	95,670.41
Flood Control	3,850.00
Other Agriculture & Natural Resources	19,855.00
Tourism	81,109.00
Industrial Development	3,875.00
Other Economic & Community Development	30,835.00
Veterans' Service	35,603.98
Other Charges	2,000.00
Contributions to Other Agencies	49,500.00
Employee Benefits	75,570.00
Miscellaneous	181,428.83
Litter and Trash Collection	49,203.00
Other General Government Projects	15,000.00
Total General Fund	11,012,677.00
COURTHOUSE AND JAIL MAINTENANCE	
Courthouse and Jail Maintenance	10,500.00
-	
Total Courthouse and Jail Maintenance	10,500.00
SOLID WASTE/SANITATION FUND	
Sanitation Management	862,603.00
Total Solid Waste/Sanitation Fund	862,603.00
HEALTH DEPARTMENT FUND	
Health Department	169,000.00
Total Health Department	169,000.00
DRUG CONTROL	
Drug Control	30,700.00

Total Drug Control	30,700.00
HIGHWAY/PUBLIC WORKDS FUND	
Administration	252,168.00
Highway & Bridge Maintenance	1,662,300.00
Operation & Maintenance of Equipment	642,800.00
Other Charges	96,550.00
Employee Benefits	523,555.08
Capital Outlay	443,000.00
Total Highway/Public Works Fund	3,620,373.08
GENERAL PURPOSE SCHOOL FUND	
Regular Instruction Program	19,309,456.00
Alternative Instruction Program	108,410.00
Special Education Program	3,007,134.00
Vocational Education Program	1,508,861.00
Adult Education Program	106,400.00
Health Services	266,150.00
Other Student Support	882,487.00
Regular Instruction Program	1,531,929.00
Alternative Instruction Programs	102,292.00
Special Education Program	417,924.00
Vocational Education Program	148,736.00
Adult Education Program	41,691.00
Board of Education	714,500.00
Office of the Superintendent	447,737.00
Office of the Principal	2,292,886.00
Fiscal Services	153,000.00
Operation of Plant	2,580,700.00
Maintenance of Plant	752,442.00
Transportation	2,575,033.00
Central and Other	299,980.00
Community Services	154,000.00
Regular Capital Outlay	500,000.00
Education Debt Service	347,065.00
Total General Purpose School Fund	38,248,813.00
HEAD START FUND	
Childhood Education	1,024,218.00
Total Head Start Fund	1,024,218.00

CENTRAL CAFETERIA FUND	
Food Services	2,925,221.00
Total Central Cafeteria Fund	2,925,221.00
GENERAL DEBT SERVICE	
General Government Debt Service	1,881,529.01
Education Debt Service	1,577,961.00
Total General Debt Service Service	3,459,490.00

BE IT FURTHER RESOLVED, that the budget for the School Federal Projects fund shall be the budget approved for separate projects within the fund by the Board of Education

SECTION 2. BE IT FURTHER RESOLVED, that there are also hereby appropriated certain portions of the Commissioners and fees for collecting taxes and licenses and for administering other funds which Trustee, County Clerk, Circuit Court Clerk, Clerk and Master, Register, and the Sheriff and their officially authorized by existing law or by valid order of any fees collected over and above the expenditures duly and conclusively authorized shall be paid over to the Trustee and converted into the General Fund as provided by law.

BE IT FURTHER RESOLVED, that if any fee officials, as enumerated in Section 8-22-101, T.C.A., operate under provisions of Section 8-22-104, T.C.A., provision of the preceding paragraph shall not apply to those particular officials.

SECTION 3. BE IT FURTHER RESOLVED, that any amendment to the budget shall be approved as provided in Section 5-9-407, T.C.A.

One copy of each amendment shall be filled with the County Clerk, one copy with the Chairman of the Budget Committee, and one copy with each divisional or departmental head concerned. The reason(s) for each transfer shall be clearly stated; however, this section shall in no case whatsoever be construed as authorizing transfer from one fund to another, but shall apply solely to transfers within a certain fund.

SECTION 4. BE IT FURTHER RESOLVED, that any appropriations made by this resolution which cover the same purpose for which a specific appropriation is made by statue is made in lieu of but not in addition to said statutory appropriation. The salary, wages, or remuneration of each officer, employee, or agent of the County shall not be in excess of the amounts authorized by existing law or as set forth in the estimate of expenditures which accompanies this resolution. Provided, however, that remuneration hereby authorized shall in no can be construed as permitting expenditure for an office, agency, institution, division or department of the County. Such appropriation,

shall constitute the limit to the expenditures for any office, agency, institution, division or department for the year ending June 30, 2009. The aggregate expenditures for any item of appropriation shall in no instance be more than the amount herein appropriated for such item.

SECTION 5. BE IT FURTHER RESOLVED, that any resolution which may hereafter be presented to the Board of County Commissions providing for appropriation in addition to those made by this Budget Appropriation Resolution shall specifically provide sufficient revenue or other funds, actually to the provided during the year in which the expenditure is to be made to meet such additional appropriation. Said appropriating resolution shall be submitted to and approved by State Director of Local Finance after its adoption as provided by Section 9-21-403, T.C.A.

SECTION 6. BE IT FURTHER RESOLVED, that the County Mayor and County Clerk are hereby authorized to borrow money on revenue anticipation notes provided such notes are first approved by the Director of Local Finance to pay expenses herein authorized until taxes and other revenue for the year 2008-2009 have been collected. The proceeds of loans for each of individual fund shall not exceed 60% of the appropriations of each individual fund and shall be used only to pay the expenses and other requirements of the fund for which the money is borrowed.

The loan shall be paid out of revenue from the fund for which shall be issued under the applicable sections of Title 9, Chapter 21, Tennessee Code Annotated. Said notes shall be signed by the County Mayor and countersigned by the County Clerk and shall mature and be paid in full without renewal not later than June 30, 2008.

SECTION 7. BE IT FURTHER RESOLVED, that the delinquent County property taxes for the year 2006 and prior years and the interests and penalty thereon collected during the year ending June 30, 2009 shall be apportioned to the various County funds according to the subdivision of the tax levy for the year 2008. The Clerk and Masters and the Trustee are hereby authorized and directed to make such apportionment accordingly.

SECTION 8. BE IT FURTHER RESOLVED, that all encumbered balances of appropriations remaining at the end of the year shall lapse, and be of no further effect at the end of the year at June 30, 2008.

SECTION 9. BE IT FURTHER RESOLVED, that any resolution or part of a resolution which has heretofore been passed by the Board of Commissioners which is in conflict with any provision in this resolution be and the same is hereby repealed.

SECTION 10. BE IT FURTHER RESOLVED, that this resolution shall take effect from and after its passage and its provisions shall be in force from and after July 1, 2008 This resolution shall be spread upon the minutes of the Board of County Commissioners.

Duly passed this the 21st day of July, 2008.

Johnny Holder

Johnny Holder, County Mayor

ATTEST:

Mary Gouge

Mary Gouge, County Clerk

The following Resolution No. 488 changing the litigation taxes for General Sessions Court, increasing the tax by $10.00 in excess of the $6.00 authorized by TCA 16-15-5006. Motion was made by Tom Bowers, seconded by Harry Sisk to approve the Resolution as presented. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L. C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless,Dickie Renfro, Terry Montgomery, Ken Arney, Larry Mckinney, Richard Tester, Bill Armstrong, Robert Davis & Robert Gobble

NAYS: 0
PASSING: 0
ABSENT: Lynn Tipton & Gebe Ritchie

There being 21 ayes, 0 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

Resolution No. 488

RESOLUTION TO CHANGE LITIGATION TAXES FOR GENERAL SESSION COURT IN CARTER COUNTY

WHEREAS, Tennessee Code Annotated 16-15-5006 authorizes counties to levy and additional litigation tax of up to six dollars ($6.00) in general sessions court to help fund increases in compensation for general sessions judges required by 1988 Public Chapter 698; and

WHEREAS, Tennessee Code annotated 16-15-5006(a) provides further that, if during any fiscal year the amount of revenue generated by the local tax authorized by that section does not sufficiently fund the increase in general sessions judge's compensation mandated by Tennessee Code Annotated, Title 16, Chapter 15, Part 50, the local litigation tax may be raised to an amount more than six dollars ($6.00) if necessary to fund the mandated increase; provided that such increase be adjusted annually; and

WHEREAS, prior resolutions of the Carter County Legislative Body imposed the additional litigation tax authorized by Tennessee Code Annotated 16-15-5006 at the six dollar ($6.00) level; and

WHEREAS, Carter County has determined that the six dollar ($6.00) litigation tax no longer generates sufficient revenue to fund the increases in the general session's judge's compensation mandated by Tennessee Code Annotated, Title 16, Chapter 125, Part 50.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Carter County, Tennessee, meeting in regular session on this 21st day 2008 in Elizabethton, Tennessee, that:

Section 1. On the effective date provided in Session 3, below, the local litigation tax in effect in general sessions court in Carter County shall be increased by 10 dollars in excess of the six dollars ($6.00), as authorized by Tennessee Code Annotated 16-15-5006.

Section 2. Taxes levied pursuant to this resolution shall be collected in addition to all state and other litigation taxes in general sessions court and shall be chargeable upon filing in a civil case and upon conviction in a criminal case in general sessions court. The increase authorized by this resolution shall remain in effect in Carter County until the end of the fiscal year during which this increase is enacted and shall be re-enacted, repealed or adjusted annually to ensure that the revenue generated by this resolution does not exceed the increases in general sessions judge's compensation mandated by Tennessee Code Annotated, Title 16, Chapter 15, Part 50.

Section 3. This resolution shall be effective and the taxes imposed by this resolution shall take effect on the first day of July 2008, the public welfare requiring it.

Section 4. The local litigation taxes collected pursuant to this Resolution shall be paid over the County Trustee monthly and deposited in the county general fund.

Section 5. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application and to that tend the provisions of this resolution are declared to be severable.

Section 6. The presiding officer of this legislative body shall certify the passage of this resolution of the Secretary of State as provided in Tennessee Code Annotated 16-15-5006.

Adopted by a (two-thirds) vote of the Carter County legislative body, this 21st day of July 2008.

Approved:

Johnny Holder

Johnny Holder, County Mayor

Attest:

Mary Gouge

Mary Gouge, County Clerk

Prior to voting on the Litter Grant Resolution No. 489, the County Mayor appointed Lawrence Hodge and Richard Tester from the Rules and By Laws Committee and Jerry Pearman from the Investigation Committee to work with the Sheriff and the County Attorney to try and come up with a possible solution that would legally allow the Sheriff's Department to go onto private property in order to continue maintaining the County's cemetaries. Motion was made by Dickie Renfro, seonded by Jerry Pearman to approve the Litter Grant Resolution No. 489 as presented, suspending it's reading. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L. C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terry Montgomery, Ken Arney, Larry McKinney, Richard Tester, Bill Armstrong, Robert Davis & Robert Gobble

NAYS: 0

PASSING: 0

ABSENT: Lynn Tipton & Gebe Ritchie

There being 21 ayes, 0 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

On recommendation of the Cable Committee, motion was made by Jerry Pearman, seconded by Robert Davis to approve the following franchise ordinance with Rapid Communications was approved as presented with 5% franchise fee to be paid annually to the County inserted on page #6. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L. C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terry Montgomery, Ken ARney, Larry McKinney, Richard Tester, Bill Armstrong, Robert Davis & Robert Gobble

NAYS: 0
PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 21 ayes, 0 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

ORDINANCE NO _____
County of Carter, Tennessee

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO RAPID COMMUNICATIONS, LLC TO OPERATE AND MAINTAIN A CABLE SYSTEM IN THE County of Carter SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF A FRANCHISE.

Be it ordained by the County Commissioners of the County of Carter, Tennessee, and it is hereby ordained by the Authority of the same as follows:

SECTION 1

STATEMENT OF INTENT AND PURPOSE;

AUTHORITY;

1.01. Statement of Intent and Purpose. The County of Carter "County" intends, by the adoption of this Ordinance, to authorize the operation of a Cable System by Rapid Communications, LLC, within the County territorial boundaries.

1.02. Authority. To the extent that the same may be lawfully given and subject to the provisions of any and all acts of the State of Tennessee and regulations issued thereunder, now or in the future, and insofar as the State of Tennessee has delegated to the County the authority to grant a Franchise for the provision of cable television service and other communication and information services within the County territorial boundaries, in consideration of the faithful performance and observation of the conditions and reservations mutually agreed upon herein, the County hereby exercises its authority to grant a non-exclusive Franchise permitting the operation, of a cable television system and the provision of other communications and information services within the County.

SECTION 2

SHORT TITLE

This ordinance shall be known and cited as the "County of Carter Cable Franchise Ordinance." Within this document it shall also be referred to as "this Franchise."

SECTION 3

DEFINITIONS

For the purpose of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. Words not defined shall be given their common and ordinary meaning.

3.01. "Cable Service" means: (i) the one-way transmission to subscribers of video programming or other programming service; and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

3.02. "Cable Service Territory" shall mean the area to be served by Rapid Communications, LLC, which includes the County of Carter, Tennessee

3.03. "Council" means County Council of the County of Carter, Tennessee

3.04. "County" shall mean the County of Carter, Tennessee

3.05. "FCC" shall mean the Federal Communications Commission.

3.06. "Grantee" shall mean Rapid Communications, LLC, and its successors, transferees, or assigns.

3.07 "Gross Revenues" means all Subscriber revenues derived from the provision of Cable Service, including monthly fees charged to subscribers for Basic Service; monthly fees charged to subscribers for any optional service; pay television fees; pay-per-view fees; FM service fees; commercial service fees; premium service fees; monthly fees charged to subscribers for any tier of service other than Basic Service; installation, disconnection, and reconnection fees; and converter rentals or sales. This sum shall be the basis for computing the fee imposed pursuant to Section 10.01 hereof. Items to be deducted in computing Gross Revenues include premium service programming fees; and any taxes furnished by the Grantee, which are imposed upon the Grantee or upon any subscriber or user by the state, county, County or other governmental unit.

3.08. "Owner" shall mean a person with a legal or equitable interest in ownership of real property.

3.09. "Person" shall mean any corporation, partnership, proprietorship, individual or organization, governmental organization, or any natural person.

3.10. "Public Property" shall mean any real property owned by the County, other than a street.

3.11. "Street" shall mean the surface of and the space above and below any public street, road, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive, or any easement or right-of-way, alley, court, sidewalk, boulevard, parkway, drive, or any easement or right-of-way now or hereafter held by the County, or dedicated to the County, or to general public use.

3.12. "System" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include: (1) a facility that serves only to retransmit the television signals of one or more television broadcast station; (2) a facility that serves subscribers without using any public right-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that such facility shall be considered a cable system (other than for purposes of section 621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (4) any facilities of any electronic utility used solely for operating its electric utility systems.

3.13. "Subscriber" shall mean any person or entity who subscribes to cable television service provided by Grantee by means of the System.

SECTION 4

GRANT OF AUTHORITY

4.01. Grant of Franchise. For the purpose of providing Cable Service and other communications and information services, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Streets and Public Property such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appropriate to cable and information services. Grantee is also authorized to utilize public rights of way and to utilize easements within the County that have been dedicated for compatible uses, as provided for in Section 621(a) (2) of the Cable Communications Policy Act of 1984, as amended.

4.02. Franchise Term. The initial term of this Franchise shall commence on _____ 2008, and shall expire fifteen (15) years from said date, unless renewed as herein provided.

SECTION 5

DESIGN AND SERVICES PROVISIONS

5.01. Technical Requirements. Grantee shall construct and maintain a System that meets at least the technical standards applied by the FCC. Procedures for testing technical capacity of the System shall conform with the technical and testing standards applied to cable systems by the FCC.

5.02. Interference with Reception Outside Cable System. Grantee's installation shall be installed, maintained and operated in a manner that shall not interfere with television or radio reception by means other than by the cable-type systems.

SECTION 6

CONSTRUCTION PROVISIONS

6.01. Construction Requirements. Grantee shall make use of existing poles and other facilities available to Grantee. Grantee may also erect its own poles and install its own conduit. All poles and conduit installed within the County shall be made available for attachment of use by Grantee, at just and reasonable rates applied to public utilities under the formula presently established in 47 U.S.C. §224.

6.02. Construction Codes and Permits. Grantee shall obtain any required permits from the County before commencing construction involving the opening or disturbance of any street or public property. Grantee shall comply with all applicable building and zoning codes. Grantee shall arrange its lines, cables, and other appurtenances, on any street or public property, in such a manner as to cause no unreasonable interference with the usual and customary use of said street or public property by a person.

6.03. Repair of Streets and Public Property. Any and all streets or public property that are disturbed or damaged during the construction, operation, or maintenance of the System shall be promptly repaired by Grantee, at its expense and to the condition prior to the disturbance or damage.

6.04. Movement of Facilities. In the event it is necessary temporarily to move or remove any of Grantee's wires, cable, poles, or other facilities placed pursuant to this Franchise, in order lawfully to move a large object, vehicle, building, or other structure over the streets of the County, upon two (2) weeks notice by the County to Grantee, Grantee shall move, at the expense of the person requesting the temporary removal, such of this franchise as may be required to facilitate such movements.

6.05. Prudent Installation and Operation. Grantee agrees that its installation and operation shall be installed, located, and maintained so as not to endanger or interfere with the life and property of any person or thing; nor interfere with improvements which the County may deem proper; nor hinder or obstruct the free use of streets, alleys, bridges, or other public or private property. In the event the County relocates a street or makes any other change requiring the removal of utility installations, or in the event Grantee does interfere with the public or private property of others, Grantee, at its sole expense, will remove its installation at this location. In the event that a utility is reimbursed by the County for the placement of cable underground or the movement of cable, Grantee shall be reimbursed on the same terms and conditions.

SECTION 7

OPERATION AND MAINTENANCE

7.01. Maintenance and Complaints.

a. Grantee shall maintain a local or toll-free telephone number available to accept service calls and complaints from subscribers.

b. Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause.

c. Any complaints from Subscribers shall be investigated and acted upon as soon as possible.

7.02. Safety.

a. Grantee shall at all times take reasonable precautions for preventing failures and accidents which are likely to cause damage or injury to the public, to employees of Grantee, and to public or private property.

b. All lines, equipment, and facilities within the County shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

7.03. Subscriber Practices.

a. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers on the basis of race, color, religion, natural origin, sex, or age. Grantee shall adhere to the equal employment opportunity requirements of the FCC.

b. Grantee may conduct promotional campaigns in which standard rates are uniformly discounted or waived.

c. Grantee may make special contracts for non-profit, charitable, educational, governmental, and religious organizations.

d. Grantee may offer bulk rate discounts for multiple dwellings, hotels, motels, and similar institutions.

SECTION 8

FRANCHISE FEE

8.01. Amount. Grantee shall annually pay to the County 5 percent of Gross Revenues, as a franchise fee. The foregoing payment shall be compensation for use of streets and other public property.

8.02. Payment Periods. Payment shall be submitted annually on or before January 31 of each year.

SECTION 9

REMEDIES, DEFENSES, INSURANCE

9.01. Laws Governing. This Franchise shall be governed by and construed in accordance with the laws of the State of Tennessee, and applicable Federal law.

9.02. Notice of Violation. The County shall provide Grantee with a detailed written notice of any Franchise violation upon which it proposes to take action, and a sixty- (60) day period within which Grantee may cure an alleged violation. This sixty-day period shall not begin to run in the event the alleged violation is beyond the Grantee's control or the Grantee is diligently pursuing corrective action. Grantee may, within fifteen (15) days of receiving such notice, notify the Municipality that there is a dispute as to whether a violation has, in fact, occurred. Such notice by Grantee to the County shall detail the matter disputed by Grantee. The County shall hear Grantee's dispute at the next regularly scheduled County meeting. The County and Grantee shall bear their own costs and attorney's fees.

9.03. Indemnity.

(a) Grantee shall indemnify and hold harmless the County at all time during the term of this Franchise, from and against all claims, and including reasonable attorney's fees and legal costs, for injury or damage to persons or property, both real and personal, caused by the construction, erection, operation, and maintenance of the System.

(b) It is expressly understood that the County has no control, standard or regulation pertaining to the subject matter of programs distributed by Grantee. Grantee agrees to indemnify and save harmless the County, its officers and employees from all claims, suits and actions at law or equity for libel, slander, patent or copyright infringements; that in the event the County is made a party to Defendant in any action arising out of the subject matter of programs transmitted by Grantee. Grantee shall at its sole cost and expense defend such action and appeals therefrom, including those involving the County.

9.04. Liability Insurance. Throughout the term of this Franchise, Grantee shall maintain a policy of liability insurance covering the Grantee, and naming the County as an additional insured, in the minimum amounts of:

a. $1,000,000 for property damage in any one occurrence:

b. $1,000,000 for bodily injury to any one person; and

c. $1,000,000 for bodily injury in any one occurrence.

City may request that Grantee provide a Certificate of Insurance for the required amounts to the City.

9.05. Other Remedies.

a. From and after of effective date of Franchise, it shall be unlawful for any person to establish, operate, or to carry on the business of distributing to any persons in the Cable Service Territory any television signals or radio signals by means of a System unless a Franchise therefore has first been obtained pursuant to the provisions of this Ordinance, and unless such Franchise is in full force and effect.

b. No person shall interrupt or receive signals from the System unless specifically authorized to do so by Grantee.

c. No person shall tamper with, remove, or injure any cable, wires, or equipment used with the System unless specifically authorized to do so by Grantee.

d. No person shall intentionally deprive Grantee of a lawful charge for cable service.

e. No person shall resell Grantee's cable services without Grantee's express, written consent.

f. The County and Grantee are expressly reserved their applicable rights and remedies available in law or in equity.

9.06. Conditions of Access. In addition to the provisions of Section 4.01, no party who owns or controls any residential multiple dwelling unit, trailer park, condominium, or apartment complex, or subdivision, shall interfere with the right of any tenant or lawful resident thereof to receive service from Grantee.

SECTION 10

VARIANCE AND RENEWAL

10.01. Variance. Applications for a variance to the Franchise, to accommodate a significant change in circumstances, to prevent unreasonable hardship to Grantee, or to permit technical variations that will satisfy the purpose of the Franchise, may be made by the Grantee to the County. The County shall review the application within fourteen (14) calendar days, or the earliest meeting of the County, and shall issue a report of the findings of the County and shall act on a request within forty-five (45) days.

SECTION 11

MISCELLANEOUS

11.01. Severability. If any law, ordinance, regulation, or court decision shall render any provision of this Franchise invalid, the remaining provisions of the Franchise shall remain in full force and effect.

11.02. Assignability. Grantee shall have the right to assign its rights and privileges hereunder; such assignment to become effective only upon the assignee's filing with the County a written acceptance of the rights and subject to the terms and conditions herein.

11.03. Regulations. County reserves the right to adopt such additional regulations as it deems necessary in the exercise of its police power, provided that such regulation shall be reasonable and not in conflict with the rights granted by ordinance or in this contract.

11.04. Force Majeure. Prevention or delay of any performance under this Franchise due to circumstances beyond the control of Grantee or the County, unforeseen circumstances, or acts of God, shall not be deemed noncompliance with or a violation of this Franchise.

11.05. More Favorable Terms. In the event that the County approves or permits a System to operate in the Cable Service Territory on terms more favorable than those contained in this Franchise; such more favorable terms shall be applicable in this Franchise.

11.06. Regulatory Bodies. Grantee shall conduct the operation of its business in accordance with the rules, regulations, and statutes, as amended from time to time, of the Federal Communications Commission and any other duly authorized federal, state, or local authority having jurisdiction. In particular, the Grantee shall, at all times, comply with the rules and regulation governing cable television operations promulgated by the FCC, specifically those set out in The Cable Communications Policy Act of 1984, as amended, and of the FCC Rules and Regulations, and any FCC Rules and Regulations regarding technical and engineering specifications involved in the construction of the CATV system and signal carriage thereon.

11.07. Modification of FCC Rules. Consistent with the requirements of The Cable Communications Policy Act of 1984, and of the FCC Rules, any modification of The Cable Communications Policy Act of 1984 resulting from amendment thereto by the FCC shall be to the extent applicable, be considered as a part of this Franchise as of the effective date of the amendment made by the Cable Communications Policy Act of 1984 and the FCC.

11.08. Repealer. All Ordinances or parts of Ordinances that are inconsistent herewith are hereby repealed.

11.09. This Ordinance shall be effective upon acceptance by the Grantee.

PASSED AND ADOPTED THIS ____ day of _____A.D. 2008.

County of Carter, Tennessee

BY _____

BY _____

BY _____

ACCEPTANCE BY GRANTEE

Grantee's acceptance of this Ordinance No _____ is a binding contract upon the Grantee and Grantee's acceptance of this Ordinance establishes a binding contractual relationship between the County of Carter and the Grantee in accordance with the provisions and conditions set forth in the Ordinance and Grantee here, by virtue of having its Executive Vice President and Assistant Secretary sign this Ordinance, agrees to be legally bound by all of the provisions and conditions set forth in it.

By: _____

Title: _____

Witness: _____

On recommendation of the Highway Committee and the request of Attorney Greg Bowers, motion was made by Jerry Pearman, seconded by Robert Davis to close a section of Stafford Lane located off Stateline Road. Attorney Bowers stated at the Highway Committee meeting on June 30, 2008, that a dispute between two property owners at this location had been resolved and they agreed to the road closing. By voice roll call vote, motion duly carried this July 21, 2008.

On recommendation of the Planning Committee, motion was made by Jerry Pearman, seconded by Bill Armstrong to approve the following Carter County Flood Damage Prevention Resolution No. 490 as presented. By voice roll call vote, motion duly carried this July 21, 2008.

RESOLUTION NO. 490

CARTER COUNTY FLOOD DAMAGE PREVENTION RESOLUTION

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Section A. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-101 through 13-7-115, Tennessee Code Annotated delegated the responsibility to the county legislative body to adopt floodplain regulations designed to minimize danger to life and property and to allow its citizens to participate in the National Flood Insurance Program. Therefore, the Board of County Commissioners of Carter County, Tennessee, does resolve as follows:

Section B. Findings of Fact

1. The Carter County Board of County Commissioners wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).

2. Areas of Carter County are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

3. These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

Section C. Statement of Purpose

It is the purpose of this Resolution to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This Resolution is designed to:

1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

2. Require that uses vulnerable to floods, including County facilities, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;

4. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section D. **Objectives**

The objectives of this Resolution are:

1. To protect human life, health and property;

2. To minimize expenditure of public funds for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

7. To ensure that potential homebuyers are notified that property is in a floodable area; and

8. To maintain eligibility for participation in the National Flood Insurance Program.

ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this Resolution shall be interpreted as to give them the meaning they have in common usage and to give this Resolution its most reasonable application given its stated purpose and objectives.

2. Require that uses vulnerable to floods, including County facilities, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;

4. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;

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ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this Resolution shall be interpreted as to give them the meaning they have in common usage and to give this Resolution its most reasonable application given its stated purpose and objectives.

"Accessory Structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

1. Accessory structures shall not be used for human habitation.

2. Accessory structures shall be designed to have low flood damage potential.

3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

4. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

"Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered **"New Construction"**.

"Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this Resolution or a request for a variance.

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

"Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in

preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"Building", means any structure built for support, shelter, or enclosure for any occupancy or storage (See **"Structure"**)

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

"Elevated Building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Emergency Flood Insurance Program" or **"Emergency Program"** means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

"Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

"Exception" means a waiver from the provisions of this Resolution which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Resolution.

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or Resolution adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)).

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction

of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or Resolution adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)).

"Existing Structures" see **"Existing Construction"**.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;

2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or **"Flood-prone Area"** means any land area susceptible to being inundated by water from any source (see definition of **"flooding"**).

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Flood Protection System" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Flood-related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related Erosion Area" or **"Flood-related Erosion Prone Area"** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

The term does not include the floor of a garage used solely for parking vehicles.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that has been certified either:

   a. By an approved state program as determined by the Secretary of the Interior, or

   b. Directly by the Secretary of the Interior.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound

engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Resolution.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term **"Manufactured Home"** does not include a **"Recreational Vehicle"**, unless such transportable structures are placed on a site for 180 consecutive days or longer.

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Resolution, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"New Construction" means any structure for which the "start of construction" commenced after the effective date of this Resolution or the effective date of the first floodplain management Resolution and includes any subsequent improvements to such structure.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the

pouring of concrete pads) is completed after the effective date of this Resolution or the effective date of the first floodplain management Resolution and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-year Flood" see **"Base Flood"**.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Recreational Vehicle" means a vehicle which is:

1. Built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Hazard Area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does

it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

"Structure", for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any repairs, reconstruction's, rehabilitation's, additions, alterations or other improvements to a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

For the purpose of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Resolution which permits construction in a manner otherwise prohibited by this Resolution where specific enforcement would result in unnecessary hardship.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Resolution is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

ARTICLE III. GENERAL PROVISIONS

Section A. Application

This Resolution shall apply to all areas within the incorporated area of Carter County, Tennessee.

Section B. Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified on the Carter County, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number , dated September 26, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this Resolution.

Section C. Requirement for Development Permit

A development permit shall be required in conformity with this Resolution prior to the commencement of any development activities.

Section D. Compliance

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Resolution and other applicable regulations.

Section E. **Abrogation and Greater Restrictions**

This Resolution is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Resolution conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

Section F. **Interpretation**

In the interpretation and application of this Resolution, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

Section G. **Warning and Disclaimer of Liability**

The degree of flood protection required by this Resolution is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Resolution does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Resolution shall not create liability on the part of Carter County, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Resolution or any administrative decision lawfully made hereunder.

Section H. **Penalties for Violation**

Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Carter County, Tennessee from taking such other lawful actions to prevent or remedy any violation.

ARTICLE IV. **ADMINISTRATION**

Section A. **Designation of Resolution Administrator**

The Flood Plain Manager is hereby appointed as the Administrator to implement the provisions of this Resolution.

Section B. **Permit Procedures**

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application stage

   a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFE's are available, or to the highest adjacent grade when applicable under this Resolution.

   b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFE's are available, or to the highest adjacent grade when applicable under this Resolution.

   c. Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Article IV. Section B.

   d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

   Within unnumbered A zones, where flood elevation data are not available, the Administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

   For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement

of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

Section C. **Duties and Responsibilities of the Administrator**

Duties of the Administrator shall include, but not be limited to:

1. Review of all development permits to assure that the permit requirements of this Resolution have been satisfied, and that proposed building sites will be reasonably safe from flooding.

2. Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

3. Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

5. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with Article IV. Section B.

6. Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with Article IV. Section B.

7. When flood proofing is utilized for a structure, the Administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with Article IV. Section B.

8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Resolution.

9. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community FIRM meet the requirements of this Resolution.

   Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Resolution). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article IV. Section B.

10. All records pertaining to the provisions of this Resolution shall be maintained in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Resolution shall be maintained in a separate file or marked for expedited retrieval within combined files.

ARTICLE V. **PROVISIONS FOR FLOOD HAZARD REDUCTION**

Section A. **General Standards**

In all flood prone areas the following provisions are required:

1. New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

2. Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

3. New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Resolution, shall meet the requirements of "new construction" as contained in this Resolution; and,

10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision

of this Resolution, shall be undertaken only if said non-conformity is not further extended or replaced.

Section B. **Specific Standards**

These provisions shall apply to ALL Areas of Special Flood Hazard as provided herein:

1. Residential Construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Article V. Section B.

   Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Resolution). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article IV. Section B.

2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot above the level of the base flood elevation.

   Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article II of this Resolution). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in Article IV. Section B.

   Buildings located in all A-zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having

the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV. Section B.

3. Elevated Building. All new construction or substantial improvements to existing buildings that include ANY fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

   a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

      1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

      2) The bottom of all openings shall be no higher than one foot above the finish grade; and

      3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

   b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

   c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of Article V. Section B. of this Resolution.

4. Standards for Manufactured Homes and Recreational Vehicles

a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

1) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,

2) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.

c. Any manufactured home which has incurred "substantial damage" as the result of a flood or that has substantially improved must meet the standards of Article V. Section B. 4 of this Resolution.

d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

e. All recreational vehicles placed on identified flood hazard sites must either:

1) Be on the site for fewer than 180 consecutive days;

2) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.

3) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than 180 consecutive days.

5. <u>Standards for Subdivisions</u>

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

d. Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty lots and/or five acres in area.

Section C. **Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and With Floodways Designated**

Located within the Areas of Special Flood Hazard established in Article III. Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in ANY increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

2. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of Article V.

Section D. **Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated**

Located within the Areas of Special Flood Hazard established in Article III. Section B, where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article V. Section B.

Section E. **Standards for Streams without Established Base Flood Elevations or Floodways (A Zones)**

Located within the Areas of Special Flood Hazard established in Article III, where streams exist, but no base flood data has been provided (A Zones), OR where a Floodway has not been delineated, the following provisions shall apply:

1. When base flood elevation data or floodway data have not been provided in accordance with Article III, then the Administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Article V. ONLY if data is not available from these sources, then the following provisions (2 & 3) shall apply:

2. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and

anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

3. In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article V, Section B, and "Elevated Buildings".

Section F. **Standards For Areas of Shallow Flooding (AO and AH Zones)**

Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1') foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article V, Section B, and "Elevated Buildings".

2. All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1') foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three (3) feet above the highest adjacent grade. A registered professional

engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Resolution and shall provide such certification to the Administrator as set forth above and as required in Article IV, Section B.

3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

4. The Administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

Section G. Standards For Areas Protected by Flood Protection System (A-99 Zones)

Located within the areas of special flood hazard established in Article III. Are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of Article IV. and Article V. Section A. shall apply.

Section H. Standards for Unmapped Streams

Located within Carter County, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.

2. When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with Article IV.

ARTICLE VI. VARIANCE PROCEDURES

The provisions of this section shall apply exclusively to Areas of Special Flood Hazard within the unincorporated areas of Carter County, Tennessee.

Section A. Board of Appeals

1. Creation and Appointment

   A Board of Appeals is hereby established which shall consist of five (5) members appointed by the Chief Executive Officer. The term of membership shall be four (4) years except that the initial individual appointments to the Board of Appeals shall be terms of one, two, and three years respectively. Vacancies shall be filled for any unexpired term by the Chief Executive Officer.

2. Procedure

   Meetings of the Board of Appeals shall be held at such times as the Board shall determine. All meetings of the Board of Appeals shall be open to the public. The Board of Appeals shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record. Compensation of the members of the Board of Appeals shall be set by the Legislative Body.

3. Appeals: How Taken

   An appeal to the Board of Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Resolution. Such appeal shall be taken by filing with the Board of Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of $250 dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Board of Appeals all papers constituting the record upon which the appeal action was taken. The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more 30 days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers

   The Board of Appeals shall have the following powers:

a. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in the carrying out or enforcement of any provisions of this Resolution.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

1) The Carter County Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this Resolution.

2) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

3) In passing upon such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Resolution, and:

   a) The danger that materials may be swept onto other property to the injury of others;

   b) The danger to life and property due to flooding or erosion;

   c) The susceptibility of the proposed facility and its contents to flood damage;

   d) The importance of the services provided by the proposed facility to the County;

   e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

   f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

h) The safety of access to the property in times of flood for ordinary and emergency vehicles;

i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;

j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

4) Upon consideration of the factors listed above, and the purposes of this Resolution, the Board of Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Resolution.

5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Section B. **Conditions for Variances**

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Resolutions.

3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

4. The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

ARTICLE VII. LEGAL STATUS PROVISIONS

Section A. Conflict with Other Resolutions

In case of conflict between this Resolution or any part thereof, and the whole or part of any existing or future Resolution of Carter County, Tennessee, the most restrictive shall in all cases apply.

Section B. Validity

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.

Section C. Effective Date

This Resolution shall become effective immediately after its passage, by Carter County, Tennessee, the public welfare demanding it.

Recommended by the Carter County, Tennessee Regional planning Commission.

July 21, 2008
Date

Approved and adopted by the Carter County, Tennessee Board of County Commissioners.

July 21, 2008
Date

Johnny Holder
Mayor of Carter County, Tennessee

Attest: Mary Hauge
County Clerk

On recommendation of the Budget Committee, motion was made by Tom Bowers, seconded by Jerry Pearman, to give $2,343.90 from the Education/ Recreation fund balance from last year's budget to the Roan Mountain Park Board. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L.C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terry Montgomery, Ken Arney, Larry McKinney, Richard Tester, Bill Armstrong, Robert Davis & Robert Gobble

NAYS: 0
PASSING: 0
ABSENT: Gebe Ritchie 7 Lynn Tipton

There being 21 ayes, 0 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

On recommendation of the Budget Committee, motion was made by Tom Bowers, seconded by Jerry Pearman to give the Election Commission office an additional $11, 500.00 due to the fact that there are two (2) elections in this fiscal year. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L. C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terry Montgomery, Ken Arney, Larry McKinney, Richard Tester, Bill Armstrong, Robert Davis & Robert Gobble

NAYS: 0
PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 21 ayes, 0 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

On recommendation of the Budget Committee, motion was made by Tom Bowers, seconded by Harry Sisk to fund an additional $26,419,00 to pay off the balance on computer leases in the Trustee's Office and the Session's Court Clerks Office from a fund balance and reserves in the Circuit Clerk's Office as follows:

39000 Fund Balance		$26,419.42
34164 Reserved for Automation		3,476.50
52400-719 Equipment	$14,303.06	
53100-719 Equipment	15,492.86	
	$29,795.92	$29,895.92

Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley,Harry Sisk, Jerry Pearman, L. C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terry Montgomery, Ken Arney, Larry McKinney,Richard Tester, Bill Armstrong, Robert Davis & Robert Gobble

NAYS: 0

PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 21 ayes, 0 nays, 0 passing and 2 absent, motion duly caried this July 21, 2008.

On recommendation of the Budget Committee, motion was made by Tom Bowers, seconded by Harry Sisk to give the Sheriff's Department $85,102.12 to pay employee's for comp time they have accumulated over past years and $6,000.00 to buy drug kits to test jail inmates from the $126,000.00 surplus in his 2007-2008 budget. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L.C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Terry Montgomery,Ken Arney, Larry McKinney, Richard Tester, Bill Armstrong, Robert Davis & Robert Gobble
NAYS: 0
PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 21 ayes, 0 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

On recommendation of the Landfill Committee, motion was made by Tom Bowers, seconded by Jerry Pearman to take bids for a new front end **loader** for the landfill with a "cap" of $130,000.00. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge, Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L. C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Terry Montgomery, Ken Arney, Larry McKinney, Richard Tester, Bill Armstrong, Robert Davis & Robert Gobble
NAYS: 0
PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 21 ayes, 0 nays, 0 passing and 2 absent, motion duly carried this July 21, 2008.

Jim Whaley reported for the Rules/By-Laws Committee, Law Enforcement Committee and the Building & Grounds Committee. Jo Ann Blankenship reported for the Financial Management Committee. Robert Davis reported for the Jail Task Force. Minutes of these committee meetings are on file in the office of the County Clerk.

Steve Lowrance addressed the Commission at this time stating that he had been approached by citizens in favor of downsizing the County Commission because they were disappointed with the lack of leadership of the commission, and the indecision and waste of time and money. He went on to voice his opinion as to the failures of the present Commission and the reasons for those failures. He then made a motion, seconded by Robert Gobble, to hold a public

hearing before the August Commission meeting to give the citizens of Carter County the opportunity to voice their opinions on downsizing the Commission and address the future direction of the county. After more discussion concerning the Commission downsizing, motion was made by Lawrence Hodge, seconded by Robert Davis to TABLE Commissioner Lowrance's motion and refer the matter back to the Budget Committee. Roll call vote to TABLE as follows:

AYES: Lawrence Hodge, Nancy Brown, R. L. Miller, Harry Sisk, Jerry Pearma Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terry Montgomery, Ken Arney, Larry McKinney, Bill Armstrong,Robert Davis & Robert Goblle

NAYS: Jack Buckles, Jeff McKinney, Jim Whaley, L. C. Tester, Steve Lowrance & Richard Tester

PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There being 15 ayes, 6 nays, 0 passing and 2 absent, motion to TABLE duly carried this July 21, 2008.

Motion was made by Jeff McKinney, seconded by Nancy Brown, to refer the matter of turning over the funds generated by the Work Release program to the Sheriff's Department instead of the County back to the Budget Committee. Roll call vote as follows:

AYES: Jack Buckles, Lawrence Hodge,Nancy Brown, Jeff McKinney, R. L. Miller, Jim Whaley, Harry Sisk, Jerry Pearman, L. C. Tester, Steve Lowrance, Tom Bowers, Jo Ann Blankenship, Charlie Bayless, Dickie Renfro, Terrh Montgomery, Ken Arney, Larry McKinney, Bill Armstrong, Robert Davis & Robert Gobble

NAYS: Richard Tester
PASSING: 0
ABSENT: Gebe Ritchie & Lynn Tipton

There bein 20 ayes, 1 nay, 0 passing and 2 absent, motion duly carried this July 21, 2008.

Sheriff Mathes addressed to Commission at this time requesting a raise for his employees. On behalf of the Budget Committee, Jack Buckles stated that he agreed that the Sheriff's Department was underfunded as were other county departments, but that the present administration was receiving $400,000.00 more than the previous administration and that state mandates were being met. He went on to say that the unfunded line items in the Sheriff's Department's budget did not list funding amounts on the Budget Committee's working copy. Sheriff Mathes stated that it was his intention to file a writ of mandamus to clarify his department's needs.

On motion by Jerry Pearman, seconded by Robert Davis and by voice roll call vote, Court adjourned.

Approved Budget

ACCOUNT	2007-08 Approved 7-16-07 Approved Budget	2008-09
GENERAL FUND		
REVENUE 101		
40110 Current Property Tax	$ 4,906,472.00	$ 5,032,532.00
40120 Trustee's Collections-Prior Year	$ 130,000.00	$ 150,000.00
40130 Circuit Clerk/Clerk & Master Collections	$ 37,000.00	$ 40,000.00
40140 Interest & Penalty	$ 37,000.00	$ 40,000.00
40161 Payments in Lieu of Taxes-TVA	$ 10,000.00	$ 10,000.00
40162 Payments in Lieu of Taxes-Local	$ 66,000.00	$ 66,000.00
40163 Payment in Lieu of Taxes-Other	$ 1,500.00	$ 3,000.00
40210 Local Option Sales Tax	$ 715,000.00	$ 800,000.00
40220 Hotel/Motel Tax	$ 82,731.00	$ 83,000.00
40250 Litigation Tax-General	$ 169,000.00	$ 200,000.00
40266 Litigation Tax-Jail-Workhouse	$ 24,000.00	$ 35,000.00
40270 Business Tax	$ 250,000.00	$ 295,000.00
40320 Bank Excise Tax	$ 54,000.00	$ 48,000.00
40330 Wholesale Beer Tax	$ 215,000.00	$ 245,000.00
40350 Interstate Telecommunications	$ 4,500.00	$ 5,500.00
Total Local Taxes	**$ 6,702,203.00**	**$ 7,053,032.00**
41110 Marriages License	$ 2,200.00	$ 2,200.00
41140 Cable TV Franchise	$ 250,000.00	$ 250,000.00
41510 Beer Permits	$ -	$ -
41520 Building Permits	$ 2,000.00	$ 2,000.00
41530 Electrical Permits	$ 42,000.00	$ 42,000.00
41550 Food Handling Permits	$ 200.00	$ 200.00
41590 Other Permits	$ 28,000.00	$ 28,000.00
Total Licenses and Permits	**$ 324,400.00**	**$ 324,400.00**
42110 Fines	$ 15,000.00	$ 10,000.00
42141 Drug Court Fees	$ -	$ -
42150 Jail Fees	$ 3,000.00	$ 3,000.00
42170 Judicial Commissioners Fees	$ 3,000.00	$ 4,000.00
42180 DUI Treatment Fines	$ 4,000.00	$ 2,000.00
42190 Data Entry Fee-Circuit Court	$ -	$ -
42210 Fines	$ 27,000.00	$ 27,000.00
42310 Fines	$ 63,000.00	$ 63,000.00
42320 Officers Costs	$ 46,000.00	$ 46,000.00
42330 Game & Fish Fines	$ 500.00	$ 500.00
42341 Drug Court Fees	$ -	$ -
42350 Jail Fees	$ 22,000.00	$ 22,000.00
42360 District Attorney General Fees	$ -	$ -
42370 Judicial Commissioners Fees	$ 3,000.00	$ 3,000.00
42380 DUI Treatment Fines	$ 10,500.00	$ 10,500.00
42390 Data Entry Fee-General Sessions	$ -	$ -
42410 Fines	$ 37,000.00	$ 37,000.00
42420 Officers Costs	$ 1,500.00	$ 1,500.00
42441 Drug Court Fees	$ -	$ 2,500.00
42450 Jail Fees	$ 6,500.00	$ 9,000.00
42490 Data Entry Fee-Juvenile Court	$ -	$ -
42520 Officers Costs	$ 2,600.00	$ 2,600.00
42530 Data Entry Fee-Chancery Court	$ -	$ 1,000.00
42610 Fines	$ -	$ -
42870 Data Entry Fee-Other Courts	$ -	$ -
		$ -
Total Fines, Forfeitures & Penalties	**$ 244,600.00**	**$ 244,600.00**