

## COUNTY COMMISSION - REGULAR SESSION

JULY 20, 1998

## BE IT REMEMBERED THAT:

COUNTY COMMISSION MET PURSUANT TO ADJOURNMENT IN REGULAR SESSION OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS THIS MONDAY MORNING, JULY 20, 1998, 9:00 O'CLOCK A. M., IN BLOUNTVILLE, TENNESSEE. PRESENT AND PRESIDING WAS HONORABLE GIL HODGES, COUNTY EXECUTIVE, GAY B. FEATHERS, COUNTY CLERK AND KEITH CARR, SHERIFF OF SAID BOARD OF COMMISSIONERS.

## TO WIT:

The Commission was called to order by County Executive, Gil Hodges. Sheriff Keith Carr opened the Commission and Commissioner Jim King gave the invocation. Pledge to the flag was led by County Executive, Gil Hodges.

Commissioners present and answering roll call are as follows:

CAROL BELCHER	JAMES L. KING, JR.
JAMES R. "JIM" BLALOCK	JACK JONES
BRYAN K. BOYD	DWIGHT MASON
JUNE CARTER	GARY MAYES
RAYMOND C. CONKIN, JR.	WAYNE MCCONNELL
TOM DANIEL	PAUL MILHORN
O. W. FERGUSON	RANDY MORRELL
MIKE GONCE	MICHAEL B. SURGENOR
RALPH P. HARR	MARK A. VANCE
EDLEY HICKS	EDDIE WILLIAMS
PAT HUBBARD	
MARVIN HYATT	

22 Present 2 Absent (Carl Krell and Ronald Reedy)

The following pages indicates the action taken by the Commission on re-zoning requests, approval of notary applications and personal surety notary bonds, resolutions and other matters related to the approval of the Board of Commissioners.

STATE OF TENNESSEE  
COUNTY OF SULLIVAN

APPROVAL OF NOTARY  
PUBLIC SURETY BONDS

JULY 17, 1998

Donna Anderson

Bonnie J. Blazer

Betty Lou Carrier

Christine E. Grant

Jessie L. Leeper

Ann T. Martin

Barbara A. Medley

Pamela R. Pendleton

Shelby R. Tomlinson

Upon motion made by Commissioner Harr and seconded by Commissioner  
Milhorn to approve the Notary Bonds of the above named individuals,  
said motion was approved by roll call vote of the Commission.

22 Aye, 2 Absent

STATE OF TENNESSEE  
COUNTY OF SULLIVAN

## ELECTION OF NOTARIES

JUNE 15, 1998

Kimberly C. Adams

John J. Bandeian

J. Chirstopher Booth

Harriet C. Broome

Nancy Burem

Marie Bussey

Sheila M. Carroll

Linda S. Clark

Larry M. Crigger

Mary Ann Davidson

Deborah L. Davis

Jery C. DeSpain

Judy A. Douglas

Theresa A. Gibbons

Kenneth C. Gilliam

Connie L. Goodman

Pam Harkleroad

Ralph L. Harlan

June C. Willis Hartley

Brenda R. Jenkins

Christine Jenkins

Rhonda K. Kerr

Lois A. McKenzie

Lola D. McVey

Fortis D. Morse

Joe C. Mullenix

Theodore M. Palaske

Mary Lou Perdue

James E. Polly, III

Mary Ann B. Reed

Debbie Sorrell

George Surgenor, Jr.

Mary D. Weber

Regina L. Williamson

Darlene Winegar

John M. Wolford

Upon motion made by Commissioner Harr  
and seconded by Commissioner Milhorn  
to approve the Notary Applicants listed  
hereon, said motion was approved by  
roll call vote of the Commission.

22 Aye, 2 Absent

APPROVAL

OF

QUARTERLY REPORTS

Upon motion made by Commissioner Ralph Harr and seconded by Commissioner Paul Milhorn, all reports submitted were approved by Voice Vote of the Commission.

RESOLUTION NUMBER 1

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Regular SESSION THIS THE 20th DAY OF July, 1998.

RESOLUTION AUTHORIZING The Sullivan County Board of Commissioners to Consider Amendments to the Sullivan County Zoning Resolution as Amended

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_, AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Regular Session on the 20th day of July, 1998.

THAT WHEREAS, The attached rezoning petitions have been duly initiated, have been before the Planning Commission (recommendations enclosed), and have received a public hearing as required; and

WHEREAS, Such rezoning petitions will require an amendment to the Sullivan County Zoning Resolution;

NOW THEREFORE BE IT RESOLVED, That the Sullivan County Board of Commissioners consider the attached rezoning petitions and vote upon the proposed amendments, individually or otherwise at the discretion of the Commission, by roll call vote and that the vote be valid and binding and that any necessary amendments to the official zoning map be made so.

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 19\_\_\_\_, the public welfare requiring it.

Duly passed and approved this 20th day of July, 1998

Attested: Gayle B. Feathers County Clerk Date: 7/20/98 Gil Hodges County Executive Date: 8-27-98

INTRODUCED BY COMMISSIONER Belcher ESTIMATED COST: \_\_\_\_\_  
SECONDED BY COMMISSIONER Ferguson FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call					
Voice Vote	X				

COMMENTS: Motion by: Comm. Vance and 2nd by Comm. Hyatt  
TO APPROVE APPROVED 7/20/98 VOICE VOTE

**SULLIVAN COUNTY BOARD OF COUNTY COMMISSIONERS**

July 20, 1998

Consider the following:

- (1) File # 4/98-3 A request by Marvin R. Hurst to rezone the property described below from R-1 to B-1: REQUEST APPROVED 7/20/98 ROLL CALL VOTE 22 Aye, 2 Absent  
 "Being a tract of land located in the 10th Civil District on the south side of Orebank Rd. at its intersection with Cannon Rd and further described as parcel 13.00 group A map 48A of the Sullivan County Tax Maps."

The Planning Commission took the following action:

" File No. 4/98-3, Marvin R. Hurst Request

Marvin R. Hurst requested that a tract of land located in the 10th Civil District on the south side of Orebank Rd. at its intersection with Cannon Rd. be rezoned from R-1 to B-1 to permit the location of a grocery store.

The applicant was present. No opposition was presented. Staff stated the request was compatible with existing zoning and land use patterns and recommended approval.

Motion Mullins, second Barnes to approve the request. Vote in favor of the motion unanimous.

- (2) File # 5/98-1 A request by Pierce E. Massey to rezone the property described below from R-1 to R-3A: Motion by: Comm. Hyatt To Defer Motion to defer  
 2nd by: Comm. Milhorn approved, Voice Vote  
 "Being a tract of land located in the 20th Civil District on the north side of Lake Point Dr. approximately 4800 feet south of its intersection with Rangewood Rd and further described as parcel 7.00 map 140 of the Sullivan County Tax Maps."

The Planning Commission took the following action:

" File No. 5/98-1, Pierce E. Massey Request

Pierce E. Massey requested that a tract of land located in the 20th Civil District on the north side of Lake Point Dr. approximately 4800 feet south of its intersection with Rangewood Rd. be rezoned from R-1 to R-3A to permit the location of a residential duplex.

The applicant was present. Ms. Roas and Jean Wattford spoke in opposition noting that the road was not adequate for increased traffic in the neighborhood. Staff stated the request was not compatible with existing residential development and zoning patterns and recommended it be denied.

Motion Barnes, second Bennett to deny the request based on opposition statements and staff recommendation. Vote in favor of the motion unanimous.

- (3) File # 5/98-3 A request by James Birdwell to rezone the property described below from A-1 to M-1: REQUEST DENIED ROLL CALL VOTE 21 Nay, 1 Pass, 2 Absent  
 "Being a tract of land located in the 14th Civil District on the south side of Mitchell Rd. approximately 800 feet east of its intersection with Eastern Star Road and further described as the northeasterly part of parcel 41 fronting approximately 280 feet on Mitchell Rd. and running the length of the tract at a uniform width of approximately 280 feet map 120 of the Sullivan County Tax Maps."

The Planning Commission took the following action:

## " File No. 5/98-3, James Birdwell Request

James Birdwell requested that a tract of land located in the 14th Civil District on the south side of Mitchell Rd. approximately 800 feet east of its intersection with Eastern Star Road be rezoned from A-1 to M-1 to permit the location of industrial development.

The applicant was present. Dave Salyer, Greg Neit and others spoke in opposition to the request and presented a 43 name petition citing safety hazards, increased dangerous traffic increased noise and pollution and decreased residential property values. Staff stated the request was not compatible with existing residential development and zoning and recommended it be denied.

Motion Bennett second Barnes to deny the request. Vote in favor of the motion Belcher Bennett Barnes, opposed Brown. The motion carried 3 to 1.

tion by:  
Comm. Boyd (4)  
2nd by: B-4:  
Comm. Vance  
TO DEFER

File # 5/98-6 A request by Pat McCann to rezone the property described below from PBD to Motion to defer failed--Roll Call Vote  
REQUEST APPROVED 7/20/98 (14 Aye, 8 Nay, 2 Absent)  
"Being a tract of land located in the 14th Civil District on the east side of Moreland Drive approximately 800 feet south of its intersection with Fort Henry Drive and further described as parcel 28.10 map 92 of the Sullivan County Tax Maps."

The Planning Commission took the following action:

## " File No. 5/98-6, Pat McCann Request

Pat McCann requested that a tract of land located in the 14th Civil District on the east side of Moreland Drive approximately 800 feet south of its intersection with Fort Henry Drive be rezoned from PBD to B-4 to permit the location of business development.

The applicant was present and pointed out the loss of developable property and parking under the P.B.D. zone. Mike and Janet Slaughter and others spoke in opposition to the request and presented a 13 signature petition citing concerns about uncontrolled development adjacent to residential areas and the need for planning commission site plan review to adequately control proposed commercial development. Staff stated the existing zoning should be retained to allow site plan review and recommended the request be denied.

Motion Mullins, second Hickam to deny the request and suggest that staff prepare a proposal to amend the zoning resolution to allow parking within setbacks in planned districts. Vote in favor of the motion: Mullins, Hickam, H. Barnes, Brown; opposed: S. Barnes. The motion carried 4 to 1

(5) File # 6/98-1 A request by Glen Forbes to rezone the property described below from R-1 to R-2:  
REQUEST APPROVED 7/20/98 ROLL CALL VOTE 22 Aye 2 Absent

"Being a tract of land located in the 10th Civil District on the north side of Rock City Rd. approximately 800 feet west of its intersection with Ollis Bowers Hill Rd and further described as the southwesterly corner of parcel 55 fronting 160 feet on Rock City Rd. and being 100 feet in depth map 32 of the Sullivan County Tax Maps."

The Planning Commission took the following action:

## " File No. 6/98-1, Glen Forbes Request

Glen Forbes requested that a tract of land located in the 10th Civil District on the north side of Rock City Rd. approximately 800 feet west of its intersection with Ollis Bowers Hill Rd. be rezoned from R-1 to R-2 to permit the location of a single-wide mobile home.

The applicant was present. No opposition was presented. Staff stated the request was compatible with existing zoning and land use and recommended approval.

Motion Hickam, second H. Barnes to approve the request. Vote in favor of the motion unanimous.

(6) File # 6/98-2 A request by Earl D. Morrell Estate to rezone the property described below from R-1 to B-4 : REQUEST APPROVED 7/20/98 ROLL CALL, 22 Aye, 2 Absent  
"Being a tract of land located in the 5th Civil District on the north side of SR 126 approximately 320 feet west of its intersection with SR 37 and further described as parcel 10.00 group A map 51P of the Sullivan County Tax Maps."

The Planning Commission took the following action:

" File No. 6/98-2, Earl D. Morrell Estate Request

Earl D. Morrell Estate requested that a tract of land located in the 5th Civil District on the north side of SR 126 approximately 320 feet west of its intersection with SR 37 be rezoned from R-1 to B-4 to permit the location of future commercial development.

The applicant was present. No opposition was presented. Staff stated the request was compatible with existing zoning and land use and recommended approval.

Motion Mullins, second Hickam to approve the request. Vote in favor of the motion unanimous.

"



RESOLUTION NUMBER 7

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Regular SESSION THIS THE 20th DAY OF July 1998.

RESOLUTION AUTHORIZING School Bus Parking

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_, AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Regular Session on the 20th day of July 1998.

THAT WHEREAS, The Sullivan County Board of Education contracts with several companies to furnish bus service for their students, and

WHEREAS, It is necessary to park these buses during the time from the close of the school year and the beginning of the next year.

NOW, THEREFORE BE IT RESOLVED, That the County Attorney and the Planning and Zoning Office submit a plan with the necessary zoning change to allow these companies to park for this short period of time in areas available to them now.

RES. #7 will be withdrawn by author/sponsor at July meeting

All resolutions in conflict herewith be and the same rescinded. \_\_\_\_\_

This resolution shall become effective on \_\_\_\_\_, 1998, the \_\_\_\_\_ welfare requiring it.

Duly passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

Attested: \_\_\_\_\_ Date: \_\_\_\_\_ County Clerk  
\_\_\_\_\_ Date: \_\_\_\_\_ County Executive

INTRODUCED BY COMMISSIONER Williams ESTIMATED COST: \_\_\_\_\_  
SECONDED BY COMMISSIONER Conkin FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				7/6/98
Budget				
Executive	✓			7/1/98

NO ACTION

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call					
Voice Vote					

COMMENTS: WITHDRAWN 7/20/98

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Regular SESSION THIS THE 20th DAY OF July 1998.

RESOLUTION AUTHORIZING Adjusting the Speed Limit for Commercial Trucks on Bloomingdale Road

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_ AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Regular Session on the 20th day of July 1998.

THAT BE IT RESOLVED. That in order for the county to provide for public safety by placing differing speed limits between commercial trucks and other vehicles, the Sullivan County Board of Commissioners hereby requests the speed limits be adjusted on Bloomingdale Road in order to lower commercial trucking speed limits to 10 mph lower than current posted limits.

Amend: Comm. Gonce Exempt School Zones

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 19\_\_, the public welfare requiring it.

Duly passed and approved this 20th day of July, 1998

Attested: Gay B. Feathers Date: 7/20/98 Gil Hodges Date: 7-27-98  
 County Clerk County Executive

INTRODUCED BY COMMISSIONER Gonce ESTIMATED COST: \_\_\_\_\_  
 SECONDED BY COMMISSIONER Blalock/Jones/Surgenor FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative			✓	7/6/98
Budget				
Executive	REFERRED TO COUNTY ATTORNEY - 7/1/98			

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call	21	1		2	
Voice Vote					

COMMENTS: WAIVER OF RULES APPROVED 7/20/98 Roll Call as amended

RESOLUTION NUMBER 9

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Regular SESSION THIS THE 20th DAY OF July 1998.

RESOLUTION AUTHORIZING Requesting the General Assembly to Pass a Public/Private Act Granting Authority to the County Legislative Body to Place Certain Restrictions on County Roads

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_ AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Regular Session on the 20th day of July 1998.

THAT WHEREAS, The State provides the opportunity for cities to place regulations within the municipality relative to ensuring safe roadways; and

WHEREAS, The County Attorney and the CTAS Attorney cannot determine the express authority for a county to regulate "No Thru Trucks" or "No Parking" on a county road;

NOW, THEREFORE BE IT RESOLVED, That the Sullivan County Board of Commissioners requests a public or private act to allow the local governing body the express authority to place and enforce "No Thru Trucks" and "No Parking" on county roads as may be deemed appropriate; and

FURTHER BE IT RESOLVED, That upon passage, this Resolution be provided to the Sullivan County State Delegation by the County Executive.

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 1998, the public welfare requiring it.

Duly passed and approved this 20th day of July, 1998

Attested: B. Feathers County Clerk Date: 7/20/98 Gil Hodges County Executive Date: 8-27-98

INTRODUCED BY COMMISSIONER Gonce ESTIMATED COST: \_\_\_\_\_  
SECONDED BY COMMISSIONER Blalock FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				<u>7/4/98</u>
Budget				
Executive <u>REFERRED TO COUNTY ATTORNEY 7/1/98</u>				

NO ACTION

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call					
Voice Vote	X				

COMMENTS: WAIVER OF RULES APPROVED 7/20/98 VOICE VOTE

RESOLUTION NUMBER 12

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Regular SESSION THIS THE 20th DAY OF July 1998.

RESOLUTION AUTHORIZING STOP Sign and Speed Limit on Streets in the 14th Civil District

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_ AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Regular Session on the 20th day of July 1998.

THAT BE IT RESOLVED, That a STOP sign and speed limit be placed on the streets listed below as recommended in correspondence from the Sullivan County Highway Department:

14th CIVIL DISTRICT:

STOP Sign - on Willard Drive at Warrior Drive

25 MPH SPEED LIMIT - on Dogwood Drive

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 1998, the public welfare requiring it.

Duly passed and approved this 20 day of July, 1998

*Gay B. Teachus*  
County Clerk

Date: 7/20/98

*Gil Hodges*  
County Executive

Date: 7-29-98

INTRODUCED BY COMMISSIONER Carter ESTIMATED COST: \_\_\_\_\_  
SECONDED BY COMMISSIONER Krell FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call	21			3	
Voice Vote					

COMMENTS: WALVER OF RULES APPROVED 7/20/98 ROLL CALL

**SULLIVAN COUNTY  
HIGHWAY DEPARTMENT**P.O. BOX 590  
BLOUNTVILLE, TENNESSEE 37617*John R. LeSueur, Jr.*  
Commissioner of Roads*Attachment  
Rev # 12*

279-2820

July 9, 1998

COMMISSIONERS: June Carter  
Carl Krell

Dear Commissioners:

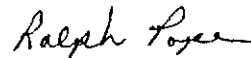
I would like to request that you consider passing the following resolutions:

- (1) A STOP sign be placed on Willard Drive at Warrior Drive.
- (2) A 25 MPH SPEED LIMIT be placed on Dogwood Drive.

These are in the 14<sup>th</sup> Civil District.

If you have any questions, please feel free to contact me.

Sincerely,

Ralph Pope  
Traffic Coordinator

RP/jb

C: Shirley Gurganus

RESOLUTION NO. 14

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN REGULAR SESSION THIS THE 20<sup>th</sup> DAY OF JULY, 1998.

RESOLUTION AUTHORIZING Adoption of Public Chapter 1090 of the Public Acts of 1998 - "Adult-Oriented Establishment Registration Act of 1998"

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_ AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee assembled in Regular Session on the 20<sup>th</sup> of July, 1998;

NOW, THEREFORE, BE IT RESOLVED that Public Chapter No. 1090 of the Public Acts of 1998 otherwise known and cited as the "Adult-Oriented Establishment Registration Act of 1998," a copy of which is attached hereto, is hereby adopted by the Sullivan County Board of Commissioners and, accordingly, shall become effective in Sullivan County upon passage of this Resolution.

(Two-Thirds Vote Required for Passage)

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 19\_\_\_\_, the public welfare requiring it.

Duly passed and approved this 20 day of July 19 98.

Attested: Gay B. Feathers County Clerk Date: 7/20/98 Gil Hodges County Executive Date: 7-28-98

INTRODUCED BY COMMISSIONER P. Milhorn ESTIMATED COST: \_\_\_\_\_

SECONDED BY COMMISSIONER E. Hicks FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call	21			3	
Voice Vote					

COMMENTS: WAIVER OF RULES APPROVED 7/20/98 ROLL CALL

CHAPTER NO.1090

SENATE BILL NO. 1613

By Jordan, Leatherwood, Henry, Carter, Atchley, Crowe, Williams

Substituted for: House Bill No. 1588

By West, Wood, Halteman Harwell, Fowlkes, Ridgeway, Bone, Beavers, McDaniel, Phelan, Brown,

Dunn, Burchett, Hicks, John DeBerry, Huskey, Rinks, Stamps, McAfee, Tidwell, Haley,

Hargett, Pleasant, Newton, Mumpower, Godsey, Jackson, Kisber

AN ACT To amend Tennessee Code Annotated, Title 7, Chapter 51, Part 11, relative to regulation of sexually-oriented businesses in the State of Tennessee.

WHEREAS, The Legislature finds that sexually-oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, The concern over sexually transmitted diseases is a legitimate health concern of the State which demands reasonable regulation of sexually-oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, There is convincing documented evidence that sexually-oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

WHEREAS, The State desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime, preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, The Legislature has determined that locational criteria alone do not adequately protect the health, safety, and general welfare of the people of this State; and

WHEREAS, It is not the intent of this act to suppress any speech activities protected by the First Amendment, but to enact a content neutral act which addresses the secondary effects of sexually-oriented businesses; and

WHEREAS, It is not the intent of the Legislature to condone or legitimize the distribution of obscene material, and the Legislature recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the State; and

Attachment to Resolution No. 17

WHEREAS, It is the purpose of this act to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the State, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually-oriented businesses within this state. The provisions of this act have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this act to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this act to condone or legitimize the distribution of obscene material; and

WHEREAS, The Legislature can address these situations pursuant to the authority granted by the United States Constitution and the Constitution of the State of Tennessee; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 51, Part 11, is amended by deleting it in its entirety and substituting instead the following:

7-51-1101. This part shall be known and cited as the "Adult-Oriented Establishment Registration Act of 1998".

7-51-1102. As used in this part, unless the context otherwise requires:

- (1) "Adult bookstore" means a business which offers, as its principal or predominate stock or trade, sexually oriented material, devices, or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults.
- (2) "Adult cabaret" means an establishment which features as a principal use of its business, entertainers and/or waiters and/or bartenders who expose to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie, or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainers.
- (3) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has as a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers;
- (4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below, for observation by patrons therein;
- (5) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more



persons regularly used for presenting material having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below, for observation by patrons therein;

(6) "Adult-oriented establishments" includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, adult cabarets, escort agencies, sexual encounter centers, massage parlor, rap parlor, sauna and further means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An adult-oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other term of like import;

(7) "Board" means the adult-oriented establishment board, or, if there is in existence in the county a massage registration board appointed by the county executive, such board may be substituted for the board;

(8) "County", as used in this part, means either class A counties or class B counties as classified in §57-5-103 (9)(b). When county legislative body or county executive is used in this part, it means metropolitan council or metropolitan mayor when applicable to class B counties.

(9) "Employee" means a person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not such person is paid a salary, wage, or other compensation by the operator of such business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

(10) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee, escort or an independent contractor;

(11) "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort;

(A) A "service-oriented escort" is an escort which:

(i) Operates from an open office;

(ii) Does not employ or use an escort runner; and

(iii) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau which so advertises; and

(iv) Does not offer or provide sexual conduct.

(B) A "sexually-oriented escort" is an escort which:

(i) Employs as an employee, agent, or independent contractor an escort bureau runner; or

(ii) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually-oriented escort bureau; or

(iii) Advertises that sexual conduct will be provided, or works for, as an employee, agent or independent contractor or is referred to a patron by an escort bureau which so advertises; or

(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau; or

(v) Works as an escort without having a current valid permit issued under this part, in his or her possession at all times while working as an escort; or

(vi) Accepts a fee from a patron who has not first been delivered a contract.

(12) "Escort service" means a person as defined herein, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts.

(A) A "service-oriented escort bureau" is an escort bureau which:

(i) Maintains an open office at an established place of business; and

(ii) Employs or provides only escorts which possess valid permits issued under this part; and

(iii) Does not use an escort bureau runner; and

(iv) Does not advertise that sexual conduct will be provided to a patron.

(B) A "sexually-oriented escort bureau" is an escort bureau which:

(i) Does not maintain an open office; or

(ii) Employs as an employee, agent, or independent contractor, uses an escort bureau runner; or

(iii) Advertises that sexual conduct will be provided, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron; or

(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron; or

(v) Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this part; or

- (vi) Does not deliver contracts to every patron or customer; or
- (vii) Employs, contracts with a sexually-oriented escort or refers or provides to a patron, a sexually-oriented escort.
- (13) "Open office" means an office at the escort service from which the escort business is transacted and which is open to patrons or prospective patrons during all hours during which escorts are working, which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints;
- (14) "Operator" means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment;
- (15) "Person" means an individual, partnership, limited partnership, firm, corporation or association;
- (16) "Specified anatomical areas" means:
  - (A) Less than completely and opaquely covered:
    - (i) Human genitals;
    - (ii) Pubic region;
    - (iii) Buttocks; and
    - (iv) Female breasts below a point immediately above the top of the areola; and
  - (B) Human male genitals in a discernibly turgid state, even if completely opaquely covered; and
- (17) "Specified sexual activities" means:
  - (A) Human genitals in a state of sexual stimulation or arousal;
  - (B) Acts of human masturbation, sexual intercourse or sodomy; or
  - (C) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (18) "Specified criminal acts" means the following criminal offenses as defined by Tennessee Code Annotated:
  - (a) aggravated rape;
  - (b) rape;
  - (c) rape of a child;
  - (d) aggravated sexual battery;

- (e) sexual battery by an authority figure;
  - (f) sexual battery;
  - (g) statutory rape;
  - (h) public indecency;
  - (i) prostitution;
  - (j) promoting prostitution;
  - (k) distribution of obscene materials;
  - (l) sale, loan or exhibition to a minor of material harmful to minors;
  - (m) the display for sale or rental of material harmful to minors;
  - (n) sexual exploitation of a minor;
  - (o) aggravated sexual exploitation of a minor; and
  - (p) especially aggravated sexual exploitation of a minor.
- (19) "Sexual stimulation" means to excite or arouse the prurient interest or to offer or solicit acts of "sexual conduct" as defined in this part.
- (20) "Sexual gratification" means "sexual conduct" as defined in this part.
- (21) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.
- (22) "Specified services" means massage services, private dances, private modeling, acting as an "escort" as defined in this part, and any other live "adult entertainment" as defined in this part.
- (23) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
- (A) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - (B) Physical contact between male and female persons and/or persons of the same sex when one or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.
- (24) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services where one or more of the employees exposes to public view of the patrons within

such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

(25) "Rap parlor" means an establishment or place primarily in the business of providing nonprofessional conversation or similar service for adults.

(26) "Sauna" means an establishment or place primarily in the business of providing:

(A) A steam bath; or

(B) Massage services.

7-51-1103. (a) There is created in any county in which this part is adopted as provided in § 7-51-1120, an adult-oriented establishment board.

(b) The board shall consist of five (5) members appointed by the county executive of such counties. If there exists a massage registration board appointed by the county executive, such board may be used for the adult-oriented establishments, as determined by the county executive.

(c) If the board consists of the massage registration board, the terms of the board members shall be coextensive with the terms of the massage registration board with no member serving after the expiration of the member's term or removal from the massage registration board. If the board consists of five (5) members appointed by such county executive, the terms of the board members shall be for four (4) years.

(d) A majority of the members to which the board is entitled shall constitute a quorum.

(e) The board shall serve without compensation but the members shall receive their actual expenses for attending adult-oriented establishment board meetings.

(f) The board shall select a chair from among its members and the chair shall notify interested persons and members of board meetings.

(g) The board shall meet as often as required to carry out the provisions of this part.

7-51-1104. (a) Except as provided in subsection (e), from and after the effective date of this part no adult-oriented establishment shall be operated or maintained in any applicable county without first obtaining a license to operate issued by the county adult-oriented establishment board.

(b) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for each. No building, premises, structure or other facility that contains any adult-oriented establishment shall contain any other kind of adult-oriented establishment.

(c) No license or interest in a license may be transferred to any person, partnership or corporation.

(d) It is unlawful for any entertainer, employee, escort or operator to knowingly work in or about or

to knowingly perform any service directly related to or at the request of the operation of any unlicensed adult-oriented establishment or escort service.

(e) All existing adult-oriented establishments at the time of the passage of this part must submit an application for a license within one hundred twenty (120) days of the effective date of this part. If a license is not issued within such one hundred twenty-day period, then such existing adult-oriented establishment shall cease to operate.

(f) No license shall be issued by the board unless the applicant certifies, by proof satisfactory to the board, that the applicant has satisfied the rules, regulations and provisions of the applicable zoning requirements in the county. Any zoning requirement shall be in addition to and not an alternative to any requirement of this legislation.

7- 51- 1105. (a) Any person, partnership, or corporation desiring to secure a license shall make application to the adult-oriented establishment board. A copy of the application shall be distributed promptly to the county sheriff's department.

(b) The application for a license shall be upon a form provided by the board. An applicant for a license shall furnish the following information under oath:

- (1) Name and address, including all aliases;
- (2) Written proof that the individual is at least eighteen (18) years of age;
- (3) The business, occupation or employment of the applicant in an adult-oriented establishment for five (5) years immediately preceding the date of the application;
- (4) The adult-oriented establishment or similar business license history of the applicant; whether such applicant, in previously operating in this or any other county, city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subject to such action of suspension or revocation;
- (5) Any conviction for or plea of nolo contendere to a specified criminal act as defined in Section 7-51-1102(18);
- (6) The address of the adult-oriented establishment to be operated by the applicant;
- (7) If the applicant is a corporation, the application shall specify the name, address, and telephone number of the corporation, the date and the state of incorporation, the name and address of the registered agent for service of process of the corporation, and the names and addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership.
- (8) A statement by the applicant that the applicant is familiar with the provisions of this legislation and is in compliance with them.

(c) Within ten (10) days of receiving the results of the investigation conducted by the board and/or the sheriff's department, the board shall notify the applicant that the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the board shall advise the applicant in writing whether the application is granted or denied.

(d) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this part constitutes an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof by the board.

7-51-1106. To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(1) If the applicant is an individual:

(A) The applicant shall be at least eighteen (18) years of age;

(B) The applicant shall not have had his or her license revoked within five (5) years immediately preceding the date of the application;

(C) The applicant shall not have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application; and

(D) The applicant shall not have been convicted of a "specified criminal act", as defined in §7-51-1102, for which:

(i) less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(ii) less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

(iii) less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period;

(iv) the fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

(2) If the applicant is a corporation:

(A) All officers, directors and stockholders required to be named under § 7-51-1105(b) shall be at least eighteen (18) years of age;

(B) All officers, directors and stockholders required to be named under §7-51-1105(b) shall not have had his or her license revoked within five (5) years immediately preceding the date of the application;

(C) No officer, director or stockholder required to be named under § 7-51-1105(b) shall have been

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convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application;

(D) The applicant or officer, director or stockholder required to be named under Section 7-51-1105(b) shall not have been convicted of a "specified criminal act", as defined in § 7-51-1102, for which:

(i) less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(ii) less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

(iii) less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period;

(iv) the fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

(3) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:

(A) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;

(B) All persons having a financial interest in the partnership, joint venture or other type of organization shall not have had his or her license revoked within five (5) years immediately preceding the date of the application;

(C) No applicant or person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application; and

(D) The applicant or any person having a financial interest required to be disclosed shall not have been convicted of a "specified criminal act", as defined in § 7-51-1102, for which:

(i) less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(ii) less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

(iii) less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period;

(iv) the fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

(4) No license shall be issued unless the board or sheriff's department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the board no later than twenty (20) days after the date of the application.



(5) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in §7-51-1106 has elapsed.

7- 51- 1107. (a) In order to effectuate the provisions of this part, the board, its authorized representative or sheriff is empowered to conduct investigations of persons engaged in the operation of any adult-oriented establishment and inspect the license of the operators and establishment for compliance. Refusal of an operation or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue licenses provided by this part.

(b) Within ten (10) days of receiving the results of the investigation, the board shall notify the applicant that the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days, unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the board shall advise the applicant in writing whether the application is granted or denied.

(c) If an additional investigation is held, upon the expiration of the thirtieth (30<sup>th</sup>) day, the applicant shall be permitted to begin operating the business for which the license is sought, unless or until, the board or its authorized representative notifies the applicant of a denial of the application and states the reason(s) for that denial.

7- 51- 1108. (a) The board has the power and authority to enter into any court of the State of Tennessee having proper jurisdiction to seek an injunction against any person or adult-oriented establishment not in compliance with the provisions of this part, and is further empowered to enter into any such court to enforce the provisions of this part in order to ensure compliance with such provisions.

(b) Any violation of an injunction obtained under this section is contempt with a fine of fifty dollars (\$50.00).

(c) Each day in contempt of such injunction is considered a separate offense.

(d) The circuit, chancery, or criminal courts of this state and the chancellors and judges thereof shall have full power, authority, and jurisdiction, upon application by sworn detailed petition filed by the board within their respective jurisdictions, to issue any and all proper restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce this part.

7-51-1109. (a) The board shall revoke, suspend or annul a license for any of the following reasons:

(1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application;

(2) The operator or entertainer, or any employee of the operator, violates any provision of this part or any rule or regulation adopted by the board pursuant to this part; provided, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a license suspension of thirty (30) days if the board shall find that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge;

- (3) The operator becomes ineligible to obtain a license;
- (4) Any cost or fee required to be paid by this part is not paid; or
- (5) Any intoxicating liquor or malt beverage is served or consumed on the premises of the adult-oriented establishment;
- (6) An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit;
- (7) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material;
- (8) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold;
- (9) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition;
- (10) Any operator, employee or entertainer is convicted of a "specified criminal act", as defined in §7-51-1102, provided that such violation occurred on the licensed premises.

(b) Notwithstanding anything herein to the contrary, before revoking or suspending any license or permit, the chair shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the board. In the event the license holder or permit holder does not request in writing a hearing before the board within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.

If the license holder or permit holder desires to request a hearing before the board to contest the suspension or revocation, such request shall be made in writing to the county executive of such county within ten (10) days of the license holder's or permit holder's receipt of the notification from the board. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the county executive's receipt of such request before the board at which time the license holder or permit holder may present evidence contrary to the provisions of this part. The board shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of such hearing; any such hearing shall be concluded no later than twenty-two (22) days after the license holder's or permit holder's receipt of the notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the board.

(c) If the board affirms the suspension or revocation, the county attorney for such county shall institute suit for declaratory judgment in a court of record in such county, within five (5) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.

(d) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation.

(e) The applicant shall be entitled to judicial determination of the issues within two (2) days after joinder of issue, and a decision shall be rendered by the court within two (2) days of the conclusion of the hearing.

(f) The board shall have the burden of showing that a revocation or suspension of a license under this section is not arbitrary or capricious.

7-51-1110. (a) As used in this section, "application" means:

- (1) An application for a license;
- (2) An application for a permit;
- (3) An application for a license renewal; and
- (4) An application for a permit renewal.

(b) Whenever an application is denied, the chairman shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the board. If the applicant desires to request a hearing before the board to contest the denial of an application, such request shall be made in writing to the county executive of such county within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the county executive's receipt of such request before the board at which time the applicant may present evidence as to why the application should not be denied. The board shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of such hearing; any such hearing shall be concluded no later than twenty-two (22) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the board.

(c) If the board affirms the denial of an application, the office of the county attorney for such county shall institute suit for declaratory judgment in a court of record in such county, within five (5) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law.

(d) The applicant shall be entitled to judicial determination of the issues within two (2) days after joinder of issue, and a decision shall be rendered by the court within two (2) days of the conclusion of the hearing.

(e) The board shall have the burden of showing that a denial of a license under this section is not

arbitrary or capricious.

7-51-1111. (a) Every license issued under this part will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the board. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the board. A copy of the application for renewal shall be distributed promptly by the chair of the board to the applicable county sheriff. The application for renewal shall contain such information and data, given under oath or affirmation, as may be required by the board, but not less than the information contained in the original application.

(b) A license renewal fee of one hundred dollars (\$100) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of fifty dollars (\$50) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires. If the application is denied, one-half (1/2) of the fee shall be returned.

(c) If the sheriff's department is aware of any information bearing on the operator's qualifications, the information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(d) Every permit issued under this part will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked and must be renewed before an entertainer is allowed to provide entertainment in an adult-oriented establishment in the following calendar year. Any entertainer desiring to renew a permit shall make application to the board. The application for renewal must be filed not later than thirty (30) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the board. A copy of the application for renewal shall be distributed promptly by the board to the sheriff. The application for renewal shall be upon a form provided by the board and shall contain such information and data, given under oath or affirmation, as may be required by the board.

(e) A permit renewal fee of fifteen dollars (\$15) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of five dollars (\$5.00) shall be assessed against the applicant who files for renewal less than thirty (30) days before the license expires. If the application is denied, one-half (1/2) of the fee shall be returned.

(f) If the sheriff's department is aware of any information bearing on the entertainer's qualifications, that information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(g) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated, and approved or denied within the same time periods as those established in this part for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the adult board as set forth in §7-51-1110 of this part.

7-51-1112. The public portion of all adult-oriented establishments shall be open to inspection at all reasonable times by the applicable sheriff's department or such other persons as the board may designate.

7-51-1113. (a) The operator shall maintain a register of all employees, showing the name, the aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone number, social security number, driver license number, date of employment and termination, and duties of each employee, and such other information as may be required by the board. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(b) The operator shall make the register of employees available immediately for inspection by the board and/or sheriff's department upon demand of a member of the board or sheriff's department at all reasonable times.

(c) Every act or omission by an employee constituting a violation of the provisions of this part shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(d) An operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this part shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(e) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as herein defined.

(f) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever.

(g) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(h) The license shall be conspicuously displayed in the common area of the premises at all times.

(i) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by Tennessee Code Annotated, Title 7, Chapter 51, Sections 1101 through 1120. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its

completion;

4. Not permitted to appear in a state of full nudity.

(j) The permit shall be kept by an employee, entertainer, or escort so that it is readily available for display immediately upon request of a customer, any member of such county sheriff's department, any board member, or any person designated by the board.

7-51-1114. (a) No operator, entertainer or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow, patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(b) No operator, entertainer or employee of an adult-oriented establishment shall encourage or permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any operator, entertainer or employee.

(c) No entertainer, employee, or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee, and/or customer.

(d)(1) No employee or entertainer, while on the premises of an adult-oriented establishment, may:

(A) Engage in sexual intercourse;

(B) Engage in deviant sexual conduct;

(C) Appear in a state of nudity;

(D) Fondle the genital of himself, herself or another person.

(2) For the purpose of this section, "Nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(e) If the license holder operates an escort bureau, such bureau shall not be operated as a "sexually-oriented escort bureau" as defined in this part.

(f) No permit holder of an escort bureau shall conduct oneself as a "sexually-oriented escort" as defined in this part.

(g) No license holder shall advertise that such license holder offers "sexual stimulation" or "sexual gratification" as defined in this part.

7-51-1115. No person shall be an entertainer, employee, or escort in an adult-oriented establishment without a valid permit issued by the board.

7-51-1116. (a) Any person desiring to secure a permit shall make application to the board. The

application shall be filed in triplicate with and dated by the board. A copy of the application shall be distributed promptly by the board to the sheriff's department.

(b) The application for a permit shall be upon a form provided by the board. An applicant for a permit shall furnish the following information under oath:

- (1) Name and address, including all aliases;
- (2) Written proof that the individual is at least eighteen (18) years of age;
- (3) The applicant's height, weight, color of eyes and hair;
- (4) The adult-oriented establishment or similar business permit history of the applicant; whether such person, in previously operating in this or any other city or state under permit, has had such permit revoked or suspended, the reason therefor, and the business activity or occupation subject to such action of suspension or revocation;
- (5) Any conviction for or plea of nolo contendere to a specified criminal act as defined in Section 7-51-1102(18);
- (6) Two (2) portrait photographs at least two inches (2") by two inches (2") of the applicant; and
- (7) A statement by the applicant that the applicant is familiar with the provisions of this part and is in compliance with them.

(c) Within ten (10) days of receiving the results of the investigation conducted by the board or sheriff's department, the board shall notify the applicant that the applicant's application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the board shall advise the applicant in writing whether the application is granted or denied.

(d) If an additional investigation is held, upon the expiration of the thirtieth (30<sup>th</sup>) day, the applicant shall be permitted to begin operating the business for which the license is sought, unless or until, the board or its authorized representative notifies the applicant of a denial of the application and states the reason(s) for that denial.

(e) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this part constitutes an admission by the applicant that the applicant is ineligible for such permit and is grounds for denial thereof by the board.

7-51-1117. (a) To receive a permit as an entertainer or escort, an applicant must meet the following standards:

- (1) The applicant shall be at least eighteen (18) years of age;
- (2) The applicant shall not have had his or her permit revoked within two (2) years immediately

preceding the date of the application;

(3) The applicant shall not have been convicted of a "specified criminal act", as defined in §7-51-1102, for which:

(A) less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(B) less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

(C) less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period;

(D) the fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

(4) An applicant who has been convicted of any specified criminal activities may not be denied a permit based on those convictions once the time period required in §7-51-1117(a)(3) has elapsed.

(b) No permit shall be issued until the board or sheriff's department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the board no later than thirty (30) days after the date of the application.

7-51-1118. (a) A license fee of five hundred dollars (\$500) shall be submitted with the application for a license.

(b) A permit fee of one hundred dollars (\$100) shall be submitted with the application for a permit.

7-51-1119. (a) Any person, partnership or corporation who is found to have violated this part shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any license.

(b) Each violation of this part shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

7-51-1120. This part shall be local in effect and shall become effective in a particular county upon the contingency of a two-thirds (2/3) vote of the county legislative body adopting this part.

7-51-1121. (a) Nothing in this act shall pre-empt or prevent political subdivisions in this state from enacting and enforcing other lawful and reasonable restrictions, regulations, licensing, zoning, and other criminal, civil or administrative provisions concerning the location, configuration, code compliance, or other business operations or requirements of adult-oriented establishments and sexually-oriented businesses.

(b) Notwithstanding any provision of subsection (a) or any other law to the contrary, if a city or other political subdivision in this state chooses to enact and enforce its own regulatory scheme for adult-oriented establishments and sexually-oriented businesses, then the provisions of Title 7, Chapter 51, Part 11, shall not apply within the jurisdiction of such city or other political subdivision.



7-51-1122. Should any court of competent jurisdiction declare any section, clause, or provision of this article to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause, or provision of this part.

SECTION 2. This act shall take effect July 1, 1998, the public welfare requiring it.

**PASSED: May 1, 1998**

**APPROVED this 19<sup>th</sup> day of May 1998**

Return to [Main Bill Index](#)

RESOLUTION NUMBER 18

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Regular SESSION THIS THE 20th DAY OF July 19 98.

RESOLUTION AUTHORIZING STOP Sign and Increasing Speed Limit to 25 MPH on Beidleman Road - 1st C.D.

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_ AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Regular Session on the 20th day of July 1998.

THAT BE IT RESOLVED, That the following recommendations set forth in correspondence from the Sullivan County Highway Department are approved:

1st CIVIL DISTRICT:

STOP Sign - on Beidleman Road at Emmett Road

Change .05 mile from 15 MPH to 25 MPH on Beidleman Road

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 19\_\_, the public welfare requiring it.

Duly passed and approved this 20 day of July, 1998

Attested: [Signature] Date: 7-20-98 [Signature] Date: 7-28-98  
County Clerk County Executive

INTRODUCED BY COMMISSIONER Morrell ESTIMATED COST: \_\_\_\_\_  
SECONDED BY COMMISSIONER McConnell FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call	21			3	
Voice Vote					

COMMENTS: WAIVER OF RULES APPROVED 7/20/98 ROLL CALL

**SULLIVAN COUNTY  
HIGHWAY DEPARTMENT**P.O. BOX 590  
BLOUNTVILLE, TENNESSEE 37617*John R. LeSueur, Jr.*  
Commissioner of Roads*Attachment  
Res # 18*

279-2820

July 14, 1998

COMMISSIONER: Randy Morrell

Dear Commissioner:

I would like to request that you consider passing the following resolutions:

- (1) A STOP sign be placed on Beidleman Road at Emmett Road.
- (2) To change .50 mile from 15 MPH to 25 MPH on Beidleman Road.

These are in the 1<sup>st</sup> Civil District.

If you have any questions, please feel free to contact me.

Sincerely,

Ralph Pope  
Traffic Coordinator

RP/jb

c: Shirley Gurganus

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Regular SESSION THIS THE 20th DAY OF July 19 98.

RESOLUTION AUTHORIZING the approval of Alcohol and Drug abuse intake and case management grant from the State of Tennessee.

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_, AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Regular Session on the 20th day of July 19 98.

THAT Whereas the State of Tennessee has given the Health Department an \$85,000 Alcohol and Drug Abuse intake and Case Management grant for developing a managed care system for patients needing alcohol and drug treatment and whereas the State of Tennessee has mandated that all Health Departments must provide this service so therefore be it resolved that the Sullivan County Commission approved the following addition to the Health Department budget:

(2) Public Health Nurses

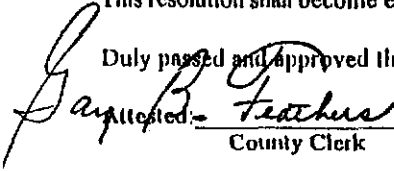
55190-100	Personal Services	\$50,900
55190-200	Benefits	15,800
55190-300	Contracted Services	5,000
55190-400	Supplies and Materials	3,300
55190-700	Capital Outlay	10,000
TOTAL		\$85,000


No County funds involved - If grant is discontinued, employees will be terminated.

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 19\_\_\_\_, the public welfare requiring it.

Duly passed and approved this 20 day of July, 19 98.


 Date: 7-20-98  
 County Clerk


 Date: 7-28-98  
 County Executive

INTRODUCED BY COMMISSIONER Hyatt ESTIMATED COST: \_\_\_\_\_  
SECONDED BY COMMISSIONER Vance FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call	18	3		3	
Voice Vote					

COMMENTS: WAIVER OF RULES APPROVED 7/20/98 ROLL CALL

ACCOUNT CODES			ACCOUNT DESCRIPTION	ORIGINAL APPROPRIATION 1997-98	TO CONTINUE	REQUESTED FOR IMPROVEMENTS	TOTAL 1998-99
ACC	OBI	SF LOC PGM	DESCRIPTION	1997-98	CONTINUE	IMPROVEMENTS	1998-99
55190			Alcohol & Drug Abuse Mgmt			\$	-
55190	100	00 0000	Personal Services	\$ -	-	\$ 50,900	\$ 50,900
55190	200	00 0000	Benefits	\$ -	-	\$ 15,800	\$ 15,800
55190	300	00 0000	Contracted Services	\$ -	-	\$ 5,000	\$ 5,000
55190	400	00 0000	Supplies and Materials	\$ -	-	\$ 3,300	\$ 3,300
55190	700	00 0000	Capital Outlay	\$ -	-	\$ 10,000	\$ 10,000
			Total	\$ -	-	\$ 85,000	\$ 85,000
			New Grant for 1998-99				

**BUDGET SUMMARY  
(DETAIL CONTINUATION)**

**CONTRACTOR:** SULLIVAN COUNTY REGIONAL HEALTH DEPARTMENT

**CONTRACT TERM:** JULY 1, 1998 - JUNE 30, 1999

**PROGRAM AREA:** ALCOHOL AND DRUG

PROFESSIONAL FEES/GRANTS & AWARDS (ITEMIZE & EXPLAIN)	COST	TOTAL COST
<b>TOTAL PROFESSIONAL FEES/GRANTS &amp; AWARDS</b>		\$0.00

TRAVEL/CONFERENCES & MEETINGS	COST	TOTAL COST
ROUTINE TRAVEL (TOTAL ONLY)	\$2,000.00	
IN STATE/OUT OF STATE CONFERENCES & MEETINGS (ITEMIZE)		
Various In State and Out of State Conferences, Meetings, and Training	\$3,000.00	
<b>TOTAL TRAVEL/CONFERENCES &amp; MEETINGS</b>		\$5,000.00

CAPITAL PURCHASES (ITEMIZED AND EXPLAIN)	COST	TOTAL COST
2 LapTop Computer with Modems	\$3,500.00	
3 Personal Computer	\$5,600.00	
3 Printers	\$900.00	
<b>TOTAL CAPITAL PURCHASES</b>		\$10,000.00

EXHIBIT D

Budget Summary  
(Salaries Detail)

Contractor: Sullivan County Regional Health Department

Contract Term: July 1, 1998 - June 30, 1999

Program Area: Alcohol and Drug

Name	Position Title	Monthly Salary	# of Months Worked	% of Time Worked	Total Contract Salary
Vacant	PHN2	\$2,120.00	12	100	\$25,440.00
Vacant	PHN2	\$2,120.00	12	100	\$25,440.00
Total Actual					\$50,880.00
Total Rounded to Nearest \$100					\$50,900.00

## Budget Summary

Contractor: Sullivan County Regional Health Department

Contract Term: July 1, 1998 - June 30, 1999

Program Area: Alcohol and Drug

LINE REF #	EXPENSES BY OBJECT	TOTAL PROJECT	CONTRACTOR PARTICIPATION	CONTRACT AMOUNT
1	Salaries (Attach Detail)	\$50,900	\$0	\$50,900
2	Benefits ( 31%)	\$15,800	\$0	\$15,800
	SUB-TOTAL Personnel	\$66,700	\$0	\$66,700
4, 15	Prof. Fees/Grants & Awards (Attach Detail)			
11, 12	Travel/Conferences & Meetings (Attach Detail)	\$5,000	\$0	\$5,000
20	Capital Purchases (Attach Detail)	\$10,000		\$10,000
22	Indirect ( % ) or Administrative Cost			
	Other - As Detailed Below	\$3,300	\$0	\$3,300
	SUB-TOTAL	\$18,300	\$0	\$18,300
	<b>TOTAL BUDGET</b>	<b>\$85,000</b>	<b>\$0</b>	<b>\$85,000</b>
<b>OTHER (Detail)</b>				
5	Supplies	\$3,300		\$3,300
6	Telephone			
7	Postage & Shipping			
8	Occupancy			
9	Equipment Rental & Maintenance			
10	Printing & Publications	\$0		\$0
13	Interest			
14	Insurance			
16	Specific Assistance to Individuals			
17	Depreciation			
18a	Other Non-Personnel Expenses			
18b				
18c				
18d				
24	In-Kind			
	<b>TOTAL OTHER</b>	<b>\$3,300</b>		<b>\$3,300</b>

EXHIBIT D



RESOLUTION NO. 20

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN REGULAR SESSION THIS THE 20<sup>th</sup> DAY OF JULY, 1998.

RESOLUTION AUTHORIZING Renewal of Agreement with Intermont Utility District

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_ AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee assembled in Regular Session on the 20<sup>th</sup> of July, 1998;

WHEREAS, the Sullivan County Board of Commissioners previously authorized Sullivan County to enter into an agreement with Intermont Utility District so as to provide public water for water services in the Observation Knob Park; however, said agreement contained a provision that the agreement would be of no force or effect unless the United States Department of Agriculture approved Intermont Utility District's application for \$432,000.00 of Rural Development funding necessary to fund needed improvements; and

WHEREAS, said application was not approved in a timely fashion thereby rendering the previous agreement of no force or effect; and

WHEREAS, the Observation Knob Park Committee met on July 16, 1998 and duly made and approved the recommendation that Sullivan County proceed forward with its assistance in securing public water services for the Observation Knob Park Area by entering into an agreement with Intermont Utility District to extend the former agreement subject to the same terms and conditions;

NOW, THEREFORE, BE IT RESOLVED the Sullivan County Board of Commissioners hereby authorize Sullivan County to enter into the attached agreement with Intermont Utility District to provide public water services to the Observation Knob Park area subject to Intermont Utility District's application for \$432,000.00 of Rural Development Funding being approved by the United States Department of Agriculture on or before December 31, 1998 and the Sullivan County Executive is hereby authorized to execute the attached agreement on behalf of Sullivan County.

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 19\_\_\_\_, the public welfare requiring it.

Duly passed and approved this 20 day of July 1998.

Attest: [Signature] County Clerk Date: 7-20-98  
 County Executive [Signature] Date: 7-21-98

INTRODUCED BY COMMISSIONER R. Morrell ESTIMATED COST: \_\_\_\_\_  
 SECONDED BY COMMISSIONER R. Harr FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call	21			3	
Voice Vote					

COMMENTS: WAIVER OF RULES APPROVED 7/20/98 ROLL CALL  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AGREEMENT

THIS AGREEMENT is entered into by and between Sullivan County Tennessee, a political subdivision of the State of Tennessee, and Intermont Utility District, a body politic and corporate duly created pursuant to the utility district act of the State of Tennessee.

WHEREAS, in 1997 the parties hereto previously entered into an agreement, a copy of which is attached hereto, which called for, among other things, improvements to Intermont Utility District facilities and the provision of water by Intermont Utility District to Observation Knob Park, a park owned by Sullivan County Tennessee; and

WHEREAS, the 1997 agreement contained a proviso that the agreement would be of no force or effect unless the United States Department of Agriculture approved Intermont Utility District's application for \$432,000 of Rural Development funding which was necessary to fund the needed improvements; and

WHEREAS, it is Sullivan County Tennessee's position that such condition precedent did not happen and as such the agreement was of no force or effect; and

WHEREAS, the parties wish to renew the agreement subject to the same condition precedent to the agreement's effectiveness.

Attachment to Resolution No 20

ACCORDINGLY, the parties hereto agree that the previous agreement, a copy of which is attached hereto, is hereby renewed and binding upon the parties hereto provided, however, that such agreement shall be of no force or effect unless the United States Department of Agriculture on or before December 31, 1998 approves Intermont Utility District's application for loan monies in the amount of \$432,000.00 to help finance necessary improvements to Intermont Utility District's facilities.

Executed this the \_\_\_\_\_ day of \_\_\_\_\_, 1998.

SULLIVAN COUNTY, TENNESSEE

BY \_\_\_\_\_  
GIL HODGES, County Executive

Attest:

\_\_\_\_\_  
County Clerk

INTERMONT UTILITY DISTRICT

BY \_\_\_\_\_  
President

THIS SERVICE AGREEMENT, made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 1997 by and between SULLIVAN COUNTY, TENNESSEE, hereinafter referred to as "County", acting through its Board of Commissioners, and INTERMONT UTILITY DISTRICT, hereinafter referred to as "District", a body politic and corporate duly created pursuant to the Utility District Act;

WITNESSETH THAT:

WHEREAS, the County desires to obtain public water for water service in the Observation Knob Area, hereinafter referred to as "Project Area", of Sullivan County; and

WHEREAS, the Project Area is included in the assigned Service Region of the District; and

WHEREAS, parties hereto are in agreement that the above mentioned needs can best be met by service from the District's existing water system which presently terminates at a point near Cold Springs Road and State Route 44; and

WHEREAS, the parties hereto desire to enter into this Agreement for the purpose of establishing an equitable basis for providing the needed water service, and recognize that this Agreement will be used by the District to facilitate obtaining financing for a portion of the costs of such construction;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows; provided, however, that this Agreement shall be of no force or effect unless the District's application for \$432,000.00 of Rural Development Funding is approved by the United States Department of Agriculture:

Article 1

DEFINITIONS AND WARRANTIES

Section 1.1 Definitions: The following terms as used in this Agreement shall have the following meanings:

"Act" shall mean the act of the State Government of Tennessee allowing the formation of local Utility Boards.

"Agreement" shall mean this Service Agreement, including all amendments and supplements hereto.

"Bonds" shall mean revenue bonds issued by the District to obtain funds, together with other available funds, to pay the cost of constructing necessary improvements to its existing system and shall include any notes or other obligations issued for such purpose, including any obligations issued to refund any such obligations.

"County" shall mean Sullivan County, Tennessee.

"Customer" shall mean any person or organization connected to the water system owned by the District for the purpose of obtaining water service.

"District" shall mean the Intermont Utility District.

"Improvements" shall mean the facilities necessary to provide and extend adequate water service to the Project Area.

"Monthly User Charge" shall mean the charge payable by the Customer as determined in accordance with Section 4.2.

"Project Area" shall mean the Observation Knob/ Painters Creek Area of Sullivan County as designated by a Project Area map attached to this agreement.

"Service Region" shall mean the area designated by the State of Tennessee as the Service Area of the Intermont Utility District.

"System" shall mean the water supply system operated by the Intermont Utility District including the Improvements covered by this Agreement.

**Section 1.2 Representations and Warranties:** Each of the parties hereto makes the following representations and warranties, all of which shall continue for the duration of this Agreement:

- (a) It has full power and authority to enter into this Agreement and to consummate and carry out the transactions contemplated by this Agreement. It has taken or will take all action required by this Agreement, the Act and other applicable laws in connection therewith.
- (b) It has duly authorized the execution and delivery of this Agreement.
- (c) The execution and delivery of this Agreement and the performance of its obligations hereunder are within its corporate powers and will not conflict with, or constitute a breach or result in a violation of, (I) any Federal or State Constitutional or statutory

provision, (ii) in any material respect, any agreement or other instrument to which such party is a party or by which is bound, (iii) any order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over it or its property, (iv) for the District, the Act or its articles of incorporation or bylaws. (d) There is no litigation at law or in equity or any proceeding before any governmental agency pending or, to its knowledge, threatened with respect to (i) its existence, (ii) its authority to execute and deliver this Agreement, (iii) the validity or enforceability of this Agreement or the transactions contemplated hereby, (iv) the title of its officers who are executing this Agreement, or (v) any authority or proceedings relating to its execution and delivery of this Agreement.

e) It is a *duly organized and validly existing public body politic.*

## **Article II Design and Construction**

**Section 2.1 - District Financing:** The District shall proceed, in a timely manner, to secure financing for design and construction and other expenses in connection with the Improvements. The District has made and will continue to make, where appropriate, application for grants and loans for the design and construction of the Improvements necessary to allow adequate water service to be provided to the Project Area. Upon approval of such grants and loans to the extent of 100% of eligible costs and the availability of such additional funds, the District shall issue and sell bonds pursuant to the Act in an amount, together with other available funds, and County Funding described in Section 2.2, which will be sufficient to pay the total Cost of the Improvements, including the repayment of any interim financing, provided, however, that nothing contained in this Agreement shall require the District to issue Bonds other than upon terms deemed reasonable by it. The District shall diligently pursue all available grants and low interest loans as the means to finance the Improvements. The District shall proceed with design and construction of the Improvements in order that it may be placed in operation as soon as may be practicable.

**Section 2.2 - County Funding:** The County agrees to pay up to \$80,000 as the estimated cost of the extension of waterline and apputenences, including design,

rights-of-way, construction by a licensed contractor, and testing, to extend service from the existing termination point of the District to Observation Knob Park which is situated in the Project Area.<sup>1</sup> The constructed work, upon completion of successful testing, shall be the property of the District.

**Section 2.3 Grant Disbursements:** It is agreed that any grants received by the District, for which eligible costs include any portion of Improvements herein agreed to be funded by the County, shall proportionately (County Funding to Total Project Grant Eligible Funding) be reimbursed to the County immediately upon receipt of such grants by the District.

#### Article III-Operation

**Section 3.1 Operation :** The District shall own, operate and maintain the System in a efficient and economical manner, making all necessary and proper repairs, replacements and renewals, consistent with good business and operating practices for comparable facilities and in accordance with applicable standards of regulatory bodies.

**Section 3.2 Existing Distribution Systems:** The County owns and operates a distribution system within Observation Knob Park. The County will continue to own, operate and maintain this distribution system.

**Section 3.2 Rules and Regulations:** The District has and, if necessary, will adopt and enforce other reasonable rules and regulations to ensure the efficient operation and maintenance of the System and compliance with all applicable orders and regulations of regulatory bodies. The County shall observe all such rules and regulations.

#### Article IV-Charges

**Section 4.1 Charges in General:** The District shall fix the Monthly User Charges at such levels as may be necessary to provide funds, together with other available funds, sufficient at all times (a) to pay the principal of, the premium, if any, and interest on the Bonds, as the same become due, (b) to pay the cost of operation, maintenance and replacement of the Improvements, and (c) to maintain reasonable reserves for debt service and for replacements and improvements.

---

<sup>1</sup>Payment shall be made on a monthly basis based upon the amount of work completed as certified by the District and approved by the County with 5% held back by the County to be paid upon completion of the extension.



**Section 4.2 Monthly User Charge:** The Monthly User Charge for the County for the Observation Knob Park will be a minimum rate of \$6.90 for 600 gallons for each camper space. Water shall be metered through a master meter constructed as part of the Improvements. The minimum charge will compensate the District for 150,000 gallons per month. Water used in excess of this amount will be paid for at the rates per 1000 gallons established for all customers of the District. The District may adjust the Monthly User Charge from time to time as needed to cover "debt retirement costs," based on the ratio which the System usage bears to the total capacity of the System, and the "operation and maintenance costs", based on the ratio which the actual demand of its system customers bears to the total demand of the System. "Debt Retirement Costs" shall mean costs of paying principal of and premium, if any, and interest on Bonds as the same become due and providing reasonable reserves therefor. "Operation and Maintenance Costs" shall mean the sum of the expenses for administration of the District, the ownership, operation and maintenance of the System, replacements and the amount of any "Operation and Maintenance Costs" overruns for the previous year, less any revenue derived or to be derived from the sale of water.

The District shall hold a public hearing on the proposed Monthly User Charge and each Customer shall be afforded the opportunity of inquiry and suggestion. After such public hearing, the District shall proceed to adopt the Monthly User Charge and such determination shall be binding in the absence of manifest error.

**Section 4.3 Billing and Payment of Monthly User Charges:** The District shall determine the Monthly User Charge by April 1 of each year for the twelve months beginning the following July 1. The Monthly User Charge as determined shall not be changed during such twelve month period except to correct an error in calculation or as may be necessary to prevent a default in payment of the principal of or the premium, if any, or interest on Bonds, or to prevent a default under the resolution or agreement authorizing or securing Bonds. Bills shall be submitted to the County on the first working day of each month or as soon thereafter as may be practicable. Payment shall be due 15 days after the date of the bill. Amounts unpaid within 30 days after the date of the bill shall accrue interest at the rate of 1/2% per month, or at such higher rate as the District may determine but not in excess of the maximum rate permitted by

law until paid.

**Section 4.4 New Connections:** It is agreed that new service connections may be added to the line extension referred to in Section 2.2 after the extension is accepted by the District. The District shall establish an appropriate connection fee for such connections based upon the costs of the connections and other considerations. The District agrees that the connection fees for any connections made after acceptance of the extension by the District shall include an amount of \$400.00 which shall be paid to the County. This provision shall be in effect for a period of six years following acceptance of the extension by the District. Subject payments from the District to the County shall be made on or about the beginning of each year and shall not exceed the amount of the County Funding described in Section 2.2.

**Section 4.5 Meters:** The District shall provide meters at each water service to determine and record on a continuing basis the quantities of water delivered to each customer. Meters shall be tested by the District for accuracy not less frequently than once every year. The District shall test any meter for accuracy upon request of the County; provided, however, that if such meter shall be found to be accurate within a range of plus or minus 5%, the cost of the test shall be borne by the County. If any meter should fail to record correctly the flow of water, the District shall replace the meter and shall estimate the amount of flow on the basis of prior experience until the replacement meter is installed.

#### **Article V-Duration of Agreement**

**Section 5.1 Initial Term:** The initial term of this Agreement shall be forty years next following its date; provided, however, that if on such date the Bonds have not been paid or provisions have not been made for their payment, the initial term of this Agreement shall continue until the Bonds shall have been paid or provisions shall have been made for their payment.

**Section 5.2 Continuation of Agreement:** This Agreement shall continue in effect beyond the initial term provided above until terminated buy any of the parties hereto. No such termination shall become effective until one year after written notice thereof shall have been given to all the other parties hereto.

#### **Article VI-Miscellaneous**

**Section 6.1 Amendments:** The Agreement may not be amended, modified or otherwise altered without the express written consent of all parties hereto. In addition, the parties hereto recognize that this Agreement will constitute an essential part of the District's financing plan and that, after Bonds have been sold, this Agreement cannot be amended in any manner that will impair or adversely affect the security afforded hereby for the payment of the principal of and premium, if any, and interest on bonds, or otherwise than in a manner consistent with the resolution or agreement authorizing or securing Bonds.

**Section 8.2 Books and Records:** The District shall keep proper books and records in accordance with generally accepted accounting principles applicable to governmental entities such as the District, which shall be available for inspection at all reasonable times by the County through their duly authorized agents. The District shall cause an annual audit of its books and records to be made by an independent certified public accountant at the end of each fiscal year and certified copies therefore to be filed promptly with the County. The District's fiscal year begins on January 1 and ends on the following December 31st.

**Section 6.3 Successors and Assigns:** This Agreement shall be binding upon, insure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.

**Section 6.4 Severability:** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect any other provision hereof.

**Section 6.5 Counterparts:** This Agreement shall be executed in several counterparts, any of which shall be regarded for all purposes as an original.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

By: A. B. Taylor  
Intermont Utility District

Title: PRESIDENT

Date: 11-6-97

By: Neil Hodge  
Sullivan County

Title: County Executive

Date: September 11, 1997

RESOLUTION NO. 21

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN REGULAR SESSION THIS THE 20<sup>th</sup> DAY OF JULY, 1998.

RESOLUTION AUTHORIZING Sullivan County Executive Committee to Study Soil Erosion Control, Ground Water Control and Recommend Alternatives to Alleviate Damage Due to These Conditions

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_ AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee assembled in Regular Session on the 20<sup>th</sup> of July, 1998;

WHEREAS, Severe thunderstorms in the spring and summer have resulted in property damage throughout the county; and

WHEREAS, sink holes have been filled in and new construction allowed on these sink holes resulting in water damage to adjoining property owners throughout the county; and

WHEREAS, development of subdivisions with homes, driveways, and roadways has eliminated the natural drainage and absorption in many areas throughout the county causing water damage to adjoining property owners;

NOW, THEREFORE, BE IT RESOLVED that the Sullivan County Executive Committee study soil erosion control and ground water control and recommend alternatives to alleviate damage due to these conditions. Amend: Comm. Gonce - - Add Joe Yarbrough and David Parker from Planning & Zoning, John R. LeSuer, Highway Commissioner and Dan Street, County Attorney.

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 19\_\_\_\_, the public welfare requiring it.

Duly passed and approved this 20 day of JULY 1998.

Attested: [Signature] County Clerk Date: 7-20-98 [Signature] County Executive Date: 7-28-98

INTRODUCED BY COMMISSIONER J. Carter ESTIMATED COST: \_\_\_\_\_  
SECONDED BY COMMISSIONER J. Blalock FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call	20	2		2	
Voice Vote					

COMMENTS: WAIVER OF RULES APPROVED AS AMENDED 7/20/98 ROLL CALL

RESOLUTION NUMBER 22

TO THE HONORABLE GIL HODGES, COUNTY EXECUTIVE, AND THE MEMBERS OF THE SULLIVAN COUNTY BOARD OF COMMISSIONERS IN Regular SESSION THIS THE 20th DAY OF July 19 98.

RESOLUTION AUTHORIZING Hiring an Independent Certified Healthcare Consultant

WHEREAS, TENNESSEE CODE ANNOTATED; SECTION \_\_\_\_\_, AUTHORIZES COUNTIES TO \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sullivan County, Tennessee, assembled in Regular Session on the 20th day of July 1998.

THAT WHEREAS, The Employee's Health, Dental and Over 65 Insurance policies expire on November 1st 1998 and must be either renewed with the present carrier or solicited for bid in open market and based on the timetable involved to acquire and review data, recommend the types of policies that are available and determine the most effective methods which will profit the employees as well as the County's pocketbook, and \_\_\_\_\_

WHEREAS, The employee benefits procurement market continues to become more and more complex to comprehend due to daily changes in the healthcare profession. The Insurance and Purchasing Departments were requested and have obtained statements of qualifications from independent healthcare consultants to assist the County with effective benefit design and managed care options which will profit the employees and the County, and \_\_\_\_\_

WHEREAS, Such statements of qualifications have been reviewed and presented to the Insurance Committee for consideration and action was taken by said committee to recommend hiring an independent, certified healthcare consultant to assist Sullivan County for a fee offered at "not to exceed \$10,000"; and \_\_\_\_\_

NOW, THEREFORE BE IT RESOLVED, That the Sullivan County Board of Commissioners authorize that \$10,000 be allocated from the Employee Benefits Account #58600 for the purpose of hiring an independent, certified healthcare consultant to review, compare, recommend and negotiate our healthcare options and requirements during the entire implementation process.

All resolutions in conflict herewith be and the same rescinded insofar as such conflict exist.

This resolution shall become effective on \_\_\_\_\_, 19\_\_, the public welfare requiring it.

Duly passed and approved this 20 day of July, 19 98

Attested: [Signature] Date: 7-20-98 [Signature] Date: 7-28-98  
 County Clerk County Executive

INTRODUCED BY COMMISSIONER Belcher ESTIMATED COST: \_\_\_\_\_  
 SECONDED BY COMMISSIONER Mayer/King FUND: \_\_\_\_\_

Committee Action	Approved	Disapproved	Deferred	Date
Administrative				
Budget				
Executive				

RESOLUTION NO. 22  
Page Two

Commission Action	Aye	Nay	Pass	Absent	Total
Roll Call					
Voice Vote	18	3		3	

COMMENTS: WAIVER OF RULES APPROVED 7/20/98 ROLL CALL

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ATTACHMENT TO RESOLUTION NO. 22 - JULY 20TH 1998

OPTION 1

I will provide the following services during Sullivan County Government's Health and Dental insurance renewal effective November 1, 1998 for a fee of \$5,000.

- Review of 1998 Health and Dental renewal from current carrier
- Consultation as to benefit design, employee options, managed care networks and products
- Review and recommendation of reinsurance
- Review of market options and recommendation to negotiate with current carrier or to bid either Health or Dental
- Negotiation of pricing with current carrier
- Consultation on implementation of benefits to employees
- Attendance at committee meetings to present recommendations

OPTION 2

If Sullivan County decides to request proposals on the Health and Dental, I will provide the following additional services for a total fee of \$10,000.

- Review and recommendations on bid specifications
- Review listing of companies to bid
- Review of all proposals
- Comparison of managed care companies and networks
- Review of all pricing and reinsurance costs
- Recommendation as to selection of carrier
- Consultation on employee meetings and attendance at committee meetings during the implementation process

AND THEREUPON COUNTY COMMISSION ADJOURNED TO MEET  
AGAIN IN REGULAR SESSION AUGUST 17, 1998.

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GIL HODGES, COUNTY EXECUTIVE