

**ORDINANCE NUMBER 2008-16 7**  
**AN ORDINANCE ANNEXING TERRITORY LOCATED ADJACENT TO THE**  
**CITY OF WHITESBURG, KENTUCKY**

WHEREAS, the territory annexed, is known as the JAC GLASS COMPANY property whose border is contiguous to the City of Whitesburg; and,

WHEREAS, JAC Glass Company, through and by its owner, Dan Combs, entered into a consent agreement for the annexation of the property on August 8, 2008; and,

WHEREAS, pursuant to KRS 81A.412, the City is not required to enact an intent to annex ordinance, to give notice or to wait sixty days for an enacting ordinance of annexation; and,

WHEREAS, the City of Whitesburg has not otherwise been challenged in a court of law in the proceeding to annex the hereinafter described territory.

NOW THEREFORE, BE IT ORDAINED by the City Council of the city of Whitesburg as follows:

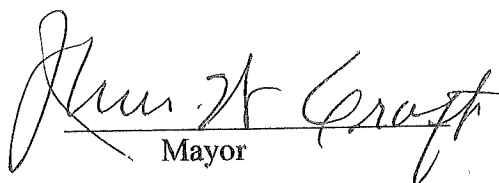
1. The territory described below, a description of which is attached to this ordinance as "Exhibit A" the same as if copied at length herein, is hereby annexed by the City of Whitesburg.
2. All prior orders or ordinances or parts of any municipal orders or ordinances in conflict here with are hereby repealed.
3. This ordinance shall become effective from and after its passage and publication as required by KRS 81A.060 and KRS Chapter 424.


Dated this 12 Day of August, 2008.

First Reading            August 12, 2008

Second Reading        August 14, 2008

Published                August 20, 2008

  
Mayor

  
City Clerk

RECEIVED AND FILED  
DATE Sept. 22, 2008

TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY Hankie Adkinson

"Exhibit A"  
DESCRIPTION OF  
ANNEXATION ORDINANCE 2008-7  
FOR  
THE CITY OF WHITESBURG

Situated in the Commonwealth of the Kentucky, in the County of Letcher on the waters of The North Fork of The Kentucky River and more particularly described with all bearings and distances referenced to the magnetic meridian of the 1983 Kentucky South Coordinate System. All Iron Pins set, mentioned in this description are a minimum of 24 inches in length and 1½ inches in diameter with a plastic cap stamped LS # 3144.

Beginning along a common corner to Ordinance # 347 at a point in the West right of way of the old L&N Railroad, now owned by Mountain Rail Properties and the North edge of Old Jenkins Road, having a Northing of 1,940,339.52 and a Easting of 2,502,279.53 based on the 1983 Kentucky South Coordinate System;

Thence S 52°15'52" W a distance of 49.12' running with the edge of highway 2034 and reverse of Ordinance # 347;

Thence N 37°33'05" W a distance of 151.31' continuing with highway 2034 up Crafts Colly Creek;

Thence N 23°01'24" W a distance of 75.59' to a point in the edge of highway right-of way 2034;

Thence N 78°46'43" E a distance of 135.08' leaving highway 2034 running with a common line to Paul Brooks (DB 365, PG 584) to a common line of Mountain Rail Properties (DB 292, PG 120) and also a common line to Ordinance # 347;

Thence S 08°36'50" E a distance of 187.87' with Ordinance #347 to the point of beginning, having an area of 0.45 acres according to a survey by Richard W. Hall in March and April of 2008.

Being a part of or the same land conveyed to Dan Combs in Deed Book 301, Page 223 and found recorded in the Letcher County Clerks Office.

<i>Richard W. Hall</i>	<i>3144</i>	<i>7-5-2008</i>
Surveyor	RLS	Date



## **WAIVER, AGREEMENT AND CONSENT TO ANNEXATION**

THIS is an Waiver, Agreement and Consent to Annexation between **Dan Combs**,  
100 Cornelia Avenue, Whitesburg, Kentucky (hereinafter the "Property Owner") and the  
**City of Whitesburg**, a Fourth Class City, (hereinafter the "City") entered into this  
8 day of August, 2008.

### **PREAMBLE**

Both parties to this Agreement understand as follows:

1. The City has expressed an interest in annexing the property of the Property Owner (hereinafter the "Consent Area") to include it within the corporate limits of the City of Whitesburg.
2. Further, the City has determined it is not in the best interest of the City to presently provide full fire, police protection, sewer and water services at the Consent Area unless the Consent Area can be brought within the corporate limits of the City of Whitesburg.

WHEREFORE, the parties to this Agreement agree as follows:

1. The City of Whitesburg agrees to provide fire, police and a sewer connection in addition to the water service it presently provides to the Property Owner at the Consent Area, which is more particularly described in the document attached hereto, made a part hereof and incorporated herein as it fully set out at length, and marked as "Exhibit A".

2. Property Owner agrees that in consideration of the City's promise to provide fire, police protection and sewer service when allowed to do so by the Commonwealth of Kentucky, in addition to those services already being furnished, he will not protest, oppose, or petition against the City's annexation of the real property described as the Consent Area; and further covenants and agrees he will not sue the City of Whitesburg, or any of its officers, agents, employees or representatives, or prosecute any action to which the City of Whitesburg or any of its officers, agents, employees or representatives is a party, for or on account of the annexation of the Consent Area, and that he hereby waives his private right to assert his rights under KRS 81A or any other legal requirement for annexation.
3. It is further understood and agreed by Property Owner that a material part of the City's agreement stated herein to provide police and fire protection and a sewer connection when permitted to do so by the Commonwealth of Kentucky in addition to those services already furnished to Consent Area is Property Owner's promise not to protest or oppose in any way, the City's annexation of the Consent Area. Further, by this Agreement, Property Owner affirms that he has determined that he desires to forfeit his private right to protest the annexation in exchange for receipt of services described herein. Property Owner further represents and warrants that he is the only fee simple owner of the real property referred to as the Consent Area.

4. It is further understood and agreed that this Waiver, Agreement and Consent to Annexation is a covenant running with the herein described property and is binding upon all heirs, successors or assigns of Property Owner.

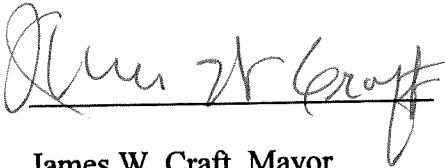
IN WITNESS WHEREOF, the Parties, hereto have hereunto set their hands this the day and date aforesaid.

**DAN COMBS**



Property Owner

**CITY OF WHITESBURG**



James W. Craft, Mayor  
City of Whitesburg

**ATTEST:**



Garnett Sexton, City Clerk

**COMMONWEALTH OF KENTUCKY  
COUNTY OF LETCHER**

I hereby certify that on this 8 day of August, 2008, before me personally herein appeared Dan Combs, to me known to be the person described in and who executed the foregoing instrument as such for the uses and purposes therein mentioned, and said instrument is the act and deed of said person.

My Commission Expires: 1-10-2011

Sandra Hammock

Notary Public

**COMMONWEALTH OF KENTUCKY  
COUNTY OF LETCHER**

I hereby certify that on this 8<sup>th</sup> day of August, 2008, before me personally appeared James W. Craft, to me known to be the person described in and who executed the foregoing instrument in his capacity as Mayor of the City of Whitesburg, and Garnett Sexton, who executed this instrument in her capacity as Clerk of the City of Whitesburg, as such for the uses and purposes therein mentioned, and said instrument is that act and deed of said persons.

My Commission Expires: 1-10-2011

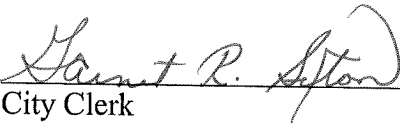
Sandra Hammock

Notary Public

## CERTIFICATION

I, Garnet R. Sexton, Clerk of the City of Whitesburg do hereby certify that, the above Ordinance 2008-7 is a true and correct copy as was presented to the City Council of the City of Whitesburg for a first reading at their regular schedule meeting dated August 12, 2008 and a special called meeting dated August 14, 2008 for the second reading of said Ordinance.

Given under my hand this 14<sup>th</sup> day of August, 2008.

  
City Clerk

(SEAL)

OVERSIZE MAP INCLUDED WITH  
SUBMISSION.

To research the map, contact the  
Office of Secretary of State  
or the County Clerk.