

APPENDIX

JOHNSON COUNTY ORDINANCES VOLUME ONE-GENERAL (CURRENT LAW, AMENDED, REPEALED, EXPIRED)

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APPENDIX

**JOHNSON COUNTY ORDINANCES
VOLUME THREE
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(CURRENT LAW, REPEALED)**

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Original Chapter 1. Organization and Structure

(1:1) Original Chapter 1 An Ordinance Establishing Procedures for the Adoption of Ordinances and Amendments to Ordinances

ORDINANCE 01-31-13-01 (*Current law*)

AN ORDINANCE REPEALING THE JOHNSON COUNTY ORDINANCE REGARDING ADOPTING AND AMENDING ORDINANCES

Section I. Purpose. The purpose of this ordinance is to repeal the Johnson County Ordinance regarding Adopting and Amending Ordinances, codified as Chapter 1:1 of the Johnson County Code of Ordinances. The existing Ordinance has been deemed superfluous due to relevant state law.

Section II. Repeal. The Johnson County Board of Supervisors hereby repeals the Johnson County Ordinance regarding Adopting and Amending Ordinances, adopted effective September 13, 1979, and codified as Chapter 1:1 of the Johnson County Code of Ordinances.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On January 17, 2013, motion by Sullivan, second by Neuzil, to approve an Ordinance Repealing the Johnson County Ordinance Regarding Adopting and Amending Ordinances on first consideration. Roll call: Aye: Harney, Neuzil, Rettig, Sullivan.

On January 24, 2013, motion by Sullivan, second by Harney, to approve an Ordinance Repealing the Johnson County Ordinance Regarding Adopting and Amending Ordinances on second consideration. Roll call: Aye: Harney, Rettig, Sullivan; Absent: Neuzil.

Motion by Sullivan, second by Neuzil, to approve an Ordinance Repealing the Johnson County Ordinance Regarding Adopting and Amending Ordinances on final consideration and to approve Ordinance 01-31-13-01. Roll call: Aye: Harney, Neuzil, Rettig, Sullivan.

Dates of Publication: Iowa City *Press-Citizen*: February 12, 2013
Solon *Economist*: February 13, 2013
The North Liberty *Leader*: February 13, 2013
Lone Tree *Reporter*: February 14, 2013

ORDINANCE 8-15-79-1 (Repealed)
AN ORDINANCE ESTABLISHING PROCEDURES FOR THE ADOPTION OF ORDINANCES AND AMENDMENTS TO ORDINANCES

SECTION I. PURPOSE. The purpose of this ordinance is to establish procedures for the adoption of ordinances and amendments to ordinances. The procedures prescribed in this ordinance shall be utilized by Johnson County for the adoption and amendment of all subsequent ordinances in this county,

SECTION II. TITLE OF ORDINANCE. The subject matter of an ordinance or amendment must be generally described in its title.

SECTION III. AMENDMENTS. An amendment to an ordinance or to a code of ordinances must specifically repeal the ordinance or code or the section or subsection to be amended, and must set forth in full the ordinance, section, or subsection as amended.

SECTION IV. TWO CONSIDERATIONS BEFORE FINAL PASSAGE—HOW WAIVED.

A. A proposed ordinance or amendment must be considered and voted on for passage at two meetings of the board of supervisors prior to the meeting at which it is finally to be passed, unless this requirement is suspended by a recorded vote of not less than three-fourth of the members of the entire board.

B. However, if the title of the proposed ordinance or amendment is published as provided in paragraph (C) of this Section prior to its first consideration, and copies of the full text of the ordinance or amendment are available at the time of publication at the office of the county auditor, the ordinance or amendment must be considered and voted on for passage at one meeting prior to the meeting at which it is finally to be passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of the members of the entire board,

C. Publication of titles of proposed ordinances or amendments, when made pursuant to paragraph B of this Section, shall be in each of the official newspapers of Johnson County. Such publication shall be made at least once, not less than four nor more than twenty days before first consideration of the ordinance or amendment.

SECTION V. MAJORITY REQUIREMENT. Passage of an ordinance or an amendment to an ordinance requires an affirmative vote of not less than a majority of the entire board of supervisors. Each board member's vote on an ordinance or amendment to an ordinance must be recorded in the board's official minutes.

SECTION VI. EFFECTIVE DATE. Upon final passage of an ordinance or an amendment to an ordinance, the ordinance or amendment will become effective upon publication as part of the proceeding of the board of supervisors, unless a subsequent effective date is provided within the measure.

SECTION VII. MAINTENANCE AND PUBLICATION OF ORDINANCES. In accordance with the provisions of the ordinance, the county auditor shall cause all ordinances or amendments to ordinances to be published in each of the official newspapers of Johnson County as part of the proceedings of the board of supervisors.

SECTION VIII. ADOPTION BY REFERENCE. The board of supervisor may adopt the provisions of any statewide or nationally recognized standard code or portions of any such code by an ordinance which identifies the code by subject matter, source and date, and incorporates the provisions by reference without setting them forth in full. Such code or portion may be adopted only after public hearing and published notice thereof in each of the official newspapers of Johnson County at least ten days prior to said public hearing.

SECTION IX. COUNTY ORDINANCE BOOK. All adopted ordinances and amendments to ordinances shall be maintained by the county auditor in a separate book known and identified as the "Johnson County Ordinance Book."

SECTION X. REPEALER. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION XI. SAVINGS CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

SECTION XII. EFFECTIVE DATE. his ordinance shall become effective after its passage and approval as provided herein for subsequent ordinances.

On August 15, 1979, a motion by Donnelly and Shipton to pass and adopt the Ordinance to Establish Ordinances and Amendments to Ordinances. Roll call: Cilek, absent; Donnelly, aye; Shipton, aye; Sehr, aye; Langenberg, aye.

Date of publication: September 13, 1979.

Chapter 1. Public Services

1:1 Requiring the Separation of Yard Wastes from All Other Garbage and Refuse

ORDINANCE 05-02-91-1 REQUIRING THE SEPARATION OF YARD WASTES FROM ALL OTHER
GARBAGE AND REFUSE

1:1 Requiring the Separation of Yard Wastes from All Other Garbage and Refuse

ORDINANCE 05-02-91-1 (*Current law*) REQUIRING THE SEPARATION OF YARD WASTES FROM ALL OTHER GARBAGE AND REFUSE

Enacted May 2, 1991

Section I. Purpose. The Purpose of this ordinance is to require the separation of yard wastes from all other garbage and refuse to facilitate waste volume reduction under Iowa Code Chapter 455D.

Section II. Definition. “Yard Waste” means debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

Section III. Separation of Yard Wastes Required. All yard waste shall be separated by the owner or occupant from all other garbage and refuse accumulated on any premises and shall be composted or land-applied on the premises or placed in approved container(s) for collection and disposal at a permitted sanitary landfill or other approved disposal facility.

Section IV. Penalty. Violation of the requirements of this ordinance shall constitute a county infraction under Iowa Code section 331.307.

Section V. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section VI. Severability. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section VI. Effective Date. This ordinance shall become effective, after its passage and approval, upon publication as part of the proceedings of the Board of Supervisors.

On April 11, 1991, **motion** by Meade, second by Myers, to approve a reading of an ordinance requiring the separation of yard wastes from all other garbage and refuse. Roll call: aye: Myers, Lacina, Ockenfels, Meade, Duffy.

On April 25, 1991, **motion** by Meade, second by Ockenfels, to approve on second reading an Ordinance requiring the separation of yard wastes from other garbage and refuse. Roll call: aye: Myers, Lacina, Ockenfels, Meade, Duffy.

On May 2, 1991, motion by Meade, second by Ockenfels, to approve on final reading an Ordinance requiring the separation of yard wastes from other garbage and refuse. Roll call: aye: Myers, Lacina, Ockenfels, Meade, Duffy.

Dates of Publication:

Iowa City *Press-Citizen*: May 13, 1991

Solon *Economist*: May 15, 1991

The North Liberty *Leader*: May 15, 1991

Lone Tree *Reporter*: May 16, 1991

Chapter 2. Business and Occupations

2:1 Property Tax Exemption for Improved Industrial Property

Ordinance 02-07-85-1 AN ORDINANCE PROVIDING FOR THE PARTIAL EXEMPTION FROM PROPERTY TAXES FOR INDUSTRIAL PROPERTIES ON WHICH IMPROVEMENTS HAVE BEEN MADE

2:2 School Infrastructure Local Option Sales and Services Tax

Ordinance 04-05-07-01 AN ORDINANCE ESTABLISHING A SCHOOL INFRA-STRUCTURE LOCAL OPTIONS SALES AND SERVICES TAX APPLICABLE TO TRANSACTIONS WITHIN JOHNSON COUNTY

2:3 Establishing the Naples Avenue Area Urban Revitalization Area

Ordinance 12-22-21-02 AN ORDINANCE TO ESTABLISH THE NAPLES AVENUE AREA URBAN REVITALIZATION DISTRICT

2:1 Property Tax Exemption for Improved Industrial Property

ORDINANCE 02-07-85-1 (*Current law*)

AN ORDINANCE PROVIDING FOR THE PARTIAL EXEMPTION FROM PROPERTY TAXES FOR INDUSTRIAL PROPERTIES ON WHICH IMPROVEMENTS HAVE BEEN MADE

Enacted February 7, 1985

Section I. Purpose. The purpose of this ordinance is to provide for the partial exemption from property taxes for industrial properties as authorized by Chapter 427B of the *Code of Iowa*.

Section II. Establishment.

A. Partial Property Tax Exemption for Industrial Property. There is hereby established a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection 1, paragraph "e" of the *Code of Iowa*.

B. Definitions. For the purposes of this ordinance, the following definitions shall apply:

(1) Actual value added. The actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the assessor as of January 1 of each year for which the exemption is received.

(2) New construction. New building and structures and new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of existing building or structure or refitting of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products, which determination shall receive prior approval from the Board of Supervisors upon the recommendation of the Iowa Development Commission.

(3) New machinery and equipment. New machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection 1, paragraph "e", of the *Code of Iowa* unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

C. Procedure

1. Period and Amount of Exemption. The actual value added to industrial real estate is eligible to receive a partial exemption from taxation for a period of five years. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

- a. For the first year, seventy-five percent.
- b. For the second year, sixty percent.
- c. For the third year, forty-five percent.
- d. For the fourth year, thirty percent.
- e. For the fifth year, fifteen percent.

2. Limitation on Amount of Exemption. The granting of the exemption under this ordinance for new construction constituting complete replacement of an existing building or structure shall not result in the assessed

value of the industrial real estate being reduced below the assessed value for the industrial real estate before the start of the new construction added.

3. **Application for Exemption.** An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the County Assessor by February 1 of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvements, its cost, and other information deemed necessary by the Director of Revenue.

4. **Application for Prior Approval.** A person may submit a proposal to the Board of Supervisors to receive prior approval for eligibility for tax exemption on new construction. The Board of Supervisors, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the provision of the Johnson County Zoning Ordinance. The ordinance may be enacted not less than 30 days after a public hearing is held in accordance with Section 358A.6 of the 1983 *Code of Iowa*. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the Board of Supervisors to approve or reject.

5. **Repeal.** When in the opinion of the Board of Supervisors continuation of the exemption granted by this ordinance ceases to be of benefit to the County, the Board of Supervisors may repeal this ordinance, but all existing exemptions shall continue until their expiration.

6. **Dual Exemptions Prohibited.** A property tax exemption under this ordinance shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Severability. If, any section, provision or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On January 10, 1985, it was moved by Ockenfels and seconded by Myers that said Ordinance be passed on first consideration, and upon roll call the vote was: Donnelly: aye; Ockenfels: aye; Myers: aye; Sehr: absent; Langenberg: absent. **Motion** carried.

On January 24, 1985, it was moved by Donnelly and seconded by Ockenfels that said Ordinance be passed on second consideration, and upon roll call the vote was: Donnelly: aye; Sehr: aye; Langenberg: aye; Myers: aye; Ockenfels: aye.

On February 7, 1985, it was moved by Myers and seconded by Ockenfels to adopt said Ordinance as revised and upon roll call the vote was: Donnelly: aye; Myers: aye; Sehr: aye; Ockenfels: aye; Langenberg: absent. **Motion** carried.

Dates of Publication:

Iowa City *Press-Citizen*: February 18, 1985

Solon *Economist*: February 19, 1985

The North Liberty *Leader*: February 21, 1985

Lone Tree *Reporter*: February 21, 1985

Coralville *Weekly Courier*: February 21, 1985

2:2 School Infrastructure Local Option Sales and Services Tax

ORDINANCE 04-05-07-01 (*Expired*)

AN ORDINANCE ESTABLISHING A SCHOOL INFRA-STRUCTURE LOCAL OPTION SALES AND SERVICES TAX APPLICABLE TO TRANSACTIONS WITHIN JOHNSON COUNTY

Enacted April 5, 2007 / Expired June 30, 2017

Be It Enacted by the Board of Supervisors of Johnson County, Iowa:

Section I. School Infra-Structure Local Option Sales and Services Tax. There is imposed a School Infra-Structure local option sales and services tax applicable to transactions within Johnson County.

The rate of the tax shall be 1 (one) percent upon the gross receipts taxed under Iowa Code chapter 423E-School Local Option Tax, in the following Johnson County School Districts: the Iowa City Community School District, the Clear Creek Amana Community School District, the College Community School District, the Solon Community School District, the Lisbon Community School District, the Mount Vernon Community School District, the West Branch Community School District, the Williamsburg Community School District, the West Liberty Community School District, the Highland Community School District, the Mid-Prairie Community School District, and the Lone Tree Community School District.

The School Infra-Structure local sales services tax is imposed on transactions occurring on or after July 1, 2007 and will be in effect for a period of 10 (ten) years until June 30, 2017 within Johnson County. All persons required to collect state gross receipts taxes shall collect the tax pursuant to Iowa Code section 423E.3 for school infrastructure local option sales and services tax.

All applicable provisions of the appropriate sections of Chapter 423, Division IV, of the Iowa Code are adopted by reference.

Section II. Effective Date. This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Section III. Severability Clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provisions or part thereof not adjudged invalid or unconstitutional.

On March 22, 2007, **motion** by Neuzil, second by Meyers, to approve an ordinance establishing a School Infra-Structure Local Option Sales and Services Tax applicable to transactions within Johnson County on first consideration. Roll call: aye: Sullivan, Stutsman, Harney, Neuzil, Meyers.

On March 29, 2007, **motion** by Sullivan, second by Stutsman, to approve an ordinance establishing a School Infra-Structure Local Option Sales and Services tax applicable to transactions within Johnson County on second consideration. Roll call: aye: Sullivan, Stutsman, Harney, Neuzil, Meyers.

Motion by Sullivan, second by Meyers, to approve Ordinance 04-05-07-01, an ordinance establishing a School Infra-Structure Local Option Sales and Services tax applicable to transactions within Johnson County on final consideration. Roll call: aye: Sullivan, Stutsman, Harney, Neuzil, Meyers.

Dates of Publication:

Iowa City *Press-Citizen*: April 19, 2007

Solon *Economist*: April 18, 2007

The North Liberty *Leader*: April 18, 2007

Lone Tree *Reporter*: April 19, 2007

2:2 Establishing the Naples Avenue Area Urban Revitalization District

ORDINANCE NO. 12-22-21-02 (*Current law*) AN ORDINANCE TO ESTABLISH THE NAPLES AVENUE AREA URBAN REVITALIZATION DISTRICT

Enacted December 22, 2021

Section I. The purpose of this ordinance is to establish the Naples Avenue Area Urban Revitalization District.

Section II. The Naples Avenue Area Urban Revitalization District, as legally described below, shall be established pursuant to the approved Naples Avenue Area Urban Revitalization Plan that was adopted via Resolution 12-21-21-02.

LEGAL DESCRIPTION

LOT 1 OF SCOTT'S FIRST ADDITION, LOTS 2 AND 3 OF SCOTT'S SECOND ADDITION, LOT 1 OF SCOTT'S THIRD ADDITION, LOTS 1-7 OF SCOTT'S FOURTH ADDITION, LOTS 1 AND 2 OF SCOTT'S FIFTH ADDITION ALL IN JOHNSON COUNTY, IOWA

Section III. This ordinance shall become effective upon its final consideration and approval by the Johnson County Board of Supervisors and publication as required by law.

On December 21, 2021, **motion** by J. Green, second by L. Green-Douglass, to approve the proposed Ordinance to Establish the Naples Avenue Area Urban Revitalization District on first and second consideration. Roll call: aye: J. Green, L. Green-Douglass, P. Heiden, R. Porter; absent: R. Sullivan.

Motion by L. Green-Douglass, second by J. Green, to approve the proposed Ordinance to Establish the Naples Avenue Urban Revitalization District on third and final consideration and approve Ordinance 12-22-21-02. Roll call: aye: J. Green; L. Green-Douglass; P. Heiden; R. Porter; R. Sullivan.

Dates of Publication:

Iowa City Press-Citizen: January 6, 2022

Solon Economist: January 6, 2022

The North Liberty Leader: January 6, 2022

The News: January 6, 2022

Chapter 3. Streets, Roads, Public Ways and Transportation

3:1 County Employee Parking Lots

Ordinance 10-17-79-1 AN ORDINANCE PROVIDING PROCEDURES FOR ESTABLISHING, ADMINISTERING, AND REGULATING EMPLOYEE PARKING LOTS

Ordinance 06-30-11-01 AN ORDINANCE AMENDING THE COUNTY EMPLOYEE PARKING LOTS ORDINANCE

3:2 Rural Address System

Ordinance 06-01-89-1 PROVIDING PROCEDURES FOR ESTABLISHING A UNIFORM RURAL ADDRESS SYSTEM FOR THE UNINCORPORATED AREAS OF JOHNSON COUNTY

3:3 Area Service “B” Road Classification and Maintenance Policies

Ordinance 02-08-90-1 AN ORDINANCE PROVIDING AREA SERVICE “B” ROAD CLASSIFICATION

Ordinance 12-11-17-01 AN ORDINANCE ESTABLISHING THE AREA SERVICE SYSTEM “B” ROAD CLASSIFICATION AND MAINTENANCE POLICIES IN JOHNSON COUNTY, IOWA

3:1 County Employee Parking Lots

ORDINANCE 06-30-11-01 (*Current law*)

AN ORDINANCE AMENDING THE COUNTY EMPLOYEE PARKING LOTS ORDINANCE

Enacted June 30, 2011

Section I. Purpose. The purpose of this ordinance is to further the stated purpose of the County Employee Parking Lots Ordinance, as codified in Chapter 4:1 of the Johnson County Code of Ordinances, by amending certain provisions thereof to provide procedures for the establishment of County employee parking lots and for the administration and regulation of such County employee parking lots.

Section II. Amendments.

- A. Section 4:1.2. is hereby amended by deleting it in its entirety and replacing it with the following language: “Establishment. County employee parking lots shall be established within Johnson County at such locations and in such manner as may be prescribed by resolution of the Board of Supervisors of Johnson County, Iowa. Whenever county employee parking lots have been thus established, the designee of the Board of Supervisors shall post such signs or markers in and around said lots as deemed necessary to clearly designate the area or areas therein for the parking purposes established.”
- B. Section 4:1.3. is hereby amended by deleting it in its entirety and replacing it with the following language: “Administration. Parking permits, parking spot designations, and parking lot designations shall be issued to County employees and non-county employees working in County-owned buildings by such person or persons as may be authorized by resolution of the Board of Supervisors. Such permits and designations shall be in accordance with applicable rules and procedures as the Board of Supervisors may from time to time establish.”
- C. Section 4:1.4 is hereby amended by deleting subsection 4:1.4(A) in its entirety and replacing it with the following language: “Prohibited Parking. No person shall stop, stand or park any motor vehicle in any area in any County employee parking lot contrary to this chapter or such rules as have been established by resolution of the Board of Supervisors.”
- D. Section 4:1.4 is hereby amended by replacing the words “County Auditor” with “designee of the Board of Supervisors” in subsection 4:1.4(B) and subsection 4:1.4(C).
- E. Section 4:1.4 is hereby amended by deleting subsection 4:1.4(D) in its entirety and replacing it with the following language: “Penalty. Violation of the provisions of this chapter shall constitute a county infraction punishable as provided by Iowa Code § 331.307 and a simple misdemeanor punishable as provided by the Iowa Criminal Code for simple misdemeanors.”
- F. Section 4:1.4 is hereby amended by deleting subsection 4:1.4(E) in its entirety and replacing it with the following language: “Impoundment. Any motor vehicle found to be parked in violation of this chapter may upon order of the County Sheriff, or other designee of the Board of Supervisors, be towed from a County employee parking lot to any designated place or impoundment site. The owner of such vehicle shall pay, in addition to any civil penalty or fine imposed hereunder, such reasonable towing charges and storage fees as may be charged by the towing and storage agents.”
- G. Section 4:1.4 is hereby amended by deleting subsection 4:1.4(F) in its entirety and replacing it with the following language: “Owner Prima Facie Responsible: If any motor vehicle is found stopped, standing or parked in any manner violating the provisions of this chapter or the rules established by the Board of

Supervisors, and the identity of the operator cannot be immediately determined, the person or persons in whose name said motor vehicle is registered shall be held prima facie responsible for said violation.”

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance, including portions of Ordinance No. 10-17-79-1, are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On June 23, 2011, **motion** by Rettig, second by Sullivan, to waive the requirement of three considerations before amending an ordinance and to approve the Ordinance Amending the County Employee Parking Lots Ordinance on first and second consideration. Roll call: aye: Harney, Neuzil, Stutsman, Sullivan, Rettig.

Motion by Stutsman, second by Rettig, to approve the Ordinance Amending the County Employee Parking Lots Ordinance on final consideration and approve Ordinance 06-30-11-01. Roll call: aye: Harney, Rettig, Stutsman, Sullivan; absent: Neuzil.

Dates of Publication:

Iowa City *Press-Citizen*: July 13, 2011

Solon *Economist*: July 13, 2011

The North Liberty *Leader*: July 13, 2011

Lone Tree *Reporter*: July 14, 2011



ORDINANCE 10-17-79-1 (Amended)
AN ORDINANCE PROVIDING PROCEDURES FOR ESTABLISHING
ADMINISTERING AND REGULATING EMPLOYEE PARKING LOTS

Enacted October 17, 1979 / Amended June 30, 2011

Section I. Purpose. The purpose of this ordinance is to provide procedures for the establishment of county employee parking lots and for the administration and regulation of such county employee parking lots.

Section II. Establishment. County employee parking lots shall be established within Johnson County at such locations and in such manner as maybe prescribed by resolution of the Board of Supervisors of Johnson County, Iowa. Whenever county employee parking lots have been thus established, the county auditor shall post signs or other markers in and about said lots clearly designating the area or areas therein reserved exclusively for county employees holding duly issued parking permits.

Section III. Administration. Parking permits shall be issued to county employees for county employee parking lots by such person or persons as may be authorized by resolution of the Board of Supervisors and such permits shall be in accordance with such rules and procedures as the Board of Supervisors may from time to time establish.

Section IV. Regulation.

A. **Prohibited Parking.** No person shall stop, stand or park any motor vehicle in any area in any county employee parking lot contrary to such rules as have been established by resolution of the Board of Supervisors.

B. **Time Limit.** No person shall stop, stand or park any motor vehicle on any county employee parking lot for a continuous period exceeding 24 hours without the prior written approval of the County Auditor.

C. Obstructions. No person shall place, leave or deposit any object, other than a duly permitted motor vehicle and the contents thereof, in or upon any county employee parking lot without the prior written approval of the county auditor.

D. Penalty. Violation of the provisions of this ordinance shall constitute a simple misdemeanor and the penalty for such violations shall be that provided by the Iowa Criminal Code for simple misdemeanors.

E. Impoundment. Any motor vehicle found to be parked in violation of this ordinance may, upon order of the county auditor, the county sheriff, or other designee of the Board of Supervisors, be towed from a county employee parking lot to any designated place or impoundment site. The owner of such vehicle shall pay, in addition to any fine imposed hereunder, such reasonable towing charges and storage fees as may be charged by the towing and storage agents.

F. Owner Prima Facie Responsible. If any motor vehicle is found stopped, standing or parked in any manner violative of the provisions of this ordinance, and the identity of the operator cannot be immediately determined, the person or persons in whose name said motor vehicle is registered shall be held prima facie responsible for said violation.

Section V. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section VI. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section VII. Effective Date. This ordinance shall become effective after its passage and publication as part of the proceedings of the board of supervisors.

A motion by JS and HD to approve the Ordinance. Cilek: absent, Donnelly: aye, Langenberg: aye, Sehr: aye, Shipton: aye MCU.

On October 2, 1979, it was moved by Cilek and seconded by Langenberg that said Ordinance be passed on first consideration; motion carried, and upon roll call, the vote was: Cilek: aye Donnelly: aye Langenberg: aye Sehr: aye Shipton: aye.

On October 10, 1979, it was moved by DS and seconded by Donnelly that said Ordinance be passed on second consideration; motion carried, and upon roll call, the vote was: Cilek: aye Donnelly: aye Langenberg: aye Sehr: aye Shipton: aye.

On October 17, 1979, it was moved by Shipton and seconded by Donnelly that said Ordinance be adopted; motion carried, and upon roll call, the vote was: Cilek: absent Donnelly: aye Langenberg: aye Sehr: aye Shipton: aye.

Date of Publication: November 1, 1979

3:2 Rural Address System

ORDINANCE 06-01-89-1 (*Current*)

PROVIDING PROCEDURES FOR ESTABLISHING A UNIFORM RURAL ADDRESS SYSTEM FOR THE UNINCORPORATED AREAS OF JOHNSON COUNTY

Enacted June 1, 1989

Section I. Purpose. The purpose of this ordinance is to provide procedures for establishing official names for public roads and for establishing a uniform property numbering system for the unincorporated areas of Johnson County, Iowa.

Section II. Establishment. A rural address system is hereby established whereby each public road and residence or commercial property in the unincorporated areas of Johnson County shall be known and referred to by that name and address established by resolution of the Johnson County Board of Supervisors.

Section III. Administration.

- A. Maps. The Planning, Development and Sustainability Department shall maintain a map or maps depicting the Rural Address System and upon which shall be recorded the official property numbering system and the official name for all roads in accordance with resolutions adopted by the Board of Supervisors. The Planning, Development and Sustainability Department shall be responsible for preparing and updating the map or maps which shall be in such form as the Planning, Development and Sustainability Department determines, in his/her discretion, best facilitates maintenance of the maps and their use and reference.
- B. Subdivisions. All existing subdivisions in unincorporated Johnson County with existing address systems are encouraged to adopt the Rural Address System, wherever possible and practical, on public and private roadways. All existing subdivisions that do not have an existing address system are required by this ordinance to comply with the Rural Address System. All new subdivisions shall be required to comply with the rural address system.

Section IV. Standards.

A. Points of Reference.

1. North-south roads shall be named and designated as "Avenues" and east-west roads shall be numbered and designated as "streets." Roads which do not have a primary north-south or east-west orientation, or which meander, shall be named and designated as "Roads."
2. The "zero point" (the point from which property numbering begins) for the Rural Address System shall be the northwest corner of the county. This is the point from which north-south roads are alphabetized and east-west roads are numbered.
3. Property numbers shall be assigned at a rate of 200 numbers per mile. This means 100 numbers of each side of the road or a new property number approximately every 50 feet.
4. The numbering of east-west roads shall progress by twenty numbers per mile. Alphabetizing of north-south roads shall progress by one letter per mile.

B. Name Co-Ordination.

1. Roads which extend out of a city and have commonly used names may retain those names. They shall also continue to use city property numbers which have previously been assigned rather than be assigned county property numbers.
2. County road names which duplicate Iowa City street names shall be changed.
3. Historical continuity of road names may, in the discretion of the Board of Supervisors, be given preference.

C. Private Subdivisions.

1. Existing subdivisions that are already using a property number and street address that is recognized by the post office (rather than a rural route and box number) will be given the option of retaining their existing system or having the county assign property numbers and street names. The street name that is recorded on the plat will continue to be used.
2. Existing subdivisions, developments and mobile home parks that are using rural route and box numbers will be assigned property numbers by the county.
3. Future subdivisions and mobile home parks will be assigned property numbers by the county.,
4. Private subdivisions and mobile home parks shall be required to erect street signs.

- D. Posting. Location numbers shall be posted within 25 feet of the centerline of the driveway or entry providing immediate access to the location.

Section V. Regulation.

- A. Prohibition. No road names, addresses or property numbers shall be used or displayed by any person except those established by resolution of the Johnson County Board of Supervisors.
- B. Signs. The size and design of all road identification signs and the location of their installation shall be determined by the County Engineer. Upon authorization by the Board of Supervisors, the County Engineer shall install and maintain road identification signs on public roads and approve installation on private roads.
- C. Notice. The Planning, Development and Sustainability Director is responsible for enforcement of the terms of this ordinance. This responsibility includes notifying in writing every location which has been assigned a new address. In addition, the Planning, Development and Sustainability Director will, notify the postal service of any new or changed address.
- D. Penalties. Violation of any provision of this ordinance shall constitute a county infraction under Section 331.307 of the Iowa Code. In addition, any person who, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down or removes any road identification sign shall be guilty of a simple misdemeanor.

Section VI. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section VII. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section VIII. Effective Date. This ordinance shall become effective after its final passage and publication as of Supervisors.

On May 18, 1989, it was moved by Meade, seconded by Ockenfels, to approve Ordinance 06-01-89-1 on first consideration. Roll call: aye: Ockenfels, Myers, Burns, Meade, Duffy.

On May 25, 1989 it was moved by Myers, seconded by Duffy, to approve Ordinance 06-01-89-1 on second consideration. Roll call: aye: Myers, Burns, Duffy, absent: Ockenfels, Meade.

On June 1, 1989, it was moved by Myers, seconded by Meade, to approve Ordinance 06-01-89-1 on final consideration. Roll call: aye: Ockenfels, Myers, Burns, Meade, Duffy.

Dates of Publication:

Iowa City *Press-Citizen*: June 12, 1989

3:3 Area Service System “B” Road Classification and Maintenance Policies

ORDINANCE 12-11-17-01 (*Current*)

AREA SERVICE SYSTEM “B” ROAD MAINTENANCE ORDINANCE AN ORDINANCE ESTABLISHING THE AREA SERVICE SYSTEM “B” ROAD CLASSIFICATION AND MAINTENANCE POLICIES IN JOHNSON COUNTY, IOWA

Enacted December 11, 2017

Be it Ordained by the Johnson County Board of Supervisors:

Section 1. Purpose. The purpose of this Ordinance is to classify certain roads as Level “B” on the Area Service System in Johnson County to provide for a reduced level of maintenance.

Additionally, this Ordinance provides for re-instatement of Level B Roads to Level A maintenance. Typically, a Level B Road has minimal traffic and often serves only as field access. However, given changing land use, it may become necessary to upgrade the roadway and restore full service thereby requiring reclassification as a “Area Service System ‘A’ Road”.

Section 2. Definitions. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Area Service System: Those public roads outside of municipalities not otherwise classified on the Secondary Road System.

Area Service System “A” Roads: Roads that are maintained in conformance with applicable state statutes. Such roads may also be referred to herein as “Level A Roads”.

Area Service System “B” Roads: Roads that do not require standards of maintenance equal to Area Service System A roads. Area Service System B roads shall not mean what is construed in the normal sense as a driveway or private lane to a farm building or dwelling. Such roads may also be referred to herein as “Level B Roads”.

Board: The Board of Supervisors of Johnson County.

Engineer: The County Engineer of Johnson County.

County: Johnson County.

Section 3. Powers of The Board. All jurisdiction and control over Area Service System “B” roads as provided by this Ordinance shall rest with the Board of Supervisors of Johnson County.

Section 4. Authority to Establish. The Board is empowered under authority of Iowa Code Section 309.57 (as may be amended hereafter) to classify secondary roads on the area system to provide for a reduced level of maintenance on roads so designated. The Board may, upon consultation with the Engineer, declare its intention to establish a road as an Area Service System “B” Road in Johnson County, and/or declare its intention to re-establish an Area Service System “B” Road in Johnson County, or portion thereof, to an Area Service System “A” Road. Accordingly:

1. The Board may, on its own motion, or upon recommendation of the Engineer, determine to establish a roadway or roadways, or portion thereof, as a Level B Road(s).

2. The Board may, on its own motion, or upon recommendation of the Engineer, determine to re-establish a roadway or portion thereof as an Area Service System “A” Road upon a finding that the proposed upgrade in service level is in the interests of the general public welfare.
3. The Board may, upon receiving a petition from at least 50% of the landowners owning property adjacent to an applicable Level B Road or segment, in consultation with the Engineer, determine to re-establish a roadway or portion thereof as a Level A Road. Such landowner(s) shall make their petition to the Engineer upon forms or format determined by the Engineer. Upon receipt of such application, the Engineer shall prepare an estimate of the costs to upgrade the road to Level A standards (e.g.: IDOT I.M. 3.210). The Engineer shall request a public hearing and provide such cost estimate, together with a recommendation either in support of or against such application to the Board, and a copy to the applicant. Upon hearing, the Board, in its sole discretion, may determine to grant the application or deny the application based on the feasibility, economic benefits, cost sharing proposed by the landowners, and other relevant factors associated with upgrading the Level B Road. Should the Board determine to grant the application, the Board may require as a condition of approving such upgrade from Level B to Level A Road, that the applicant(s) perform or assume the costs of performing all of the following:
 - a. Adjacent landowners must provide a minimum of 33 feet right-of-way, or as determined by Engineer to meet current design standards, to the County on each side of the centerline of the roadway and remove any fencing remaining within the new right-of-way area. Additional right-of-way may be required to meet the referenced design standards. Acquisition of such right-of-way shall be at no cost to the County, nor shall the County bear any responsibility for expenses or damages incurred.
 - b. No less than one half (1/2) of the costs of upgrading the road to a Level A Road, including, but not limited to granular surfacing, and culvert and/or bridge repair or replacement, as determined on a case-by-case basis by the Engineer in their estimate of costs to upgrade the road. The applicant shall provide said funds to the County prior to the commencement of work. Said funds shall be held in escrow, and shall be disbursed on not less than a monthly basis upon percentage completion of the work or restoring the road. The Engineer shall, together with the County Auditor, account for such funds and the disbursement thereof to the Board and to the applicant. Should the actual cost of upgrading the road to current Area Service System A standards be less than estimated, the County, upon completion of the work and accounting thereof, shall refund the pro-rata share to the applicant(s). Should the actual cost of restoring the road to current Level A Road system standards be more than estimated, the applicant shall not be required to further contribute, and the County shall bear the additional cost.

All Level B Roads to be re-established as Level A Roads, must be upgraded full length and must connect to a present Level A Road at each end of the road segment to be improved, unless otherwise approved by the Board. It is the policy of the County not to improve dead end roads at the request of a resident, landowner, or tenant. Upon the road improvements being satisfactorily made to bring the road up to Area Service System A standards, the Board will reclassify the road.

Section 5. Notice and Hearing. The Board shall fix a time and place for a hearing for classification of a road(s) or portion(s) thereof as an Area Service System “B” Road, or for re-establishment of an Area Service System “B” Road to an Area Service System “A” Road, and cause notice to be published as provided by law for a normal public meeting of the Board. The notice shall set forth the termini of the affected road or portion thereof, and shall state that all persons interested may appear and be heard at such hearing.

Section 6. Hearing - Road Classification Established by Board Motion. On the day fixed for the hearing or any day to which the hearing has been adjourned, the Board shall consider any and all relevant evidence, and if the Board finds that the proposed Area Service System “B” Road(s) is/are practicable, it may so establish it by resolution. In the case of a proposed re-establishment to an Area Service System “A” Road, if the Board finds

that such re-establishment is practicable, as set forth in this Ordinance, it may so re-establish, or re-establish with certain conditions, by resolution.

Section 7. Level B Maintenance Policy. Only the minimum effort, expense, and attention will be provided to keep Area Service System “B” Roads open to traffic. Bridges might not be maintained to carry legal loads, but will be posted as appropriate to advise of any load limitations and/or closures. For the various maintenance activities, the minimum maintenance on Area Service System “B” Roads (i.e. Level B Roads) will be as follows:

1. *Blading*: Blading or dragging will not be performed on a regular basis.
2. *Snow and Ice Removal*: Snow and ice will not be removed, nor will the road surface be sanded or salted.
3. *Signing*: Except for load limit posting for bridges, signing will not be continued or provided. NOTE: all Area Service System “B” Roads will be identified with a sign at all points of access from the Level A Road network to warn the public of the lower level of maintenance.
4. *Weeds, Brush, and Trees*: Mowing or spraying weeds, cutting brush, and tree removal will not be performed, and might not be sufficient to allow vehicular passage. Adequate sight distances will not be maintained.
5. *Structures*: Bridges and culverts might not be maintained to carry legal loads. Upon failure or loss, the structure might not be replaced, or might be replaced with a structure appropriate for the traffic thereon. In addition, the section of roadway involved will be reviewed by the Board to determine if the section of roadway will be vacated.
6. *Road Surfacing*: Surfacing materials might not be applied to Area Service System “B” Roads.
7. *Shoulders*: Shoulders will not be maintained.
8. *Crown*: A crown might not be maintained.
9. *Repairs*: Road repairs might not be made on a regular or timely basis.
10. *Uniform Width*: Uniform width for the traveled portion of the road might not be maintained.
11. *Inspections*: Regular inspections will not be conducted.
12. *Dust Control*: Dust control will not be provided.

Blading or dragging operations will cease at such time as vegetation growth encroaches over the road right-of-way to the point that it interferes with entry by the equipment necessary to perform this work. Individuals can make application to the County Engineer for a permit allowing these private parties to remove the vegetation. At such time as that work is complete and equipment can once again access the roadway, surface maintenance as previously described, will be resumed.

For purposes of this Section 7, the words “will”, “will not”, and “might not” have the following meanings:

“Will” describes an activity to occur or be performed.

“Will not” describes an activity that is not going to occur or be performed.

“Might not” describes an activity that is possible but unlikely to occur.

Section 8. Other Maintenance. Nothing in Section 7 shall be construed to limit such other maintenance that the Engineer and Board may deem appropriate from time to time with respect to a Level B Road. Performing any such maintenance shall not be construed as a modification of the maintenance standards set forth in Section 7.

Section 9. Rock Surfacing of Area Service System “B” Roads; Snow Removal. Adjacent landowners on Level B Roads may apply for the road to be rocked to the driveway of their property at their expense as stated

below. Rocking the road will not change the road's level of service for snow removal, signing, maintenance blading, or otherwise, except as provided for in this Section 9. The landowner must apply to the Engineer's office and be granted a permit to surface the Level B Road with gravel prior to any rock being placed, subject to any terms the County Engineer may reasonably require. The County may or may not prepare the road surface prior to rocking, and will not bill adjacent landowners for motor grader time used for preparing the road top for rock application (or reapplication). Landowners will notify the County at least 48 hours in advance of rock being hauled to the road or road segment.

1. Rock on Level B Roads with Residential Domicile(s). For those Level B Roads that are adjacent to property on which a domicile was located and occupied for use as a residence as of January 1, 2017, and remains so occupied continuously thereafter, the Engineer is authorized to approve or deny any such permit application based upon his or her professional judgment exercised in accordance with Iowa Code Chapter 309. A permit applicant under this subsection whose permit application is denied by the Engineer may seek review of the decision by the Board by filing a written request for review with the Engineer within ten (10) days of the date of the Engineer's decision. A residential landowner granted a permit for rock surfacing must arrange to have the rock hauled. The Engineer will determine the classification and size of rock used. The applicant must pay the full cost of the rock, plus hauling charges, but may seek reimbursement from the County for 50% of such expenses, except that the County will have no obligation to reimburse for amounts of rock surfacing in excess of that determined by the County Engineer to be sufficient for the length and condition of the road segment to be treated. Private haulers must maintain insurance policies in such amounts and lines of coverage as required in the rock surfacing permit.
2. Rock on Level B Roads without a Residential Domicile. For any Level B Road other than those serving a domicile as described in subsection 1, above, a landowner may apply for rock surfacing for all or part of a Level B Road that meets the conditions set forth below, and such application shall be reviewed and approved or denied by the Board of Supervisors in its sole discretion, upon consultation with the County Engineer. Any such Level B Roads for which a surfacing permit may be granted must meet the following minimum standards:
 - a. Minimum right-of-way width shall be determined by the Engineer in order to provide adequate drainage and/or meet appropriate design standards, but shall not be less than 66 feet. If right-of-way is less than the minimum width, the landowner(s) may donate the additional needed right-of-way to the County for widening the road and must remove any fencing remaining within the new right-of-way at no cost to the County. Rights-of-way less than 66 feet in width will not be approved for rock surfacing under this subsection 2.
 - b. All ditches must be of adequate size and grade to evacuate runoff from the road, right-of-way, and adjacent properties, without flowing over the road surface or ponding alongside the road to create locally soft areas. Adjacent landowners are to pay all costs for providing and/or restoring drainage to the roadway prior to surfacing. Culverts and bridges must be clear and not impede drainage. The judgment of the County Engineer on the adequacy of the right-of-way and roadbed will be final in this regard.
 - c. Minimum road top width is to be 22 feet. If road top is narrower than 22 feet, the adjacent landowner(s) will pay all costs necessary to widen the road top to accommodate the road surfacing.
 - d. All crossroad culverts and bridges must meet legal load and width requirements.

Upon approval of the road for initial surfacing by the Board of Supervisors under this subsection 2, or the approval of resurfacing by the County Engineer, the landowner may arrange to have the rock hauled in accordance with the rock surfacing permit. All costs of rock and hauling under this subsection 2 are the responsibility of the landowner.

Non-Liability for Rock Surface Repair or Maintenance. The County may, in the course of ditch maintenance, road surface maintenance, or otherwise, damage or cover the road surfacing placed by a landowner. The County shall not be liable for replacing any damaged or covered road surfacing material. Maintenance of the rock surface, that is additional rock being hauled to the road, will be the continuing responsibility of the landowner. The County will not undertake maintenance resurfacing on Level B roads except as set forth in this Section 9 and will not accept these roads into the County Area Service System A unless upgraded in accordance with the procedure established by this Ordinance.

Snow and Ice Removal. The Johnson County Snow and Ice Removal Policy, adopted March 31, 2011 and as amended in the future, will be followed unless discontinued by the County, which it may at any time. Snow removal will be provided in accordance with that policy for Level B Roads serving a domicile as defined in subsection 1, above, provided a rock surfacing permit has been approved for an applicable Level B Road segment within the five (5) years preceding a winter storm event necessitating snow removal, and vegetation growth does not encroach to the point that it prohibits entry by equipment necessary to perform this work.

Section 10. Exemption From Liability. As provided in said Iowa Code Section 309.57, the County and officers, agents, and employees of the County are not liable for injury to any person or for damage to any vehicle or equipment which occurs proximately as a result of the maintenance of a road which is classified as Area Service System “B”, if the road has been maintained as provided in Section 7 of this Ordinance.

Section 11. Additions to Area Service System. It shall be the policy of the Board not to accept any additional roads or streets into the County Highway System.

Section 12. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 13. Severability Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 14. When Effective. This ordinance shall be in effect after its final passage, approval, and publication, as provided by law. This Ordinance replaces the existing Ordinance Providing Area Service “B” Road Classification, Ordinance 02-08-90-1, approved on final consideration on February 8, 1990. All roads currently classified as Area Service System B Roads, retain their classification under this updated ordinance.

On November 16, 2017, **motion** by Sullivan, second by Friese, to approve an Ordinance Establishing the Area Service System “B” Road Classification and Maintenance Policies in Johnson County, Iowa on first consideration. Roll call: aye: Carberry, Friese, Green-Douglass, Sullivan; nay: Rettig.

On November 21, 2017, **motion** by Sullivan, second by Green-Douglass, to approve an Ordinance Establishing the Area Service System “B” Road Classification and Maintenance Policies in Johnson County, Iowa on second consideration. Roll call: aye: Carberry, Green-Douglass, Sullivan; nay: Rettig; absent: Friese.

Motion by Friese, second by Carberry, to approve an Ordinance Establishing the Area Service System “B” Road Classification and Maintenance Policies in Johnson County, Iowa on third and final consideration and approve Ordinance 12-11-17-01 amending the Johnson County Unified Development Ordinance. Roll call: aye: Carberry, Friese, Green-Douglass, Sullivan; nay: Rettig.

Dates of Publication:

Iowa City *Press-Citizen*: December 21, 2017

Solon *Economist*: December 21, 2017

The North Liberty *Leader*: December 21, 2017

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ORDINANCE 02-08-90-1 (Repealed)
AN ORDINANCE PROVIDING AREA SERVICE “B” ROAD CLASSIFICATION
Enacted February 8, 1990 / Repealed December 11, 2017

Section I. Purpose. The purpose of this ordinance is to provide for classification of certain roads in Johnson County as area service “B” roads as authorized by Section 309.57, Iowa Code.

Section II. Definitions. For use in this ordinance, certain terms and words used herein shall be interpreted or defined as follows:

1. “Area Service Roads” includes those roads outside of municipalities not otherwise classified.
 - a. “Area Service A” roads consist of all roads not established as Area Service “B” roads and not otherwise classified and shall be maintained in conformance with applicable statutes and shall have a lesser level of maintenance as provided by this ordinance.
 - b. “Area Service B” roads consist of those roads so classified by the Board as authorized by Section 309.57 of the Iowa Code
2. “Board” shall mean the Board of Supervisors of Johnson County.
3. “Engineer” shall mean the County Engineer of Johnson County.

Section III. Powers of the Board. All jurisdiction and control over Area Service B Roads as provided by this ordinance shall rest with the Board.

Section IV. Establishment. From time to time as it deems appropriate, the Board may, after consultation with the Engineer, by public notice, declare its intention to establish a road as an Area Service B road.

Section V. Notice of Hearing. The Board shall fix a time and place for a hearing and cause notice to be published as provided by law. The notice shall set forth the termini of the proposed Area Service B road or roads by written description or map, and shall state that all persons interested may appear and be heard at such hearing.

Section VI. Hearing -- Area Service B Road Established by Resolution. Following such hearing, the Board shall consider any and all relevant evidence and if the Board finds the proposed Area Service B road or roads practicable, it may establish it or them by resolution. In the same manner the Board may disestablish or remove a road or roads from Area Service B classification.

Section VII. Maintenance Policy. Only the minimum effort, expense and attention may be provided to keep Area Service B roads open to traffic. Area Service B roads should be entered only with specific knowledge of current conditions and are entered at the individual’s own risk. Minimum maintenance on Area Service B roads may be provided only as follows:

- A. Blading -- blading or dragging may be performed on an irregular basis only to provide the minimum type of access to adjacent properties.
- B. Signing -- except for load limit posting for bridges, signing will not be continued or provided. However, all Area Service B roads shall be identified with a sign at all points of access to roads on this system from other public roads to warn the public of the lower level of maintenance.
- C. Weeds, Brush and Trees -- mowing or spraying weeds, cutting brush, and tree removal may not be performed. Adequate sight distance will not be maintained. Obstructions of this type may be removed to allow a minimum type of access to the adjacent properties.
- D. Structures -- bridges and culverts may not be maintained to carry legal loads. Upon failure or loss, the section of roadway involved will be reviewed by the Board to determine what, if any, replacement is needed or to determine if the section of roadway will be vacated.
- E. Road Surfacing -- there may be no surfacing materials applied to Area Service B roads.
- F. Crown -- a crown may not be maintained.

- G. Repairs -- repairs may be made on an irregular basis only to provide minimum type of access to adjacent property. Repairs, if any are made, may not necessarily be timely.
- H. Uniform Width -- uniform width for the traveled portion of the road may not be maintained.
- I. Inspections -- irregular inspections will be conducted.
- J. Dust control -- dust control will not be provided.

Section VIII. Exemption from Liability. As provided in Section 309.57 of the Iowa Code, the County and its officers, agents and employees are not liable for the injury to any person or damage to any vehicle or equipment, or contents of any vehicle or equipment, which occurs proximately as a result of the maintenance of a road which is classified as Area Service B, if the road had been maintained to level provided in Section 7 of the Ordinance.

Section IX. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section X. Savings Clause. If any section, provision or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section XI. Effective Date. This ordinance shall become effective, after its passage and approval, upon publication as part of the proceedings of the Board of Supervisors.

On January 18, 1990, **moved** by Meade, seconded by Ockenfels, to approve this ordinance on first consideration. Roll call: aye: Ockenfels, Myers, Burns, Meade; nay: Duffy.

On February 1, 1990, **moved** by Ockenfels, seconded by Meade, to approve this ordinance on second consideration. Roll call: aye: Ockenfels, Myers, Burns, Meade; nay: Duffy.

On February 8, 1990, **moved** by Ockenfels, seconded by Burns, to approve this ordinance on final consideration. Roll call: aye: Ockenfels, Myers, Burns, Meade; nay: Duffy.

Date of Publications:

Iowa City *Press-Citizen*: February 19, 1990

Solon *Economist*: February 21, 1990

North Liberty *Leader*: February 21, 1990

Lone Tree *Reporter*: February 22, 1990

Chapter 4. Public Order, Safety and Health

4:1 Fireworks

Ordinance 03-28-13-01 AN ORDINANCE AMENDING THE JOHNSON COUNTY FIREWORKS ORDINANCE

Ordinance 05-22-97-1 AN ORDINANCE PROVIDING FOR ISSUANCE OF PERMITS FOR THE DISCHARGE OF FIREWORKS

Ordinance 04-07-83-1 AN ORDINANCE PROVIDING FOR ISSUANCE OF PERMITS FOR THE DISCHARGE OF FIREWORKS

(4:2) Original Article 4:2 was Establishing Treatment and Maintenance on Secondary Roads with Respect to Snow or Ice and Sand, Salt or Other Abrasive Material

Ordinance 03-31-11-01 AN ORDINANCE REPEALING THE JOHNSON COUNTY SNOW AND ICE REMOVAL ORDINANCE

Ordinance 1-03-85-1 AN ORDINANCE TO ESTABLISH THE POLICY AND LEVEL OF SERVICE IN RESPECT TO REMOVAL OF SNOW OR ICE AND REGARDING PLACING OF SAND, SALT OR OTHER ABRASIVE MATERIAL ON SECONDARY ROADS

4:2 Reviewing Liquor License, Beer Permit and Wine Permit Applications

Ordinance 11-21-00-01 AN ORDINANCE AMENDING ORDINANCE 06-21-88-01

Ordinance 06-21-88-1 AN ORDINANCE PROVIDING FOR LOCAL REVIEW OF LIQUOR CONTROL LICENSE, BEER PERMIT AND WINE PERMIT APPLICATIONS

4:3 Mandatory Evacuations in the Event of Civil Emergencies

Ordinance 06-12-08-01 AN ORDINANCE AUTHORIZING ORDERS OF MANDATORY EVACUATION IN THE EVENT OF CIVIL EMERGENCIES

4:4 Mandatory Curfews in the Event of Civil Emergencies

Ordinance 06-14-08-01 AN ORDINANCE AUTHORIZING ORDERS OF MANDATORY CURFEW IN THE EVENT OF CIVIL EMERGENCIES

4:5 Human Rights

Ordinance 12-28-06-01 JOHNSON COUNTY HUMAN RIGHTS ORDINANCE

4:6 Voting Precincts in Johnson County

Ordinance 09-15-22-01 AN ORDINANCE ESTABLISHING VOTING PRECINCTS IN JOHNSON COUNTY

Ordinance 12-22-21-01 AN ORDINANCE ESTABLISHING VOTING PRECINCTS IN JOHNSON COUNTY

Chapter 4. Public Order, Safety and Health *(continued)*

4:6 Voting Precincts in Johnson County *(continued)*

Ordinance 10-13-11-01 AN ORDINANCE ESTABLISHING VOTING PRECINCTS IN JOHNSON COUNTY

Ordinance 09-15-11-01 AN ORDINANCE ESTABLISHING VOTING PRECINCTS IN JOHNSON COUNTY

4:7 Smokefree Places

Ordinance 04-25-19-01 AN ORDINANCE AMENDING CHAPTER 4, "PUBLIC ORDER, SAFETY AND HEALTH," OF THE CODE OF ORDINANCES OF JOHNSON COUNTY, IOWA, ADDING AND INCORPORATING A SECTION ENTITLED SMOKEFREE AIR ACT

4:8 Minimum Wage

Ordinance 09-10-15-01 AN ORDINANCE ESTABLISHING A JOHNSON COUNTY MINIMUM WAGE

4:1 Fireworks

ORDINANCE 03-28-13-01 (*Current law*)

AN ORDINANCE AMENDING THE JOHNSON COUNTY FIREWORKS ORDINANCE

Enacted March 28, 2013

Section I. Purpose. The purpose of this ordinance is to further the stated purpose of the Fireworks Ordinance for Johnson County by adding specific requirements for the application, adding a definition of applicant, providing for the consideration of conduct under prior permits, and making other related amendments.

Section II. Amendments. Chapter 5:2 of the *Johnson County Code of Ordinances* is hereby amended by deleting it in its entirety and inserting in lieu thereof the following:

5:1.1. Purpose. The purpose of this chapter is to provide for a process for the consideration and granting of permits for the use of fireworks in Johnson County, Iowa, consistent with the discretion granted to the Board of Supervisors in Iowa Code Section 727.2.

5:1.2. Definitions.

(A) As used in this ordinance, the term “fireworks” includes any explosive composition, combination of explosive substances, or device for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of Section 727.2, Iowa Code. The term fireworks does not include goldstar-producing sparklers on wires which contain no magnesium, chlorate or perchlorate; flitter sparklers in paper tubes that do not exceed one-eighth inch in diameter; toy snakes which contain no mercury; or caps used in cap pistols.

(B) As used in this ordinance, the term “consumer fireworks” means fireworks devices classified as fireworks 1.4 UN #0336 and #0337 by the U.S. Department of Transportation at 49 CFR 172.101, and include those small firework items intended for personal use and which can be purchased over-the-counter in many states. These items include small fountains, small arterial shells, sparklers, firecrackers, and small rockets.

(C) As used in this ordinance, the term “display fireworks” means fireworks devices intended for use in fireworks displays and classified as explosives 1.3 as described as fireworks, UN #0333, #0334 and #0335 by the U.S. Department of Transportation at 49 CFR 172.101.

(D) As used in this ordinance, the term “operator” means a person trained in fireworks safety who will set up and explode the fireworks.

(E) As used in this ordinance, the term “applicant” means the municipality, organization, or group of individuals requesting a fireworks permit.

(F) As used in this ordinance, the term “fireworks display” means the explosion of fireworks regulated herein. The test-firing of fireworks by a person certified by the ATF to build fireworks shall not be considered a fireworks display so long as said person’s name and address are on file with the Board of Supervisors.

5:1.3. Prohibition. No person shall conduct a fireworks display in Johnson County, Iowa, unless a permit for such display is first obtained from the Johnson County Board of Supervisors.

5:1.4. Application. Application for a permit under this ordinance shall be made in writing on a form prescribed by the Board of Supervisors no later than 14 days before the anticipated fireworks display. The Board may, in its discretion, accept applications filed beyond the deadline set out herein. The application shall include such information as deemed by the Board to be necessary for its consideration, including but not limited to the name, address and telephone number of the applicant; the name, address and telephone number of the operator; an explanation of the operator's proficiency or training in the use of fireworks; a drawing of the shoot site and drop zone, including their distance from spectators and any buildings; and the proposed approximate time of the display. Additionally, the application shall be accompanied by a signed hold harmless agreement in favor of the County; proof of insurance for a display of "consumer fireworks", or a bond or proof of insurance in an amount not less than \$1,000,000.00 for a display of "display fireworks;" proof of workers compensation insurance, where appropriate; and a copy of any necessary ATF permits or certifications.

5:1.5. Age and Qualifications of the Applicant and Operator. Permits may be granted to municipalities, organizations or groups of individuals. Any applicant requesting a permit for a display of "display fireworks" shall have an operator who possesses a current and valid ATF permit as set forth by the Safe Explosives Act and is certified by a nationally-recognized fireworks safety organization such as the American Fireworks Association or the Pyrotechnics Guild International, Inc. Any applicant requesting a permit for a display of "consumer fireworks" shall have an operator who is certified by a nationally-recognized fireworks safety organization such as the American Fireworks Association or the Pyrotechnics Guild International, Inc. and who is at least 21 years of age on the date of the display.

5:1.6. Fireworks Displays, Search for and Disposal of Unexploded Fireworks. The discharge of fireworks under a permit granted pursuant to this ordinance will not be allowed before sunrise or after midnight of the date of the display unless otherwise permitted by the Johnson County Board of Supervisors at the time the permit application is approved. Any fireworks that remain unexploded after the display shall be immediately disposed of or removed for storage or disposal in a safe manner by the operator who, as soon as practicable after the conclusion of the display, shall make a complete and thorough search for any fireworks or fuses, or parts thereof, which have not exploded or functioned.

5:1.7. Permit Suspension. The Johnson County Sheriff and his or her designees may suspend any permit issued pursuant to this ordinance should he or she determine that the health, safety, welfare of the public would require the suspension, or should the applicant and or operator fail to meet the qualifications as set out in this ordinance. In the event of any such suspension, the Sheriff shall file a report thereof with the Board of Supervisors. Thereupon, the Board of Supervisors shall, at its next formal meeting, affirm the suspension of permit or reinstate the same. In the event a burn ban is issued for Johnson County by the State Fire Marshall or other appropriate authority, all permits granted shall be automatically suspended until such time as the burn ban is lifted.

5:1.8. Penalty. Violation of the provision of this ordinance shall constitute a simple misdemeanor and the penalty for such violations shall be provided by the *Iowa Code* for simple misdemeanors.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On March 12, 2013, **motion** by Sullivan, second by Neuzil, to approve An Ordinance Amending the Johnson County Fireworks Ordinance on first consideration. Roll call: Aye: Etheredge, Harney, Neuzil, Rettig, Sullivan.

On March 21, 2013, **motion** by Sullivan, second by Neuzil, to approve An Ordinance Amending the Johnson County Fireworks Ordinance on second consideration. Roll call: Aye: Etheredge, Harney, Neuzil, Rettig, Sullivan.

Motion by Neuzil, second by Sullivan, to approve An Ordinance Amending the Johnson County Fireworks Ordinance on final consideration and to approve Ordinance 03-28-13-01. Roll call: Aye: Etheredge, Harney, Neuzil, Rettig, Sullivan.

Dates of Publication:

Iowa City *Press-Citizen*: April 9, 2013

Solon *Economist*: April 10, 2013

The North Liberty *Leader*: April 10, 2013

Lone Tree *Reporter*: April 11, 2013



ORDINANCE 05-22-97-01 (Amended)
AN ORDINANCE PROVIDING FOR ISSUANCE OF PERMITS FOR THE DISCHARGE OF FIREWORKS

Enacted May 22, 1997 / Amended March 28, 2013

To amend Johnson County Ordinance 04-07-83-1:

Section I. Purpose. The purpose of this ordinance is to provide for the issuance of permits for the discharge of fireworks and to prescribe criteria governing the use of fireworks in Johnson County, Iowa, pursuant to Section 727.2, Iowa Code.

Section II. Definition. As used in this statute, the term “fireworks” shall mean and include any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any explosive or inflammable compound, or other device containing any explosive substance. The term “fireworks” shall not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, no flutter sparklers in paper tubes that do not exceed 1/8 of an inch in diameter, nor toy snakes which contain no mercury nor caps used in cap pistols.

Section III. Prohibition. No person shall possess, store, use or explode fireworks in Johnson County, Iowa, unless a permit for such possession, storage, use or explosion is first obtained from the Johnson County Board of Supervisors.

Section IV. Application. Application for a permit under this ordinance shall be made in writing on a form prescribed by the Board of Supervisors no later than 7 days before the anticipated possession, storage, use or explosion of fireworks.

Section V. Age and Qualifications of the Applicant. No permit shall be issued to any person less than 21 years of age on the date of the proposed possession, storage, use or explosion of fireworks. In addition, the applicant shall submit a written explanation of their proficiency or training in the use of fireworks. The Board of Supervisors may waive this written statement in lieu of a satisfactory oral statement made to the Board at the time of application. No person shall handle or be involved in the firing of fireworks while under the influence of alcohol, narcotics, or drugs which could adversely affect judgment, movement, or stability.

Section VI. Fireworks Displays, Search for and Disposal of Unexploded Fireworks. When the permit is for the display of exploded fireworks on a particular date, any fireworks that remain unexploded after the display shall be immediately disposed of or removed for storage or disposal in a safe manner. The permit holder, upon the conclusion of the display, shall make a complete and thorough search for any unexploded fireworks or pieces there of which have not exploded or functioned and shall dispose of them in a safe manner. This search shall be instituted at the earliest possible time after the display, but in no event later than the first period of daylight after the display.

Section VII. Permit Suspension. The Johnson County Sheriff may suspend any permit issued pursuant to this ordinance should the sheriff and his/her designee determine that the health, safety or welfare of citizens of Johnson County requires the suspension. In the event of any such suspension, the sheriff shall file a report thereof with the Board of Supervisors. Thereupon, the Board of Supervisors shall, at its next formal meeting, affirm the suspension of permit or reinstate the same.

Section VIII. Penalty. Violation of the provision of this ordinance shall constitute a simple misdemeanor and the penalty for such violations shall be provided by the Iowa Code for simple misdemeanors.

Section IX. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section X. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

On May 15, 1997, **motion** by Lacina, second by Bolkcom, to waive the requirement of three considerations before amending an ordinance and to approve the proposed amendment to Ordinance 04-07-83-1 on first and second consideration. Roll call: aye: Bolkcom, Jordahl, Stutsman, Lacina, Duffy.

Motion by Duffy, second by Bolkcom, to approve the proposed amendment to Ordinance 04-07-83-1 on final consideration and to approve Ordinance 05-22-97-01. Roll call: aye: Bolkcom, Jordahl, Stutsman, Lacina, Duffy.

Dates of Publication:

Iowa City *Press-Citizen*: June 4, 1997

Solon *Economist*: June 4, 1997

The North Liberty *Leader*: June 4, 1997

Lone Tree *Reporter*: June 5, 1997



ORDINANCE 04-07-83-1 (Amended)

AN ORDINANCE PROVIDING FOR ISSUANCE OF PERMITS FOR THE DISCHARGE OF FIREWORKS

Enacted April 7, 1983 / Amended May 22, 1997

Section I. Purpose. The purpose of this ordinance is to provide for the issuance of permits for the discharge of fireworks and to prescribe criteria governing the use of fireworks in Johnson County, Iowa, pursuant to Section 727-2, *Iowa Code*.

Section II. Definition. As used in this statute, the term "fireworks" shall mean and include any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation and shall include blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any explosive or inflammable compound, or other device containing any explosive substance. The term "fireworks" shall not include gold star producing sparklers on wires which contain no magnesium or chlorate or perchlorate, no flitter

sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, nor toy snakes which contain no mercury nor caps used in cap pistols.

Section III. Prohibition. No person shall possess, store, use, or explode fireworks in Johnson County, Iowa, unless a permit for such possession, storage, use or explosion is first obtained from the Johnson County Board of Supervisors.

Section IV. Application. Application for a permit under this ordinance shall be made in writing on a form prescribed by the Board of Supervisors no later than 14 days before the anticipated possession, storage, use or explosion of fireworks.

Section V. Age and Qualifications of the Applicant. No permit shall be issued to any person less than 21 years of age on the date of the proposed possession, storage, use, or explosion of fireworks. In addition, the applicant shall submit a written explanation of their proficiency or training in the use of fireworks. The Board of Supervisors may waive this written statement in lieu of a satisfactory oral statement made to the Board at the time of application.

No person shall handle or be involved in the firing of fireworks while under influence of alcohol, narcotics, or drugs which could adversely affect judgement, movements or stability.

Section VI. Fireworks Displaces; Search for and Disposal of Unexploded Fireworks. When the permit is for the display of exploded fireworks on a particular date, any fireworks that remain unexploded after the display shall be immediately disposed of, or removed for storage or disposal in a safe manner. The permit holder, upon the conclusion of the display, shall make a complete and thorough search for any unexploded fireworks or pieces thereof which have not exploded or functioned and shall dispose of them in a safe manner. This search shall be instituted at the earliest possible time after the display, but in no event later than the first period of daylight after the display

Section VII. Permit Suspension. The Johnson County Sheriff may suspend any permit issued pursuant to this ordinance should the sheriff or his/her designee determine that the health, safety or welfare of citizens of Johnson County requires the suspension. In the event of any such suspension, the sheriff shall file a report thereof with the Board of Supervisors. Thereupon, the Board of Supervisors shall, at its next formal meeting, affirm the suspension of permit or reinstate the same.

Section VIII. Penalty. Violation of the provisions of this ordinance shall constitute a simple misdemeanor and the penalty for such violations shall be provided by the Iowa Code for simple misdemeanors.

Section IX. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section X. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section XI. Effective Date. This ordinance shall become effective, after its passage and publication as part of the proceedings of the Board of Supervisors.

On March 31, 1983, it was moved by Donnelly and seconded by Ockenfels to approve upon first and second consideration An Ordinance Providing for Issuance of Permits for the Discharge of Fireworks as amended, and upon roll call. the vote was: Myers: aye, Donnelly: aye, Langenberg: nay, Sehr: aye, Ockenfels: aye. **Motion** carried.

On April 7, 1983. it was moved by Ockenfels and seconded by Myers that said Ordinance be adopted, and upon roll call, the vote was: Myers: aye, Donnelly: aye, Langenberg: nay, Sehr: aye, Ockenfels: aye. **Motion** carried.

Motion to approve the application form for fireworks permits as submitted by the Johnson County Attorney's Office. Roll call: Donnelly: aye, Langenberg: nay. Myers: aye. Ockenfels: aye, Sehr: nay. **Motion** carried.

Dates of Publication:

Iowa City Press-Citizen: April 19, 1983

Solon Economist: April 19, 1983

The North Liberty Leader: April 21, 1983

Lone Tree Reporter: April 21, 1983

Coralville Weekly Courier: April 21, 1983

(4:2) Originally codified as 4:2 Establishing Treatment and Maintenance on Secondary Roads with Respect to Snow or Ice and Sand, Salt or Other Abrasive Material

ORDINANCE 03-31-11-01 (Current law)
AN ORDINANCE REPEALING THE JOHNSON COUNTY SNOW AND ICE REMOVAL ORDINANCE

Enacted March 31, 2011

Section I. Purpose. The purpose of this ordinance is to repeal the Johnson County Snow and Ice Removal Ordinance, codified as Chapter 4:2 of the Johnson County Code of Ordinances. The existing Snow and Ice Removal Ordinance will then be replaced with a Snow and Ice Removal Policy.

Section II. Repeal. The Johnson County Board of Supervisors hereby repeals the Johnson County Snow and Ice Removal Ordinance, adopted effective January 14, 1985, and codified as Chapter 4:2 of the Johnson County Code of Ordinances.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On March 17, 2011, motion by Stutsman, second by Sullivan, to approve an Ordinance Repealing the Johnson County Snow and Ice Removal Ordinance on first consideration. Roll call: aye: Harney, Neuzil, Stutsman, Sullivan, Rettig.

On March 22, 2011, motion by Sullivan, second by Neuzil, to approve an Ordinance Repealing the Johnson County Snow and Ice Removal Ordinance on second consideration. Roll call: aye: Harney, Neuzil, Stutsman, Sullivan, Rettig.

Motion by Stutsman, second by Sullivan, to approve an Ordinance Repealing the Johnson County Snow and Ice Removal Ordinance on final consideration and approve Ordinance 03-31-11-01. Roll call: aye: Harney, Neuzil, Stutsman, Sullivan, Rettig.

Dates of Publication:

- Iowa City Press-Citizen:* April 13, 2011
- Solon Economist:* April 13, 2011
- North Liberty Leader:* April 13, 2011
- The News:* April 14, 2011



ORDINANCE 1-03-85-1 (Repealed)**AN ORDINANCE TO ESTABLISH THE POLICY AND LEVEL OF SERVICE IN RESPECT TO REMOVAL OF SNOW OR ICE AND REGARDING PLACING OF SAND, SALT OR OTHER ABRASIVE MATERIAL ON SECONDARY ROADS**

Enacted January 3, 2085 / Repealed March 31, 2011

SECTION I. PURPOSE. The purpose of this ordinance is to formalize and establish Johnson County's policy and level of service in respect to removal of snow or ice and regarding placing sand, salt or other abrasive material on its secondary road system pursuant to the provisions of Sections 309.67 and 66 8.10 of the Code of Iowa.

SECTION II. POLICY AND LEVEL OF SERVICE.

- A. **GENERAL.** Removal of snow or ice and placing of sand, salt or other abrasive material on the secondary road system is primarily for the benefit of the local residents of this County. Each storm has individual characteristics and must be dealt with accordingly. The portion of a roadway improved for travel will have upon it snow and ice in a compacted condition. These conditions may be continuous, or they may be more concentrated on hills, in valleys, curves, intersections and/or other locations of particular topographical or traffic features.
- B. **REMOVAL/ABRASIVE PLACEMENT CAPACITY.** The County's existing snow removal equipment will be utilized to implement this policy and level of service. All removal of snow or ice, sanding, salting, or placing other abrasive material respecting winter conditions which occasion such efforts shall be accomplished within the amount of money budgeted for this service as contained in the County's secondary road budget adopted by the Board of Supervisors and submitted to and approved by the Iowa Department of Transportation.
- C. **REMOVAL OPERATIONS.** The entire width of that portion of the road improved for travel may not be cleared of snow, ice, compacted snow and ice, or frost. Snow cleared from that part of the roadway improved for travel shall be placed on or in the adjacent shoulder, ditch, or right-of-way except that during removal operations, snow may be temporarily stored on a portion of the traveled way. Snow can be expected to accumulate adjacent to the traveled portion to the extent that a motorist's sight distance to both the left and right may be greatly reduced or impaired. The snow removed from intersections will be piled in their corners and may result in piles of unequal height. The line of sight, sight distances, or visibility of motorists approaching these intersections may be greatly reduced or impaired. The County shall not be responsible for snow pushed or otherwise placed on the roadway or shoulders by others
- D. **MOTOR VEHICLE OPERATORS.** Motorists shall operate their vehicles during these conditions with additional caution and watchfulness, especially in respect to the surface of the roadway, and reduced or impaired visibility. Motorists are advised to reduce their speed at least 25 miles per hour below that legally permitted or advised under normal conditions. In respect to roadways that have only one lane open to traffic, further extreme watchfulness and caution should be exercised by the motorist, and their speed should not exceed 10 miles per hour. During these conditions no additional warning or regulatory signs will be placed warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.
- E. **MUNICIPAL ROADS.** Snow removal or abrasive placement will be performed within the corporate limits of a municipality only in accordance with agreements under Chapter 28E of the Code.

SECTION III. SEQUENCE OF SERVICE. In the implementation of snow and ice removal and abrasive placement on the county's secondary road system under this ordinance, the County Engineer or his/her delegated representative shall select the actual sequence of roads for service as provided for in this Section of

this Ordinance, and shall determine when drifting wind velocity, and additional snow or snowstorms require that the snow removal equipment be removed from the roadway, for reasons of hazardous visibility or due to lack of progress in removal or that additional clearance of paved routes be accomplished prior to the clearance of other roads. Generally, priorities will be all paved and oiled roads. Stone surfaced roads with residences will be the next priority with the main Farm to Market routes having preferences in this category while dead end roads will be last in this category. Stone surfaced roads will first be plowed to enable everyone access from one direction. These roads then will be opened to two-way traffic. Next, the connecting type stone-surfaced roads will be plowed to provide for more direct travel between various points. Finally, dirt roads and stone surfaced roads with no residences along them will be the last priority and may not be plowed if there is no need. Stone-surfaced or dirt roads may be plowed out of sequence where it would contribute to efficiency or snow removal unit routing or progress. Snow removal units will operate only during daylight hours or slightly before daylight, Monday through Friday. On Saturdays, Sundays or holidays, the normal level of service will be implemented if conditions warrant. Only in cases of emergency as set out in this Ordinance will snow removal units operate from 6:00 p.m. to 6:00 a.m. In the event of a severe storm with severe drifting, all roads will be opened to one-way traffic until all rural residences have a way out. Then plowing will continue to develop two-way traffic. There is no time limit after a storm subsides within which any portion of the policy set by this Ordinance shall be implemented.

A. PAVED AND OILED ROUTES.

1. The initial effort will be to get all routes open to one-lane traffic as soon as possible during daylight hours after a storm has subsided.
2. After one-lane travel is possible, subsequent snow removal will be carried on only during normal working hours.
 3. It is not the policy of the county to provide "dry" pavement condition.
 4. After roads have been plowed as provided in this section, intersections, hills and curves may have sand, salt or other abrasives placed on them. This spreading will normally stop when air temperature is 20°F, or lower. These intersections, hills and curves may not be resanded, resalted, or have abrasives applied to them between snowstorms.
 5. Snow removal units will normally begin operation after an accumulation of two (2) inches of new snow.

B. STONE SURFACED AND DIRT ROUTES

1. The initial effort will be to get a one-lane access open to residences as soon as possible during daylight hours after a storm has subsided,
2. After one-lane travel is possible, subsequent snow removal will be carried on only during normal working hours.
3. Snow removal units may not operate at all on dirt roads without residences.
4. Snow removal units will normally begin operation after an accumulation of four (4) inches of new snow,

SECTION IV. MISCELLANEOUS.

- A. **RURAL MAILBOXES.** The county shall not pay for damaged mailboxes unless actual contact is made by a snow removal unit. Residents should mark mailboxes in drift prone areas to help road workers avoid them. Claims for damaged mailboxes are to be submitted to the Secondary Roads Department within 48 hours to be considered for payment.
- B. **FENCES.** The county shall not pay for damaged fences unless actual contact is made by the snow removal unit. Claims for damaged fences are to be submitted to the Secondary Roads Department within 30 days to be considered for payment.
- C. **OBSTRUCTIONS.** Obstructions on the road right-of-way such as hay bales, vehicles, or fences which might cause drifting shall be removed by the owners. The county shall not be liable for damage to stalled or stranded vehicles on the traveled portion of the roadway or other obstructions which will interfere with snow and ice removal and abrasive placement. The owners of stalled or stranded vehicles should

immediately notify the Sheriff's Department. Owners shall remove stalled or stranded vehicles as soon as possible.

- D. **AGRICULTURAL NECESSITIES.** Feed, livestock and other agricultural necessities should be removed from areas accessible only by dirt roads.
- E. **PRIVATE ROADS.** The County will not operate snow removal units on private roads. Normal county removal operations may result in snow or ice being deposited in private roads and drives adjacent to public roads. Snow from private drives shall not be placed on the shoulders of a public road,
- F. **EQUIPMENT.** Motor vehicle travel on the Johnson County secondary road system when conditions of snow or ice exist shall, when such conditions warrant, be undertaken only by vehicles which have been equipped with snow tires, tire chains or a nonslip differential.

SECTION V. LIMITATION ON SERVICE. The following services shall not be performed:

- A. Sanding, salting, or placing of other abrasives upon a roadway which is slick, slippery, or dangerous due to the formation of frost outside normal working hours.
- B. Sanding, salting, or placing other abrasives upon paved and oiled routes due to ice formation which occurs outside the county's normal working hours, Monday through Friday. On Saturdays, Sundays or holidays, the normal level of service will be implemented if ice formation warrants.
- C. Sanding, salting or placing of other abrasives upon stone surfaced roads.
- D. Placing of additional warning or regulatory signs warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

SECTION VI. EMERGENCIES.

- A. **RESPONSE.** The sequence of service may be suspended during an "Emergency" condition. The County will attempt to respond to an Emergency condition where a blocked or impassable road is involved.
- B. **DEFINITION/DETERMINATION.** An "Emergency" condition shall be considered as one where a loss of life is probable, where a serious injury has occurred or is probable, or where extensive loss of property is imminent. Reports of such emergencies should be made directly to the Johnson County Sheriff's Department. The existence of any such condition shall be determined by the Johnson County Sheriff's Department. Upon the determination of the existence of an emergency condition, the Sheriff's Department shall implement appropriate emergency procedures including snow removal unit operation if warranted by the nature of the emergency condition.
- C. **DISASTER.** The provisions of this Ordinance shall be further suspended in the event the Governor, by proclamation, implements the State disaster plan, or the Chairperson of the Board of Supervisors, by proclamation, implements the County disaster plan. If such occurs, County snow removal units and operating personnel and equipment shall be immediately subject to the direction of the Governor or the Chairperson of the Board of Supervisors in accordance with the disaster plan proclamation.

SECTION VII. REPEALER. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION VIII. SAVINGS CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

SECTION IX. EFFECTIVE DATE. This ordinance shall become effective after its passage and publication as part of the proceedings of the Board of Supervisors.

On December 27, 19 84, it was moved by Myers and seconded by Sehr to approve on first consideration this ordinance, and upon roll call, the vote was: Myers, aye; Donnelly, absent; Langenberg, aye; Sehr, aye; Ockenfels, absent.

On January 3, 1985, it was moved by Ockenfels and seconded by Donnelly to approve on second and final consideration this ordinance, and upon roll call, the vote was: Myers, Donnelly, aye; Langenberg, aye; Sehr, absent; Ockenfels, aye.

Dates of publication:

Iowa City Press-Citizen: January 14, 1985

Solon Economist: January 15, 1985

Weekly Courier, Lone Tree Reporter, and Clear Creek Leader: January 17, 1985

4:2 Reviewing Liquor License, Beer Permit and Wine Permit Applications

ORDINANCE 11-21-00-01 (*Current law*)

AN ORDINANCE AMENDING ORDINANCE 06-21-88-01

Enacted November 21, 2000

Section I. Purpose. The purpose of this ordinance is to further the stated purposes of Ordinance 06-21-88-1 (An Ordinance Providing for Local Review of Liquor Control License, Beer Permit and Wine Permit Applications) by expanding local review of liquor control license, beer permit and wine permit applications, to renewal applications.

Section II. Amendments.

A. Section II, Paragraph A, is amended to read:

“A. It shall be the responsibility of the applicant for a liquor control license, beer permit or wine permit, or a renewal of any of these, to obtain the appropriate application from the County Auditor. The application must be submitted to the county sheriff and secondly, to the county attorney, prior to submission to the Board of Supervisors. The county sheriff and the county attorney must each make an investigation to determine if the applicant is of good moral character as defined in Section 123.3(26) of the Iowa Code, and recommend in writing approval or disapproval of the application. With regard to a renewal application, that investigation shall include any relevant information about prior operations under the license or permit.”

B. Section III is amended to read:

“Section III. Requirements for Premises. An applicant for a liquor control license, beer permit or wine permit, or a renewal of any of these, as a further condition for approval by the Board of Supervisors, must give consent in writing on the application that members of the fire, sheriff, and health departments, and the county attorney and the zoning administrator may enter upon the premises without a warrant to inspect for violations of the provisions of state law or local ordinances and regulations.”

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On November 9, 2000, **motion** by Lehman, second by Thompson, to approve the proposed amendment to Ordinance 06-21-88-01 on first consideration. Roll call: aye: Lehman, Jordahl, Stutsman, Thompson, Duffy.

On November 14, 2000, **motion** by Thompson, second by Jordahl, to approve the proposed amendment to Ordinance 06-21-88-01 on second consideration. Roll call: aye: Lehman, Jordahl, Thompson, Duffy; absent: Stutsman.

Motion by Jordahl, second by Thompson, to approve the proposed amendment to Ordinance 06-21-88-01 on final consideration and approve Ordinance 11-21-00-01. Roll call: aye: Lehman, Jordahl, Stutsman, Thompson, Duffy.

Dates of Publication:

Iowa City *Press-Citizen*: December 6, 2000

Solon *Economist*: December 6, 2000

The North Liberty *Leader*: December 6, 2000

Lone Tree *Reporter*: December 7, 2000

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ORDINANCE 06-21-88-1 (Amended)
**AN ORDINANCE PROVIDING FOR LOCAL REVIEW OF LIQUOR CONTROL
LICENSE, BEER PERMIT AND WINE PERMIT APPLICATIONS**

Enacted June 21, 1988 / Amended November 21, 2000

Section I. Purpose. The purpose of this ordinance is to provide for local review of liquor license, beer permit, and wine permit applications in accordance with Chapter 123 of the *Iowa Code*.

Section II. Investigation of the Applicant.

A. It shall be the responsibility of the applicant for an original liquor control license, beer permit or wine permit to obtain the appropriate application from the County Auditor. The application must first be submitted to the county sheriff and secondly, to the county attorney, prior to submission to the Board of Supervisors. The county sheriff and county attorney must each make an investigation to determine if the applicant is of good moral character as defined in Section 123.3(12) of the *Iowa Code*, and recommend in writing approval or disapproval of the application.

B. If the recommendation is for disapproval, the official shall attach a memorandum of explanation to the application prior to returning it to the applicant. The memorandum shall set forth such facts and conclusions as were a factor in such recommendation for disapproval.

C. The official must complete the investigation and, if applicable, the memorandum of explanation, by the end of the fifth working day following receipt of the application. Though the recommendation may be for disapproval, the application shall be deemed approved and promptly returned to the applicant if, at the end of five working days, 1) no written recommendation has been made, or 2) the memorandum of explanation has not been attached to the disapproved application.

D. The county sheriff and county attorney are authorized by this ordinance to utilize such forms as are necessary to implement both the written recommendation of approval or disapproval of the application and the memorandum of explanation required when the application is disapproved.

Section III. Requirements for Premises. An applicant for a liquor control license, beer permit or wine permit, as a further condition for approval by the Board of Supervisors, must give consent in writing on the application that members of the fire, sheriff, and health departments, and the county attorney and the zoning administrator may enter upon the premises without a warrant to inspect for violations of the provisions of state law or local ordinances and regulations.

Section IV. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section V. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section VI. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On June 16, 1988, it was moved by Ockenfels and seconded by Donnelly to approve first consideration of an ordinance providing for local review of liquor control license, beer permit and wine permit applications.

Aye: Ockenfels, Myers, Sehr, Burns, Donnelly.

On June 21, 1988, it was moved by Ockenfels and seconded by Myers to suspend the requirements of three considerations before adoption of an amendment to an ordinance and to approve second and final consideration of an ordinance providing for local review of liquor control licenser beer permit and wine permit applications.

Aye: Ockenfels, Myers, Sehr, Burns, Donnelly.

Date of publication: July 4, 1988

4:3 Mandatory Evacuations in the Event of Civil Emergencies

ORDINANCE 06-12-08-01 *(Current law)*

AN ORDINANCE AUTHORIZING ORDERS OF MANDATORY EVACUATION IN THE EVENT OF CIVIL EMERGENCIES

Enacted June 12, 2008

Section I. Purpose. The purpose of this ordinance is to protect and preserve the rights, privileges, and property of the County and/or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents by authorizing orders of mandatory evacuations in the unincorporated areas of Johnson County in the event there is a civil emergency.

Section II. The Johnson County Code of Ordinances is hereby amended by adding the following Chapter 5:5 entitled “MANDATORY EVACUATIONS IN THE EVENT OF CIVIL EMERGENCIES”

5:5.1 Purpose. The purpose of this ordinance is to protect and preserve the rights, privileges, and property of the County and/or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents by authorizing orders of mandatory evacuations in the unincorporated areas of Johnson County in the event there is a civil emergency.

5:5.2 Definition of Civil Emergency. For the purposes of this chapter a Civil Emergency shall include, when proclaimed so by the Board of Supervisors, any natural disaster or human-made catastrophe, including but not limited to flood, fire, cyclone, tornado, earthquake or explosion occurring in or significantly impacting the unincorporated areas of Johnson County when the same results or is likely to result in the death or injury of persons or the destruction of or significant damage to property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare. A Civil Emergency shall also include any instance in which the Governor of the State of Iowa has proclaimed there to be a state of disaster emergency in and for any portion of unincorporated Johnson County.

5:5.3 Mandatory Evacuation. After it has been determined, pursuant to the above definition, that there is a civil emergency in the unincorporated area of Johnson County, the Chairperson of the Board of Supervisors, or if the Chairperson is unavailable the Vice-Chairperson, may issue an Order of Mandatory Evacuation for any part of unincorporated Johnson County the Chairperson, or when appropriate the Vice-Chairperson, deems advisable as necessary to protect or preserve life or property; as necessary to assist in disaster mitigation, response or recovery; or as necessary to otherwise carry out the purposes of this ordinance.

5:5.4 Form of Order of Mandatory Evacuation. Any Order of Mandatory Evacuation shall be made in writing and communicated in such a manner as to reasonably apprise the affected residents and the general public of the specific location of the areas to be evacuated. It shall indicate the date and time by which said areas shall be evacuated.

5:5.5 Access to Evacuated Area(s). In addition to the evacuation of the designated areas, ingress and egress to and from an area subject to an Order of Mandatory Evacuation shall be limited to authorized law enforcement, emergency management personnel and other necessary government officials.

5:5.6 Violation of Order of Mandatory Evacuation. The violation of an Order of Mandatory Evacuation shall be unlawful and shall constitute a simple misdemeanor and the penalty for such violation shall be as provided by the Iowa Code for simple misdemeanors.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

Motion by Neuzil, second by Stutsman, to waive the requirement that an ordinance be read and voted on at two meetings prior to its final adoption. Roll call: aye: Stutsman, Sullivan, Neuzil, Meyers; absent: Harney.

Motion by Stutsman, second by Meyers, to approve ordinance 06-12-08-01, an ordinance authorizing orders of mandatory evacuation in the event of civil emergencies, on first, second, and final consideration. Roll call: aye: Stutsman, Sullivan, Neuzil, Meyers; absent: Harney.

Dates of Publication:

Iowa City Press-Citizen: June 14, 2008

Solon Economist: June 18, 2008

The North Liberty Leader: June 18, 2008

Lone Tree Reporter: June 19, 2008

4:4 Mandatory Curfews in the Event of Civil Emergencies

ORDINANCE 06-14-08-01 *(Current law)*

AN ORDINANCE AUTHORIZING ORDERS OF MANDATORY CURFEW IN THE EVENT OF CIVIL EMERGENCIES

Enacted June 14, 2008

Section I. Purpose. The purpose of this ordinance is to protect and preserve the rights, privileges, and property of the County and/or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents by authorizing orders of curfews in the unincorporated areas of Johnson County in the event there is a civil emergency.

Section II. The Johnson County Code of Ordinances is hereby amended by adding the following Chapter 5:6 entitled “MANDATORY CURFEWS IN THE EVENT OF CIVIL EMERGENCIES”

5:6.1 Purpose. The purpose of this ordinance is to protect and preserve the rights, privileges, and property of the County and/or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents by authorizing orders of mandatory curfews in the unincorporated areas of Johnson County in the event there is a civil emergency.

5:6.2 Definition of Civil Emergency. For the purposes of this chapter a Civil Emergency shall include, when proclaimed so by the Board of Supervisors, any natural disaster or human-made catastrophe, including but not limited to flood, fire, cyclone, tornado, earthquake or explosion occurring in or significantly impacting the unincorporated areas of Johnson County when the same results or is likely to result in the death or injury of persons or the destruction of or significant damage to property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare. A Civil Emergency shall also include any instance in which the Governor of the State of Iowa has proclaimed there to be a state of disaster emergency in and for any portion of unincorporated Johnson County.

5:6.3 Mandatory Curfew. After it has been determined, pursuant to the above definition, that there is a civil emergency in the unincorporated area of Johnson County, the Chairperson of the Board of Supervisors, or if the Chairperson is unavailable the Vice-Chairperson, may issue an Order of Mandatory Curfew for any part of unincorporated Johnson County the Chairperson deems advisable as necessary to protect or preserve life or property; as necessary to assist in disaster mitigation, response or recover; or as necessary to otherwise carry out the purposes of this ordinance.

5:6.4 Form of Order of Mandatory Curfew. Any Order of Mandatory Curfew shall be made in writing and published in such a manner as to reasonably apprise the affected residents and the general public of the specific times and location of the areas to be under curfew. It shall indicate the date and time by which said areas shall be under curfew, not to exceed ten days without further order.

5:6.5 Exemptions to the curfew order shall be limited to authorized law enforcement, emergency management personnel and other necessary government officials and those individuals directed by law enforcement, emergency management personnel and other necessary government officials.

5:6.6 Violation of Order of Mandatory Curfew. The violation of an Order of Mandatory Curfew shall be unlawful and shall constitute a simple misdemeanor and the penalty for such violation shall be as provided by the Iowa Code for simple misdemeanors.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

Motion by Meyers, second by Neuzil, to waive the requirement that an ordinance be read and voted on at two meetings prior to its final adoption. Roll call: aye: Stutsman, Sullivan, Neuzil, Meyers; absent: Harney.

Motion by Stutsman, second by Meyers, to approve Ordinance 06-14-08-01, an ordinance authorizing orders of mandatory curfew in the event of civil emergencies, on first, second, and final consideration. Roll call: aye: Stutsman, Sullivan, Neuzil, Meyers; absent: Harney.

Dates of Publication:

Iowa City Press-Citizen: June 21, 2008

Solon Economist: June 18, 2008

The North Liberty Leader: June 18, 2008

Lone Tree Reporter: June 19, 2008

4:5 Human Rights

ORDINANCE 12-28-06-01 (*Current law*)
JOHNSON COUNTY HUMAN RIGHTS ORDINANCE
Enacted December 28, 2006

I. PURPOSE:

The purpose of this ordinance is to protect the people of Johnson County from discrimination on the basis of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.

II. CONSTRUCTION:

This ordinance shall be construed broadly to effectuate its purpose, and shall be enforced consistent with the intent, language and spirit of the preamble and part I (articles 1-7) of the "international convention on the elimination of all forms of racial discrimination (1966)", as amended. However, the construction and enforcement of the preamble and part I of said international convention shall in no event operate to diminish protection that otherwise exists under this ordinance, the Iowa civil rights act, as amended, the federal civil rights acts, as amended, or the constitution of the State of Iowa, as amended, or the constitution of the United States of America, as amended.

III. DEFINITIONS:

As used in this title, the following terms shall have the meanings indicated:

(A) AGE: Chronological age of any person.

(B) COUNTY ATTORNEY: The Johnson County Attorney or the Johnson County Attorney's designee.

(C) DISABILITY:

(1)(a) The physical or mental impairment of a person which substantially limits one or more of such person's major life activities, or (b) the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of "disability" under the provisions of this title does not preclude the application of the provisions of this title to conditions resulting from other contagious or infectious diseases;

(2) A record of having such impairment;

(3) Being regarded as having such an impairment. "Disability" does not include current illegal use of or addiction to a controlled substance as defined by chapter 124A of the code of Iowa, as amended.

(D) EMPLOYEE: (1) Any person who works for wages, salary or commission or any combination thereof, or (2) persons who are seeking or applying for employment.

(E) EMPLOYER: (1) Any person who employs one or more employees within Johnson County, whether the person has its principle place of business within or does business within Johnson County, or (2) who solicits individuals to apply for employment within the county or elsewhere. The term includes the county itself, and to the extent not inconsistent with state or federal law, all other political subdivisions, public corporations,

governmental units conducting any activity within the unincorporated area of Johnson County and public agencies or corporations.

(F) EMPLOYMENT AGENCY: Any person or entity undertaking to procure employees or opportunities to work for any other person or entity.

(G) FAMILIAL STATUS: One or more individuals under the age of eighteen (18) domiciled with: (1) a parent or another person having legal custody of the individual or individuals; or (2) the designee of the parent or the other person having custody of the individual or individuals, with the written permission of the parent or other person. Protections against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(H) FAMILY: For purposes of this title "family" includes a single individual, and includes persons who are registered as domestic partners.

(I) GENDER IDENTITY: A person's actual or perceived appearance, expression, identity of, or behavior, as they are understood to be masculine and/or feminine of a person as being male or female, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's designated sex at birth.

(J) JOHNSON COUNTY: The unincorporated areas of Johnson County unless this ordinance is adopted by a municipality within Johnson County, in which case the adopting municipality is also included if agreed to by the Johnson County Board of Supervisors.

(K) LABOR ORGANIZATION: Any organization which exists for the purpose in whole or in part of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

(L) MARITAL STATUS: The state of being married, a member of a legally recognized domestic partnership, single, divorced, separated or widowed.

(M) PERSON: One or more individuals, partnerships, associations or organizations, corporations, legal representatives, trustees, receivers, recipients of county funds, the county or any board, commission, department or agency thereof, and all other governmental units conducting any activity in Johnson County.

(N) PUBLIC ACCOMMODATION: Any person, place business establishment or agency that sells, leases, provides or offers any product, facility or service to the general public of Johnson County, regardless of ownership or operation (1) by a public body or agency; (2) for or without regard to profit; or (3) for a fee or not for a fee. Public accommodation shall not mean any bona fide private club or other place, establishment or facility which is by its nature distinctly private, except that, when such distinctly private place, establishment or facility caters or offers services, facilities or goods to the general public for a fee or charge or gratuitously, it shall be deemed a public accommodation during such period.

(O) SOURCE OF INCOME: Income and support derived from any tax supported federal, state or local funds, including, but not limited to, social security, supplemental security income, temporary assistance for needy families, family investment program, general relief, food stamps, and unemployment compensation, but not including rent subsidies.

(P) RELIGION: Includes all aspects of religious observance and practice, as well as belief, or the actual identification with or perceived identification with a religion.

(Q) RESPONDENT: A person who is alleged to have committed an act prohibited by this title and/or against whom a complaint has been filed under this title.

(R) SEXUAL HARASSMENT: A form of sex discrimination. Sexual harassment may take the form of deliberate or repeated comments, questions, representations or physical contacts of a sexual nature which are unwelcome to the recipient. Sexual harassment may also take the form of conduct that has the purpose or effect of creating an intimidating, hostile or offensive environment.

(S) SEXUAL ORIENTATION: A person's actual or perceived heterosexuality, homosexuality, or bisexuality.

(T) UNFAIR PRACTICE OR DISCRIMINATORY PRACTICE: Those practices specified as unfair or discriminatory in sections 216.6, 216.7, 216.8, 216.8A, 216.9, 216.10, 216.11, and 216.11A of the code of Iowa, as amended, or this ordinance.

IV. EMPLOYMENT

(A) PROHIBITIONS

The prohibitions against unlawful discrimination contained in Article IV apply as follows: 1) to employment that is or would be in whole or in part in Johnson County; or 2) when the act of unlawful discrimination takes place in Johnson County.

- (1) **EMPLOYMENT.** It shall be unlawful for any employer to refuse to hire, accept, register, classify, promote or refer for employment, or to otherwise discriminate in employment against any other person or to discharge any employee because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.
- (2) **LABOR ORGANIZATIONS.** It shall be unlawful for any labor organization to refuse to admit to membership, apprenticeship or training an applicant, to expel any member, or to otherwise discriminate against any applicant for membership, apprenticeship or training any member in the privileges, rights or benefits of such membership, apprenticeship or training because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation of such applicant or member.
- (3) **DISCRIMINATORY SOLICITATIONS.** It shall be unlawful for any employer, employment agency, labor organization or the employees or members thereof to directly or indirectly advertise or in any other manner indicate or publicize that individuals are unwelcome, objectionable or not solicited for employment or membership because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.
- (4) **PREGNANCY.** Employment policies relating to pregnancy and childbirth shall be governed by the following:
 - (a) A written or unwritten employment policy or practice which excludes from employment applicants or employees because of the employee's pregnancy is a prima facie violation of this ordinance.
 - (b) Disabilities caused or contributed to by the employee's pregnancy, miscarriage, childbirth and recovery there from are, for all job related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment or any written or unwritten employment policies and practices involving terms and conditions of employment as applied to other temporary disabilities.
- (5) **HUMAN IMMUNODEFICIENCY VIRUS.** It shall be unlawful for any person to solicit or require as a condition of employment of any employee or prospective employee a test for the presence of the antibody to

the human immunodeficiency virus. An agreement between an employer, employment agency, labor organization or their employees, agents or members and an employee or prospective employee concerning employment, pay or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus, is prohibited. The prohibitions of this subsection do not apply if the state epidemiologist determines and the director of public health declares through the utilization of guidelines established by the center for disease control of the United States department of health and human services, that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.

(B) EXCEPTIONS

The following are exempted from the provisions of this section:

- (1) **RELIGION.** Any bona fide religious institution or its educational facility, association, corporation or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional personnel or an administrative officer, serving in a supervisory capacity of a bona fide religious educational facility or religious institution shall be presumed to be a bona fide occupational qualification.
- (2) **EMPLOYMENT FOR ELDERLY OR DISABLED.** An employer or employment agency which chooses to offer employment or advertise for employment to only the disabled or elderly. Any such employment or offer of employment shall not discriminate among the disabled or elderly on the basis of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.
- (3) **WORKERS WITHIN A HOME.** The employment of individuals for work within the home of the employer if the employer or members of the family reside therein during such employment.
- (4) **PERSONAL SERVICES.** The employment of individuals to render personal service to the person of the employer or members of the employer's family.
- (5) **BONA FIDE OCCUPATIONAL QUALIFICATIONS.** (a) The employment on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of a particular business or enterprise. The bona fide occupational qualification shall be interpreted narrowly. (b) The employment on the basis of disability in those certain instances where presence of disability is a bona fide occupational qualification reasonably necessary to the normal operation of a particular business or enterprise. The bona fide occupational qualification shall be interpreted narrowly.

V. PUBLIC ACCOMMODATION

(A) PROHIBITIONS

- (1) **DENIAL OF SERVICES.** It shall be unlawful for any person to deny any other person the full and equal enjoyment of the goods, services, facilities, privileges, advantages of any place of public accommodation because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation. This section shall not apply to discounts for services or accommodations based upon age.
- (2) **DISCRIMINATORY SOLICITATIONS.** It shall be unlawful to directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons is unwelcome, objectionable or not solicited because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.

(B) EXCEPTIONS

- (1) RELIGION. This section shall not apply to any bona fide religious institution with respect to any qualifications the institution may impose based on religion when such qualifications are related to a bona fide religious purpose.
- (2) ELDERLY AND DISABLED. Public accommodations may be designated specifically for the elderly and disabled. However, public accommodations may not be restricted among the elderly or disabled on the basis of age, color, creed, disability, identity, marital status, national origin, race, religion, sex or sexual orientation.
- (3) DISTINCTLY PRIVATE FACILITY. Article V shall not apply to sex discrimination to any facility that is distinctly private in nature, such as rest rooms, shower rooms, bath houses, dressing rooms, or health clubs.

VI. CREDIT TRANSACTIONS**(A) DEFINITIONS**

- (1) CONSUMER CREDIT TRANSACTION: As defined in section 537.1301(11) of the code of Iowa, as amended.
- (2) CREDIT: As defined in section 537.1301(15) of the code of Iowa, as amended.
- (3) CREDITOR: As defined in section 537.1301(17) of the code of Iowa, as amended.

(B) PROHIBITIONS

- (1) CONSUMER CREDIT It shall be unlawful for any creditor to refuse to enter into any consumer credit transaction or to impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.
- (2) EXTENSION OF CREDIT. It shall be unlawful for any person authorized or licensed to do business in this state pursuant to chapter 524, 533, 534, 536, or 536A of the code of Iowa, as amended, to refuse to loan or to extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation.
- (3) INSURANCE. It shall be unlawful for any creditor to refuse to offer credit, life or health and accident insurance because of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation. Refusal by a creditor to offer credit, life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by title XIII, subtitle 1, code of Iowa, as amended. The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this ordinance.

VII. EDUCATION**(A) DEFINITIONS**

For the purpose of this section, "educational institution" includes any preschool, elementary, secondary or merged area school, area education agency or postsecondary college and their governing boards, with the

exception that this section shall not include the University of Iowa or any other educational division of the state.

(B) PROHIBITIONS

It shall be an unfair or discriminatory practice for any educational institution to discriminate on the basis of age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation in any program or activity. Such discriminatory practices shall include, but not be limited to, the following practices:

- (1) Exclusion of a person or persons from participation in, denial of the benefits of, or subject to discrimination in any academic, extracurricular, research, occupational training or other program or activity.
- (2) Denial of comparable opportunity in intramural and interscholastic athletic programs.
- (3) Discrimination among persons in employment and the conditions of employment.
- (4) On the basis of sex, the application of any rule concerning the actual or potential parental, family or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

(C) EXCEPTIONS

- (1) FACILITIES. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms or living facilities for the different sexes so long as comparable facilities are provided.
- (2) RELIGION. Nothing in this section shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

VIII. HOUSING

(A) DEFINITIONS

- (1) AGENT: a person whose business includes engaging in residential real estate related transactions shall not discriminate against a person in making a residential real estate related transaction available or in terms or conditions of a residential real estate related transaction because of age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, presence or absence of dependents or public assistance source of income.
- (2) AGGRIEVED PERSON: includes any person who: 1) claims to have been injured by a discriminatory housing practice; or 2) believes that such person will be injured by a discriminatory housing practice that is about to occur.
- (3) DWELLING: any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (4) COVERED MULTI-FAMILY DWELLING: means any of the following:
 - (a) A building consisting of four (4) or more dwelling units if the building has one or more elevators.

(b) The ground floor units of a building consisting of four (4) or more units.

(5) HOUSING ACCOMMODATION: Any improved or unimproved real estate which is used or intended for use as a residence or sleeping place for one or more persons.

(6) HOUSING FOR OLDER PERSONS:

(a). Provided under any State or Federal program that is specifically designed and operated to assist elderly persons (as defined in the State or Federal program and as determined by the Secretary of Housing and Urban Development); or

(b) Intended for, and solely occupied by, persons sixty two (62) years of age or older; or

(c) Intended and operated for occupancy by at least one person fifty five (55) years of age or older per unit.

In determining whether housing qualifies as housing for older persons, under this subsection, the regulations promulgated by the Secretary of Housing and Urban Development shall apply and at least the following two (2) criteria must be present:

(a) That at least eighty percent (80%) of the units are occupied by at least one person fifty five (55) years of age or older per unit; and

(b) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty five (55) years of age or older.

(7) HOUSING TRANSACTION: The sale, exchange, rental, occupancy, lease, sublease, or lease renewal of real property for residential purposes in Johnson County or the provision of services or utilities in connection with such sale, exchange, rental, occupancy, lease, sublease, or lease renewal. "Real estate transaction" also means with respect to activity conducted on property located in Johnson County, the brokering or appraising of residential real property in Johnson County and the making, purchasing, or guaranteeing of loans or mortgages or providing any other financial assistance either (a) for purchasing, constructing, improving, repairing, or maintaining a dwelling or (b) secured by residential real property.

(B) PROHIBITIONS

It shall be an unlawful or discriminatory practice for any person to:

(1) GENERAL: Refuse to sell, rent, lease, assign, sublease, refuse to negotiate or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion or interest therein, to any person because of the age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, presence or absence of dependents or source of income of that person.

(2) TERMS AND CONDITIONS: Discriminate against any other person in the terms, conditions or privileges of any real estate transaction or the facilities in connections with the dwelling because of age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, presence or absence of dependents or public assistance source of income.

(3) DISCRIMINATORY SOLICITATIONS: Directly or indirectly advertise, or in any other manner indicate or publicize in any real estate transaction that any person is not welcome or not solicited because of age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, presence or absence of dependents or public assistance source of income.

- (4) **EXCLUSIONARY PRACTICES:** A person shall not induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, presence or absence of dependents, or public assistance source of income.
- (5) **REPRESENTATIONS:** A person shall not represent to a person of a particular age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, presence or absence of dependents, or public assistance source of income that a dwelling is not available for inspection, sale or rental when the dwelling is available for inspection, sale or rental.

(C) EXCEPTIONS:

The following are exempted from the provisions of this ordinance, except that the subsection of this article prohibiting discrimination in advertising shall apply with regard to subsections 3, 4, and 5 of this section.

- (1) **RELIGIOUS INSTITUTION:** Any bona fide religious institution with respect to any qualifications it may impose based on religion, when these qualifications are related to a bona fide religious purpose unless the religious institution owns or operates property for a commercial purpose or membership in the religion is restricted on account of age, color, creed, disability, gender identity, marital status, familial status, national origin, race, sex, sexual orientation, presence or absence of dependents or public assistance source of income.
- (2) **NONPROFIT INSTITUTIONS:** Any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of age, color, creed, disability, gender identity, marital status, familial status, national origin, race, sex, sexual orientation, presence or absence of dependents or public assistance source of income.
- (3) **RESIDENT OWNER:** Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner occupies the premises, or some portion thereof, and actually resides therein. For the purposes of this exemption, "owner" shall be defined as a person having at least a fifty percent (50%) interest in the property.
- (4) **SHARED PRIVATE FACILITIES:** Restrictions based on sex in the rental or leasing of housing accommodations within which residents of both sexes would share a common bathroom facility on the same floor of the building.
- (5) **CODIFIED RESTRICTIONS.** Nothing in this section limits the applicability of any codified restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this ordinance regarding familial status apply with respect to housing for older persons.
- (6) **HOUSING FOR OLDER PERSONS.** Housing designed and intended as housing for older persons. However, such housing may not otherwise be restricted on the basis of age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, public assistance source of income or presence or absence of dependents.
- (7) **HOUSING FOR PERSONS WITH DISABILITIES.** Housing designed and intended for housing persons with disabilities. The facility must show adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons with disabilities. However, such housing may not otherwise be restricted on the basis of age, color, creed, disability, gender identity, marital status, familial

status, national origin, race, religion, sex, sexual orientation, public assistance source of income or presence or absence of dependents.

- (8) STATE OR LOCAL ZONING. If the County Attorney determines that the matter involves the legality of a State or local zoning or other land use ordinance, the County Attorney shall not issue determinations and shall review the matter for appropriate action.

(D) REASONABLE ACCOMMODATIONS

- (1) MODIFICATION BY OCCUPANT. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford the person full enjoyment of the premises. In the case of a rental, a landlord may, where reasonable to do so, condition permission for a modification on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
- (2) ACCOMMODATION IN PRACTICES. A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling.
- (3) CONSTRUCTION OF DWELLING. In connection with the design and construction of covered multi-family dwellings for first occupancy after January 1, 2007, a failure to design and construct those dwellings in a manner that meets the following requirements:
- (a) The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons.
 - (b) All doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs.
 - (c) All premises within the dwellings contain the following features of adaptive design:
 - 1. An accessible route into and through the dwelling.
 - 2. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
 - 3. Reinforcements in bathroom walls to allow later installation of grab bars.
 - 4. Usable kitchens and bathrooms so that a person in a wheelchair can maneuver about the space.
 - (d) Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People, as amended, commonly cited as "ANSI A 117.1", satisfies the requirements of subsection E3c of this Section.
- (4) SAFETY EXCEPTION. Nothing in this subsection requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of other persons or whose tenancy would result in substantial physical damage to the property of others.

IX. ADDITIONAL CIVIL RIGHTS VIOLATIONS

It shall be an unfair or discriminatory practice for:

(A) AIDING AND ABETTING

Any person to intentionally aid, abet, compel or coerce another person to engage in any of the practices declared unfair or discriminatory by this ordinance.

(B) RETALIATION

Any person to discriminate against another person because such person has either lawfully opposed any discriminatory practice forbidden by this title, obeyed the provisions of this title, or has filed a complaint, testified, or assisted in any proceeding under this title.

(C) INTIMIDATION

Any person to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this ordinance

X. ENFORCEMENT

(A) FILING ELIGIBILITY AND METHOD

- (1) All persons claiming to be aggrieved by a discriminatory or unfair practice within Johnson County may, by themselves or by counsel make, sign and file with the Johnson County Attorney's Office a verified, written complaint which shall state the name and address of the person, employer, employment agency or labor organization alleged to have committed the discriminatory or unfair practice of which complained, shall set forth the particulars thereof, and shall contain such other information as may be required by the county.
- (2) The county attorney or any other person aware of the existence of a discriminatory practice may in like manner make, sign and file such complaint.
- (3) A claim under this ordinance shall not be maintained unless a complaint is filed with the County Attorney within one hundred eighty (180) days after the alleged discriminatory or unfair practice occurred.
- (4) A verified copy of a complaint filed with the state civil rights commission, or its successor, under the provisions of chapter 216, code of Iowa, as amended, or EEOC, or its successor, shall be sufficient complaint for the purpose of this title if it alleges either in the text thereof or in accompanying statements that the alleged discriminatory practice occurred within Johnson County.

(B) DETERMINATION OF STATE OR COUNTY INVESTIGATION

- (1) Upon the filing of a complaint, the County Attorney shall determine if the complaint alleges violations of Iowa code section 216. If the complaint alleges violation of Iowa code section 216, the County Attorney's Office will forward a copy of the complaint to the Iowa Civil Rights Commission for review and investigation by the Iowa Civil Rights Commission.
- (2) If the complaint alleges a violation of the Johnson County Human Rights ordinance but is not covered by state or federal law, the County Attorney's Office will review and investigate the complaint as provided in this ordinance.

(C) PROCEDURE

For the complaints of discrimination determined to be covered exclusively by this ordinance and not state or federal law, the following procedures will apply:

- (1) Upon the filing of a complaint, the Johnson County Attorney's Office shall serve notice on the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law.
- (2) After the filing of a verified complaint, a true copy shall be served within twenty (20) days by certified mail on the person against whom the complaint is filed. Service is effective upon mailing.

(D) AMENDING COMPLAINTS

Complaints and answers may be amended as follows:

- (1) The complainant shall have the power to amend any complaint at any time prior to the County Attorney's probable cause recommendation.
- (2) The County Attorney shall have the power to amend any complaint after a probable cause finding and prior to the decision to have a public hearing.
- (3) At the discretion of the administrative law judge, the complaint may be amended after the decision to have a public hearing.
- (4) The respondent shall have like power to amend such respondent's answer, at any time prior to hearing, and thereafter at the discretion of the administrative law judge.
- (5) Amendments to the complaint and answer alleging additional acts which constitute unfair or discriminatory practices related to or growing out of the subject matter of the original complaint will relate back to the date the original complaint or answer was filed.

(E) WITHDRAWING COMPLAINTS

A complaint or any part thereof may be withdrawn by the complainant at any time prior to the notice of the public hearing and thereafter at the discretion of the County Attorney. However, nothing herein shall preclude the County Attorney from continuing the investigation and initiating a complaint on the County's behalf against the original respondent whenever deemed to be in the public interest.

(F) INVESTIGATION OF COMPLAINTS

If the complaint alleges a violation of the Johnson County ordinance, and the violation is not covered by state law, the following investigatory procedure will apply:

- (1) The County Attorney must commence proceedings with respect to the complaint before the end of the thirtieth day after receipt of the complaint. The County Attorney may draft and mail to the parties written questionnaire/document requests to which respondent and complainant are required to respond. Answers and documents are to be received by the County Attorney's office within thirty (30) days of the receipt of the questionnaire/document request unless an extension has been granted by the County Attorney.
- (2) After reviewing materials responsive to the questionnaire/document request, the County Attorney shall determine whether the complaint warrants further investigation. If the County Attorney finds there is a reasonable possibility of a probable cause determination or the legal issues present in the complaint need further development, the County Attorney shall promptly resume the investigation of the complaint. If the County Attorney determines that the complaint does not warrant further investigation, it shall be administratively closed. Notice of such closure shall be promptly served upon the complainant and the

respondent by certified mail. Service is effective upon mailing. Such notice shall state the reasons for administrative closure.

- (3) A complainant may object to the administrative closure and request review within twenty (20) days of service. If a complainant makes a timely written request for review of the administrative closure, the County Attorney shall promptly review the complainant's request and all relevant material. If, after review by the County Attorney, it is determined that the complaint does not warrant further processing, the County Attorney shall close the file and notify the complainant and respondent of the final decision of administrative closure. If, after review, the County Attorney determines that there is a reasonable possibility of a probable cause determination or the legal issues presented in the complaint need further development, the allegations will be investigated further.
- (4) Upon completion of the investigation, the County Attorney shall issue a written opinion as to whether probable cause exists to believe a discriminatory practice occurred as alleged by the complainant.
- (5) Any time after a complaint is filed under this title, but before a probable cause determination is made, the County Attorney may seek a disposition of the complaint through a predetermination settlement.

(G) CLOSURE

- (1) A complaint may be administratively closed at any time if the complainant cannot be contacted after diligent efforts or is uncooperative causing unreasonable delay in the processing of a complaint.
- (2) A complaint may be closed as satisfactorily resolved when the respondent has made an offer of settlement acceptable to the County Attorney but not the complainant. Notice of intended closure shall state the reasons for closure and be served by certified mail upon the complainant. The complainant shall be allowed thirty (30) days to respond in writing to the County Attorney either stating the reasons why the offer is unacceptable or accepting the offer. The County Attorney will review and consider the response before making a closure decision.

(H) MEDIATION

The complainant or respondent may request mediation of the complaint at any time during the complaint process prior to the probable cause determination. Mediation shall not be undertaken unless both the complainant and respondent agree to participate. Mediation may be discontinued at the request of either party. If the complainant and respondent do not reach a mediation agreement, the complaint process shall continue to resolution as provided in this section.

- (1) A mediation agreement is an agreement between the respondent and complainant. It is not subject to review or approval of the County Attorney.
- (2) All verbal or written information relating to the subject matter of a mediation agreement and transmitted between either the complainant or respondent and a mediator to resolve a complaint filed under this chapter, whether reflected in notes, memoranda, or other work product, is confidential as provided in this ordinance.

X. REMEDIAL ACTION:

For the purposes of this title, remedial action includes, but is not limited to, the following:

(A) REMEDIAL ACTIONS BY THE RESPONDENT:

- (1) Hiring, reinstating or promoting of employees with or without pay. Interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable.
- (2) Admission or restoration of individuals to a labor organization, admission to or participation in a guidance program, apprenticeship training program, on the job training program or other occupational training or retraining program, with the utilization of objective criteria in the admission of individuals to such programs.
- (3) Admission of individuals to a public accommodation or an educational institution.
- (4) Sale, exchange, lease, rental, assignment or sublease of real property to an individual.
- (5) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent denied to the complainant because of the discriminatory or unfair practice.
- (6) Reporting as to the manner of compliance.
- (7) Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the County Attorney and inclusion of notices in advertising material.
- (8) Payment to the complainant of damages caused by the discriminatory or unfair practice which may include actual damages, emotional distress damages, front pay, court costs and reasonable attorney fees.

(B) REMEDIAL ACTION ORDERED BY COUNTY ATTORNEY:

In addition to the remedies in the preceding provisions of this section, the County Attorney may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take such affirmative action as in the judgment of the County Attorney will carry out the purposes of this chapter as follows:

- (1) In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the County Attorney, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of their employment, the County Attorney shall so certify to the licensing agency. Unless the practice is reversed in the course of judicial review, the finding of discrimination is binding on the licensing agency. If a certification is made pursuant to this subsection, the licensing agency may initiate licensee disciplinary procedures.
- (2) In the case of a respondent who is found by the County Attorney to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract with the state or political subdivision or agency, if the practice was authorized, requested, commanded, performed or knowingly or recklessly tolerated by the board or executive agent acting within the scope of their employment, the County Attorney shall so certify to the contracting agency. Unless the County Attorney's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.
- (3) Upon receiving a certification made under this subsection, a contracting agency may take appropriate action to terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with the provisions of this title, and assist the state and all political subdivisions and agencies thereof to refrain from entering into further contracts.

(C) MULTIPLE REMEDIES AVAILABLE: The election of an affirmative order under subsection B of this section shall not bar the election of affirmative remedies provided in subsection A of this section.

(D) CIVIL PENALTIES: In connection with housing discrimination complaints, the County Attorney may, to vindicate the public interest, assess a civil penalty against the respondent in an amount not to exceed those established by code of Iowa chapter 216.15A, as amended. Funds collected under this section shall be paid to the County for deposit to the County treasury to the credit of the general fund.

(E) OTHER REMEDIES: Any other relief that the administrative law judge finds to be appropriate.

XI. NOTICE AND HEARING:

(A) LITIGATION WORTHY: If conciliation has been bypassed or unsuccessful, the County Attorney shall form an opinion as to whether the case is litigation worthy. If the County Attorney determines the case not to be litigation worthy, the case will be administratively closed.

(B) PRE-HEARING PROCEEDINGS:

(1) Statement Of Charges:

(a) When a complaint proceeds to public hearing, the County Attorney shall prepare a written statement of charges in support of the complaint, which shall contain a factual allegation or allegations of an unfair or discriminatory practice or practices against the respondent

(b) The statement of charges shall also specifically identify all allegations, if any, in the complaint, as amended, which have been closed by other than a probable cause finding, or the County Attorney has elected not to prosecute despite a probable cause finding.

(2) Scheduling Conference: The administrative law judge may set the matter for a scheduling conference in order that the parties, including the County Attorney, and the presiding officer may arrive at a mutually agreed date for the public hearing.

(3) Notice Of Hearing: Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery shall be executed by any of the following means: certified mail, with return receipt requested, personal service as provided in the Iowa rules of civil procedure, first class mail, or publication as provided by the Iowa rules of civil procedure to all interested parties or their attorneys at least thirty (30) days before the date of the hearing. Certified mail return receipts, returns of service, or similar evidence of service shall be filed with the presiding officer. The notice shall include the time and place of hearing; the nature of the hearing, the legal authority and jurisdiction under which the hearing is being held; a short and plain statement of the matters asserted. This requirement may be satisfied by a statement of the issues as described by the statement of charges or an incorporation of the attached statement of charges; the reference to the sections of this ordinance involved; identification of all parties including the name, address and telephone number of the person who will act as advocate for the County Attorney and of parties' counsel where known; and identification of the administrative law judge.

(4) Answer To Notice Of Hearing: The respondent is encouraged to file an answer to the allegation contained within the notice of hearing within twenty (20) days of the service of the notice of hearing. Answers are encouraged as a means of sharpening the issues and preserving claimed error.

(5) Default:

(a) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the administrative law judge may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

(b) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become the final decision unless, within fifteen (15) days after the date of notification of mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated.

(c) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa rules of civil procedure 1.977.

(6) Filing And Service Of Documents: After the notice of hearing, all pleadings, motions, documents or other papers shall be filed with the administrative law judge with a copy to parties of record, with separate copies to the County Attorney. Except as provided by these rules, the Iowa rules of civil procedure pertaining to discovery, or other laws, all pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the administrative law judge.

(7) Procedures for discovery, subpoenas, motions, pre-hearing conferences, continuances, disqualification, and ex parte communication shall be set forth in writing by the County Attorney and provided to all parties.

(C) POWERS OF ADMINISTRATIVE LAW JUDGE: The administrative law judge who presides at the hearing shall have all powers necessary to the conduct of a fair and impartial hearing including, but not limited to, the power to conduct formal hearing in accordance with the provisions of this ordinance; administer oaths and examine witnesses; compel production of documents and appearance of witnesses in control of the parties; issue subpoenas; issue decisions and orders; rule on motions, and other procedural items or matters; require the submission of briefs; issue such orders and rulings as will ensure the orderly conduct of the proceedings; receive, rule on, exclude or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious; maintain the decorum of the hearing including the power to refuse to admit or to expel anyone whose conduct is disorderly; take any action authorized by these rules; and impose appropriate sanctions against any party or person failing to obey an order.

(D) HEARING PROCEDURES:

(1) Objections: All objections shall be timely made and stated in the record. Any objection not duly made before the administrative law judge shall be deemed waived.

(2) Representation Of Parties: Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case.

(3) Rights Of Parties: Subject to terms and conditions prescribed by the administrative law judge, parties have the right to introduce evidence on issues of material fact, cross examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

(4) Sequestration Of Witnesses: At the request of a party or sua sponte, the administrative law judge may order witnesses sequestered so they cannot hear the testimony of other witnesses.

(5) Contents Of Record: The record in a contested case before the administrative law judge shall include:

(a) All pleadings, motions, and rulings;

(b) All evidence received or considered and all other submissions;

(c) A statement of matters officially noticed;

(d) All questions and offers of proof, objections, and rulings thereon;

(e) All proposed findings and exceptions;

(f) Any decision, opinion, or report by the administrative law judge at the hearing. Deliberations of the County Attorney when deciding whether to adopt a proposed decision are not part of the record unless expressly made part of the record by order of the County Attorney or the administrative law judge.

(E) EVIDENCE:

(1) The administrative law judge shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

(2) Stipulation of facts is encouraged.

(3) Evidence in the proceeding shall be confined to the issues as to which the parties receive notice prior to the hearing unless the parties waive their right to such notice by express or implied waiver, or the administrative law judge determines that good cause justifies their expansion.

(4) Although the rules of evidence do not apply in a contested case hearing, a finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The administrative law judge shall give effect to the rules of privilege recognized by law.

(5) No evidence shall be received at any hearing concerning offers or counter offers of adjustment during efforts to conciliate or settle an alleged unfair or discriminatory practice.

(6) The burden of proof shall be by a preponderance of evidence.

(7) Evidence Of Past Sexual Practices:

(a) Discovery: In a contested case alleging conduct which constitutes sexual harassment, a party seeking discovery of information concerning the complainant's sexual conduct with persons other than the person who committed the alleged act of sexual harassment must establish specific facts showing good cause for discovery, and that the information sought is relevant to the subject matter of the action, and reasonably calculated to lead to the discovery of admissible evidence.

(b) Evidence: In a contested case against a respondent who is accused of sexual harassment, or whose agent or employee is accused of sexual harassment, evidence concerning the past sexual behavior of the alleged victim is not admissible.

(F) POSTHEARING PROCEDURES

(1) Briefs:

(a) Submission Of Posthearing Briefs: The administrative law judge may fix times for submission of posthearing briefs. Unless otherwise ordered, such briefs shall be filed simultaneously by all parties and there shall be no page limit or any other formal requirements.

(b) Reply Briefs: If simultaneous briefs are filed, then any party may file a reply brief within ten (10) days after service of the brief to which the reply is made.

(2) Requests To Present Additional Evidence:

(a) In General: A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence.

(b) Filing Request: If a request to present additional evidence is made after the issuance of the proposed decision, then the request must be filed with the appeal or, by a nonappealing party, within fourteen (14) days after the service of the appeal. If the County Attorney grants the motion to present additional evidence, the County Attorney shall remand the case to the administrative law judge for the taking of the additional evidence and any appropriate modification of the proposed order.

(G) PROPOSED DECISION: After a review of the transcript, the evidence, and the briefs, the administrative law judge shall set forth, in writing, findings of fact, conclusions of law, and a proposed decision and order. The proposed decision becomes the final decision without further proceedings unless there is an appeal to, or review on motion of the County Attorney within thirty (30) days.

(H) REVIEW OF PROPOSED DECISION ON APPEAL TO THE COUNTY ATTORNEY:

(1) Appeal By Party: Any adversely affected party may appeal a proposed decision to the County Attorney within thirty (30) days after issuance of the proposed decision.

(2) Review: The County Attorney may initiate review of a proposed decision on his or her own motion at any time within thirty (30) days following the issuance of such a decision.

(3) Notice Of Appeal: An appeal of a proposed decision is initiated by filing a timely notice of appeal with the County Attorney. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

(a) The parties initiating the appeal;

(b) The proposed decision or order appealed from;

(c) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

(d) The relief sought; and

(e) The grounds for relief.

(4) Oral Argument: All parties or their attorneys shall be allowed ten (10) minutes to present oral argument to the County Attorney whenever the County Attorney reviews a proposed decision pursuant to this rule. The County Attorney may, in his or her discretion, allow oral argument to continue longer.

(5) Briefs And Arguments: Unless otherwise ordered, within twenty (20) days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within ten (10) days thereafter, any party may file a responsive brief. The County Attorney may shorten or extend the briefing period as appropriate.

(I) SCOPE OF REVIEW BY THE COUNTY ATTORNEY:

(1) Whenever the County Attorney reviews a proposed decision, the County Attorney has all the power as when initially making the final decision. The County Attorney may adopt, modify, or reject the administrative law

judge's proposed decision or may remand the case to the administrative law judge for the taking of additional evidence and the making of any further proposed findings of fact, conclusions of law, or decision that it deems necessary.

- (2) Whenever the County Attorney reviews a proposed decision, he or she shall consider only those issues actually presented to the administrative law judge unless the issue was one which either:
 - (a) Was raised prior to the proposed decision by a party, but not ruled upon, or
 - (b) Was discussed in the proposed decision, but not argued on brief by the parties.

(J) AWARDS OF ATTORNEY FEES:

- (1) In any final decision in which it is determined that the complainant is entitled to an award of attorney fees, but the actual amount has not yet been determined, there is, by operation of this provision, an express retention of jurisdiction of the case by the County Attorney in order to determine the actual amount of attorney fees to which the party is entitled and to enter a subsequent order awarding those fees, regardless of whether or not such retention of jurisdiction is expressed in the final decision. In such case, the decision is final in all other respects except the determination of the amount of the attorney fees.
- (2) If the amount of attorney fees is not stipulated to by the parties, the administrative law judge shall schedule a hearing on the issue of the amount of the attorney fees. The administrative law judge's decision is a proposed decision, and either party may appeal as provided in subsections V-X of this section.

(K) WAIVER, MODIFICATION OF RULES:

- (1) Upon notice to all parties, the administrative law judge may, with respect to matters pending, modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served.
- (2) Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the administrative law judge, in the discretion of the presiding officer, may refuse to give effect to such a waiver when the administrative law judge deems the waiver to be inconsistent with the public interest.

(L) ASSESSMENT OF COSTS OF HEARING:

- (1) General Rule: If the complainant prevails in the hearing, the respondent shall pay the "contested case costs" incurred by the County. If the respondent prevails in the hearing, the County shall itself bear the "contested case costs" incurred by the County.
- (2) Mixed Results: Where the complainant is successful as to part of the remedies sought at the hearing and unsuccessful as to part of the remedies, the administrative law judge may recommend an equitable apportionment of "contested case costs" between the County and the respondent.
- (3) Costs Allowable: The following "contested case costs" and no others will be assessed or apportioned:
 - (a) The daily charge of the court reporter for attending and transcribing the hearing.
 - (b) All mileage charges of the court reporter for traveling to and from the hearing.
 - (c) All travel time charges of the court reporter for traveling to and from the hearing.

- (d) The cost of the original of the transcripts of the hearing.
- (e) Postage incurred by the administrative law judge in sending by mail (regular or certified) any papers which are made part of the record.
- (f) Expenses and fees of the administrative law judge, including, but not limited to, lodging and transportation.

XII. JUDICIAL REVIEW; ENFORCEMENT:

(A) ENFORCEMENT:

- (1) The County Attorney may obtain an order of court for the enforcement of the orders in a proceeding as provided in this section. Such an enforcement proceeding shall be brought in the district court of the county where the discriminatory practice occurred.
- (2) Such an enforcement proceeding shall be initiated by the filing of a petition in the court and the service of a copy thereof upon the person charged. The County Attorney shall then file with the court a transcript of the record of the hearing before it. The court has the power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony and proceeding set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside the order of the County Attorney, in whole or in part.
- (3) An objection that has not been urged before the County Attorney shall not be considered by the court in an enforcement proceeding, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.
- (4) Any party to the enforcement proceeding may move the court to remit the case to the County Attorney in the interest of justice for the purpose of adducing additional specified and material evidence and seeking findings thereof, providing such parties shall show reasonable grounds for the failure to adduce such evidence before.
- (5) In the enforcement proceeding the court shall determine its order on the same basis as it would in a proceeding reviewing commission action under section 17A.19, code of Iowa, as amended.
- (6) The administrative law judge's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the County Attorney's orders.
- (7) If no proceeding to obtain judicial review is instituted within thirty (30) days from the service of an order of the County Attorney issued pursuant to this section, the County Attorney may obtain an order of the court for the enforcement of such order upon showing that the person charged is subject to the jurisdiction of the ordinance.

(B) JUDICIAL REVIEW: Judicial review of the decision of the County Attorney may be sought in accordance with the terms of the Iowa administrative procedure act, as amended. For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure act, as amended, the issuance of a final decision of the County Attorney under this ordinance occurs on the date notice of the decision is mailed by certified mail to the parties. Notwithstanding the time limit provided in section 17A.19, subsection 3 of the code of Iowa, as amended, a petition for judicial review of no probable cause decisions and other final agency actions which are not of general applicability must be filed within thirty (30) days of the issuance of the final action.

XIII. SIXTY DAY RELEASE FROM ADMINISTRATIVE PROCESS; ALTERNATIVE JUDICIAL PROCEEDINGS UPON COMPLAINTS:

(A) CONDITIONS FOR RELEASE: A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek administrative relief by filing a complaint with the County Attorney's Office in accordance with section X (A) of this chapter. After the proper filing of a complaint, a person may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

- (1) The complainant has timely filed the complaint with the County Attorney's office as provided in subsection X (A) of this chapter.
- (2) The complaint has been on file with the County Attorney at least sixty (60) days and the County Attorney has determined the complaint is not covered by state or federal law but is covered by this ordinance.
- (3) The County Attorney has issued a release to the complainant pursuant to subsection B of this section.

(B) REQUIREMENTS FOR ISSUANCE OF RELEASE: Upon a request by the complainant, and after the expiration of sixty (60) days from the timely filing of a complaint, the County Attorney shall issue to the complainant a release stating that the complainant has a right to commence an action in the district court. A release under this subsection shall not be issued if a finding of no probable cause has been made on the complaint, or a conciliation agreement has been executed, or the County Attorney has served notice of hearing upon the respondent, or the complaint is closed as an administrative closure and two (2) years have elapsed since the issuance date of the closure.

(C) COMMENCEMENT OF ACTION: An action authorized under this section is barred unless commenced within ninety (90) days after issuance by the County Attorney of a release under subsection B of this section. If a complainant obtains a release under subsection B of this section, the County shall be barred from further action on that complaint unless the County is a party in the action.

(D) VENUE: Venue for an action under this section shall be in Johnson County, Iowa.

(E) RELIEF: The district court may grant any relief in an action under this section which is authorized by this ordinance. The district court may also award the respondent reasonable attorney fees and court costs when the court finds that the complainant's action was frivolous.

XIV. EFFECT ON OTHER LAW:

(A) OCCUPANCY RESTRICTIONS: This Chapter does not affect a reasonable local or State restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards.

(B) OTHER COUNTY ORDINANCES: This Chapter does not affect a requirement of nondiscrimination in other County ordinances.

XV. REPEALER. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

XVI. SAVINGS CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

XVII. EFFECTIVE DATE. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On December 21, **motion** by Stutsman, second by Harney, to adopt on first consideration the Human Rights Ordinance for Johnson County. Roll call: aye: Harney, Stutsman, Lehman, Neuzil, Sullivan.

On December 27, 2006, **motion** by Stutsman, second by Harney, to adopt on second consideration the Human Rights Ordinance for Johnson County. Roll call: aye: Harney, Stutsman, Lehman, Neuzil, Sullivan.

Motion by Harney, second by Sullivan, to adopt on third and final consideration the Human Rights Ordinance for Johnson County and to approve Ordinance 12-28-06-01. Roll call: aye: Harney, Stutsman, Lehman, Neuzil, Sullivan.

Dates of Publication:

Iowa City *Press-Citizen*: January 11, 2007

Solon *Economist*: January 10, 2007

The North Liberty *Leader*: January 10, 2007

Lone Tree *Reporter*: January 11, 2007

4:6 Voting Precincts in Johnson County

ORDINANCE NO. 09-15-22-01 *(Current law)*

AN ORDINANCE ESTABLISHING VOTING PRECINCTS IN JOHNSON COUNTY

Enacted September 15, 2022

Section I. Purpose. The purpose of this ordinance is to establish the voting precincts in Johnson County in compliance with Sections 49.3 and 49.4 of the Code of Iowa

Section II. Precincts and descriptions.

The County of Johnson County is hereby divided into 65 precincts as follows:

Big Grove shall include Big Grove Township excluding the City of Solon, except the following City area based on a revised Letter of Agreement entered into by both jurisdictions: the annexation recorded in bk. 6291 pg. 37 that encompasses Census Block 191030101002005, 191030101002007, 191030101002008, a portion of 191030101002006, a portion of 191030101003015, and a portion of 191030101003031. And excludes township area within the city limits of Solon that encompasses Census Block 191030101003039.

Cedar shall include Cedar Township.

Coralville 01, Coralville 02, Coralville 03, Coralville 04, Coralville 05, Coralville 06, Coralville 07 and

Coralville 08, Coralville 09 - located within the corporate limits of City of Coralville as described in Ordinance No. 2022-1005; except the following City area based on revised Letter of Agreement entered into by both jurisdictions: Beginning at the intersection of the corporate limits of the City of Coralville and the northeast corner of the Auburn East Subdivision, Coralville, Iowa (also the north line of the SE ¼ NE ¼ of Section 29, Township 80 North, Range 6 West of the 5th P.M.); thence east along the north line of Auburn Ridge Subdivision, Coralville Iowa to the centerline of Dubuque Street NE.; thence south along the centerline of said Dubuque Street NE to the northeast corner of Lot 1, Ladd's First Subdivision, Johnson County, Iowa; thence west along the north line of said Lot 1 to the south line of the SE ¼ NE ¼ of Section 29, Township 80 North, Range 6 West of the 5th P.M.; thence west along said south line of the SE ¼ NE ¼ to the southwest corner of Auburn Ridge Outlot A, Coralville, Iowa; thence north along the west boundary of Auburn Ridge Subdivision to the point of beginning.

Fremont-Lincoln (includes Lone Tree) shall include Fremont Township and Lincoln Township, including the City of Lone Tree.

Graham shall include Graham Township.

Hardin shall include Hardin Township.

Iowa City 01, Iowa City 02, Iowa City 03, Iowa City 04, Iowa City 05, Iowa City 06, Iowa City 07, Iowa City 08, Iowa City 09, Iowa City 11, Iowa City 12, Iowa City 13, Iowa City 14, Iowa City 17, Iowa City 18, Iowa City 19, Iowa City 20, Iowa City 21, Iowa City 23, Iowa City 24, Iowa City 25, Iowa City 26, Iowa City 27 - located within the corporate limits of City of Iowa City as described in Ordinance No. 21-4870.

Iowa City 10 (includes East Lucas South West) shall include Iowa City 10 located within the corporate limits of City of Iowa City as described in Ordinance No. 21-4870 and that portion of East Lucas Township lying southerly and westerly of the Iowa City corporate boundary, said portion lying westerly of Soccer Park Road.

Iowa City 15 (includes East Lucas South East) shall include Iowa City 15 located within the corporate limits of City of Iowa City as described in Ordinance No. 21-4870 and that portion of East Lucas Township lying southerly and easterly of the Iowa City corporate boundary, said portion lying easterly of Soccer Park Road.

Sharon shall include Sharon Township.

Solon shall include City of Solon except the following city area based on a Letter of Agreement entered into by both jurisdictions: the annexation recorded in bk. 6291 pg. 37 that encompasses Census Block 191030101002005, 191030101002007, 191030101002008, a portion of 191030101002006, and a portion of 191030101003031. And includes township area within the city limits of Solon that encompasses Census Block 191030101003039.

Tiffin 01 (includes Clear Creek) - shall include Tiffin 01 located within the corporate limits of City of Tiffin as described in Ordinance No. 2021-490 and Clear Creek Township except the following township area based on a Letter of Agreement entered into by both jurisdictions: Census Block 191030103034032 included in North Liberty Precinct 7.

Tiffin 02 - located within the corporate limits of City of Tiffin as described in Ordinance No. 2021-490.

Union shall include Union Township.

University Heights shall include City of University Heights.

Washington shall include Washington Township.

West Lucas shall include West Lucas Township.

Section III. Repealer. This ordinance repeals Ordinance 12-22-21-01. Additionally, all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section V. Correction of Errors. If this Ordinance fails to place any part of the County of Johnson within a precinct established by this Ordinance, the Commissioner of Elections shall assign the omitted area to an adjacent precinct within the same Representative District. If this Ordinance places any part of the County of Johnson in more than one precinct established by this Ordinance, the Commissioner of Elections shall assign that territory to an adjacent precinct within the proper Representative District. The Commissioner of Elections may also correct obvious clerical errors in this Ordinance.

Section VI. Publication of Changes. The Johnson County Commissioner of Elections is hereby directed to forward a copy of this Ordinance to the Secretary of State and to publish notice of the boundaries established by

this Ordinance once each week for three consecutive weeks, with the final publication to be no later than 30 days prior to the next general election, as prescribed by Chapter 49.11, Code of Iowa.

Section V. Effective Date. Pursuant to Chapter 49.7, Code of Iowa, this Ordinance shall be in full force and effect upon its final passage and approval.

Dates of Publication:

Iowa City Press-Citizen: September 29, 2022

Solon Economist: September 29, 2022

The News: September 29, 2022



ORDINANCE NO. 12-22-21-01 (Repealed)
AN ORDINANCE ESTABLISHING VOTING PRECINCTS IN JOHNSON COUNTY

Enacted December 22, 2021 / Repealed September 15, 2022

Section I. Purpose. The purpose of this ordinance is to establish the voting precincts in Johnson County in compliance with Sections 49.3 and 49.4 of the Code of Iowa

Section II. Precincts and descriptions.

The County of Johnson County is hereby divided into 64 precincts as follows:

Big Grove shall include Big Grove Township excluding the City of Solon.

Cedar shall include Cedar Township

Coralville 01, Coralville 02, Coralville 03, Coralville 04, Coralville 05, Coralville 06, Coralville 07 and Coralville 08 – located within the corporate limits of City of Coralville as described in Ordinance No.2021-1014

Fremont-Lincoln (includes Lone Tree) shall include Fremont Township and Lincoln Township, including the City of Lone Tree.

Graham shall include Graham Township

Hardin shall include Hardin Township

Iowa City 01, Iowa City 02, Iowa City 03, Iowa City 04, Iowa City 05, Iowa City 06, Iowa City 07, Iowa City 08, Iowa City 09, Iowa City 11, Iowa City 12, Iowa City 13, Iowa City 14, Iowa City 16, Iowa City 17, Iowa City 18, Iowa City 19, Iowa City 20, Iowa City 21, Iowa City 23, Iowa City 24, Iowa City 25, Iowa City 26, Iowa City 27 – located within the corporate limits of City of Iowa City as described in Ordinance No. 21-4870.

Iowa City 10 (includes East Lucas South West)- shall include Iowa City 10 located within the corporate limits of City of Iowa City as described in Ordinance No. 21-4870 and that portion of East Lucas Township lying southerly and westerly of the Iowa City corporate boundary, said portion lying westerly of Soccer Park Road.

Iowa City 15 (includes East Lucas South East) shall include Iowa City 15 located within the corporate limits of City of Iowa City as described in Ordinance No. 21-4870 and that portion of East Lucas Township lying southerly and easterly of the Iowa City corporate boundary, said portion lying easterly of Soccer Park Road.

Iowa City 22 (includes East Lucas North) - shall include Iowa City 22 located within the corporate limits of City of Iowa City as described in Ordinance No. 21-4870 and that portion of East Lucas Township lying north of the Iowa City corporate boundary.

Jefferson East (includes Shueyville) shall include that portion of Jefferson Township that is east of Interstate 380, including the City of Shueyville and including that portion of Shueyville lying westerly of Interstate 380.

Jefferson West – Monroe (includes Swisher) shall include Monroe Township and that portion of Jefferson Township that is west of Interstate 380, except that portion of Shueyville lying westerly of Interstate 380, and including the City of Swisher.

Liberty-Pleasant Valley (includes Hills) shall include Pleasant Valley Township, Liberty Township, and the City of Hills

Madison shall include Madison Township

Newport shall include Newport Township

North Liberty 01, North Liberty 02, North Liberty 03, North Liberty 04, North Liberty 05, North Liberty 06, North Liberty 07, North Liberty 08 - located within the corporate limits of City of North Liberty as described in Ordinance No. 2021-19.

Oxford (includes city and township) shall include Oxford Township, and the City of Oxford

Penn shall include Penn Township

Scott (includes West Branch) shall include Scott Township, including that portion of the City of West Branch lying within Johnson County

Sharon shall include Sharon Township

Solon shall include City of Solon

Tiffin 01 (includes Clear Creek) - shall include Tiffin 01 located within the corporate limits of City of Tiffin as described in Ordinance No. 2021-490 and Clear Creek Township.

Tiffin 02 - located within the corporate limits of City of Tiffin as described in Ordinance No. 2021-490

Union shall include Union Township

University Heights shall include City of University Heights

Washington shall include Washington Township

West Lucas shall include West Lucas Township

Section III. Repealer. This ordinance repeals Ordinance 10-13-11-01. Additionally, all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section V. Correction of Errors. If this Ordinance fails to place any part of the County of Johnson within a precinct established by this Ordinance, the Commissioner of Elections shall assign the omitted area to an adjacent precinct within the same Representative District. If this Ordinance places any part of the County of Johnson in more than one precinct established by this Ordinance, the Commissioner of Elections shall assign that territory to an adjacent precinct within the proper Representative District. The Commissioner of Elections may also correct obvious clerical errors in this Ordinance.

Section VI. Publication of Changes. The Johnson County Commissioner of Elections is hereby directed to forward a copy of this Ordinance to the Secretary of State and to publish notice of the boundaries established by this Ordinance once each week for three consecutive weeks, with the final publication to be no later than 30 days prior to the next general election, as prescribed by Chapter 49.11, Code of Iowa.

Section V. Effective Date. Pursuant to Chapter 49.7, Code of Iowa, this Ordinance shall be in full force and effect on January 15, 2022.

On December 21, 2021, **motion** by L. Green-Douglass, second by J. Green, to approve the proposed Ordinance Establishing Voting Precincts in Johnson County on first and second consideration. Roll call: aye: J. Green, L. Green-Douglass, P. Heiden, R. Porter; absent: R. Sullivan.

Motion by R. Sullivan, second by L. Green-Douglass, to approve the proposed Ordinance Establishing Voting Precincts in Johnson County on third and final consideration and approve Ordinance 12-22-21-01. Roll call: aye: J. Green; L. Green-Douglass; P. Heiden; R. Porter; R. Sullivan.

Dates of Publication:

Iowa City Press-Citizen: January 6, 2022

Solon Economist: January 6, 2022

North Liberty Leader: January 6, 2022

The News: January 6, 2022



ORDINANCE 10-13-11-01 (Repealed)

AN ORDINANCE ESTABLISHING VOTING PRECINCTS IN JOHNSON COUNTY

Enacted October 13, 2011 / Repealed December 22, 2021

Section I. Purpose. The purpose of this ordinance is to establish the voting precincts in Johnson County.

Section II. Precinct and description.

Big Grove	Big Grove Township, excluding the City of Solon.
Cedar	Cedar Township.
Clear Creek (includes Tiffin)	Clear Creek Township, including the City of Tiffin.
East Lucas Southeast	That portion of East Lucas Township lying southerly and easterly of the Iowa City corporate boundary, said portion lying easterly of Soccer Park Road, and including census block identified by GEOID 191030018012031.
East Lucas Southwest	That portion of East Lucas Township lying southerly and westerly of the Iowa City corporate boundary, said portion lying westerly of Soccer Park Road, and excluding census block identified by GEOID 191030018012031.

Fremont-Lincoln (includes Lone Tree)	Fremont Township and Lincoln Township, including the City of Lone Tree.
Graham	Graham Township.
Hardin	Hardin Township.
Hills	City of Hills, not including the portion of West Lucas Township and the portion of Liberty Township de-annexed by the City of Hills as filed with the Iowa Secretary of State's office on May 20, 2010.
Jefferson East (includes Shueyville)	That portion of Jefferson Township that is east of Interstate 380, including the City of Shueyville, and including that portion of Shueyville lying westerly of Interstate 380.
Jefferson West-Monroe (includes Swisher)	Monroe Township and that portion of Jefferson Township that is west of Interstate 380, except that portion of Shueyville lying westerly of Interstate 380, and including the City of Swisher.
Liberty-Pleasant Valley	Pleasant Valley Township and Liberty Township, including the portion of Liberty Township de-annexed by the City of Hills as filed with the Iowa Secretary of State's office on May 20, 2010 and excluding the City of Hills.
Madison (includes Clear Creek North)	Madison Township and that portion of Clear Creek Township bounded on the east, south, and west by the City of North Liberty and bounded on the north by Madison Township.
Newport	Newport Township.
Oxford (includes City and Township)	Oxford Township, including the City of Oxford.
Penn (includes East Lucas North)	Penn Township, except that portion bounded on all sides by the City of North Liberty, and that portion of East Lucas Township lying north of the Iowa City corporate boundary.
Penn West	That portion of Penn Township bounded on all sides by the City of North Liberty.
Scott (includes portion of West Branch)	Scott Township, including that portion of the City of West Branch lying within Johnson County.
Sharon	Sharon Township.
Solon	City of Solon.
Union	Union Township.
University Heights	City of University Heights.
Washington	Washington Township.
West Lucas	West Lucas Township, including the portion of said township de-annexed by the City of Hills as filed with the Iowa Secretary of State's office on May 20, 2010.

Section III. Repealer. This ordinance repeals Ordinance 09-15-11-01. Additionally, all other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect January 15, 2012, after its passage and publication as part of the proceedings of the Board of Supervisors.

On October 6, 2011, **motion** by Neuzil, second by Rettig, to waive the requirement of three considerations before amending An Ordinance Establishing Voting Precincts in Johnson County, Iowa, on first and second consideration. Roll call: aye: Harney, Neuzil, Stutsman, Sullivan, Rettig.

Motion by Neuzil, second by Stutsman, to approve An Ordinance Establishing Voting Precincts in Johnson County, Iowa, on final consideration and to approve Ordinance 10-13-11-01. Roll call: aye: Harney, Neuzil, Stutsman, Sullivan, Rettig.

Dates of Publication:

Iowa City *Press-Citizen*: October 26, 2011

Solon *Economist*: October 26, 2011

The North Liberty *Leader*: October 26, 2011

Lone Tree *Reporter*: October 27, 2011



ORDINANCE 09-15-11-01 (*Repealed*)

AN ORDINANCE ESTABLISHING VOTING PRECINCTS IN JOHNSON COUNTY

Enacted September 19, 2011 / Repealed October 13, 2011

Section I. Purpose. The purpose of this ordinance is to establish the voting precincts in Johnson County.

Section II. Precinct and description.

Big Grove: Big Grove Township, excluding the City of Solon.

Cedar: Cedar Township.

Clear Creek (includes Tiffin): Clear Creek Township, including the City of Tiffin.

East Lucas Southeast: That portion of East Lucas Township lying southerly and easterly of the Iowa City corporate boundary, said portion lying easterly of Soccer Park Road, and including census block identified by GEOID 191030018012031.

East Lucas Southwest: That portion of East Lucas Township lying southerly and westerly of the Iowa City corporate boundary, said portion lying westerly of Soccer Park Road, and excluding census block identified by GEOID 191030018012031.

Fremont-Lincoln (includes Lone Tree): Fremont Township and Lincoln Township, including the City of Lone Tree.

Graham: Graham Township.

Hardin: Hardin Township.

Hills: City of Hills.

Jefferson East (includes Shueyville): That portion of Jefferson Township that is east of Interstate 380, including the City of Shueyville, and including that portion of Shueyville lying westerly of Interstate 380.

Jefferson West-Monroe (includes Swisher): Monroe Township and that portion of Jefferson Township that is west of Interstate 380, except that portion of Shueyville lying westerly of Interstate 380, and including the City of Swisher.

Liberty-Pleasant Valley: Liberty Township, excluding the City of Hills, and Pleasant Valley Township.

Madison (includes Clear Creek North): Madison Township and that portion of Clear Creek Township bounded on the east, south, and west by the City of North Liberty and bounded on the north by Madison Township.

Newport: Newport Township.

Oxford (includes City and Township): Oxford Township, including the City of Oxford.

Penn (includes East Lucas North): Penn Township, except that portion bounded on all sides by the City of North Liberty, and that portion of East Lucas Township lying north of the Iowa City corporate boundary.

Penn West: That portion of Penn Township bounded on all sides by the City of North Liberty.

Scott (includes portion of West Branch): Scott Township, including that portion of the City of West Branch lying within Johnson County.

Sharon: Sharon Township.

Solon: City of Solon.

Union: Union Township.

University Heights: City of University Heights.

Washington: Washington Township.

West Lucas: West Lucas Township.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect January 15, 2012, after its passage and publication as part of the proceedings of the Board of Supervisors.

On September 8, 2011, **motion** by Sullivan, second by Stutsman, to waive the requirement of three considerations before approving an ordinance and to approve An Ordinance Establishing Voting Precincts in Johnson County, Iowa on first and second consideration. Roll call: Harney, Neuzil, Rettig, Stutsman, Sullivan.

Motion by Sullivan, second by Rettig, to approve An Ordinance Establishing Voting Precincts in Johnson County, Iowa, and approve Ordinance 09-15-11-01 on final consideration. Roll call: Aye: Harney, Neuzil, Rettig, Sullivan; Absent: Stutsman.

Dates of Publication:

Iowa City *Press-Citizen*: September 28, 2011

Solon *Economist*: September 28, 2011

The North Liberty *Leader*: September 28, 2011

Lone Tree *Reporter*: September 29, 2011

4:7 Minimum Wage

ORDINANCE 09-10-15-01 *(Current law)*

AN ORDINANCE ESTABLISHING A JOHNSON COUNTY MINIMUM WAGE

Enacted September 10, 2015

Whereas, the Iowa Constitution grants counties home rule power and authority to determine their local affairs and government; and

Whereas, Iowa law allows counties to enact private or civil laws governing civil relationships when done incident to an exercise of an independent county power; and

Whereas, Iowa law grants counties independent powers to protect and preserve the rights, privileges, and property of the county or of its residents; to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents; and to set standards and requirements which are higher and more stringent than those imposed by state law; and

Whereas, Johnson County, Iowa has one of the highest costs of living in the state; and

Whereas, many working families and individuals in Johnson County are unable to adequately sustain themselves due to wages below the cost of living in the county; and

Whereas, payment of a higher minimum wage advances Johnson County's interests by creating jobs that better help workers and their families avoid poverty and economic hardship, reducing residents' reliance upon public and private aid, and better enabling residents to meet basic needs; and

Whereas, increasing the minimum wage increases consumer purchasing power, increases workers' standards of living, reduces poverty, and stimulates the economy; and

Whereas, a higher minimum wage will improve the peace, safety, health, welfare, comfort and convenience of Johnson County residents by raising their standard of living and other associated benefits.

Now, Therefore, Be It Ordained By The Johnson County Board Of Supervisors, as follows:

Section I. Purpose. The purpose of this ordinance shall be to establish a minimum hourly wage applicable to certain employees and employers within the geographical boundaries of Johnson County, Iowa.

Section II. Authority. This ordinance is adopted pursuant to Johnson County's home rule authority as set out in Article III, Section 39A of the Iowa Constitution, and consistent with the County's independent police powers and its ability to adopt standards that exceed the standards set forth by the State, both as set out in Iowa Code §331.301.

Section III. Applicability Within Johnson County Municipalities. This ordinance shall be applicable within the unincorporated areas of Johnson County, Iowa, and within any Johnson County municipality that has not adopted a conflicting ordinance.

Section IV. The Johnson County Minimum Wage Ordinance. Chapter 4 of the Johnson County Code of Ordinances is hereby amended to add a new subchapter 4:7, to be numbered and read as follows:

Chapter 4:7 Minimum Wage

4:7.1 Minimum Wage Requirements

(a) The Johnson County hourly wage shall be at least \$8.20 as of November 1, 2015, \$9.15 as of May 1, 2016, and \$10.10 as of January 1, 2017. Beginning on July 1, 2018, and each July 1st thereafter, the Johnson County hourly wage shall be increased by an amount corresponding to the previous calendar year's increase (i.e., January 1, 2017 through December 31, 2017), if any, in the Consumer Price Index for the Midwest region as published by the Bureau of Labor Statistics, U.S. Department of Labor or its successor index. The adjusted Johnson County hourly wage shall be announced by the Board of Supervisors by April 1 of each year.

(b) Every employer, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, shall pay to each of the employer's employees, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, the Johnson County hourly wage stated in paragraph "a", the current state hourly wage, pursuant to Iowa Code §91D.1, as amended, or the current federal minimum wage, pursuant to 29 U.S.C. §206, as amended, whichever is greater.

(c) For purposes of determining whether an employee of a restaurant, hotel, motel, inn or cabin, who customarily and regularly receives more than thirty dollars a month in tips is receiving the minimum hourly wage rate prescribed in this section, the amount paid the employee by the employer shall be deemed to be increased on account of the tips by an amount determined by the employer, not to exceed forty percent of the applicable minimum wage.

(d) An employer is not required to pay an employee the applicable Johnson County hourly wage provided in paragraph "a" until the employee has completed ninety calendar days of employment with the employer. An employee who has completed ninety calendar days of employment with the employer prior to November 1, 2015, May 1, 2016, or January 1, 2017, shall earn the applicable Johnson County hourly minimum wage as of that date. An employer shall pay an employee who has not completed ninety calendar days of employment with the employer an hourly wage of at least \$6.35.

(e) Employees are covered by this ordinance for each hour worked within the geographic boundaries of Johnson County or one of the municipalities located therein, provided that an employee who performs work in the geographic boundaries of Johnson County or one of the municipalities located therein on an occasional basis is covered by this ordinance in a two-week period only if the employee performs more than two hours of work within Johnson County or an applicable municipality during that two-week period.

4:7.2 Exceptions. The exemptions from the minimum wage requirements stated in Iowa Code §91D.1(2) shall apply to this ordinance.

4:7.3 Enforcement of Violations. Any violation of this ordinance shall be considered a county infraction, punishable as provided by Iowa Code Section 331.307. Additionally, this ordinance may be enforced pursuant to Iowa Code Chapter 91A.

4:7.4 Applicability. Notwithstanding the above, this ordinance shall not be applicable within the geographic boundaries of any Johnson County municipality that has adopted a conflicting ordinance, or to work performed by employees within said Johnson County municipality.

Section V. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section VI. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect on the later of November 1, 2015, or after its final passage and publication as part of the proceedings of the Board of Supervisors.

On August 27, 2015, **motion** by Rettig, second by Sullivan, to approve An Ordinance Establishing a Johnson County Minimum Wage on first consideration. Roll call: aye: Carberry, Harney, Neuzil, Rettig, Sullivan.

On September 3, 2015, **motion** by Rettig, second by Carberry, to approve An Ordinance Establishing a Johnson County Minimum Wage on second consideration. Roll call: aye: Carberry, Harney, Neuzil, Rettig, Sullivan.

Motion by Carberry, second by Rettig, to approve An Ordinance Establishing A Johnson County Minimum Wage, Ordinance 09-10-15-01, on third and final consideration. Roll call: aye: Carberry, Harney, Neuzil, Rettig, Sullivan.

Dates of Publication:

Iowa City *Press-Citizen*: September 22, 2015

Solon *Economist*: September 24, 2015

The North Liberty *Leader*: September 24, 2015

Lone Tree *Reporter*: September 24, 2015

4:8 Smokefree Places

ORDINANCE No. 04-25-19-01 *(Current law)*

AN ORDINANCE AMENDING CHAPTER 4, “PUBLIC ORDER, SAFETY AND HEALTH,” OF THE CODE OF ORDINANCES OF JOHNSON COUNTY, IOWA, ADDING AND INCORPORATING A SECTION ENTITLED SMOKEFREE AIR ACT

Enacted April 25, 2019

Whereas, the State of Iowa has adopted Chapter 142D of the Iowa Code, known as the Iowa Smokefree Air Act, which regulates smoking in public places throughout the State of Iowa; and,

Whereas, the Johnson County Board of Supervisors has previously passed Resolution 06-26-14-02 prohibiting the use of cigarettes, tobacco products, alternative nicotine products, and vapor products on areas controlled by the Board of Supervisors at or within which smoking would be prohibited by the Smokefree Air Act; and

Whereas, on February 20, 2019, the Johnson County Board of Health approved a position statement regarding electronic cigarettes, including adoption by the Johnson County Board of Supervisors of an ordinance to include electronic cigarettes in areas where tobacco cigarette use is prohibited under the Iowa Smoke Free Air Act; and

Whereas, the County has the power to make changes to the statute to make the regulations more restrictive as long as said changes are not in conflict with the statute; and

Whereas, the Johnson County Board of Supervisors has determined it is necessary for the health and welfare of its citizens and visitors to the County to further regulate the use of e-cigarettes and the placement of smoking areas outside of public places.

Now, Therefore, Be It Ordained by the Johnson County Board of Supervisors, as follows:

Section I. Amendment. The Johnson County Code of Ordinances (2013) is hereby amended by adding Section 4:7¹ entitled “Smokefree Places” to Chapter 4, to read as follows:

4:7 Smokefree Places

Effective May 2, 2019

- 4:7.1 Purpose**
- 4:7.2 Adoption**
- 4:7.3 Additional Definitions**
- 4:7.4 Alternative Nicotine Products and Vapor Products**
- 4:7.5 Additional Protected Areas**
- 4:7.6 Enforcement and Penalties**
- 4:7.7 Jurisdiction**

4:7.1 Purpose.

The purpose of this ordinance is to protect and preserve the health and welfare of Johnson County residents and visitors by regulating the use of e-cigarettes and the protection of areas outside of public places from certain smoking-related activities.

¹ Section number is renumbered 4:8 in the Code of Ordinances (2024)

4:7.2 Adoption.

There is hereby adopted by reference that certain state statute known as Chapter 142D of the Code of Iowa (2017), as may be amended from time to time and enlarged by this Section 4:7, as establishing those places within Johnson County where smoking is or may be prohibited. Smoking is prohibited and a person shall not smoke in any of the places lying in Johnson County, Iowa that are described in Iowa Code Section 142D.3 or that may be declared nonsmoking pursuant to Iowa Code Section 142D.5, subject to the exceptions in Iowa Code Section 142D.4.

4:7.3 Additional Definitions

For purposes of this Section:

1. All definitions set out in Section 142D.2, Code of Iowa are incorporated herein.
2. The following definitions are added to Section 142D.2 of the Smokefree Air Act:
 - a. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electrical, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution of other substance. “Vapor Product” includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device. “Vapor Product” does not include any product regulated as a drug or device by the United States Food and Drug Administration, under Chapter V of the federal Food, Drug and Cosmetic Act.
 - b. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting or sniffing or by any other means. Alternative nicotine product does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V, of the federal Food, Drug and Cosmetic Act.

4:7.4 Alternative Nicotine Products and Vapor Products.

It shall be unlawful for any person to use any Alternative Nicotine Product or any Vapor Product in any place where cigarettes are prohibited to be used pursuant to Section 4:7.2 of this Ordinance.

4:7.5 Additional Protected Areas

It shall be unlawful for any person to smoke, or use any Alternative Nicotine Product or Vapor Product within twenty-five (25) feet of the entrance to any public places where smoking is not allowed under Section 4:7.2 of this Ordinance.

4:7.6 Penalties

In addition to the civil penalties provided for in Iowa Code Chapter 142D, violation of any provision of this Ordinance shall constitute a county infraction under Section 331.307 of the Iowa Code, punishable by a penalty of \$100.00 for a person’s first violation thereof and \$200.00 for each repeat violation, enforceable by any officer authorized by Johnson County to enforce county codes or regulations. Alternatively, violation of this Section 4:7 can be charged by a peace office of the county or a city therein as a simple misdemeanor.

4:7.7 Jurisdiction

The provisions of this Ordinance shall apply throughout Johnson County, Iowa including within the corporate limits of all cities in Johnson County that have not enacted an ordinance addressing vapor products and/or alternative nicotine products. If a city within Johnson County enacts or has enacted such an ordinance, then this Ordinance shall have no effect within such city to the extent this Ordinance conflicts with the city ordinance. If

a city within Johnson County enacts an ordinance stating that this Ordinance shall have no effect within the corporate limits of said city, then such a city ordinance shall be a complete defense for any violations of this Ordinance occurring within the corporate limits of said city for so long as the local city ordinance remains effective.

Section II. Conflicts. All ordinances or parts of ordinances not specifically provided for and in conflict with the provisions of this ordinance are hereby repealed.

Section III. Adjudication. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section IV. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section V. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section VI. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On April 18, 2019, **motion** by Sullivan, second by Porter, to approve An Ordinance Amending Chapter 4, “Public Order, Safety and Health,” of the Code of Ordinances of Johnson County, Iowa, Adding and Incorporating a Section Entitled Smokefree Air Act on first and second consideration. Roll call: aye: Green-Douglass, Porter, Sullivan; absent: Heiden, Rettig.

Motion by Sullivan, second by Porter, to approve An Ordinance Amending Chapter 4, “Public Order, Safety and Health,” of the Code of Ordinances of Johnson County, Iowa, Adding and Incorporating a Section Entitled Smokefree Air Act on third and final consideration and approve Ordinance 04-25-19-01. Roll call: aye: Heiden, Green-Douglass, Porter, Rettig, Sullivan.

Dates of Publication:

Iowa City Press-Citizen: May 9, 2019

Solon Economist: May 9, 2019

The North Liberty Leader: May 9, 2019

The News: May 9, 2019

4:9 Ambulance Service Billing and Collections

ORDINANCE NO. 06-13-24-01 *(Current law)*

JOHNSON COUNTY ORDINANCE AUTHORIZING DIRECTOR OF THE JOHNSON COUNTY AMBULANCE SERVICE TO BILL FOR SERVICES AND COLLECT UNPAID AMOUNTS DUE FROM PATIENTS

Enacted June 13, 2024

WHEREAS, the State of Iowa adopted code section 421.65 giving the Iowa Department of Revenue authority to set off against public payments qualifying debts owed to a public agency; and

WHEREAS, the county and its ambulance service are a public agency eligible to participate in the setoff program; and

WHEREAS, the county's ambulance service sets reasonable, appropriate, market-based rates that it uses, applies, and charges for services rendered to patients; and

WHEREAS, the county's ambulance service charges fees for its services and then collects unpaid amounts due, including any and all amounts due that have not been paid by insurance, to patients by sending bills to patients and by contacting patients regarding the amounts owed to the ambulance service for the care patients received and for the services rendered by the ambulance service; and

WHEREAS, the county's ambulance service collects from its patients any liquidated sum certain, owing, and payable to the county's ambulance service, with respect to which the ambulance service has provided the obligor an opportunity to protest or challenge the sum in a manner in compliance with applicable law and due process, and which has been determined as owing through the challenge or protest, or for which the time period provided by the ambulance service to challenge or protest has expired; and

WHEREAS, after the county's ambulance service attempts to collect a debt from a patient but the debt remains unpaid, then the county's ambulance service also takes further steps to continue to try to recover the unpaid amounts due and owing; and

WHEREAS, in situations where the county's ambulance service has attempted to collect a debt from a patient, but the debt remains unpaid, the further methods of collection include but are not limited to referring unpaid bills and patient accounts to a third-party debt collection agency and also sending notices to the Iowa Department of Revenue for participation in the State's Setoff Program; and

WHEREAS, it is in the best interests of Johnson County and its residents to specifically authorize the ambulance service to determine and set its fee schedule and to then use that fee schedule and apply it when charging fees for its services and when billing its patients, so that Johnson County can continue to finance, fund, and operate its ambulance service in part with the money collected from patients; and

NOW THEREFORE BE IT ORDAINED BY THE JOHNSON COUNTY BOARD OF SUPERVISORS, as follows:

1. Codification: Chapter 4 of the Johnson County Iowa Code of Ordinances is amended to add this new Article 4:9 titled, "JOHNSON COUNTY AMBULANCE SERVICE BILLING AND COLLECTIONS"

- 2. Purpose:** The purpose of this ordinance is to authorize the Johnson County Ambulance Service to:
- a. Establish and set its schedule of fees by setting pricing and determining how much services cost
 - b. Update, modify, or change its schedule of fees as often as necessary, as determined by and within the sole discretion of the director and the director's staff
 - c. Charge fees for its services to its patients
 - d. Determine how much to bill patients and what to charge to patients
 - e. Assess charges, fees, and amounts due to patients by billing the patients
 - f. Engage in debt collection activities to collect the unpaid amounts from the patients as well as from any other relevant third parties that may be involved such as insurance companies
 - g. Participate in the Iowa Department of Revenue's Setoff in compliance with Iowa Code section 421.65
 - h. Participate and appear in legal actions by
 - i. Filing legal claims or cases against patients to collect unpaid bills and debts, and
 - ii. Defend against any or all actions or claims filed by patients against the ambulance service, including but not limited to actions for wrongful setoff, probate of estates, bankruptcy, or receivership.
- 3. Applicability:** This ordinance shall apply to any and all fees or bills charged to patients by the Johnson County Ambulance Service and is intended to comply with Iowa Code section 421.65 and any other Iowa Code section that provides for the State collection of debts owed to public agencies.
- 4. Reasonable Fees:** The Johnson County Ambulance Service shall set reasonable, appropriate, and competitive market-based rates it charges for services rendered to patients. The director and the director's staff are authorized to update, modify, or change its schedule of fees as often as necessary, as determined by and within the director's sole discretion.
- Payment of fees shall be made to the Johnson County Ambulance Service and reported to the Board of Supervisors on an annual basis in the usual and normal course of reporting money collected for the benefit of the Johnson County Ambulance Service.
- 5. Responsibility:** The Director of the Johnson County Ambulance Service shall be responsible for developing and implementing policies, procedures, and protocols to ensure emergency medical services provided are charged, billed, and collected in compliance with applicable laws, regulations, and standards. The Johnson County Ambulance Service may collect any liquidated sum certain, owing, and payable to the Johnson County Ambulance Service, with respect to which the ambulance service has provided the obligor an opportunity to protest or challenge the sum in a manner in compliance with applicable law and due process, and which has been determined as owing through the challenge or protest, or for which the time period provided by the ambulance service to challenge or protest has expired.
- 6. Notice:** The Johnson County Ambulance Service will send a notice to patient obligors stating any liquidated sum certain, owing, and payable to the Johnson County Ambulance Service. The ambulance service will

provide the obligor an opportunity to protest or challenge the sum in a manner in compliance with applicable law and due process.

Patient obligors who wish to dispute or challenge their bill must submit their dispute in writing to the Johnson County Ambulance within fifteen (15) days after the Johnson County Ambulance Service has mailed the notice of patient's options to dispute or challenge the patient's bill (the invoice due and payable to Johnson County Ambulance Service). If the patient obligor submits a written contest or dispute to the Johnson County Ambulance Service, then the Johnson County Ambulance shall respond within thirty (30) days after receiving the party's challenge or dispute and indicate:

- a. The time when the County will review the relevant facts of the challenge with the obligor; and
- b. A statement to the obligor that an alternative time may be set at the request of the obligor; and
- c. A statement to the obligor that if the obligor does not participate in the review at the scheduled time and an alternative time is not requested and approved, the review shall take place without the obligor being present.
- d. Information in favor of the obligor shall be considered at the review only if that information is presented or offered at the review. Information in favor of the ambulance service shall be considered in the review.

7. Outcome of review: If a review occurs because a patient obligor submits a challenge or dispute within fifteen days after the notice was mailed by the ambulance service, then the patient obligor will continue to owe the amount due unless the outcome of the review is one of the following:

- a. determination that the debt is not a qualified debt, or
- b. the bill is erroneous because of a mistake of fact, including a mistake in the identity of the obligor, or a mistake in the amount owed.

Only those two grounds shall be considered as a reason to reduce or eliminate the amount due from the disputing or challenging patient obligor.

If it has been determined as owing through the challenge or protest, or, if the time period provided by the ambulance service to challenge or protest has expired, then the Johnson County Ambulance Service shall have the option and authority to engage in collection activities to try to collect. This includes but is not limited to submitting the unpaid billing invoice to the Iowa Department of Revenue's Setoff Program, referring the account to a third-party debt collection service, and filing claims against or taking legal action against the patient-obligor.

8. Failure to provide notice to the County: The Johnson County Ambulance Service may object to non-payment of a portion or all of a patient obligor's bill based on the patient obligor's failure to timely dispute or challenge the unpaid fee or bill.

9. Severability: If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

10. Effective Date: This ordinance shall take effect after its final passage and upon publication as part of the proceedings of the Board of Supervisors.

On May 30, 2024, **Motion** by Fixmer-Oraiz, second by Porter, to approve the proposed Johnson County Ordinance Authorizing Director of the Johnson County Ambulance Service to Bill for Services and Collect Unpaid Amounts Due from Patients on first consideration. Roll call: Aye: Fixmer-Oraiz, Green, Green-Douglass, Porter, Sullivan.

On June 6, 2024, **Motion** by Green-Douglass, second by Green, to approve the proposed Johnson County Ordinance Authorizing Director of the Johnson County Ambulance Service to Bill for Services and Collect Unpaid Amounts Due from Patients on second consideration. Roll call: Aye: Fixmer-Oraiz, Green, Green-Douglass, Sullivan; Absent: Porter.

Motion by Fixmer-Oraiz, second by Porter, to approve on third and final consideration and adopt Ordinance No. 06-13-24-01 Roll call: Aye: Fixmer-Oraiz, Green, Porter, Sullivan; Absent: Green-Douglass.

Dates of Publication:

Iowa City Press-Citizen: June 27, 2024

Solon Economist: June 27, 2024

The News: June 27, 2024

Chapter 5. Social and Human Services

5:1 Uniform Court Appointed Attorney and Guardian Ad Litem Fees

Ordinance 10-14-21-01 JOHNSON COUNTY ORDINANCE ESTABLISHING UNIFORM COURT
APPOINTED ATTORNEY AND GUARDIAN AD LITEM FEES

5:1 Uniform Court Appointed Attorney and Guardian Ad Litem Fees

ORDINANCE NO. 10-14-21-01 (*Current law*)

JOHNSON COUNTY ORDINANCE ESTABLISHING UNIFORM COURT APPOINTED ATTORNEY AND GUARDIAN AD LITEM FEES

Enacted October 14, 2021

Whereas, the State of Iowa has adopted a number of code sections providing for court appointed counsel for indigent persons to be paid at county expense without specifying a fee limit or notice to the county and there has been a steady increase in the number of attorney fee claims submitted to the county; and

Whereas, the county is entitled to notice and to be heard before attorney fees are assessed against the county per Scott County v. Iowa Dist. Ct. For Scott County, 397 N.W.2d 754 (Iowa 1986); and

Whereas, in situations where the county may be held responsible for attorney fee costs, it is appropriate for the Board of Supervisors to establish an hourly rate for these services in substantially the same manner as provided in Iowa Code section 815.7; and

Whereas, it is in the best interests of Johnson County and its residents to create a comprehensive and uniform court appointed fee schedule that includes all circumstances and cases where an attorney or guardian ad litem can be appointed at county expense;

Now Therefore Be It Ordained by the Johnson County Board of Supervisors, as follows:

Section I. Purpose. The purpose of this ordinance is to establish a uniform hourly rate for court appointed attorneys when appointed as counsel, guardian ad litem, or a court visitor and the attorney is to be paid at county expense.

Section II. Applicability. This ordinance shall apply to an attorney appointed by the court pursuant to Iowa Code sections 125.78, 232D.505, 598.12, 598.12A, 598.12B, 633.561, 633.562 or any other Iowa Code section that provides for the appointment of an attorney to be paid at county expense when those fees are not otherwise set by statute.

Section III. Reasonable Attorney Fees. An attorney who is appointed by the court to represent any person at county expense shall be entitled to reasonable compensation. Compensation for such appointments in Johnson County shall be deemed reasonable and calculated at the current lowest hourly rate for payment of attorneys and guardians ad litem consistent with Iowa Code section 815.7. In the event that Iowa Code section 815.7 is amended to change the reasonable hourly rate for payment of attorneys and guardians ad litem, Johnson County will pay the lowest reasonable rate in place at the time of the attorney's appointment.

Section IV. Fee cap. Attorney fee claims in cases where Johnson County is responsible for payment are subject to a maximum ten (10) billable hours. Additional billable hours at the lowest reasonable hourly rate consistent with Iowa Code section 815.7 may be paid only if the court has granted a motion to exceed fee guidelines prior to submission of the invoice to the County Attorney for review.

Section V. Notice and proof of indigent status. Johnson County is entitled to notice when any party claims to be indigent and entitled to court appointed counsel at county expense. Any party claiming to be indigent shall submit objective proof of their indigent status in writing to the Johnson County Attorney within ten (10) days of the filing of any petition or request for court appointed counsel at county expense. The Johnson County Attorney shall respond within fifteen (15) days of receipt of the proof of the party's indigent status and indicate:

- a. The County Attorney does not object to the appointment of counsel at county expense; or
- b. The County Attorney objects to the appointment of counsel at county expense stating the reasons therefore and requests a hearing to be set to determine if the person requesting counsel is actually indigent; or
- c. The County Attorney needs more information prior to making a determination.

Section VI. Notice of fee claim to be paid at county expense. Johnson County is entitled to notice when any person intends to submit an attorney fee claim to be paid at county expense. Any attorney intending to submit a fee claim to Johnson County for payment shall first submit the fee claim in writing to the Johnson County Attorney for review with any motion and order to exceed the fee cap attached. The Johnson County Attorney shall respond within fifteen (15) days of receipt of the invoice and indicate:

- a. The County Attorney does not object to payment of the fee claim by the county; or
- b. The County Attorney objects to payment of the fee claim at county expense stating the reasons therefore and requests a hearing to be set to determine what portion, if any, of the fee claim shall be paid by the county; or
- c. The County Attorney needs more information prior to making a determination.

Section VII. Failure to provide notice to the County Attorney. The Johnson County Attorney may object to payment of a portion or all of an attorney fee claim at county expense for failure to timely provide notice and proof of indigent status or failure to provide notice of intent to submit a fee claim to be paid at county expense.

Section VIII. Severability. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section IX. Effective Date. This ordinance shall take effect after its final passage and upon publication as part of the proceedings of the Board of Supervisors.

On September 23, 2021, **motion** by R. Sullivan, second by L. Green-Douglass, to approve the proposed Ordinance Establishing Uniform Court Appointed Attorney and Guardian Ad Litem Fees, as included in the packet of information for this meeting, on first consideration. Roll call: aye: L. Green-Douglass, P. Heiden, R. Porter, R. Sullivan; absent: J. Green.

On October 7, 2021, **motion** by L. Green-Douglass, second by J. Green, to approve an Ordinance Establishing Uniform Court Appointed Attorney and Guardian Ad Litem Fees on second consideration. Roll call: aye: J. Green, L. Green-Douglass, P. Heiden, R. Porter, R. Sullivan.

Motion by L. Green-Douglass, second by R. Sullivan, to approve an Ordinance Establishing Uniform Court Appointed Attorney and Guardian Ad Litem Fees on third and final consideration, and approve Ordinance 10-14-21-01. Roll call: aye: J. Green, L. Green-Douglass, P. Heiden, R. Porter, R. Sullivan.

Dates of Publication:

Iowa City Press-Citizen: October 28, 2021

Solon Economist: October 28, 2021

North Liberty Leader: October 28, 2021

The News: October 28, 2021

Chapter 6. Culture, Education and Recreation

[Reserved]

Chapter 7. [Reserved]

Original Volume 3: Broadband Telecommunications (*Repealed in entirety*)

Original Volume 3, Chapter 9: Broadband Telecommunications Franchises

An Ordinance Establishing Certain Standards, Regulations and Procedures for the Granting and Operation of Broadband Telecommunications Franchises Within the Unincorporated Portions of Johnson County, Iowa and Providing for the Enforcement of Such Standards, Regulations and Rules Thereunder, Ordinance 2-3-82-1, was codified as Volume 3, Chapter 9: Broadband Telecommunications, and was the only ordinance in this chapter. This ordinance was repealed in its entirety on January 31, 2013, as per Ordinance 01-31-13-02.

ORDINANCE 01-31-13-02 (*Current law*)

AN ORDINANCE REPEALING THE JOHNSON COUNTY BROADBAND TELECOMMUNICATIONS FRANCHISE REGULATIONS ORDINANCE

Section I. Purpose. The purpose of this ordinance is to repeal the Johnson County Broadband Telecommunications Franchise Regulations Ordinance, codified as Chapters 9:1, 9:2, 9:3, and 9.4 of the Johnson County Code of Ordinances. The existing Ordinance has been deemed superfluous due to and inconsistent with relevant state law.

Section II. Repeal. The Johnson County Board of Supervisors hereby repeals the Johnson County Broadband Telecommunications Franchise Regulations Ordinance, adopted effective February 17, 1982 and subsequently amended, and codified as Chapters 9:1, 9:2, 9:3, and 9.4 of the Johnson County Code of Ordinances.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

On January 17, 2013, motion by Sullivan, second by Harney, to approve an Ordinance Repealing the Johnson County Broadband Telecommunications Franchise Regulations Ordinance on first consideration. Roll call: Aye: Harney, Neuzil, Rettig, Sullivan.

On January 24, 2013, motion by Harney, second by Sullivan, to approve an Ordinance Repealing the Johnson County Broadband Telecommunications Franchise Regulations Ordinance on second consideration. Roll call: Aye: Harney, Rettig, Sullivan; Absent: Neuzil.

Motion by Harney, second by Neuzil, to approve an Ordinance Repealing the Johnson County Broadband Telecommunications Franchise Regulations Ordinance on final consideration and to approve Ordinance 01-31-13-02. Roll call: Aye: Harney, Neuzil, Rettig, Sullivan.

Dates of Publication: Iowa City Press-Citizen: February 12, 2013
Solon Economist: February 13, 2013
The North Liberty Leader: February 13, 2013
Lone Tree Reporter: February 14, 2013

ORDINANCE 2-3-82-1 (*Repealed*)

[Ordinance text begins on next page]

Ordinance 2-3 82-1

AN ORDINANCE ESTABLISHING CERTAIN STANDARDS, REGULATIONS AND PROCEDURES FOR THE GRANTING AND OPERATION OF BROADBAND TELECOMMUNICATIONS FRANCHISES WITHIN THE UNINCORPORATED PORTIONS OF JOHNSON COUNTY, IOWA, AND PROVIDING FOR THE ENFORCEMENT OF SUCH STANDARDS, REGULATIONS AND RULES THEREUNDER

SECTION I. PURPOSE AND POLICY. The purpose of this ordinance is to regulate broadband telecommunication systems within the unincorporated portions of Johnson County, Iowa, which operate pursuant to county franchise and to establish standards, regulations and procedures for the granting, maintenance and operation of broadband telecommunications franchises. It is the policy of the county to ensure that its residents will have broad access to telecommunications services which are efficiently and competitively provided, at reasonable rates, and with full encouragement of technological progress in the industry.

SECTION II. ENACTMENT. The following provisions are hereby adopted for the construction, maintenance and operation of broadband telecommunication systems within the unincorporated portions of Johnson County, Iowa:

Sec. 14-60. Short Title.

This article shall be known and may be cited as the "Broadband Telecommunications Franchise Enabling Ordinance."

Sec. 14-61. Definitions.

For the purpose of this article the following terms, phrases and words and their derivations shall have the meaning specified herein. When not inconsistent with the context, words used in the present tense include the future and words in the singular number include words in the plural number.

Additional service shall mean a subscriber service provided by the grantee for which a special charge is made based on program or service content, time or spectrum space usage.

AC: Abbreviation for alternating current.

Annual gross revenues shall mean all revenues received by the grantee, its affiliates or subsidiaries from and in connection with the operation of the broadband telecommunications network in the unincorporated portions of Johnson County, Iowa, and shall include revenues from all sources including without limitation revenues from advertising, channel leasing, data transmission and per program charges and any other charges not specifically prohibited by the FCC or a court of competent jurisdiction, in addition to the subscriber's monthly payments.

AGC (automatic gain control): An electronic circuit which automatically increases or decreases, within its design range, the gain of an amplifier in order to maintain a stable or fixed output level. (Sometimes called ALC or AVC).

ASC (automatic slope or tilt control): An electronic circuit or thermal device that compensates for changes in cable or amplifier characteristics caused by temperature variations.

Basic service shall mean all subscriber services provided by the grantee, including the delivery of broadcast signals and programming originated over the cable system, covered by the regular monthly charge paid by all subscribers.

Board shall mean the Board of Supervisors of Johnson County, Iowa, and any legally appointed or elected successor or agency.

Broadband telecommunications network (BTN) shall mean any network of cables, optical, electrical or electronic equipment, including cable television systems, used for the purpose of transmission of electrical impulses of television, radio and other intelligences, either analog or digital, for sale or use by the inhabitants of the county.

BTN channel capacity: The highest total number of cable television channels on which television signals from separate sources may be delivered downstream simultaneously to every subscriber in the network. The network may have additional channel capacity for specialized or discrete purposes, but the technical performance specified shall not be materially degraded thereby.

Cable television channel: A frequency band six (6) MHz in width within which a standard television broadcast signal is delivered by cable to a subscriber terminal (except that Class III and IV cable television channels as defined by the FCC may be either wider or narrower than this standard).

Channel frequency response: Within a cable television channel, the relationship as measured at a subscriber terminal between amplitude and frequency of a constant-amplitude input signal at all specified frequencies within each channel.

County shall mean Johnson County, Iowa, its officers and employees unless otherwise specifically designated, and the area within the territorial limits of the county exclusive of areas within the territorial limits of any city.

Class I cable television channel: A signaling path provided by a cable television system to relay to subscriber terminals television broadcast programs that are received off-the-air or are obtained by microwave or by direct connection to a television broadcast station.

Class II cable television channel: A signaling path provided by a cable television system to deliver to subscriber terminals television signals that are intended for reception by a television broadcast receiver without the use of an auxiliary decoding device and which signals are not involved in a broadcast transmission path.

Class III cable television channel: A signaling path provided by a cable television system to deliver to subscriber terminals signals that are intended for reception by equipment other than a television broadcast receiver or by a television broadcast receiver only when used with auxiliary decoding equipment.

Class IV cable television channel: A signaling path provided by a cable television system to transmit signals of any type from a subscriber terminal to another point in the cable television system.

Commence operation: Operation will be considered to have commenced when sufficient distribution facilities have been installed so as to permit the offering of "full network services" to at least twenty-five (25) percent of the dwelling units located within the designated "service area."

Commission refers to the broadband telecommunications commission.

Data grade shall mean coded transmissions primarily digital in nature.

dBmV: The level in the network expressed in dB's above or below a power corresponding to a root mean square voltage of one millivolt across seventy-five (75) ohms.

Downstream: The direction of transmission over the BTN from the "head end" or "hub" to a subscriber's terminal.

FCC shall mean the Federal Communications Commission and any legally appointed or elected successor.

Franchise payment shall include all charges imposed for a franchise whether the object be regulation, revenue or one-time reimbursement of costs incurred by the county in the award of this franchise.

Full network service shall mean all "basic services" and "additional services" offered by the grantee.

Grantee means all persons including, but not limited to, subsidiaries, parents or affiliate companies, associations or organizations having any rights, powers, privileges, duties, liabilities or obligations, under this article, and under the franchise ordinance, collectively called the "franchise", and also includes all persons having or claiming any title to or interest in the system, whether by reason of the franchise itself directly or by interest in a subsidiary, parent or affiliate company, association or organization by any subcontract, transfer, assignment, management agreement or operating agreement or an approved assignment or transfer resulting from a foreclosure of a mortgage security agreement or whether otherwise arising or created.

Head end shall mean the land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a broadband telecommunications network, excluding the studio.

Hub configuration: A BTN design technology wherein all transmission paths either originate or terminate at a central location within the community.

Installation shall mean the extension and/or construction of the system from the main trunk and/or feeder cable to subscriber's terminals except where such a procedure is required by this article without charge when it will mean the extension and/or construction of the system to one point in a designated building.

Local distribution center shall mean a facility within the community remote from but connected to the "hub" which distributes signals from the "hub" to a specified area in the broadband telecommunications network.

May is permissive.

Network noise: That combination of undesired and fluctuating disturbances within a cable television channel, exclusive of undesired signals of discrete frequency which degrade the reproduction of the

desired signal and which are due to modulation processes, thermal effects and other noise-producing effects, not including hum. Network noise is specified in terms of its RMS voltage or its mean power level as measured in a four-MHz band above the lower channel boundary of a broadband telecommunications network.

Physical miles of plant shall mean total miles of trunk, feeder and super-trunk cable.

Reasonable notice shall mean the provision of notice of contemplated action delivered at least forty-eight (48) hours prior to such action.

Remote distribution center shall mean a facility within the system which originates from a "local distribution center" as opposed to the "hub".

RMS (root-mean-square): The effective value of an alternating current waveform which would be numerically equal in energy to a constant direct current.

Sale shall include any sale, exchange, barter or offer for sale.

Service area: That geographical area within the unincorporated portions of Johnson County.

Shall and must: Each is mandatory.

Strand mile shall mean messenger strand as measured from pole to pole without taking into consideration sag or downguys, and for buried plant, actual trench feet.

State shall mean the State of Iowa.

Street shall include all streets, roadways, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, easements, rights-of-way or other public ways in the county which have been or may hereafter be dedicated or otherwise open to public use or such other public property so designated by law.

Studio shall mean the land, electronic processing equipment, towers, building, cameras, lights and other appurtenances normally associated with and

located at the grantee's local origination and/or public access plants of a broadband telecommunications network, excluding the head end.

Subscriber shall mean any person, firm, company, corporation or association receiving either "basic service" or "additional service" from the grantee under the schedule charges filed with and approved by the county.

Subscriber terminal: The broadband telecommunications network's seventy-five-ohm cable terminal to which the subscriber's equipment is connected. Separate terminals may be provided for delivery of cable television signals, FM broadcast or other signals of differing classifications.

Substantially completed: Operation will be considered substantially completed when sufficient distribution facilities have been installed so as to permit the offering of "full network services" to at least ninety (90) percent of the dwelling units in the service area to which access is legally and reasonably available.

Terminal isolation: At any subscriber terminal, the attenuation between that terminal and any other subscriber terminal in that network.

Upstream: The direction of transmission over the BTN from a subscriber terminal to the network's "head end" or "hub".

Video grade shall mean transmission primarily analog in nature including the picture phase of a television broadcast.

Visual signal level: The RMS voltage produced by the visual signal during the transmission of synchronizing pulses.

Sec. 14-62. Johnson County Broadband Telecommunications Commission.

(a) Commission established: Prior to the granting of the first franchise; there shall be appointed a commission to be known as the Johnson County Broadband Telecommunications Commission.

(b) Composition; term: The commission shall consist of five (5) citizens of the county appointed by the Board for a term of three (3) years except that the first appointees shall be appointed one for a term of one year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years; and thereafter each for a term of three (3) years.

(c) Power and duties of the commission: The duties of the broadband telecommunications commission, in addition to those set forth in section 14-64, shall be as follows:

- 1) Resolving disputes or disagreement between subscribers, potential subscribers and grantee should such parties be unable first to resolve their dispute. The commission shall conduct a public hearing upon a petition by any person seeking resolution of a dispute concerning the operation of any franchise granted hereunder. The hearing shall be conducted pursuant to such procedures as shall be set by the commission. Following such hearing the commission shall issue its finding or decision. Said finding or decision shall be final and any person aggrieved may seek relief therefrom in the district court of Iowa as provided by state law.
- 2) Reviewing and auditing reports submitted to the county as required and said such other correspondence as submitted to the county concerning the operation of the broadband telecommunications network, so as to insure that the necessary reports are completed and fulfilled pursuant to the terms of the article.
- 3) Work with the public and the media to assure that all records, rules and charges pertinent to the broadband telecommunications network in Johnson County, Iowa, are made available for inspection at reasonable hours upon reasonable notice.
- 4) Confer with the grantee and advise on the interconnection of the county's cable systems with other cable and communications systems.

- 5) Solicit, review and provide recommendations to the Board for selection of applicants for franchise under provisions of sections 14-69 and 14-70.
- 6) Initiate inquiries, receive requests for review of rates charged by the grantee, and provide recommendation on such actions to the Board.
- 7) Conduct evaluations of systems at least every three (3) years with the grantee, and pursuant thereto, make recommendations to the Board concerning system improvements and amendments to this article or any franchise agreement.
- 8) Establish and administer sanctions as authorized by the Board to insure compliance with this article.
- 9) To make recommendations to the grantee of the broadband telecommunications network and to the educational and governmental users of the educational and governmental access channels.
- 10) To insure that, if a public access channel is provided, it is made available to all residents of the county on a nondiscriminatory basis.
- 11) To assure that the operation of any public access channel be free of program censorship and control.
- 12) To perform such other duties and functions relative to public access channels, where they are provided, as may be appropriate in order to maximize its use among the widest range of individuals, institutions and other organizations within the county. This shall include recommendations to the Board for utilization of the annual franchise payment.

The commission shall adopt such rules and regulations as are necessary to carry out its functions and to insure that due notice is given to all parties concerning any hearing on any complaints to said commission and the hearings are held

promptly in accordance with reasonable notice to all parties. The commission shall also have such powers to include the election of its own officers.

Sec. 14-63. Broadband telecommunications specialist/services contract.

The Board is hereby authorized to appoint a broadband telecommunications specialist and/or other commission staff or consultants for the purpose of exercising the county's continuing regulatory jurisdiction over the franchise. Such responsibility shall include but not be limited to the following matters.

- (a) Receive and investigate such complaints, disputes or disagreements as may be directed or referred to Johnson County, Iowa, between subscribers or potential subscribers and grantees of a broadband telecommunications network and other distribution systems interconnected with the broadband telecommunications network, not first able to resolve their differences.
- (b) Report recommendations upon complaints, disputes or disagreements after investigation to the broadband telecommunications commission for the issuance of finding.
- (c) Review and audit reports, records, communications and grantee regulations submitted to Johnson County, Iowa, and conducting such inspections of the system as may be necessary in support of such review as provided for in the Johnson County Broadband Telecommunications Franchise Enabling Ordinance.
- (d) Work with the public, the grantee and the media to assure that all tariffs, rates, charges and rules pertinent to the operation of the broadband telecommunications network in Johnson County, Iowa, are made available for inspection by the public at reasonable hours and upon reasonable request.
- (e) Confer and coordinate with the grantee on the interconnections of the county's

broadband telecommunications network with other similar networks.

(f) Advise the broadband telecommunications commission.

(g) Other such duties as the Board or the broadband telecommunication commission may assign.

(h) The Board is likewise authorized, in lieu of such appointment, to enter into an agreement under the authority of Chapter 28E of the Iowa Code with another public agency employing such staff, in order to carry out the responsibilities of this Section.

Sec. 14-64. Regulatory jurisdiction and procedures.

(a) Continuing regulatory jurisdiction: The county shall have continuing regulatory jurisdiction and supervision over the operation of any franchise granted hereunder and may from time to time adopt such reasonable rules and regulations as they may deem necessary for the conduct of the business contemplated thereunder.

(b) Regulatory procedures:

1) The broadband telecommunications commission shall consider any inquiry or proceeding requiring Board action to be taken in regard to the broadband telecommunications network or franchise, whether upon application or request by the grantee or any other party or on its own motion and shall submit such consideration, together with the commission's recommendation to the Board within sixty (60) days of the receipt of such request unless such time shall be extended by agreement between the commission and the requesting party. Any action by the Board on any commission recommendation shall be taken only after thirty (30) days notice of said proposed action, inquiry or proceeding is published in an official newspaper having general circulation and a copy of said notice is served upon the grantee. The grantee shall

have an opportunity to respond at the hearing and/or in writing. Members of the public shall have an opportunity to respond for or comment in writing on the proposed action and appear at said proceeding or hearing; however, such hearing or proceeding shall be set no later than ninety (90) days after notice to the grantee and the Board shall act upon this proceeding within one hundred eighty (180) days of the notice of hearing unless such time is extended by agreement between the county and the grantee. The decision of the Board shall become a final determination.

- 2) The public notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response, including response by the public, the person or persons in authority to whom such responses shall be addressed and such other procedures as may be specified by the Board. If a hearing is to be held, the public notice shall give the date, location and time of such hearing. The grantee is a necessary party to any hearing conducted in regard to its operation.
- (c) Failure to enforce provisions: The grantee shall not be excused from complying with any of the terms and conditions of the franchise by any failure of the county upon one or more occasions to insist upon or to seek compliance with any such terms of conditions.
- (d) Contravention of provisions: The cost of any successful litigation incurred by the county to enforce provisions of this article or of the franchise ordinance or in relation to a franchise shall be reimbursed to the county by the grantee. Such costs shall include filing fees, costs of depositions, discovery and expert witnesses, all other expenses of suit and a reasonable attorney's fee.
- (e) Triannual franchise review:
- 1) At least once each three years after the effective date of a franchise, the county

will schedule a public meeting or meetings with the grantee to review franchise performance, plans and prospects. The grantee will be given 30 days advance notice of the time and place of the meeting and will be expected to provide the county with a three-year performance plan for franchise operations at least 15 days prior to the meeting. The county may require the grantee to make available specified records, documents and information for use in the franchise review purpose, and may inquire in particular whether the grantee is supplying and will continue to supply a level extent and variety of services, at appropriate rates, comparable to that generally offered in the industry to comparable market situations.

- 2) The county shall first confer with the grantee regarding modifications in the franchise which might impose additional obligations on the grantee, and the grantee may in turn seek to negotiate relaxations in any requirements previously imposed on it which are subsequently shown to be impractical.
- 3) Within sixty (60) days after the final public meeting for franchise review, the county may direct the grantee to show cause why specific modifications to the franchise should not be incorporated into the franchise; likewise, the grantee may file with the county a written request for franchise modification. Implementation of any modifications shall correspond as nearly as possible with the Commission procedures. The commission will determine from all available evidence whether such modifications will impair the economic viability of the franchise or degrade the attractiveness of franchise service to present and potential subscribers before presenting or recommending franchise modifications to the Board.

(f) Review of franchise prior to expiration:

- 1) Public meeting to be scheduled: At least six (6) months prior to the expiration of a franchise, the county shall schedule a public meeting or meetings with the grantee to review the performance of grantee, including the results of the previous franchise reviews. The county may require the grantee to make available specified records, documents and information for this purpose, and may inquire in particular whether the grantee is supplying a level and variety of services equivalent to those being generally offered at that time in the industry in comparable market situations.

- 2) Determination on reissue: The county shall, within thirty (30) days of the conclusion of such meetings, provide a determination as to whether a broadband telecommunications network franchise or franchises will be reissued. In making said decision the county shall consider the technical, financial and programming performance of the franchise holder and specifically with relation to any and all applications, promises or agreements made or entered into by the franchise holder and its performance of said applications, promises or agreements. In the event the county determines not to reissue the franchise or franchises for reasons other than a material breach of the franchise or for causes unrelated to the performance thereunder, it shall be so stated for purposes of section 14-71(3). The county shall establish public proceedings leading to a final decision and such public proceedings shall include but not be limited to a public hearing providing opportunity for the public and applicant(s) for the reissued franchise to appear.

Sec. 14-65. Significance of franchise.

- (a) Franchise nonexclusive: Any franchise granted hereunder by Johnson County, Iowa, shall not be exclusive and the county reserves the right to grant a similar franchise to any person, firm, company, corporation or association at any time.

- (b) Franchise amendable: The scope of any franchise granted hereunder shall be deemed amendable from time to time to allow the grantee to innovate and implement new services and developments; provided, however, that no such services or developments be implemented without the express prior approval of the Board.
- (c) Privileges must be specified: No privilege or exemption shall be inferred from the granting of any franchise unless it is specifically prescribed. Nothing in this article shall be deemed to require the granting of a franchise when in the opinion of the Board it would not be in the public interest to do so.
- (d) Authority granted: Any franchise granted hereunder shall give to the grantee the right and privilege to construct, erect, operate, modify and maintain, in, upon, along, above, over and under streets, as defined in section 14-61 herein, which have been or may hereafter be dedicated or otherwise open to public use in the county, towers, antennas, poles, cables, electronic equipment and other network appurtenances necessary for the operation of a broadband telecommunications network in the unincorporated portions of the county, subject to the requirements of section 14-85 of this article.
- (e) Previous rights abandoned: A franchise granted hereunder shall be in lieu of any and all other rights, privileges, powers, immunities and authorities owned, possessed, controlled or exercisable by a grantee or any successor pertaining to the construction, operation or maintenance of a cable communications system in the county. The acceptance of a franchise shall operate, as between grantee and the county, as an abandonment of any and all of such rights, privileges, powers, immunities and authorities within the county. All construction, operation and maintenance by the grantee of any cable system in the county shall be under the franchise and not

under any other right, privilege, power, immunity or authority.

- (f) Subject to other regulatory agencies' rules and regulations: The grantee shall at all times during the life of any franchise granted hereunder be subject to all lawful exercise of the police power by the county and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the county has adopted or shall adopt applying to the public generally and to other grantees.
- (g) Pole use agreements required: Any franchise granted hereunder shall not relieve the grantee of any obligation involved in obtaining pole or conduit use agreements from the gas, electric and telephone companies, or others maintaining poles or conduits in the streets of the county, whenever the grantee finds it necessary to make use of said poles or conduits.
- (h) No right of property: Anything contained herein to the contrary notwithstanding, the award of any franchise hereunder shall not impart to the grantee any right of property in or on county owned property.
- (i) Franchise binding: Anything contained herein to the contrary notwithstanding, all provisions of this article and any franchise granted hereto shall be binding upon the grantee, its successors, lessees or assignees.

Sec. 14-66. The broadband telecommunications franchise.

- (a) Franchise required: No person, firm, company, corporation or association shall construct, install, maintain or operate within the unincorporated portions of the county, any equipment or facilities for the distribution of television signals or radio signals or other intelligences either analog or digital over a broadband telecommunications network to any subscriber unless a franchise

authorizing such construction, installation, maintenance or operation has first been obtained pursuant to the provisions of this article, and unless such franchise is in full force and effect. Provided, however, that no franchise shall be required and the provisions of this ordinance shall not apply to any person, firm, company, corporation or association serving ten (10) dwelling units or less.

- (b) Review of qualifications: Specific permission to operate a broadband telecommunications network under the provisions of this article may be granted by the Board to any grantee, upon application as provided by this ordinance and after a review of the legal, character, financial, technical qualifications and the adequacy and feasibility of the grantee's construction arrangements and after the Board has approved the grantee's qualifications as a part of a public proceeding affording due process.
- (c) Duration of franchise: Upon filing by the grantee of the proper acceptance, the bond and the required insurance and security fund, the franchise shall take effect as provided in section 14-70 and shall continue in full force and effect for a term of not to exceed fifteen (15) years, the specific term being set forth in the grantees's application for franchise.

The county shall establish public proceedings leading to a final decision and such public proceedings shall include but not be limited to a public hearing providing opportunity for the public and applicant(s) for the reissued franchise to appear.

Sec. 14-67. Operation of franchise.

- (a) Operations to be in accordance with rules: The grantee shall maintain and operate its broadband telecommunications network in accordance with the Rules and Regulations of the Federal Communications Commission, the State of Iowa and/or the county as are incorporated herein or may be promulgated.

- (b) Interruption of service; notification: The grantee, whenever it is necessary to interrupt service over the broadband telecommunications network for the purpose of network maintenance, alteration or repair, shall do so at such time as will cause the least amount of inconvenience to the subscribers, and unless such interruption is unforeseen and immediately necessary, the grantee shall give reasonable notice thereof to the affected subscribers.
- (c) Phone for complaints: The grantee shall have a listed local telephone number so operated that complaints and requests for repairs or adjustments may be received at any time.
- (d) Operations: If public access facilities are made available, grantee will provide training of potential users for the operation of such equipment. The grantee may make a fair and reasonable charge for use of these facilities and equipment not to exceed a rate schedule filed with and approval by the Board.
- (e) Service records maintained: The grantee shall at all times make and keep in a reasonably accessible form and location a list of all complaints and interruptions or degradation of service received or experienced during the term of franchise. The records maintained above shall also include complaint response time and service restoration period and shall be continuously open to inspection, examination or audit by any duly authorized representative of the county or member of the public.
- (f) Grantee rules and regulations: The grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the grantee to exercise its rights and perform its obligations under this article and any franchise granted hereunder.

- 1) Rules to be in conformance with other regulations: None of such rules, regulations, terms and conditions promulgated under subsection (f) above shall be in conflict with the provisions hereof or the laws of the state, or the Rules and Regulations of the Federal Communications Commission, or any rules and regulations promulgated by the county in the exercise of their regulatory authority granted hereunder.
- 2) All rules to be filed with county: Two (2) copies of all rules, regulations, terms and conditions promulgated under subsection (f) above, together with any amendments, additions or deletions thereto, shall be kept currently on file with the county auditor and another copy thereof shall be maintained for public inspection during normal business hours at grantee's office in Johnson County. No such rules, regulations, terms, conditions or amendments, additions or deletions thereto shall take effect unless and until so filed and maintained.
- (g) Subscriber's antennas: The grantee shall not require the removal or offer to remove or provide any inducements for removal of any potential or existing subscriber's antenna as a condition of provision of service.
- (h) Sale or service of television receivers: Neither the grantee during the period of the franchise nor any of its affiliated, subsidiary, parent organizations, officers or directors or stockholders holding five (5) percent or more of outstanding stock of the grantee shall within the unincorporated areas of the county or within ten (10) miles in any direction, directly or indirectly, require any subscriber to utilize the service of any specific television/radio service business for the repair or maintenance of the subscriber's receivers, either radio or television. This section shall in no way prohibit the sale, rental or service of convertors necessary to the operation of the BTN by the grantee.

- (i) Antenna switch: The grantee, upon request from any subscriber, shall install at a reasonable charge therefore a switching device so as to permit a subscriber to continue to utilize his/her own television antenna as he or she chooses.
- (j) Service response and rebate: The grantee shall provide "same day service" response, seven (7) days a week for all complaints and requests for repairs or adjustments received prior to 2:00 p.m. each day. In no event shall the response time for calls received subsequent to 2:00 p.m. exceed twenty-seven (27) hours. Upon failing to correct total loss of customer service within twenty-seven (27) hours of initial complaint, the grantee shall credit one-thirtieth (1/30) of the monthly charge for basic service to each subscriber for each twenty-four (24) hours following the report of loss of service to the grantee.
- (k) Upgrading of facilities, equipment and service: The grantee shall upgrade its facilities, equipment and service as subscribers' demands dictate so that its network is as advanced as the current state of technology and reasonable economic feasibility will allow.

Sec. 14-68. Rights reserved to the county.

- (a) Right of amendment reserved to county: The county may from time to time, add to, modify or delete provisions of this article as it shall deem necessary in the exercise of its regulatory powers provided that such additions or revisions are reasonable and do not place an undue financial burden on the grantee. Such additions or revisions shall be made only after a public hearing for which the grantee shall have received written notice at least thirty (30) days prior to such hearing.
- (b) No impairment of county's rights: Nothing herein shall be deemed or construed to impair or affect, in any way to any extent, the right of the county to acquire the

property of the grantee through the exercise of the right of eminent domain, at a fair and just value, which shall not include any amount for the franchise itself or for any of the rights or privileges granted, and nothing shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the county's right to eminent domain.

- (c) Grantee agrees to county's rights: The county reserves every right and power which is required to be reserved or provided by an ordinance of the county, and the grantee by its acceptance of the franchise agrees to be bound thereby and to comply with any action or requirements of the county in its exercise of such rights or powers which have been or will be enacted or established.
- (d) County's right of intervention: The county shall have the right to intervene and the grantee specifically agrees by its acceptance of the franchise not to oppose such intervention by the county in any suit or proceeding to which the grantee is a party.
- (e) Powers of the county: Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the county.
- (f) County's transfer of functions: Any right or power in or duty imposed upon any elected official, officer, employee, department or board of the county shall be subject to transfer by the county to any other elected official, officer, employee, department or board, or to another public agency by means of an agreement under Chapter 28E of the Code of Iowa.
- (g) County's right of inspection: The county reserves the right during the life of any franchise granted hereunder to inspect and supervise all construction or installation work performed subject to the provisions of this article and to perform network

measurements to insure compliance with the terms of the article.

(h) County's right of acquisition: Upon expiration of the term of the franchise or revocation or other termination as provided by law, or upon receipt of application for approval of an assignment of the franchise or upon change [of] de facto control, the county shall have a right to purchase the broadband telecommunications network as set forth in section 14-71(c) herein.

(i) County's right of network installation: The county reserves the right during the life of any franchise granted hereunder, to install and maintain free of charge upon or in the poles and conduits of the grantee any wire and pole fixtures necessary for county activities on the condition that such installation and maintenance thereof does not interfere with the operation of the grantee.

Sec. 14-69. Applications for franchise.

No franchise may be granted unless the applicant has successfully completed the application procedure in accordance with filing instructions promulgated by the county:

(a) Proposal bond and filing fee: Provision of the proposal bond as required in section 14-75(a) and payment of a nonrefundable filing fee to the county in such amount as is provided by section 14-73 which such shall be due and payable at the time with the submission of the application.

(b) Application: All applicants must complete an application on forms or in the manner prescribed by the county which includes is not limited to the following:

1) Name and address of applicant: The name and business address of the applicant, date of application and signature of applicant or appropriate corporate officer(s).

- 2) Description of proposed operation. A general description of the applicant's proposed operation, including but not limited to business hours, operating staff, maintenance procedures beyond those required in the enabling ordinance, management and marketing staff complement and procedures and, if available, the rules of operation for public access.
- 3) Signal carriage: A statement of the television and radio services to be provided, including both off-the-air and locally originated signals.
- 4) Special services: A statement setting forth a description of the automated services proposed as well as a description of any production facilities to be made available to the public or others.
- 5) Schedule of charges: A statement of the applicant's proposed schedule of charges as set forth by the provision of section 14-76 hereunder.
- 6) Corporate organization: A statement detailing the corporate organization of the applicants, if any, including the names and addresses of its officers and directors and the number of shares held by each officer and director.
- 7) Stockholders: A statement identifying the number of authorized outstanding shares of applicant's stock including a current list of the names and current addresses of its shareholders holding three (3) percent or more of applicant's outstanding stock.
- 8) Intra-company relationships: A statement describing all intra-company relationships of the applicant, including parent, subsidiary or affiliated companies.
- 9) Agreements and understandings: A statement setting forth all agreements and understanding, whether written or oral, existing between the applicant and any other person, firm, group or corporation with

respect to any franchise awarded hereunder and the conduct of the operation thereof existing at the time of proposal submittal.

- 10) Financial statement: If applicant is a corporation, audited financial statements for the two (2) previous fiscal years. If applicant is a partnership, copies of the "U.S. Partnership Return of Income" (IRS Form 1065) for the two (2) previous fiscal years. If applicant is a sole proprietorship, copies of the "U.S. Individual Income Tax Return" (IRS Form 1040) for the two (2) previous fiscal years.
- 11) Financial projection: A 15 year operations plan which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets and annual levels of subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the plan as required in this article, but shall be separately identified in the plan.
- 12) Financial support: Suitable written evidence from a recognized financing institution, addressed to both the applicant and to the county advising that the applicant's financial ability and planned operation have been analyzed by the institution and that the financing institution is prepared to make the required funds available to applicant if it is awarded a franchise. If the planned operation is to be internally financed, a board resolution shall be supplied authorizing the obtainment and expenditure of such funds as are required to construct, install and operate the broadband telecommunications network contemplated hereunder.
- 13) Construction timetable: A description of system construction including the timetable for provision and extension of service to different parts of the county.

- 14) Technical description: A technical description of the type of system proposed by the applicant, including but not limited to, system configuration (i.e. hub, dual cable), system capacity, two-way capability, etc.
- 15) Technical statement: A statement from the applicant's senior technical staff member or consultant advising that he/she has reviewed the network description, the network technical standards, performance measurements, channels to be provided, service standards, construction standards and conditions of street occupancy as set forth in or required by sections 14-82, 14-83, 14-67, 14-84 and 14-85, respectively, hereunder and that the applicant's planned network and operations thereof will meet all the requirements set forth therein.
- 16) Existing franchises: A statement of existing franchises held by the applicant indicating when the franchises were issued and when the systems were constructed and the present state(s) of the system(s) in each respective governmental unit, together with the name and address and phone number of a responsible governmental official knowledgeable of the applicant.
- 17) Convictions: A statement as to whether the applicant or any of its officers or directors or holders of three (3) percent or more of its voting stock has in the past ten (10) years has been convicted of or has charges pending for any crime other than a routine traffic offense and the disposition of each such case.
- 18) Operating experience: A statement detailing the prior cable television experience of the applicant including that of the applicant's officers, management and staff to be associated, where known, with the proposed franchise.
- 19) Franchise renewal information: If an application is for renewal of a franchise, the proposal must include, in addition to

the information required in subsections (1) through (18) above:

- a) A summary of the technical, financial, and programming history of the network since the granting of the original franchise and a comparison with the original franchise application as approved.
- b) A statement and timetable that outlines all proposed changes, expansion or improvements in the system as to services, programming or technical specifications during the forthcoming three-year review period.
- (c) Particular attention should be given in the franchise renewal application to special current concerns of the county such as:
 - 1) Ensuring an efficient and up-to-date system which can adapt easily to improve technology.
 - 2) Providing public interest capabilities, as feasible.
 - 3) Promoting interconnect capability.
 - 4) Including convertors as part of the basic service.
- (d) Additional requirements: The application for franchise shall respond specifically, and in sequence, to the application. Twenty (20) copies of the application shall be supplied to the county. The county may, at its discretion, consider such additional information as part of the application.
- (e) Supplementation to applications: The county reserves the right to require such supplementary, additional or other information that the county deems reasonably necessary for its determinations. Such modifications, deletions, additions or amendments to the application shall be considered only if specifically requested by the county.

Sec. 14-70. Acceptance and effective date of franchise.

- (a) Franchise acceptance procedures: Any franchise awarded hereunder and the rights, privileges and authority granted thereby shall take effect and be in force from and after the thirtieth day following the award thereof, provided that within thirty (30) days from the day of such award the grantee shall file with the county the following:
- 1) A notarized statement by the grantee of unconditional acceptance of the franchise, and
 - 2) A certificate of insurance as set forth in section 14-74(f).
 - 3) A performance bond in a penal sum of not to exceed one hundred thousand dollars (\$100,000.00), which sum shall be determined by the Board upon the recommendation of the Commission. In establishing such sum, consideration shall be given to the number of customers proposed to be served.
 - 4) Reimbursement to the county for the costs of publication of this article and
 - 5) Written notification of the grantee's location and address for mail and official notifications from the county.
- (b) Forfeiture of proposal bond: Should the grantee fail to comply with subsection (a) above, it shall acquire no rights, privileges or authority under this article whatever, and the amount of the proposal bond or certified check in lieu thereof, submitted with its application, shall be forfeited in full to the county as liquidated damages, it being determined that actual damages would be impossible of determination.
- (c) Grantee to have no recourse: The grantee shall have no recourse whatsoever against the county for any loss, cost, expense or damage arising out of any provision or

requirement of this article or its regulation or from the county's exercise of its authority to grant additional franchises hereunder. This shall not include negligent acts of the county, its agents or employees which are performed outside the regulatory or franchise awarding authority hereunder.

- (d) Acceptance of power and authority of county: The grantee expressly acknowledges that in accepting any franchise awarded hereunder, it has relied upon its own investigation and understanding of the power and authority of the county to grant this franchise.
- (e) Inducements not offered: The grantee by acceptance of any franchise awarded hereunder acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or in behalf of the county concerning any term or condition of this franchise that is not included in this article.
- (f) Grantee accepts terms of franchise: The grantee acknowledges by the acceptance of this article and the franchise ordinance that it has carefully read its terms and conditions and it is willing to and does accept all the obligations of such terms and conditions and further agrees that it will not, prior to substantial completion of the system, set up as against the county the claim that any provision of this article as adopted and any franchise granted hereunder is unreasonable, arbitrary, invalid or void.
- (g) Incorporation of proposals: The grantee, by the acceptance of any franchise awarded hereunder, agrees that the matters contained in the grantee's application for franchise and as stated in oral presentation, except as inconsistent with the FCC rules and regulations, law or ordinance, shall be incorporated into the franchise as though set out verbatim.

Sec. 14-71. Termination of franchise.

- (a) Grounds for revocation: The county reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:
- 1) If the grantee should default in the performance of any of its obligations under this article or the franchise and fails to cure the default within thirty (30) days after receipt of written notice of the default from the county.
 - 2) If the grantee should fail to provide or maintain in full force and effect the performance bond, security bond and liability and indemnification coverages as required in sections 14-74 and 14-75, respectively.
 - 3) If a petition is filed by or against the grantee under the Bankruptcy Act or any other insolvency or creditor's rights law, state or federal, and the grantee shall fail to have it dismissed.
 - 4) If a receiver, trustee or liquidator of the grantee is applied for or appointed for all or part of its assets.
 - 5) If the grantee makes an assignment for the benefit of creditors.
 - 6) If any court of competent jurisdiction, the FCC or any state regulatory body by rules, decision or other action determines that any material provisions of the franchise documents, including this article, is invalid or unenforceable.
 - 7) If the grantee should violate any orders or ruling of any regulatory body having jurisdiction over the grantee unless the grantee is lawfully contesting the legality or applicability of such order or ruling.
 - 8) If the grantee fails to receive the necessary FCC or state certification unless such cause is directly attributable to an action or condition imposed by the county.

(b) Procedure prior to revocation: Upon the occurrences of any of the events enumerated in subsection (a) of this section, the Board may, after hearing, upon thirty (30) days' written notice to the grantee citing the reasons alleged to constitute cause for revocation, set a reasonable time in which the grantee must remedy the cause. If, during the thirty-day period, the cause shall be cured to the satisfaction of the county, the county may declare the notice to be null and void. If the grantee fails to remedy the cause within the time specified, the board may revoke the franchise. In any event, before a franchise may be terminated, the grantee must be provided with an opportunity to be heard before the board.

(c) Purchase of system by county: If the county determines not to reissue the franchise for reasons other than a material breach of the franchise or reasons unrelated to the performance of the franchise holder or upon receipt of an application for assignment of the franchise or upon change of de facto control, the grantee shall first offer the broadband telecommunications network for sale to the county at a fair and just market value, which value shall include a fair market value of the system as a going concern including the franchise itself and the rights and privileges granted by the county.

When a franchise is revoked pursuant to this section or expires and is not renewed because of a material breach of the franchise, the grantee shall first offer the broadband telecommunications network for sale to the county at a fair and just market value, which value shall not include any value for the franchise itself or for any of the rights or privileges granted by the county.

In the event the determination of fair market value cannot be negotiated or determined, said value shall be determined by an impartial arbitration procedure pursuant to state law, wherein the grantee and the county shall each choose an arbitrator and the arbitrators chosen shall choose the third and the valuation

determined by said arbitrators shall be considered the fair market value at which the system will be offered to the county. The determination of the value of the system shall be decreased by the amount of any damages sustained by the county. In connection with revocation or expiration, including without limitations, payment made by the county to another person or entity to operate the broadband telecommunications network for a temporary period after revocation. The cost of the arbitration procedures shall be shared equally by the county and the grantee.

The county shall have ninety (90) days to exercise the right of first refusal to purchase the network, said ninety (90) days commencing on the day the fair market value of the system is determined either through negotiation or the arbitration procedure. If the county does not exercise its option to purchase and the network is not sold to another operator who has obtained a franchise from the county in a reasonable period of time, the grantee, upon request by the county, shall promptly remove all of its plant, structures and equipment; provided, however, that in the event the county determines not to exercise its right of first refusal it shall not unreasonably refuse to renew or grant a cable television franchise during a reasonable interim period. While transfer of the system and franchise is being negotiated, arranged or ordered, the grantee may be required to continue service to the public unless for reasons beyond the control of the grantee said operation will be economically unfeasible to the grantee.

- (d) Restoration of property: In removing its plants, structures and equipment, the grantee shall refill at its own expense any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the company's removal of, its equipment and appliances, without affecting the electric or telephone cables, wires or attachments. The county shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. Liability insurance and indemnity provided in section 14-74 and

the performance bond and security fund in section 14-75 shall continue in full force and effect during the period of removal.

- (e) Restoration by county, reimbursement of costs: In the event of a failure by the grantee to complete any work required by subsection (d) above or any work required by county law or ordinance within the time established and to the satisfaction of the county, the county may cause such work to be done and the grantee shall reimburse the county the costs thereof within thirty (30) days after receipt of an itemized list of such costs, or the county may recover such costs as provided in sections 14-75(b) and 14-75(d).
- (f) Lesser sanctions: Nothing shall prohibit the county in its rules and regulations, from imposing lesser sanctions or censures than revocation for violations of provisions of this article including the shortening of the franchise period for substantial and repeated violations.
- (g) Expiration; extended operation: Upon the expiration of a franchise, the county may, by resolution, on its own motion or request of the grantee, require the grantee to operate the franchise for an extended period of time not to exceed six (6) months from the date of any such resolution. All provisions of the franchise shall continue to apply to operations during an extension period. The county shall serve written notice at the grantee's business office of intent to extend under this section at least thirty (30) days prior to expiration of the original franchise or any extensions thereof.

Sec. 14-72. Reports and records of the grantee.

- (a) Annual financial reports required: The grantee shall file annually with the county auditor not later than three (3) months after the end of its fiscal year during which it accepted a franchise hereunder and within three (3) months after the end of

each subsequent fiscal year, two (2) copies of:

- 1) The report to its stockholders.
- 2) An income statement identifying revenues, expenses and income applicable to its operations under said franchise during the fiscal year or fraction thereof and;
- 3) A listing of its properties devoted to network operations together with an itemization of its investment in each of such properties on the basis of original cost, less depreciation. These reports shall include a balance sheet, listing of substantial liabilities and financing arrangements and such other reasonable information as the county may request, and shall be certified by a certified public accountant.

(b) Annual facilities report required: The grantee shall file annually with the county auditor not later than three (3) months after the end of its fiscal year during which it accepted a franchise hereunder and within three (3) months after the end of each subsequent fiscal year, two (2) copies of a total facilities report setting forth the total physical miles of plant installed or in operation during the fiscal year and a map showing the location of same.

(c) Annual service record report required: The grantee shall, if requested by the county, file annually with the county auditor not later than three (3) months after the end of its fiscal year during which it accepted a franchise hereunder and within three (3) months after the end of each subsequent fiscal year, two (2) copies of a list of all trouble complaints and network "downtime" received or experienced during the fiscal year. All such submitted data shall also include complaint disposition and response time. For the purposes of this provision, certified copies of a "complaint" logbook reflecting all such incidents will suffice. Also, if requested by the county, uncertified additions to the annual

complaint log shall be supplied in two (2) copies to the county at intervals of not more than ninety (90) days following the filing of the annual report.

(d) Annual measurements report required: The grantee shall file annually with the county auditor not later than three (3) months after the end of its fiscal year during which it accepted a franchise hereunder and within three (3) months after the end of each subsequent fiscal year two (2) copies of a report on the network's technical measurements, as set forth herein.

(e) Annual operations reports required: The grantee shall file annually with the county auditor not later than three (3) months after the end of its fiscal year during which it accepted a franchise hereunder and within three (3) months after the end of each subsequent fiscal year two (2) copies of the following supplemental information:

- 1) If a nonpublic corporation, a list of all current shareholders and bondholders both of record or beneficial. If a public corporation, a list of all shareholders who individually or as a concerted group hold three (3) per cent or more of the voting stock of the corporation.
- 2) A current list of all grantee's officers and directors including addresses and telephone numbers.
- 3) Copies of all pertinent agreements or contracts, including pole use agreements, entered into by the grantee during the fiscal year in the conduct of its business under a franchise granted hereunder.
- 4) The names and both business and residential addresses and phone numbers of the broadband telecommunications network local manager and engineer.
- 5) Two (2) copies of all types of subscriber agreements. Copies of individual subscribers' agreements are not to be filed with the county.

- 6) Copies of all rules and regulation promulgated by the grantee during the fiscal year in the conduct of its business in accordance with the provisions of section 14-67 hereunder.
- 7) A copy of the annual report(s) of the parent firm(s) which own an interest of more than three (3) percent or more of the voting stock of the grantee; and such other annual report(s) of subsidiaries or divisions of the parent firm(s) as the county deems necessary.
- (f) Application for certificate of compliance: The grantee shall give formal notice to the county that it is seeking a certificate of compliance from the Federal Communications Commission. Within five (5) calendar days upon filing such a request with the Federal Communications Commission, the grantee shall file two (2) copies of its application for certification with the county auditor.
- (g) Public availability of reports: Such documents and reports as required under this article must be available to the public in the office of the county auditor during normal business hours. Subscribers shall be notified of the availability of such reports in ways approved by the broadband telecommunications commission.
- (h) Correspondence: The grantee shall simultaneously file with the county auditor a copy of each petition, application and communications transmitted by the grantee to, or received by the grantee from, any federal, state or other regulatory commissions or agencies having competent jurisdiction to regulate and pertaining to the operations of any broadband telecommunications network authorized hereunder.
- (i) County's access to records:
- 1) The county reserves the right during the life of any franchise granted hereunder to have access at all normal business hours

and, upon the giving of reasonable notice, to the grantee's contracts, engineering plans accounting, financial data and service records relating to the property and the operations of the grantee and to all other records required to be kept hereunder. Nothing contained herein shall prevent the grantee from enjoining the county from reviewing documents relating to proprietary interests not related to its operation under this article in the county's regulatory program.

2) Records of subscriber lists and identifiable subscriber statistical data not otherwise required by this article shall be made available only upon a ruling by a judge of competent jurisdiction that such records are material to the county's regulatory program.

(j) Subscriber agreement: The form of the grantee's agreements with its subscribers shall be subject to the approval of the Board and two (2) copies of all types of agreements used by the grantee shall be filed and maintained with the county auditor.

Sec. 14-73. Franchise Payment.

(a) Filing fee: Applicants for a franchise hereunder shall pay a nonrefundable filing fee to the county which shall be due and payable at the time of filing the application. The filing fee shall be in accordance with the following schedule of dwelling units proposed to be served: 11-25 dwelling units, one hundred dollars (\$100.00); 26-99 dwelling units, one hundred seventy-five dollars (\$175.00); 100-199 dwelling units, two hundred fifty dollars (\$250.00); and 200 or more dwelling units, five hundred dollars (\$500.00). However, an Applicant which already holds one or more franchises under this ordinance shall pay 50% of the otherwise applicable filing fee.

(b) Franchising compensation: Grantees of a franchise hereunder shall provide an initial payment to the county in an amount equal to

the direct costs of granting the franchise including but not limited to consultants fees, which sum shall be due and payable concurrently with the grantee's acceptance of the franchise, to offset the county's costs in the franchise awarding process.

- (c) Annual franchise payment: Grantees of a franchise hereunder shall pay to the county an annual fee in an amount equal to three (3) per cent of the "annual gross revenues," as defined herein, in lieu of all other county permits and fees, to be utilized by the county to offset its regulatory and administrative costs, to maximize awareness of any access capacity and for such other general county purposes as shall be deemed appropriate by the Board. This payment shall in addition to any other payment owed to the county by the grantee and shall not be constructed as payment in lieu of municipal property taxes or other state, county, or local taxes.
- (d) Method of computation; interest:
- 1) Sales taxes or other taxes levied directly on a per subscription basis and collected by the grantee shall be deducted from the local annual gross revenues before computation of sums due the county is made. Payments due the county under the provisions of subsection (c) above shall be computed annually as of December 31 for the preceding year and shall be paid simultaneously with the filing of annual reports required in section 14-72 at the office of the county auditor during his regular business hours. The payment period shall commence as of the effective date of the franchise. The county shall be furnished a statement with each payment, by a certified public accountant, reflecting the total amounts of annual gross revenues and the above charges, deductions and computations, for the annual payment period covered by the payment.
 - 2) In the event that any payment is not made as required, interest on the amount due, as determined from the annual gross revenues as

computed by a certified public accountant, shall accrue from the date of the required submittal at an annual rate equal to the 90 day U.S. Treasury bill rate current as of the date the payment was due. The percentages designated in this section may be amended no more than once each year by the Board, consistent with increased costs for facilities and supervision and applicable rules of other regulatory agencies.

- (e) Rights of recomputation: No acceptance of any payment by the county shall be construed as a release or as an accord and satisfaction of any claim the county may have for further or additional sums payable as a franchise fee under this article or for the performance of any other obligation of the grantee. All amounts paid shall be subject to audit and recomputation by the county.

Sec. 14-74. Liability and indemnification:

- (a) Indemnification of franchise: It shall be expressly understood and agreed by and between the county and any grantee hereunder that the grantee shall save the county harmless from all loss sustained by the county on account of any suit, judgment, execution, claim or demand which the county may legally be required to pay as a result of the enactment of this article and the award of a franchise thereunder, except as such suit, judgement, execution, claim or demand may arise from the process or action of selection of a grantee or grantees for award of a franchise as provided herein.
- (b) Indemnification of county in franchise operation: It shall be expressly understood and agreed by and between the county and any grantee hereunder that the grantee shall save the county and its agents and employees harmless from and against all claims, damages, losses and expenses, including attorney's fees sustained by the county on account of any suit, judgment, execution, claim or demand whatsoever arising out of

the installation, operation or maintenance of the broadband telecommunications network authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this article and any franchise granted hereunder. This provision shall not apply to acts of the county, its agents or employees.

(c) Reimbursement of costs: The grantee shall pay and by its acceptance of any franchise granted hereunder agrees that it will pay all expenses incurred by the county in defending itself with regard to all damages and penalties mentioned in subsections (a) and (b) above, except as such expenses may arise from the process (as above). These expenses shall include all out-of-pocket expenses, such as consultant's or attorneys' fees, and shall also include the reasonable value of any services rendered by the county attorney or his/her staff or any other employee of the county.

(d) Public liability insurance: The grantee shall maintain and by its acceptance of any franchise granted hereunder agrees that it will maintain throughout the term of the franchise, any extensions thereto or, as required in section 14-71(d) herein, a general comprehensive liability insurance policy naming as the additional insured the county, its officers, boards, commissions, agents and employees, in a company approved by the Board and in form satisfactory to the Board, protecting the county and all persons against liability for loss or damage for personal injury, death or property damage, occasioned by the operations of grantee under any franchise granted hereunder, in the amounts of:

- 1) Five hundred thousand dollars (\$500,000.00) for bodily injury or death to any one person, within the limit, however, of one million dollars (\$1,000,000.00) for bodily injury or death resulting from any one accident, and

2) Five hundred thousand dollars (\$500,000.00) for property damage resulting from any one accident.

(e) Notice of cancellation or reduction of coverage: The insurance policies mentioned above shall contain an endorsement stating that policies are extended to cover the liability assumed by the grantee under the terms of this article and shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be cancelled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the Board by registered mail of two (2) copies of a written notice of such intent to cancel or reduce the coverage.

(f) Evidence of insurance filed: All policies of insurance or certified copies thereof and written evidence of payment of required premiums shall be filed and maintained with the county auditor during the term of any franchise granted hereunder or any renewal thereof.

(g) No waiver of performance bond: Neither the provisions of this article nor any insurance accepted by the county pursuant hereto, nor any damages recovered by the county thereunder, shall be construed to excuse faithful performance by the grantee or limit the liability of the grantee under any franchise issued hereunder or for damages, either to the full amount of the bond or otherwise.

Sec. 14-75. Bonds.

(a) Proposal bond: The Board may request from an applicant for a franchise hereunder a proposal bond in a form acceptable to the Board or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the county in an amount not to exceed the penal sum of five thousand dollars (\$5,000.00). Said bond shall remain in effect until such time as the applicant accepts the franchise

and furnishes both the performance bond and the security fund as provided herein.

- (b) Performance bond: The grantee shall maintain and by its acceptance of any franchise granted hereunder agrees that it will maintain through the term of the franchise, or any renewal or extension thereof or as required in section 14-71(d), a faithful performance bond running to the county, with at least two (2) good and sufficient sureties or other financial guaranties approved by the Board, in the penal sum total of not to exceed one hundred thousand dollars (\$100,000.00) as determined by the Board conditioned upon the faithful performance of the grantee and upon the further condition that in the event the grantee shall fail to comply with any law, ordinance or regulation governing the franchise, there shall be recoverable jointly and severally from the principal and surety of the bond, any damages or loss suffered by the county as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond. In addition, failure to meet construction deadlines as specified in section 14-80 unless exempted under the provisions of section 14-80(f) shall result in forfeiture of said bond or withdrawal from the security fund as provided in section 14-70(d) up to one hundred dollars (\$100.00) per day for each day beyond the construction deadline as compensation by way of liquidated damages as a result of such failure, it being determined that actual damages are impossible of determination. The bond shall contain the following endorsement:

It is hereby understood and agreed that this bond may not be cancelled nor the intention not to renew be stated until thirty (30) days after receipt by the Board by registered mail of two (2) copies of a written notice of such intent to cancel or not renew.

(c) Forfeit of proposal bond: Should the applicant fail or refuse to accept a franchise hereunder or fail or refuse to furnish the performance bond as set forth herein within thirty (30) days after written notification of the award of a franchise by the county, said applicant will be considered to have abandoned its proposal and the county shall enforce the proposal bond in accordance with its terms or retain the proceeds of the certified check.

(d) Security fund:

- 1) Within thirty (30) days after the award date of this franchise, the company shall deposit with the county auditor a sum equal to 5% of the performance bond set by the Board in monies or securities as security for the faithful performance by it of all the provisions of this franchise and compliance with all orders, permits and directions of any agency of the county having jurisdiction over its acts or defaults under this contract and the payment by the company of any claims, liens and taxes due the county which arise by reason of the construction, operation or maintenance of the system. Any monies deposited pursuant to this section shall be placed by the county in an interest-bearing demand account at a bank or local savings institution agreeable to both parties. The interest on this account will accrue to the benefit of the company. If the amount of this fund would be less than one thousand dollars (1,000.00), the company shall be exempt from this requirement.
- 2) Within ten (10) days after notice to it that any amount has been withdrawn from the security fund deposited pursuant to subsection (d)(1) of this section, the company shall pay to, or deposit with, the county auditor sum of money or securities sufficient to restore such security fund to the original amount.
- 3) If the company fails to pay to the county any compensation required pursuant to this article within the time fixed herein; or,

fails, after ten (10) days' notice to pay to the county any taxes due and unpaid; or, fails to repay to the county, within such ten (10) days, any damages, costs or expenses which the county shall be compelled to pay be reason of any act or default of the company in connection with this franchise; or, fails, after three (3) days' notice of such failure by the Board, to comply with any provisions of this contract which the Board reasonably determines can be remedied by an expenditure of the security, the county may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the county auditor shall notify the company of the amount and date thereof.

- 4) In the event the grantee wishes to contest withdrawal, the grantee may petition to the commission for a hearing within ten (10) days from date notice of withdrawal is mailed or otherwise given.

Sec. 14-76. Fees, rates and charges.

(a) Charges for services: All the following charges for services shall be subject to Board approval, in accordance with the schedule of charges contained in the grantee's application for franchise, which schedule is incorporated herein by reference, and any modifications to such schedule that may result from a review requested by the county on its own motion or at the request of the grantee. The charges shall be filed with the county and be in accordance with the requirements set forth in subdivisions (1) through (3) of this subsection.

- 1) Basic services charges: The grantee may make a charge to subscribers, private or commercial, for installation and connection and reconnection to its broadband telecommunications network and a fixed monthly charge for basic service within the meaning of section 14-61 of this article. Installation charges shall not be charged where premises are already wired.

- 2) Buried service charge: In the event that a subscriber requests a buried service drop to his residence, the grantee shall bury such drop upon the payment of such fee(s) that have been approved by the Board.
- 3) Unusual connections charges: The grantee may make a reasonable charge to subscribers for installation and connection to its network in addition to those charges set forth in subdivision (1) above, where unusual circumstances exist, such as remote or relatively inaccessible subscriber locations or for an antenna switching device.
- 4) Notification of charges: The grantee may establish charges for its services not specified above; however, all such charges, including but not limited to additional service, leased channel, discrete channel, production and advertising rates, and the charge to all users of the access channels for reasonable production and origination costs, shall be made public and two (2) copies of the schedule of charges, as originally and thereafter modified, shall be filed with the county auditor prior to the effective date of such charges.

(b) The company must inform the public of the complete schedule of services ranging from basic services up to and including all additional pay channels.

(c) All rates to be fair and reasonable: All charges set by the grantee for service shall be fair and reasonable and calculated to offset all necessary costs for provisions of the service, including a fair rate of return on its investment devoted thereto under efficient and economical management.

1) No considerations beyond schedule: The grantee shall receive no consideration whatsoever for or in connection with a service to its subscribers other than what may have been filed with and/or approved by the county in accordance with this section.

- 2) Deposits on advance payments to be approved:
The grantee shall receive no deposit, advance payment or penalty from any subscriber or potential subscriber other than those established in the schedule of charges previously filed and/or approved by the Board.
- 3) Purchase of converter or switch: In the event that a set converter or coaxial switch or other appurtenant device is required to permit subscribers to receive full network service, the grantee shall give the subscriber the option of purchasing the converter at a reasonable cost at the time of initial installation thereof, or of purchasing said converter switch or other appurtenant device at the then prevailing local installment plan interest rate. The grantee hereby agrees to allow the subscriber to provide a converter, switch or other appurtenant device at its subscriber terminal, provided that such device meets with the approval of the grantee. Such approval shall not be withheld if it is shown that such device does not interfere with the operation of the broadband telecommunications network. If the subscriber elects not to purchase or provide said converter, switch or other appurtenant device, the grantee may make an additional charge for the rental of such converter, switch or other appurtenant device providing that the additional charge is in accordance with the schedule of charges contained in the grantee's application for a franchise hereunder or hereafter shall be filed with and approved by the county.
- 4) Subscriber refunds:
 - a) If any subscriber of the grantee of less than thirty (30) days terminates services due to the grantee's failure to render service to such subscriber of a type and quality provided for herein;
 - b) If service to a subscriber is terminated by the grantee without good cause; or

- c) If the grantee ceases to operate the broadband telecommunications network authorized herein for any reason except termination or expiration of a franchise granted hereunder;

the grantee shall refund to such subscriber an amount equal to the monthly charge, installation and connection charge paid by such subscriber in accordance with the then-existing schedule of charges.

- 5) Disconnection: There shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, the grantee may disconnect the subscriber's service outlet. Such disconnection shall not be effected until sixty (60) days after the due date of delinquent fee or charge, or until ten (10) days after adequate written notice of the intent to disconnect has been delivered to the subscriber in question. Upon payment of charges due and the payment of a reconnection charge, if any, the grantee shall promptly reinstate the subscriber's cable service after request by subscriber.

- (d) Acceptance of county's authority to regulate rates: The grantee shall agree, and by its acceptance of a franchise, specifically agrees to be subject to the county, or other regulatory bodies, having competent jurisdiction to fix just, reasonable and compensatory rates.

- (e) Rates subject to other regulations: The grantee in submitting its request for approval of initial rates or any subsequent rates shall do so for all services to be performed to or for subscribers described in subsection (a). If FCC Rules and Regulations, or any other applicable laws or regulations, shall subsequently determine that Johnson County has jurisdiction over other services or service to be offered or performed, said rates shall be subject to approval by the county at that time.

(f) Reduction of fees: If during the term of any franchise or renewal thereof granted hereunder, the grantee receives refunds or if the cost of operation to the grantee is reduced as a result of an order of any regulatory body having competent jurisdiction, the grantee shall pass on to its subscribers on a prorated basis any such savings or reduced costs on a basis to be determined by the Board.

(g) Rate change procedures:

1) Freeze on initial rates: The grantee shall not file an application for an increase in fees, rates or charges until twenty-four (24) months have expired from the time the grantee has been determined to have commenced operation within the unincorporated areas of Johnson County or from date franchise is granted, whichever is later, except to seek relief from the imposition of any federal, state or local taxes or other legally imposed fees not contemplated in the original rate determinations. This freeze on initial rates shall not apply in those instances where a grantee has extended to unincorporated areas from a city-franchised system. In the case of such cityfranchised extensions, rates may be increased based upon application therefore sooner than 24 months where necessary to maintain equity between city and rural rates without regard to the date of granting the rural franchise.

2) Limitation on application for increase in rates: The grantee shall not file more than one application for an increase in fees, rates or charges during any calendar year except to seek relief from the imposition of federal, state or local taxes or other legally imposed fees not contemplated in the most recent rate determination.

3) Review of rates: The broadband telecommunications commission shall review the grantee's schedule of fees, rates or charges upon application by the grantee as herein provided or at any time on its own

motion. The commission shall submit such schedule and any contemplated modifications thereof, together with its recommendations, to the Board as expressed in such a resolution. The Board may reduce or increase such fees, rates or charges adopted for this purpose and no change in the grantee's schedule of fees, rates or charges shall be effective without prior action of the commission and the approval of the Board.

No such resolutions shall be adopted without prior public notice and opportunity for all interested members of the public, including the grantee, to be heard, subject to the procedures set forth in subsection (c) hereof. No change in rates shall take effect until thirty (30) days after the approval of the rates by the Board.

- 4) Documentation of request for increase: Any increase requests, in addition to other factors described in this section, shall be supported by a showing of increased costs for the existing services or proposed services and shall be filed in two (2) copies with the county auditor.
- 5) Records to be made available: In addition, for the purposes of determining the reasonableness of grantee fees, rates or charges, all such information, in accordance with the provisions of section 14-78(h), shall be made available to the county.
- 6) Notification of changes in regulatory fees: The grantee shall provide written notification to the Board of any changes received in regulatory fees payable by it to any other agency having regulatory jurisdiction over the grantee.

Sec. 14-77. Education and government connection to broadband telecommunications network.

The grantee shall provide upon request within the county one connection and monthly service for "basic service" to such public, parochial and nonprofit private schools, county and other

government buildings and other agencies, provided that such designated locations are within three hundred (300) feet of any network cable route. Initial installation shall be without charge. The rates for monthly service shall be designated by the grantee in its proposal. Rates for monthly service to residential or living units within such entities may be negotiated with each such entity. The grantee may charge for any excess footage on the basis of time and material for any such locations beyond the three hundred-foot limitation if such connection is designated by the county. The county reserves the right for itself and the above entities at their individual expense to extend service to as many areas within such schools, buildings and agencies as it deems desirable without payment of any additional installation fee or monthly fee to grantee. All such extensions, however, shall be accomplished in such a way so as not to interfere with the operation of the broadband telecommunications network.

Sec. 14-78 through 80 combined. Network extension, construction and description.

(a) General requirements: An applicant for a franchise shall include within its application specific proposals for the following items, among others:

- 1) An extension policy which details in objective criteria those dwelling units proposed to be served. Upon approval by the Board of this policy as part of granting a franchise, the grantee shall not make, or refuse to make, any extension except as permitted by this approved policy. Disputes arising from the extension policy shall, upon petition, be determined by the Board following public hearing and upon recommendation from the Commission.
- 2) A construction timetable consistent with the public interest that the system be extended as rapidly as possible to all residents within an area of required extension as provided in the franchise application, if any. This timetable shall state what, if any, application other than

the franchise application shall be necessary to complete construction and the time necessary therefore. It shall state the number of days from granting of franchise within which construction will commence, operations will commence and construction will be complete. Upon approval by the Board of the timetable as part of granting a franchise, the grantee shall not deviate from this timetable except upon authorization of the Board, following public hearing, for good cause shown.

- 3) Specifications for the cable network. Upon approval by the Board of such specifications, no additions or deletions to the network shall be implemented except upon the approval of the Board. A grantee which is extending to unincorporated areas from a city-franchised system shall provide the same level of programming and quality of network to rural subscribers as is provided to the city or cities served by the grantee.

Sec. 14-81. Network technical requirements.

- (a) General requirements: Each broadband telecommunications network must be so designed, installed and operated as to meet the following general requirements:
 - 1) Capable of continuous twenty-four (24) hours daily operation;
 - 2) Capable of operating over an outdoor temperature range of minus forty (-40) degrees Fahrenheit to one hundred forty (140) degrees Fahrenheit without catastrophic failure or irreversible performance changes over an outdoor temperature range of minus ten (-10) five (105) to one hundred thirty (130) volts AC;
 - 3) Capable of meeting all specifications set forth herein over an outdoor temperature range of minus ten (-10) degrees Fahrenheit to one hundred (100) degrees Fahrenheit over variations in supply voltages from one

hundred five (105) to one hundred thirty (130) volts AC;

- 4) Operated in such a manner as to avoid causing interference with reception of off-the-air signals by nonsubscribers to the cable system;
 - 5) Designed, installed and operated so as to comply with all applicable rules and regulations promulgated by the Federal Communications Commission;
 - 6) Designed, installed and operated so as to assure the delivery to all subscribers of standard color and monochrome signals on the FCC designated Class I cable television channels without noticeable picture degradation or visible evidence of color distortion or other forms of interference directly attributable to the performance of the broadband telecommunications network.
 - 7) Whenever a reverse or feedback circuit is routed from a subscriber's premises, it shall be connected so as to permit subscriber notification and subscribed-controlled deactivation.
 - 8) The system shall be designed and constructed in such a manner as to prevent or deter invasion of privacy.
- (b) Class I channel performance requirements:
The following requirements apply to system performance on the FCC designated Class I cable television channels as measured at any subscriber terminal with a matched termination:
- 1) The signal level as measured at the visual carrier frequency for each cable television channel shall not be less than one thousand (1000) (microvolts) across a seventy-five-ohm terminating impedance. The aural carrier level shall be maintained between thirteen (13) and seventeen (17) decibels below its associated visual carrier level.

- 2) The visual carrier signal level on each television channel shall not vary more than twelve (12) decibels within any twenty-four-hour period and shall be maintained within:
 - a) Three (3) decibels of the signal level of any visual carrier within a six-MHz nominal frequency separation; and
 - b) Twelve (12) decibels of the visual carrier signal level on any other cable television channel.
 - c) A maximum level such that signal degradation due to overload in the subscriber's receiver does not occur.
- 3) Broadband telecommunications network frequency response as measured at any subscriber terminal shall not vary by more than plus or minus two (2) dB for all frequencies within minus fivetenths (-0.5) and plus five and forty-five hundredths (+5.45) MHz of the lower band edge frequency.
- 4) The corrected ratio of visual signal level to system noise shall not be less than forty (40) decibels. This requirement is applicable only to the following signals:
 - a) Each off-air signal carried by a broadband telecommunications network serving subscribers within the Grade B contour for that signal; or
 - b) Each off-air signal which is first picked up within its Grade B contour; or
 - c) Each off-air signal which is received by the cable system via microwave or other similar form of transmission.
- 5) Cross-modulation as measured at any visual carrier frequency from the cable system input to any subscriber terminal shall not exceed minus forty-six (-46) dB (as defined by NCTA Standard 002.0267) at a temperature range of minus ten (-10) degrees to one hundred (100) degrees Fahrenheit.

- 6) The ratio of visual carrier signal level to the RMS amplitude of any coherent disturbances such as intermodulation products, system generated or induced cochannel signals or discrete frequency interfering signals shall not be less than forty-six (46) decibels except for officially assigned offset carriers for which it shall not be less than thirty-six (36) decibels.
- 7) The terminal isolation between subscribers shall not be less than twenty (20) decibels except that the isolation between multiterminals of one subscriber shall not be less than eighteen (18) decibels.
- 8) The hum modulation as measured over the usable frequency bandwidth from broadband telecommunications network input to any subscriber terminal shall not exceed three (3) percent. The percent of hum modulation is defined as the ratio expressed in percent of the average level of the detected signal to one-half (1/2) the indicated peak AC hum.
- 9) Radiation from a cable television system shall be in accordance with the limits set forth in Part 76, Section 76.605 (a) (12) of the FCC Rules and Regulations.
- (c) Standards modified where necessary:
Notwithstanding the fact that the network may be in compliance with all the standards set forth herein, the county may require a higher level of performance in any area to resolve signal quality or interference problems.
- (d) Specifications for additional channels to be submitted: Proposed specifications for FCC-designated Class II, III, and IV channels shall be submitted by the grantee to and approved by the county as the use of these channels is implemented.
- (e) Interconnection with redistribution systems:
A grantee shall not interconnect with any distribution or redistribution system that

does not meet or exceed the technical standards of any system operated under this article.

Sec. 14-82. Performance measurements.

- (a) General requirements: Test procedures used in verification of the performance criteria set forth herein shall be in accordance with good engineering practice. The test procedures specified in subsection (b) of this section are designed as a guide and should be made under conditions which reflect system performance during normal system operations. As there is more than one technically acceptable method for performing many of the measurements, the technique and equipment utilized in each case if different from those set forth below shall be fully described in the annual certificate filed with the county.
- (b) Measurements procedures: All measurements shall be made from the "head end" of the broadband telecommunications network to at least three (3) subscriber locations in each "local distribution system" at least two (2) of which shall be "worst case" locations (system extremities). Measurements shall be made at seventy-five ohms with the loss of the set transformer indicated where applicable for each test location. The measurements are to be made as follows:
- 1) Network frequency response measurements may be made with a calibrated signal generator, variable attenuator and a frequency selective voltmeter (if an accurately calibrated field strength meter is used for the measurements, its date of calibration shall be indicated on the technical measurement certificate filed with the county). All television signals except for ALC, AGC or ASC pilot carriers may be disconnected during this test. With all automatic gain control amplifiers in the section under test set to their normal operating mode, the signal generator shall be connected to the input of the broadband telecommunications network and set for a CW

signal at the desired frequency and at the level normally present at that frequency and location. With the meter and variable attenuator connected in series to the subscriber terminal under test, the signal level shall be measured and recorded. Measurement shall then be made in a similar manner for all video carrier frequencies on the network at the levels normally carried on the network.

- 2) Network signal-to-noise measurements may be made in accordance with NCTA Standard 005.0669 or with a calibrated signal generator and frequency selective voltmeter connected as described in subdivision (1) above. The signal generator shall be tuned, in turn, to the visual carrier frequency of each FCC-designated Class I cable television channel and the signal level at the subscriber terminal recorded. The meter should then be tuned to a frequency two and five tenths (2.5) MHz above the visual carrier frequency of each channel described above and with the signal generator disabled, the indicated noise level recorded and corrected by an appropriate factor representing the ratio of four (4) MHz to the noise bandwidth of the frequency selective voltmeter.
- 3) The network cross-modulation measurement shall be performed in accordance with NCTA Standard 002.0267.
- 4) The amplitude of the discrete frequency interferences within a cable television channel may be determined with a frequency selective voltmeter, calibrated for adequate accuracy.
- 5) The terminal isolation between any two (2) subscriber terminals may be measured by applying a signal of predetermined amplitude from a signal generator to one terminal in the reverse direction and measuring the amplitude of that signal at the other terminal with a frequency selective voltmeter.

6) The system hum modulation may be measured at each visual carrier frequency on the system using a calibrated signal generator, a detector and an oscilloscope. The signal generator shall be connected, and the level and frequency set at a predetermined mode with all other channels set at their normal levels. With the detector and oscilloscope connected to the subscriber terminal, the average level of the detected signal and the peak-to-peak AC hum will be indicated on the oscilloscope. The percent of hum modulation for this purpose is defined as the ratio, expressed in percent, of the average level of the detected signal to one-half (1/2) of the indicated peak-to-peak AC hum.

7) Radiation measurements shall be made in accordance with the procedures established in Part 76, Section 76.609(b) (1) through (b) (5) of the FCC Rules and Regulations.

(c) Additional tests and inspection: The county reserves the right to:

- 1) Require additional tests for cause at specific terminal locations at expense of the grantee, and
- 2) Conduct its own inspections of the broadband telecommunications network on its own motion at any time during normal business hours with reasonable advance notice.

(d) Report of measurements combined: To the extent that the report of measurements as required above may be combined with any reports of measurements required by the FCC or other regulatory agencies, the county shall accept such combined reports, provided that all standards and measurements herein or hereafter established by the county are satisfied.

Sec. 14-83. Signal carriage.

(a) Television broadcast signal carriage: The grantee shall carry those television broadcast signals which are in accordance with Part 76, Section 76.63 of the FCC Rules

and Regulation. The provision of additional television broadcast signals as provided for in Part 76, Section 76.63(a) shall also be required.

Sec. 14-84. Construction standards.

(a) Compliance with safety codes: All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all federal, state and local codes where applicable and with the National Electric Safety Code.

(b) Compliance with electrical codes: All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with all federal, state and local codes where applicable.

(c) Antennas and towers: Antenna supporting structures (towers) shall be designed for the proper loading zone as specified in the Electronics Industry Association's R.S.-22-C Specifications.

(d) Compliance with aviation requirements: Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aeronautical Agency, the state aeronautics board governing the erection and operation of supporting structures or television towers, and all other applicable local or state codes and regulations.

Sec. 14-85. Conditions of street occupancy.

(a) Approval of proposed construction: A grantee shall first obtain the approval of the county prior to commencing construction on the streets, alleys, public grounds or places of the county. Applications for approval of construction shall be in a form provided by the county.

- (b) Excavation permits: A grantee shall not open or disturb the surface of any street, sidewalk, driveway or public place for any purpose without first having obtained a permit to do so in the manner provided by law. All excavation shall be coordinated with other utility excavation or construction so as to minimize disruption to the public.
- (c) Changes required by public improvements: A grantee shall, at its expense, protect, support temporarily disconnect, or relocate in other public place any property of the grantee when required by the county by reason of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, county-owned power or signal lines, and tracts or any other type of structure or improvement by public agencies.
- (d) Use of existing poles or conduits: Nothing in this article or any franchise granted hereunder shall authorize the grantee to erect and maintain in the county new poles where existing poles are servicing the area. The grantee shall require permission from the county before erecting any new poles, underground conduit or appurtenances where none exist at the time the grantee seeks to install its network.
- (e) Facilities not to be hazardous or interfere: All wires, conduits, cables and other property and facilities of the grantee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the county. The grantee shall keep and maintain all its property in good condition, order and repair. The county reserves the right hereunder to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole, by the grantee. The grantee shall keep accurate maps and records of all its facilities and furnish copies of such maps

and records as requested by the county under section 14-72 herein. A granteeshall not place poles or other equipment where they will interfere with the rights or reasonable convenience of adjoining property owners or with any gas, electric or telephone fixtures or with any water hydrants or mains. All poles or other fixtures placed in a street shall be placed in the right-of-way between the roadway and the property, as specified by the county.

(f) Method of installation: All wires, cables, amplifiers and other property shall be constructed and installed in an orderly and in a manner consistent with the trade. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in a parallel and bundled, with due respect for engineering and safety considerations. All installations shall be underground in those areas of the county where public utilities providing telephone and electric service are underground at the time of installation. In areas where telephone or electric utility facilities are above ground at the time of installation, the grantee may install its service above ground provided that at such time as those facilities are required to be placed underground by the county or are placed underground, the grantee shall likewise place its services underground without additional cost to the county or to the residents of the county other than as may be granted under the provisions of section 14-76.

(g) Protection of facilities: Nothing contained in this section shall relieve any person, company or corporation from liability arising out of the failure to exercise reasonable care to avoid injuring the grantee's facilities while performing any work connected with grading, regrading or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

(h) Notice of county improvements: The county shall give the grantee reasonable notice of

plans for street improvements where paving, resurfacing, or grading of a permanent nature is involved. The notice shall contain the nature and character of the improvements, the streets upon which the improvements are to be made, the extent of the improvements and the work schedule for the project. The notice shall give the grantee sufficient time to make any additions, alterations or repairs to its facilities as it deems necessary in advance of the actual commencement of the work, so as to permit the grantee to maintain continuity of service.

- (i) Requests for removal or change: The grantee shall, on the request of any person holding a building moving permit, temporarily raise or lower its wires to permit the moving of said building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than ten (10) working days' notice of any move contemplated to arrange for temporary wire changes.
- (j) Authority to trim trees: The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and other public places of the county so as to prevent the branches of such trees from coming in contact with the wires and cables of the company. All trimming is to be done under the supervision and direction of the county after the explicit, prior written notification and approval of the county and at the expense of the grantee. The grantee may contract for such services; however, any firm or individual so retained shall receive county approval prior to commencing such activity.
- (k) Restoration or reimbursement: In the event of disturbance of any street or private property by the grantee, it shall, at its own expense and in a manner approved by the county and the owner, replace and restore such street or

private property in as good a condition as before the work causing such disturbance was done. In the event the grantee fails to perform such replacement or restoration, the county or the owner shall have the right to do so at the sole expense of the grantee. Payment to the county or owner for such replacement or restoration shall be immediate, upon demand, by the grantee. All requests for replacement or restoring of such streets or private property as may have been disturbed must be in writing to the grantee.

(l) Office and records in county: The grantee shall at all times make and keep at the office of the company most convenient to the citizens of Johnson County full and complete plans and records showing the exact location of all broadband telecommunications network equipment installed or in use in the streets or other public places of the county. The grantee shall furnish the county a current map or set of maps, drawn to scale, showing all broadband telecommunications network equipment installed and in place in streets and other public places of the county.

(m) Removal of plant: If, at any time, it shall become necessary in the reasonable judgment of the county to cut or move any of the wires, cables, amplifiers, appliances or appurtenances thereto of the grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the grantee, at its sole expense provided that such repairs are not necessitated by negligent act of the county, in which case, cost for repairs shall be borne by the county.

(n) Alternate routing of plant: In the event continued use of a street is denied to the grantee by the county for any reason, the grantee will make every reasonable effort to provide service over alternate routes.

Sec. 14-86. Interconnection.

(a) No prohibition of interconnection: Nothing in this article shall be construed so as to prohibit the grantee from interconnecting its network with other similar contiguous networks either in cities, other counties or

states except as the provisions of section 14-78 apply. However, any revenues derived therefrom shall be equitably allocated in the calculation of "annual gross revenues" as set forth in section 14-73 herein.

- (b) Study required for interconnection. The grantee shall, if requested by the county, conduct a technical and economic feasibility study of any interconnection requested by the county. The study shall be presented to the county and in the event that the study shows such interconnection to be feasible, the grantee shall, if so instructed by the county, accomplish said inter-connection. In the event that the study indicates technical feasibility only, the county may elect, but at its sole discretion, to arrange for compensation to be paid to the grantee, in an amount sufficient to assure an economic "break even" by the grantee and so order the interconnection.

Sec. 14-87. Unauthorized connections or modifications.

- (a) Unauthorized connections prohibited: It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency, without the expressed consent of the grantee, to make any connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a franchised broadband telecommunications network for any purpose whatsoever, except as provided in section 14-77 herein.
- (b) Removal or destruction prohibited: It shall be unlawful for any firm, person, group, company, corporation or government body or agency to willfully interfere, tamper, remove, obstruct or damage any part, segment or content of a franchised broadband telecommunications network for any purpose whatsoever.
- (c) Violation: Any firm, person, group, company, corporation or governmental body or agency convicted of a violation of this section

shall for each offense, be subject to a fine in a sum of not more than one hundred dollars (\$100.00) together with costs of such prosecution. Violation of this section shall be considered a separate offense for each twenty-four-hour period the violation continues following notification or discovery.

Sec. 14-88. Preferential or discriminatory practices prohibited.

(a) Prohibited employment practices: The grantee shall not commit any of the following employment practices and agrees to prohibit the following practices in any contracts or subcontract entered into or effectuate the operation of this franchise.

- 1) To discharge from employment or refuse to hire any individual because of their race, color, religion, creed, sex, national origin, age, disability, marital status or sexual orientation.
- 2) To discriminate against any individual in term, conditions or privileges of employment because of their race, color, religion, creed, sex, national origin, age, disability, marital status or sexual orientation.

In addition to the above, the grantee shall comply with all applicable state, federal and municipal laws concerning discriminatory and unfair practices.

(b) Services to be equally available: The grantee shall not refuse cable television service to any person or organization who requests such service for lawful purpose, nor shall a company refuse any person or organization the right to cable cast pursuant to provisions of this article. The company shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any unreasonable preference or advantage, nor subject any person to any prejudice or disadvantage. The company shall take affirmative steps to disseminate the

information concerning the availability of its services to all minority and other underrepresented groups. This provision shall not be deemed to prohibit promotional campaigns to stimulate subscription to the system or other legitimate uses thereof, nor shall it be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classifications shall be entitled, provided such schedules have been filed with the approved by the county as provided in Section 14-76.

(c) Fairness of accessibility: The entire system of the grantee shall be operated in a manner consistent with the principle of fairness and equal accessibility of its facilities, equipment, channels, studios and other services to all citizens, businesses, public agencies or other entities having a legitimate use for the system; and no one shall be arbitrarily excluded from its use; allocation of use of said facilities shall be made according to the rules or decisions of regulatory agencies affecting the same, and where such rules or decisions are not effective to resolve a dispute between conflicting users or potential users, the matter shall be submitted for resolution by the broadband telecommunications network commission.

Sec. 14-89. Subscriber privacy.

(a) It shall be unlawful for any firm, person, group, company, corporation or governmental body to initiate or use any form, procedure or device for monitoring or procuring information or data generated from or by cable subscribers' terminals, without prior written valid authorization from each subscriber so affected. Valid authorization shall mean written approval from the subscriber for a period of time not to exceed one year and shall not have been obtained from the subscriber as a condition of service. Further, it shall be unlawful for a grantee, without such authorization,

to activate and/or utilize any Class IV cable television channel in any manner from the subscribers' premises. In any case the subscriber shall retain the right to deactivate his/her terminal. Nothing herein shall prevent the grantee from monitoring for technical integrity. This subsection shall not prevent authorized individuals from obtaining information pursuant to a valid court order.

(b) Subscriber data: The county or a grantee or any person shall not, without prior written valid authorization from each subscriber so affected, provide any data identifying or designating subscribers, this shall include but not be limited to subscriber lists. Any data so authorized will be made available to the authorizing subscriber in an understandable fashion.

(c) Subscriber agreements: Any agreement or contract such as is necessary for subsections (a) and (b) above shall not be part of any other contract or agreement and shall not be a condition of subscribing to the system.

(d) Violations: Any firm, person, group, company, corporation or governmental body or agency convicted of a violation of this section shall for each offense be subject to a fine in a sum of not more than one hundred dollars (\$100.00) together with costs of such prosecution. Violation of this section shall be considered a separate offense for each twenty-four-hour period the violation continues following notification or discovery.

Sec. 14-90. Transfer.

(a) Consent prior to transfer of franchise: Any franchise granted hereunder shall be a privilege to be held for the benefit of the public by the grantee. Said franchise cannot in any event be sold, transferred, leased, assigned or disposed of in whole or part, either by forced or voluntary sale, merger, consolidation, mortgage, trust, receivership or any other means without the prior consent of the county expressed by a Board resolution and then only under such conditions as the Board may establish.

(b) Consent prior to change of control: Prior approval of the Board shall be required where ownership or control of more than twenty (20) percent of the voting stock of grantee is acquired by a person or group of persons acting in concert, none of whom already owns or controls twenty (20) percent or more of such right of control, singly or collectively. Transfer from a subsidiary to a parent corporation or vice versa shall not be considered as a change of control. Prior approval of the Board shall also be required for all changes in ownership or control by a person or group of persons acting in concert, who already own or control twenty (20) percent or more of such right of control, singly or collectively.

(c) Mortgage or pledge of network: Nothing in this article shall be deemed to prohibit the mortgage or the pledge of the network or any part thereof. However, any such mortgage or pledge shall be subject to and subordinate to the right of the county under this franchise or applicable laws.

Sec. 14-91 Publication costs.

The grantee of the first franchise shall assume the cost of publication of the franchise ordinance as such publication is required by law. A bill for the publication costs shall be presented to the grantee by the county upon the grantee's filing of acceptance and shall be paid at that time. The grantee shall receive a credit against the payment of those publication costs in an amount not to exceed \$500.00 from its non-refundable filing fee previously paid.

SECTION III. REPEALER. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. SAVINGS CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid, illegal or unconstitutional.

SECTION V. EFFECTIVE DATE. This ordinance shall become effective after its passage and publication

as part of the proceedings of the board of supervisors.

Passed and approved this 3 day of February, 1982.

~~Betty Ockenfels,~~ Chairperson
Board of Supervisors

Attest:

David L. Elias
Tom Slockett
County Auditor
By: David L. Elias
Deputy Auditor

It was moved by Alek and
seconded by Langenberg that the
Ordinance be adopted and, upon roll call, there were:

Ayes	Nays	Absent	
<u>✓</u>	_____	_____	Langenberg
<u>✓</u>	_____	_____	Creek
<u>✓</u>	_____	_____	Donnelly
<u>✓</u>	_____	_____	Ockenfels
<u>✓</u>	_____	_____	Sehr

Date of first consideration _____

Votes for passage: _____

Nays: _____

Absent: _____

Date of second consideration _____

Votes for passage: _____

Nays: _____

Absent: _____

Date of publication Feb. 17 - Press Citizen
Feb. 18 - The Leader
Feb. 18 - Lone Tree Reporter

On February 3, 1982, Cilek and Langenberg moved to suspend the requirement of two considerations before adoption of an amendment to an ordinance and to adopt the amended Johnson County Broadband Telecommunications Franchise Enabling Ordinance.