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# Chapter I - Administration

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Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

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## Chapter I - Administration

### Excavation

#### Private Acts of 1997 Chapter 29

**SECTION 1.** As used in this act, unless the context otherwise requires:

- (1) "Excavate or excavation" means the removal from, or addition of soil to, a site for the removal, extraction, or mining of soils, limestone, gravel, rock, clays, or of any other mineral by whatever process. Excavation shall also be defined as including any earthmoving activity, other than mineral extraction, which involves over fifty (50) acres.
- (2) "Process or processing" means all functions, work, facilities, and activities conducted or constructed on a site of any size, the purpose of which is the development, extraction, or benefaction of mineral deposits. This definition shall also be deemed to include pre-mining site preparation activities, all uses reasonably incidental to, with the exception of chemical processing plants, and all post-mining reclamation activities; and
- (3) "Grade or grading" means any earthmoving which affects an area between two (2) and fifty (50) acres, and which is being conducted for purposes other than the extraction of any type of rock or mineral which has commercial value.

**SECTION 2.** The purpose of this act is to provide minimum development standards for earth products excavation and processing in the unincorporated areas of Johnson County so that they will be developed in a manner such as to preserve and protect the health, safety, convenience, order, prosperity and general welfare of the citizens of Johnson County through a lessening of traffic hazards and congestion, the abatement of noise, air and water pollution, the prevention of soil erosion and preserving and protecting soil stability, the preservation of aesthetic qualities, and the protection of persons and property who may otherwise be adversely affected by blasting effects and other dangers, if any, presented by such operations. It shall be unlawful to excavate or process earth products unless such operation meets the requirements of this act.

**SECTION 3.** The minimum standards which may be required for the excavation or processing of earth products shall be as follows:

- (1) That the proposed excavation and its finished slopes and banks will not impair the potential future utility and development of the property after excavation operations have been completed.
- (2) That no permanent machinery or structures shall be erected or maintained on the property which would tend to impair the potential future utility and development of the property after excavation operations have been completed.
- (3) That appropriate measures shall be taken to protect and preserve creeks or other bodies, sources or supplies of water, both surface and ground, and adjacent or nearby flora, fauna, or other vegetation.
- (4) That appropriate measures shall be taken so as not to depress land values around the proposed excavation and processing operations, or otherwise adversely affect surrounding persons or property in the neighborhood; including, but not limited to, establishing hours of excavation operations, noise and vibration standards.
- (5) That appropriate measures shall be taken for management of storm water on the property both during and after excavation operations have been completed.
- (6) That appropriate measures shall be taken to provide for management of any nuisance from dust, or wind erosion, at storage areas, yards, access roads, service roads, or other untreated open area within the property.
- (7) That appropriate measures shall be taken to provide for soil erosion and sediment control management on the property both during and after excavation operations have been completed.
- (8) That appropriate measures shall be taken to provide for management of truck access to and from excavation and processing operations so as to minimize danger to traffic and nuisance to surrounding properties.
- (9) That appropriate measures shall be taken to control outside access to any part of the property in which excavation and processing operations or terrain factors may cause danger; including, but

not limited to, suitable fencing, embankments or other barriers necessary for the protection and safety of vehicular and pedestrian traffic.

(10) That appropriate measures shall be taken to provide for the reclamation of the property after excavation and processing operations, or any phase thereof, have been completed.

(11) That appropriate measures shall be taken to guarantee faithful performance and completion of the reclamation work in accordance with plans as approved and any conditions of approval; including, but not limited to, permit expiration and renewal requirements, topsoil stockpile requirements, landscaping requirements and the filing of a corporate surety bond with the County Clerk in a form satisfactory to the County Attorney and in an amount approved by the County Commission to guarantee faithful performance and completion of the reclamation work in accordance with plans as approved and any conditions of approval, which bond shall cover a period of time not less than three (3) months beyond the period during which any permit obtained from Johnson County pursuant to this act is effective.

(12) That appropriate measures shall be taken to provide for the minimum setback of excavation and processing operations from any property line, public road (highway, street or similar right-of-way), publicly owned facility (park, school, or any building or similar structure), place of public assembly (church, store, office, restaurant or similar facility) or residence, necessary for the protection and safety of persons or property, or to insure the appropriate and reasonably neat appearance of excavation and processing operations from the surrounding neighborhood until final reclamation of the property after operations, or any phase thereof, have been completed.

(13) That appropriate measures shall be taken to provide for a fence or suitable barrier for the purpose of minimizing objectionable noise and screening operations from the view of vehicular or pedestrian traffic and neighboring property owners.

(14) That in considering any matter relevant to the authority granted by this act, in addition to the foregoing matters, the Planning Commission shall also be guided by the purpose of this act.

**SECTION 4.** In exercising the powers granted to it by this act, the Johnson County Planning Commission shall adopt regulations governing earth products excavation or processing operations, which regulations may provide as follows:

(a) The owner and any lessee of the land parcel proposed for earth products excavation or processing operations may be required to submit an application and plan for development to the Johnson County Planning Commission. The application and plan may be required to contain, but not be limited to, the following:

(1) A narrative describing:

- (i) The development, including location of development and adjacent properties;
- (ii) The schedule for grading and construction activities including: start and completion dates; sequence of grading and construction activities; sequence for installation and/or application of soil erosion and sediment control measures; sequence for final stabilization of the project site;
- (iii) The design criteria for proposed soil erosion and sediment control measures;
- (iv) The construction details for proposed soil erosion and sediment control measures;
- (v) The installation and/or application procedures for proposed soil erosion and sediment control measures;
- (vi) The operations and maintenance program for proposed soil erosion and sediment control measures;
- (vii) Proposed record-keeping program; and
- (viii) The identification of the person responsible for recordkeeping and monitoring required control measures, and who will be the Planning Commission's contact.

(2) A site plan map prepared by a licensed engineer, landscape architect, architect, and/or surveyor, as may be appropriate, and in accordance with state law regarding the practice of these professions. Drawings shall be at an appropriate scale to fit on 2' x 3' sheets, showing:

- (i) The boundaries of the property where the excavation is proposed and the area to be excavated, including principal wooded areas, any rock outcrops, any surrounding streets and property lines;
- (ii) The existing and proposed topography (including bottom limits of the proposed

excavation) using two (2) foot contours including soil types, wetlands, watercourses and water bodies, which contours shall be prepared from an actual field survey and based on a benchmark noted and described on the map, the proposed area alterations including cleared, excavated, filled or graded areas and, if applicable, new property lines;

(iii) Location of all land subject to flooding;

(iv) Dimensions and calls of all property lines;

(v) North point, scale, acreage of site, an location map;

(vi) Location and dimensions of all existing and proposed structures (including signs and utilities), street or road rights-of-way, sidewalks, and easements;

(vii) Plans for vehicular and pedestrian access to the property and internal circulation to and from the excavation area, utilities, solid waste disposal, landscaping and open space, signage, and off-street parking;

(viii) Plans for storm water drainage showing existing and proposed drainage on the property;

(ix) Proposed location of and design details for all proposed soil erosion and sediment control measures and the sequence for installation and/or application of those soil erosion and sediment control measures; and

(x) Any other information deemed necessary and appropriate by the applicant or requested by the Planning Commission.

(3) A key map at an appropriate scale (not less than 1" = 1,000') to fit on 2' x 3' sheets, showing any and all public roads, publicly owned facilities, places of public assembly and residences within two thousand (2,000) feet of the outer boundary of the property.

(4) A certified plan for storm water drainage shall be included with the site plan that identifies all easements, drainage structures including sizes/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated storm water runoff based on an appropriate storm frequency design, to be approved by the Johnson County Planning Commission, shall be calculated for predevelopment and post-development condition. Any increase in storm water runoff resulting from the development shall be detained on-site by appropriate means, such as detention basin, or other acceptable methods, and shall be released from the site so that downstream property, watercourses, channels, or conduits shall not receive storm water runoff from the site at a higher peak flow rate than that which existed prior to the development of the site. The Planning Commission may require the use of a larger storm frequency design in areas of critical concern.

Any discharge plans and/or permits required by any local, state or federal governmental agency having jurisdiction shall be submitted with the site plan.

(5) The Planning Commission may require the submission of such additional information, including, but not limited to, data on soil conditions, location and depth of rock ledge, ground water conditions and any other appropriate matters that it deems necessary to protect the public health, safety, convenience, order, prosperity and general welfare, or to make a reasonable review of the application.

The Planning Commission may waive in whole or in part any requirement for submission of an application in cases where such are not deemed necessary for reasonable review of the application.

(b) Each proposed earth products excavation or processing operation may be required to meet the minimum standards established pursuant to this act.

**SECTION 5.** It shall be unlawful for any person to excavate for earth products in the unincorporated part of Johnson County unless a permit is obtained from Johnson County or its designated agent.

**SECTION 6.** This act shall be enforced by the Johnson County Planning Commission.

(1) Any person who shall willfully neglect or refuse to comply with any of the provisions of this act shall be guilty of violating this act and, upon conviction, shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day of violation shall constitute a separate offense.

(2) Any excavation for earth products in violation of these regulations shall be deemed an unlawful

excavation and the County Attorney or other official designated by the Johnson County Board of Commissioners, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action to cause the excavation to be abated.

**SECTION 7.** This act shall be administered by the Johnson County Planning Commission.

(1) All plans and plats for excavation for earth products may be required to be submitted a specified number of working days before the regular meeting date of the Planning Commission. These plans will be given preliminary and final approval by the Planning Commission.

(2) Lawful pre-existing non-conforming excavations for earth products may be required to provide the Johnson County Planning Commission with all facts and data which demonstrate that a lawful pre-existing non-conforming excavation for earth products does exist. If the Johnson County Planning Commission shall find that a lawful pre-existing non-conforming excavation for earth products does exist, the Johnson County Planning Commission may waive any standard that is inapplicable to existing operations. If the Johnson County Planning Commission shall not find that a lawful pre-existing non-conforming excavation for earth products does exist, the Johnson County Planning Commission may require the owner and any lessee to conform to all of the standards in this act.

(3) Expansion of lawful pre-existing non-conforming excavations for earth products may be required to be approved by the Johnson County Planning Commission, and conform to the standards in this act.

**SECTION 8.** Variances may be granted to any part of this act by the Planning Commission for good and sufficient reasons.

**SECTION 9.** The provisions of this act shall supersede any less stringent provisions of any ordinance of Johnson County.

**SECTION 10.** If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

**SECTION 11.** Specific standards authorized to be set by this private act, and amendments to these standards, may be initiated by the Johnson County Planning Commission, the Johnson County Board of Commissioners, a resident of Johnson County, or other persons or agents interested in these regulations. Proposed standards or amendments to them must first be submitted to the Johnson County Planning Commission for approval, disapproval, or suggestions.

The Johnson County Board of Commissioners will approve or disapprove such standards or amendments to them at their next regularly scheduled and/or called meeting. Standards and amendments to them shall become effective upon approval by the Johnson County Board of Commissioners, the public welfare requiring it.

**SECTION 12.** This act shall have no effect unless it is approved by a two-thirds ( $\frac{2}{3}$ ) vote of the county legislative body of Johnson County. Its approval or non-approval shall be proclaimed by the presiding officer of such body and certified by him to the Secretary of State.

**SECTION 13.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 12.

Passed: April 21, 1997.

## Mobile Home Parks

## Private Acts of 1997 Chapter 38

**SECTION 1. PURPOSE AND SCOPE** The purpose of these regulations is to provide areas within the confines of Johnson County outside the city limits of Mountain City for the location and development of planned mobile home parks. These areas shall be developed and located so as to provide safe and sanitary living conditions for mobile home occupants and to be convenient to employment, shopping centers, schools and other community facilities. **SECTION 2. DEFINITIONS**

1. "Mobile home" means a detached single-family dwelling unit with all of the following characteristics:

- a. Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
  - b. Designed to be transported after fabrication on its own wheels, or on flatbeds or other trailers or detachable wheels.
  - c. Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connection to utilities, and the like.
2. "Mobile Home Park" means any plot of ground containing a minimum of two (2) acres upon which three (3) or more mobile homes are located or are intended to be located, but does not include sites where unoccupied mobile homes are on display for sale. A mobile home park cannot be developed on a site that is less than two (2) acres in size.
  3. "Buffer Strip" means a planted material or other material as may be approved by the Johnson County Planning Commission which will provide a screen not less than six (6) feet in height.
  4. "Health Officer" means the health officer of Johnson County, Tennessee or his authorized representative.

**SECTION 3.** It shall be unlawful for any person to place or maintain three (3) or more mobile homes for living or sleeping purposes on any premises or tract of land in Johnson County outside the city limits of Mountain City unless they are contained within a planned mobile home park duly permitted and pursuant to the provisions of these regulations.

**SECTION 4.** The Johnson County Planning Commission shall grant approval of a mobile home park when all the provisions of this ordinance have been met. An application and all accompanying plans and supporting data shall be filed in duplicate with the Planning Commission at least seven (7) days prior to a regular meeting of the commission.

**SECTION 5.** The owner or lessee of the land parcel proposed for a mobile home park shall submit a plan for development to the Johnson County Planning Commission for approval. This plan shall show:

1. The park plan drawn to scale.
2. The area and dimensions of the proposed park.
3. The location and width of all driveways and walkways.
4. The location and dimensions of any proposed service buildings and structures.
5. The location of all water and sewer lines.
6. The location of all equipment and facilities for refuse disposal and other park improvements.
7. A plan for drainage of the park.
8. A certificate of accuracy signed by the surveyor or engineer that the boundary survey is correct.
9. A certificate and signature of the health officer.
10. A certificate for Planning Commission approval.
11. Any other information deemed pertinent by the Planning Commission.

#### **SECTION 6. MINIMUM STANDARDS**

1. The site shall be located on a well-drained and flood-free site with proper drainage.
2. The site shall not be exposed to objectionable smoke, noise, odors, insect or rodent harborage or other adverse influences.
3. The site shall be located with direct access to an open public street.
4. The Planning Commission may attach special conditions and safeguards to protect both the occupants of the park and the occupants of surrounding property from such elements as noise, light and dust. Where required to serve these ends, walls, planting, surfacing or other material or artificial means for protection may be required as a part of such special conditions.
5. The mobile home park shall contain not more than five (5) individual mobile home spaces per gross acre.
6. Service buildings shall be of permanent construction, adequately ventilated and lighted.
7. An approved water supply and sewer shall be provided to each mobile home space. Piping and connections shall be as specified and approved by the county health officer.

8. The Planning Commission shall determine if common areas are needed. If required, the area shall contain a minimum of five hundred (500) square feet for mobile home space, exclusive of roadways, mobile home spaces and parking spaces.
9. All service buildings shall be convenient to the spaces which they serve and shall be maintained in a clean and sanitary condition.
10. The drives, walks, and parking areas shall be paved with hard surface material which shall be not less than double bituminous surface.
11. Roadways shall be a minimum of twenty (20) feet in width.
12. Entrances and exits to the mobile home park shall be designed for safe and convenient movement of traffic into and out of the park, and shall be located and designed as prescribed by the Johnson County Planning Commission.
13. Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, shrubs, and pedestrian walks.
14. The park shall be adequately lighted. At the discretion of the Planning Commission on all sizable mobile home parks, all interior drives and walkways within the park shall be lighted at night with security lights.
15. Each mobile home shall be set back a minimum of thirty (30) feet from any public street and a minimum of fifteen (15) feet from all property lines.
16. Each mobile home park shall provide at least two (2) off-street parking spaces for each mobile home unit. The parking spaces shall be located for convenient access to the mobile home units.
17. All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free from any conditions that will menace the health of any occupant or the public or constitute a nuisance.
18. Fire hydrants will be required if sufficient size water lines are available to serve the hydrants.
19. In each mobile home park, the duly authorized attendant or caretaker shall be charged at all times to keep the mobile home park, its facilities and equipment in a clean, orderly, safe and sanitary condition.
20. It shall be unlawful for any person to maintain or operate a mobile home park within the Johnson County Planning Region, unless such person first obtains approval from the Johnson County Planning Commission.

#### **SECTION 7. ENFORCEMENT**

1. Any person or persons who willfully neglects or refuses to comply with any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty (\$50.00) for each offense. Each day of violations shall constitute a separate offense.

**SECTION 8. REVIEW POWERS OF THE COMMISSION** Any of the foregoing regulations may at the discretion of the Johnson County Planning Commission be waived for good and sufficient reasons. However, all mobile home park requests shall be submitted to the commission for review and shall be accompanied by a mobile home park development plat. The Planning Commission shall review all mobile home park plans for preliminary and final approval.

Expansion of existing mobile home parks shall be submitted to the Johnson County Planning Commission for approval and must conform to the standards set forth in these regulations.

**SECTION 9. CONFLICT WITH OTHER ORDINANCES** In case of conflict between these regulations or any part thereof, and the whole or part of any existing or future ordinance of Johnson County, Tennessee, the most restrictive shall in all cases apply.

#### **SECTION 10. VALIDITY**

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

**SECTION 11.** This act shall have no effect unless it is approved by a two-thirds ( $\frac{2}{3}$ ) vote of the County Legislative Body of Johnson County. Its approval or nonapproval shall be proclaimed by the Presiding Officer of the County Legislative Body of Johnson County and certified to the Secretary of State.

**SECTION 12.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon



being approved as provided in Section 11.

Passed: April 23, 1997.

## Mountain Ridge Protection Act

### Private Acts of 1996 Chapter 197

**SECTION 1.** This act shall be known and may be cited as "The Mountain Ridge Protection Act of Johnson County."

**SECTION 2.** As used in this act, unless the context otherwise requires:

(a) "Crest of a protested mountain ridge" means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two (2) sides to a lower elevation, has an elevation of three thousand feet (3000'), and has an elevation which is five hundred (500) or more feet above the elevation of an adjacent valley floor.

(b) "Map" means any drawing or document based on information provided by the United States Geological Survey.

**SECTION 3.** No building in Johnson County may protrude more than thirty-five feet (35') above the crest of a protected mountain ridge. This restriction applies to the uppermost portion of the roof and not protuberances such as chimneys, flag poles or like, nor does it include equipment used for the transmission of electricity, communications or other public utilities.

**SECTION 4.** A map identifying the crests of protected mountain ridges within Johnson County shall be filed with the Board of County Commissioners and with the Register of Deeds in Johnson County where it will be made available for inspection during regular business hours.

**SECTION 5.** It is the intent and purpose of this act to grant the Governing Body of Johnson County the authority to enforce the provisions of this act through a five hundred dollar (\$500) civil penalty to be assessed for each separate violation. In addition, any person injured by a violation or any person who resides in the county may bring a civil action against the person alleged to be in violation. The General Sessions Court, in issuing any final order, may award all costs of litigation to the plaintiff in any case in which the plaintiff prevails.

**SECTION 6.** This act shall have no effect unless it is approved by a two-thirds ( $\frac{2}{3}$ ) vote of the Legislative Body of Johnson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Legislative Body of Johnson County and certified by him to the Secretary of State.

**SECTION 7.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 6.

Passed: April 24, 1996.

## Planning and Zoning

### Private Acts of 1937 Chapter 904

**SECTION 1. *Grant of Power.*** That the Quarterly County Courts of counties coming under the provisions of this Act are hereby empowered, in accordance with the conditions and the procedure specified in the subsequent sections of this Act, to regulate, in the portions of counties which lie outside of municipal corporations, the location, height, and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes.

**SECTION 2. *Regional Zoning to be Preceded by and Based on Plans Submitted by Regional Planning Commission.*** That from and after the time when the Regional Planning Commission of the planning region defined and created by the State Planning Commission makes and certifies to the Quarterly County Court of any county located in whole or part in such region a zoning plan, including both the text of a zoning resolution and [sic] the zoning maps, representing the recommendation by districts or zones of the location, height and size of buildings and other structures, the percentage of lots that may be occupied,

the sizes of yards, courts and other open spaces, the density and distribution of population, the location and uses of buildings and structures for trade, industry, residence, recreation or other purposes and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes, then such County Court may, by resolution, exercise the powers granted in Section 1 of this Act and, for the purpose of such exercise, may divide the territory of the county which lies within said region but outside of municipal corporations into districts of such number, shape or area as it may determine and within such districts may regulate the erection, construction, alteration and uses of buildings and structures and the uses of land.

All such regulations shall be uniform for each class or kind of buildings throughout any such district, but the regulations in one district may differ from these in other districts. The Regional Planning Commission may take and certify a single plan for all the territory of the county within said region but outside of municipal corporations, or may make and certify separate and successive plans for parts of such territory which it deems to be suitable for urban or non-urban development or which for other reasons it deems to be an appropriate territorial unit for a zone plan; and correspondingly any ordinance enacted by the County Court may cover and include the said whole territory of the county which lies within said region but outside of municipal corporations covered and included in any such single plan or in any such separate and successive plans. No resolution covering more or less than the entire area covered by any such certified plan shall be enacted or put into effect until or unless it be first submitted to the Regional Planning Commission and be approved by said commission or, if disapproved, receive the favorable vote or not less than two-thirds of the entire membership of said County Court.

**SECTION 3. *Purposes of Zoning Regulations.*** That such regulations shall be designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the State of Tennessee in the counties covered by the provisions of this Act, including, among other things lessening congestion in the roads or reducing the wastes of excessive amount of roads, securing safety from fire and other dangers; promoting adequate light and air; preventing on the one hand excessive concentrations of population and; on the other hand, excessive and wasteful scattering of population or settlement; promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunity, recreation, soil fertility, food supply and the protection of both urban and non-urban development.

**SECTION 4. *Method of Procedure.*** That after the certification of a zone plan from the Regional Planning Commission and before the enactment of any such zoning resolution the County Court shall hold a public hearing thereon of the time and place of which at least thirty (30) days notice, shall be given by one publication in a newspaper of general circulation in the county. Such notice shall state the place at which the text and maps as certified by the planning commission may be examined. No change in or departure from the text or maps as certified by the Regional Planning Commission shall be made, unless such change or departure be first submitted to the certifying planning commission for its approval, disapproval or suggestions, and if disapproved, shall receive the favorable vote of a majority of the entire membership of the County Court; and the planning commission shall have thirty days from and after such submission within which to send its report to the County Court. Any such ordinance shall be published at least once in the official newspaper of the county or in a newspaper of general circulation in the county, and shall not be in force until it is so published.

**SECTION 5. *Amendments.*** That the County Court may from time to time amend the number, shape, boundary, area or any regulation of or within any district or districts or any other provision of any zoning resolution but any such amendment shall not be made or become effective unless the same be first submitted for approval, disapproval or suggestions to the Regional Planning Commission of the region in which the territory covered by the resolution is located, and, if such Regional Planning Commission disapproves within thirty (30) days after such submission, such amendment shall require the favorable vote of a majority of the entire membership of the County Court. Before finally adopting any such amendment, the County Court shall hold a public hearing thereon, at least thirty (30) days notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the county; and any such amendment shall be published at least once in the official newspaper of the county or in a newspaper of general circulation in the county.

**SECTION 6. *Board of Appeals.*** That the County Court of any county which enacts zoning regulations under the authority of this Act shall create a County Board of Zoning Appeals of three or five members. The County Court shall be the appointing power of the members of such Board of Appeals and may fix their compensation and their terms, which terms shall be of such length and so arranged that the term of one member will expire each year. The County Court may remove any member for cause upon written charges and after a public hearing.

Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. The County Court may appoint associate members of said board, and, in the event that any regular member be temporarily unable to act owing to absence from the county, illness, interest in a case before the board, or other cause, his place may be taken during such temporary disability by an associate member designated for the purpose by the County Court. The County Court of two or more counties may, by resolution enacted by both or all of them, arrange and provide for a joint or common Board of Zoning Appeals.

The County Court may provide and specify, in its zoning or other resolution, general rules to govern the organization, procedure and jurisdiction of said Board of Appeals, which rules shall not be inconsistent with the provisions of this Act; and the said board may adopt supplemental rules of procedure, not inconsistent with this Act or such general rules.

The zoning resolution may provide that the Board of Appeals may, in appropriate cases and subject to appropriate principles, standard, rules, conditions and safeguards set forth in the resolution, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. The County Court may also authorize the Board of Appeals to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions as they arise in the administration of the zoning regulations.

Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer, department or board of the county affected, by any grant or withholding of a building permit or by any other decision of a building commissioner or other administrative official based in whole or part upon the provisions of any resolution under this Act. The Board of Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by the County Building Commissioner or any other administrative official in the carrying out or enforcement of any resolution enacted pursuant to this Act.
2. To hear and decide, in accordance with the provisions of any such resolution; requests for special exceptions or for interpretation of the map or for decisions upon their special questions upon which such board is authorized by any such resolution to pass.
3. Where, by reason or exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to said property, a variance from such district application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning resolution.

**SECTION 7. *Building Commissioner.*** That the County Court may provide for the enforcement of its zoning regulations by means of the withholding of building permits and, for such purpose, may establish and fill a position of County Building Commissioner and may fix the compensation attached to said position. From and after the establishment of such position and the filling of same, it shall be unlawful to erect, construct, reconstruct, alter or use any building or other structure without obtaining a building permit from such County Building Commissioner and such Building Commissioner shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration or use fully conform to all zoning regulations then in effect.

**SECTION 8. *Other Enforcement and Remedies.*** That it shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any regulation in or of any provision of any resolution or any amendment thereof enacted or adopted by any County Court under the authority of this Act. Any person, firm or corporation violating any such regulation or provision or any provision of this Act shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law. Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used or any land is or is proposed to be used in violation of this Act or of any regulation or provision enacted or adopted by any County Court under the authority granted by this Act, such County Court, the Attorney General, the District Attorney for the judicial circuit in which such violation occurs or is threatened, the County Building Commissioner or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent or enjoin or abate or

remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

**SECTION 9. *Conflict with Other Laws.*** That wherever the regulations made under authority of this Act require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or less number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute, the provisions of the regulations made under authority of this Act shall govern. Whenever the provisions of any other statute require a greater width of size of yards, courts or other open spaces, or require greater percentage of lot to be left unoccupied, or impose other higher standards that are required by the standards that are required by the regulations made under authority of this Act, the provisions of such statute shall govern.

**SECTION 10.** That, for the purpose of this Act, "Regional Planning Commission" means the Regional Planning Commission established by the State Planning Commission as authorized by law; provided further, that where the word county or County Court appears in this Act either or both shall be construed to include only counties within a planning region as officially designated by the State Planning Commission, having a population of at least twelve thousand two hundred (12,200) and not more than twelve thousand two hundred fifty (12,250); provided, further, that the population of a county or of counties shall be determined by reference to the Federal Census of 1930 or any subsequent Federal Census.

**SECTION 11.** That this Act shall not be construed as repealing or modifying any provision of any Private Act heretofore enacted relating to the powers of any county therein designated or of any municipality therein designated to enact zoning regulations in such county or in territory lying outside of such municipality.

**SECTION 12.** That should any section or provision of this Act, be held to be unconstitutional, the same shall not affect the validity of this Act as a whole or any part thereof other than the part so held to be unconstitutional.

**SECTION 13.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: May 19, 1937

## Private Acts of 1976 Chapter 257

**SECTION 1.** No action of the regional planning commission for Johnson County which affects the property rights of any real property owner in the county or which affects property owned or under the control of Johnson County shall become effective unless it is approved by majority vote of the Quarterly County Court of Johnson County.

**SECTION 2.** This act shall have no effect unless it is approved by a two-thirds ( $\frac{2}{3}$ ) vote of the Quarterly County Court of Johnson County before December 1, 1976. Its approval or nonapproval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

**SECTION 3.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

Passed: March 10, 1976.

## Private Acts of 1997 Chapter 61

**SECTION 1.** The County Legislative Body of Johnson County may by resolution call for an advisory referendum at the regular August election of 1998. The question on the ballot of such election shall be substantially as follows:

Should Johnson County formulate its own land use planning or zoning plan?

Yes \_\_\_\_\_  
No \_\_\_\_\_

The County Legislative Body of Johnson County may place a brief statement of the purpose of the referendum preceding the question on the ballot. Such statement shall not exceed two hundred (200) words.

**SECTION 2.** This act shall have no effect unless it is approved by a two-thirds ( $\frac{2}{3}$ ) vote of the Legislative Body of Johnson County. Its approval or nonapproval shall be proclaimed by the Presiding Officer of the Legislative Body of Johnson County and certified to the Secretary of State.

**SECTION 3.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon

becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

Passed: May 21, 1997.

## Administration - Historical Notes

### **County Legislative Body**

The following act once applied to the quarterly court or the county legislative body of Johnson County and is included herein for historical purposes.

1. Private Acts of 1921, Chapter 921, provided that the compensation for justices of the peace attending a regular or special session of the Johnson County Quarterly County Court be \$4.00 for each day's attendance.

### **County Trustee**

The following act once affected the office of county trustee in Johnson County, but is no longer operative.

1. Private Acts of 1933, Chapter 53, required the Johnson County Trustee to collect all delinquent land taxes, at his own expense.

### **General References**

The following private or local acts constitute part of the administrative and political history of Johnson County but are today no longer operative because they have either been superseded, repealed, or failed to receive local approval.

1. Private Acts of 1867-68, Chapter 54, authorized the Johnson County Court to subscribe to the capital stock in Home Mineral R. R. Company, up to an amount of \$25,000.
2. Private Acts of 1897, Chapter 174, directed the comptroller to issue a warrant upon the treasurer of the state for \$100 in favor of Isaac R. Love for the arrest and conviction of J. Frank Tinker, who was charged with the murder of Crockett Carter.
3. Private Acts of 1921, Chapter 679, enabled the trustees of cemeteries, cemetery corporations and other cemetery organizations in Johnson County to condemn land for burial purposes.
4. Private Acts of 1949, Chapter 597, required coal truck drivers to have weight tickets or be subject to a fine up to \$50 for each offense.

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