

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOHNSON CITY, TEXAS AMENDING AND REPLACING CHAPTER 1 *GENERAL PROVISIONS* OF THE CITY CODE OF ORDINANCES; REPEALING ARTICLES 1.09, 1.10, 1.11 AND 1.12 OF THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Johnson City ("City") enacted Chapter 1 *General Provisions* ("Ordinance") of the City's Code of Ordinances ("Code") in 1950, with subsequent amendments throughout the years; and

WHEREAS, the City Council finds that revisions and upgrades to the Ordinance are necessary in order to make the Ordinance more accessible and understandable by rearranging the sections into a more logical order, and using a format and numbering system to facilitate understanding and to accommodate future expansions, eliminate duplicative, expired, and other ineffective provisions, and restate provisions in conformance with current Texas statute; and

WHEREAS, a topic-by-topic revision of the Ordinance achieves the objectives described above without substantive change to the original intent of the original provisions of the Ordinance; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOHNSON CITY, TEXAS THAT:

ARTICLE 1. FINDINGS OF FACT. The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE 2. REPEAL OF SELECT ARTICLES OF MUNICIPAL CODE OF ORDINANCES, CHAPTER 1. *GENERAL PROVISIONS*. The City Council of the City of Johnson City hereby repeals the following Articles of Chapter 1 *General Provisions* of the City's Code of Ordinances in their entirety, referenced in "Attachment B", attached hereto:

- 1) Article 1.09 *Historic Preservation*
This Article regarding zoning of historic areas in the City will be moved to Chapter 14 *Zoning*, Article 14.02 *Zoning Ordinance* of the City's Code of Ordinances.
- 2) Article 1.10 *Visitor and Tourism Bureau*
This Article regarding the creation and operation of a Visitor Bureau is no longer relevant, as the Bureau has been defunct and superseded by a Visitor Information Center operated pursuant to Texas Tax Code Chapter 351.101 *Municipal Hotel Occupancy Taxes*.

3) Article 1.11 *Discrimination*

This Article outlining policies regarding housing discrimination is not necessary. Federal law applies in housing matters and supersedes City ordinance.

4) Article 1.12 *Events*

This Article regarding the requirement for a permit for an event will be moved to Chapter 4. *Business Regulation*, Article 4.03 *Peddlers, Solicitors, Public Vendors and Special Events* of the City's Code of Ordinances.

ARTICLE 3. AMENDMENT AND ADOPTION OF CHAPTER 1. GENERAL PROVISIONS. The City Council of the City of Johnson City hereby amends and replaces, and adopts as amended and replaced, Chapter 1 *General Provisions* of the City's Code of Ordinances, as depicted in "Attachment A", attached hereto and incorporated fully herein for all intents and purposes and to read as contained therein.

ARTICLE 4. REPEALER. All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

ARTICLE 5. SEVERABILITY. Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE 6. CODIFICATION. The City Secretary is directed to submit these revisions and amendments to Chapter 1 of the City's Code of Ordinances for publication and codification.

ARTICLE 7. EFFECTIVE DATE. This Ordinance shall be effective immediately upon passage and approval.

PASSED AND APPROVED by a majority vote of the City Council of the City of Johnson City, Texas on the 2nd day of November, 2021.

APPROVED:

Rhonda Stell
Mayor

ATTEST:

Whitney Walston
City Secretary

**AMENDMENT AND ADOPTION OF
CHAPTER 1. GENERAL PROVISIONS**

The City Council of the City of Johnson City hereby amends, and adopts as amended, Chapter 1 *General Provisions* of the City's Code of Ordinances, as depicted herein and to read as follows:

CHAPTER 1 GENERAL PROVISIONS
ARTICLE 1.01 CODE OF ORDINANCES

Sec. 1.01.001 Adoption

There is hereby adopted the Code of Ordinances of the City of Johnson City, Texas.

Sec. 1.01.002 Designation and Citation of Code

The ordinances embraced in this Chapter and the following Chapters, Articles, and Sections shall constitute and be designated the “Code of Ordinances, City of Johnson City, Texas,” and may be so cited.

Sec. 1.01.003 Catchlines of Articles, Divisions, and Sections

The catchlines of the several Articles, Divisions, and Sections of this Code are intended as mere catchwords to indicate the contents of the Article, Division, or Section and shall not be deemed or taken to be titles of such Articles, Divisions, and Sections, nor as any part of the Articles, Divisions, and Sections, nor, unless expressly so provided, shall they be so deemed when any of such Articles, Divisions, and Sections, including the catchlines, are amended or reenacted.

Sec. 1.01.004 Definitions and Rules of Construction

In the construction of this Code and of all ordinances and resolutions passed by the City Council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council. Words shall be construed in their common and usual significance, unless the contrary is clearly indicated.

City. The City of Johnson City, Texas.

Computation of Time. When a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

Council; City Council; the Council. The City Council, the governing body of the City of Johnson City, Texas.

County; this County. The County of Blanco, Texas.

Delegation of Authority. Whenever a provision of this Code of Ordinances requires or authorizes an officer or employee of the City to do some act or perform some duty, it shall be construed to authorize such officer or employee to designate, delegate, and authorize subordinates to perform the act or duty, unless the terms of the provision specifically designate otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, associations, and

corporations, as well as to males.

Joint Authority. Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

May. The word “may” is permissive.

Month. A calendar month.

Must; Shall. Each is mandatory.

Number. Any word importing the singular number shall include the plural, and any word importing the plural number shall include the singular.

Oath. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and, in such cases, the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

Official time standard; CST. Central standard time or daylight-saving time, as may be in current use in the City.

Or; And. The word “or” may be read “and,” and the word “and” may be read “or,” as the sense requires it.

Owner. Part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

Person. An association, corporation, firm, partnership, organization, business trust, estate, trust, and body politic and corporate, as well as an individual.

Preceding; Following. Next before and next after, respectively.

Signature; Subscription. A mark by a person who cannot write.

State. The State of Texas.

Tense. Words used in the past or present tense include the future, as well as the past and present.

V.T.C.A. Vernon’s Texas Statutes Annotated.

Year. A calendar year or fiscal year as indicated in context.

Sec. 1.01.005 Severability of Parts of Code

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and, if any phrase, clause, sentence,

paragraph, or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code, since the same would have been enacted by the City Council without the incorporation in the Code of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Sec. 1.01.006 Repeal of Ordinances

The repeal of an Ordinance or any portion thereof shall not repeal the repealing clause of an Ordinance or revive any Ordinance which has been previously repealed.

Sec. 1.01.007 Amendments or Additions to Code

All Ordinances of a general and permanent nature, and amendments to such Ordinances, hereafter enacted or presented to the City Council for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of Ordinances. Amendments to this Code shall be made by reference to the Chapter and Section of the Code which is to be amended, and additions shall bear an appropriate designation of Chapter, Article, and Section; provided, however, the failure to do so shall in no way affect the validity or enforceability of such Ordinances.

Sec. 1.01.008 Conflicts

Whenever the standards and specifications in any Code provision conflict with those contained in another Code provision, the most stringent or restrictive provision shall govern unless otherwise specified.

Sec. 1.01.009 General Penalty for Violations of Code; Continuing Violations

(a) Whenever in this Code or in any ordinance of the City an act is prohibited, or is made or declared to be unlawful, an offense, or a misdemeanor, or, whenever in this Code or such ordinance, the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such Ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00).

(b) A fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, including the dumping of refuse, may not exceed two thousand dollars (\$2,000.00).

(c) Unless otherwise specifically stated in this Code, any violation of this Code or of any Ordinance that is punishable by a fine that does not exceed five hundred dollars (\$500.00) does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense. Unless otherwise specifically stated in this Code, any violation of this Code or of any Ordinance that is punishable by a fine that exceeds five hundred dollars (\$500.00) shall require a culpable mental state.

(d) No penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the State.

(e) Unless otherwise stated in this Code or in any Ordinance, each day any violation of this

Code or of any Ordinance shall continue shall constitute a separate offense.

(f) In the event that any such violation is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the City. In addition to the penalty prescribed above, the City may pursue other remedies, such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

ARTICLE 1.02 AUTHORITY AND POWERS

DIVISION 1. GENERAL

Sec. 1.02.001 Form of Government

- (a) The provisions of Title 28 of the Revised Civil Statutes of Texas, 1925, now Title 2 of the Texas Local Government Code Organization of Municipal Government (1987), insofar as its provisions are applicable to the Town of Johnson City, are hereby adopted and accepted.
- (b) Hereafter the Town of Johnson City, Texas, shall be known as the City of Johnson City, Texas.
- (c) The City of Johnson City shall be a Type A General Law municipality.

Sec. 1.02.002 General Powers of the City

The City shall have all the powers granted to cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution all the powers granted by law. The City may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the City and its citizens, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violations of any ordinance enacted by the City; and, except as prohibited or restricted by the Constitution and laws of this State and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever as statutorily authorized.

Sec. 1.02.003 Specific Powers

- (a) Eminent Domain. The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of this State. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes as authorized by statute.
- (b) Zoning, in General. The City Council shall have full power and authority to zone the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority given to cities and legislative bodies thereof by V.T.C.A., Local Government Code, Title 7, Subtitle A and Title 12, Subtitle A, as now or hereafter amended.
- (c) Annexation Authority. The City shall have the authority to annex areas in accordance with Chapter 43 (Municipal Annexation) of the Texas Local Government Code, as revised.

Secs. 1.02.004–1.02.010 Reserved

DIVISION 2. USE OF OFFICIAL CITY SEAL AND OTHER INSIGNIA

Sec. 1.02.011 Purpose

The purpose of this Division is to specify the permissible uses for the City seal, logo, emblem, motto, website banner, and other City insignia of the City.

Sec. 1.02.012 Definitions

<i>City.</i>	The City of Johnson City.
<i>Emblem.</i>	The emblem, including current and retired emblems, which serves as a graphic representation of the City; and the logo adopted by individual City departments as a graphic representation of that department, including the Police Department.
<i>Logo.</i>	The graphic logo, including current and retired logos, which serves as a graphic representation of the City; and the logo adopted by individual City departments as a graphic representation of that department, including the Police Department.
<i>Motto.</i>	The motto of the City, including current and retired mottos.
<i>Other City insignia.</i>	In addition to the official seal, logo, emblem, motto, and website banner, any other intellectual property right owned by the City, including current and retired property rights, and including the names of City facilities and City departments.
<i>Seal.</i>	The seal of the City, including current and retired seals.
<i>Website banner.</i>	The website banner that appears across the top of the City's official websites, including current and retired banners and City department websites.

Sec. 1.02.013 Custody

The City Secretary of the City shall have custody of the official City seal, logo, emblem, website banner, and other City insignia.

Sec. 1.02.014 Use of City Seal and Other City Insignia

(a) The use of the official City seal, logo, emblem, motto, website banner, and other City insignia shall be solely for purposes directly connected with the official business of the City and for those matters expressly approved by the City Council.

(b) The use of the official City seal, logo, emblem, motto, website banner, and other City insignia for purposes other than official City business may be approved by City Council and is limited to nonofficial City purposes in which the City is a co-sponsor of the activity or event to which the City seal or other insignia will apply.

(c) An applicant may request use of the City seal, logo, emblem, motto, website banner, and other City insignia for nonofficial City purposes by submitting a completed application form and fee to the City for approval forty-five (45) days prior to use. Denial of an application by the City Council is final. Approvals remain in effect during the duration of the event or activity, but not beyond one (1) year after approval. On the expiration of one (1) year, an application shall be resubmitted for approval.

(d) Use of reproductions, photographs, drawings, or facsimiles of the official City seal, logo, emblem, motto, website banner, or other City insignia, including any design closely resembling the official City seal, logo, emblem, motto, website banner, or other City insignia, for purposes other than official City business is strictly prohibited and unlawful.

(e) The names of City facilities shall be used in accordance with their official purposes.

Sec. 1.02.015 Offense; Penalties

(a) Offense. A person who violates this Division commits a misdemeanor offense. A person violating any provision of this Division is subject to prosecution for criminal violations, as well as suit for injunctive relief.

(b) Criminal and civil penalties.

(1) Criminal prosecution. A person violating any provision of this Division shall, upon conviction, be fined a sum of \$500.00. Each day that a provision of this Division is violated shall constitute a separate offense. An offense under this Division is a misdemeanor.

(2) Civil remedies. Nothing in this Division shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Division and to seek remedies, as allowed by law, including, but not limited to, the following:

(A) Injunctive relief to prevent specific conduct that violates this Division or to require specific conduct that is necessary for compliance with this Division;

(B) A civil penalty up to \$500.00 a day when it is shown that the defendant was notified of the provisions of this Division and, after receiving notice, committed acts in violation of this Division or failed to take action necessary for compliance with the Ordinance; and

(C) Other available relief.

ARTICLE 1.03 CITY COUNCIL

DIVISION 1. GENERAL

Sec. 1.03.001 Member Number; Election; Term

The City Council shall be composed of the Mayor and five (5) Council members. The Mayor and all Council members shall be elected at large, and each Council member shall occupy a seat on the City Council. The Mayor and Council members shall be elected in staggered elections to serve for two (2) year terms. Two Council members shall be elected in odd-numbered years. Three Council members shall be elected in even-numbered years. The top vote-getters in a Council election shall be declared elected for the seats up for election. The Mayor shall be elected in odd-numbered years in a separate election. The candidate receiving a plurality vote shall be declared elected.

Sec. 1.03.002 Mayor; Mayor Pro-tem; Council Qualifications; Pay

(a) In accordance with Texas Local Government Code Section 22.042, as amended, the Mayor shall serve as chief executive officer of the City and see that all ordinances, laws, and resolutions of the City Council are faithfully obeyed and enforced. The Mayor shall be the chairman of and shall preside at all meetings of the City Council. The Mayor shall, when authorized by the City Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, contracts, and bonds. The Mayor shall perform such other duties consistent with State law or as may be imposed upon him or her by the City Council.

(b) The Mayor Pro-tempore shall be a Council member elected by the City Council at the first regular City Council meeting following each regular City election. The Mayor Pro-tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights conferred upon the Mayor, but shall retain the authority to vote on propositions before the Council.

(c) Qualifications. In addition to any other qualifications prescribed by law to qualify for running for office and during the term of office, the Mayor and each Council member shall reside within the City limits while in office.

(d) The Mayor shall be entitled to an annual salary of \$10,000.00, payable in the same manner as City Staff. Each Councilmember shall be entitled to a payment of \$10 per City Council meeting attended in each calendar year, payable in December of each year. The Mayor and Council members shall be entitled to reimbursement for all necessary expenses incurred in the performance of their official council duties. Neither Council members nor the Mayor shall be considered employees of the City.

Sec. 1.03.003 Investigative Body; Document Review

(a) The City Council shall have the power to inquire into the official conduct of any department, agency, office, or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The City Council shall have the authority to impose penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence.

(b) Members of the City Council shall be entitled to review City documents, except for personnel confidential information, upon request

Secs. 1.03.004–1.03.010 Reserved

DIVISION 2. MEETINGS AND RULES OF PROCEDURE

Sec. 1.03.011 Applicability; Suspension of Rules

The following rules and order of business shall apply at Council meetings. A majority of Councilmembers may vote to suspend the rules for a meeting.

Sec. 1.03.012 Types of Meetings

Four types of meetings are recognized:

(1) **Regular Meeting.** Regular meetings will be held on the first Tuesday of each month at 6:00 p.m. CST in the Council Room at City Hall. Regular meetings shall be open to the public, unless designated for a confidential Executive Session in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551. Notice of the meeting and agenda must be posted in accordance with State law, and minutes of such meetings will be maintained. The public is welcome to attend; however, the public will not participate in discussions, unless invited by the Mayor or Councilmembers or during a Public Hearing or Citizens to be Heard. The Council may hear reports, but it may not deliberate or take action on any matter unless that matter is posted on an agenda as an item for consideration.

(2) **Special Meeting.** Special meetings are subject to call by the Mayor, Chief Administrative Officer, or three (3) Council members. Except in unusual circumstances, special meetings will be held at City Hall at a stated time. Special meetings shall be open to the public, unless designated for a confidential Executive Session in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551. Notice of the meeting and agenda must be posted in accordance with State law, and minutes of such meetings will be maintained. The public is welcome to attend; however, the public will not participate in discussions, unless invited by the Mayor or Council members or during a Public Hearing or Citizens to be Heard. The Council may hear reports, but it may not deliberate or take action on any matter unless that matter is posted on an agenda as an item for consideration. The purpose of such meetings is to act upon matters of such a nature that should not be delayed until a regular meeting. If a special meeting is called, each Council member, the City Secretary and the City Attorney must be notified of the special meeting no later than the time of posting.

(3) **Workshop.** Workshop meetings are subject to call by the Mayor, Chief Administrative Officer, or three (3) Council members. The time, place, and purpose will be stated at each instance. Workshop meetings shall be open to the public. Notice of the workshop and agenda must be posted in accordance with State law, and minutes of such meetings will be maintained. The public is welcome to attend; however, the public will not participate in discussions, unless invited by the Mayor or Council members. The purpose of such meetings shall be to hear reports and to discuss in depth matters of interest to the City as posted on the workshop agenda. No official action will be taken at

such meetings.

(4) **Emergency Meeting.** If an emergency or urgent public necessity arises, the City Council may hold an emergency meeting on a matter provided that notice is posted for at least one hour before the meeting is convened. The notice must clearly identify the emergency or urgent public necessity. Emergency items may be added to a previously posted agenda as late as one (1) hour before a meeting, as authorized in State law.

Sec. 1.03.013 Quorum

Three City Council members, excluding the Mayor, shall constitute a quorum for the purpose of transaction of business, except at a special meeting or meeting to consider the imposition of taxes where four Council members, excluding the Mayor, shall constitute a quorum. No action taken by the City Council shall be valid or binding unless a quorum is present.

Sec. 1.03.014 Agenda

(a) **Preparation of agenda.** The Mayor, Chief Administrative Officer, Council members, or City Attorney may submit agenda items in writing. The submission must be in writing, specific, and contain an explanation of the purpose of the item and its financial effect on the City. Agenda items must be submitted to the City Secretary by 9:00 a.m. CST the Tuesday prior to the regular Tuesday meeting. Except for emergency items, items submitted after that time will be held over until the next Council meeting, unless good cause is shown for inclusion at the requested meeting.

(b) **Distribution of agenda packets.** City Staff shall endeavor to complete agenda posting and packets for all regular meetings the Friday preceding the meetings. Agendas and packets will be e-mailed to Council, with hard copies delivered by the Police Department.

(c) **Posting agenda.** The City Secretary is responsible for posting the agenda at public spaces at City Hall in compliance with the Texas Open Meetings Act.

(d) **Posting deadline.** No action can be taken on any item, unless that item has been posted on a meeting agenda and the agenda is posted at City Hall and on the City's website at least seventy-two (72) hours prior to the meeting, or, for an emergency item, at least one (1) hour prior to the meeting.

Sec. 1.03.015 Minutes and Recordings

(a) The City Secretary shall keep minutes of all meetings. The minutes will note the attendance of each elected official, City staff member, and guests who registered their attendance.

(b) The minutes will include notes on the agenda topics, speakers, key points, and action taken, if any, and will not be a verbatim recording of all discussions. A Council member who desires to have his/her verbatim statement included as a part of the minutes shall provide a typed copy of the statement to the City Secretary prior to presentation to be attached to the minutes.

(c) Copies of the minutes will be included in the agenda packets distributed to the Council

for review and approval.

(d) Each meeting shall be digitally recorded, and the recordings preserved in accordance with the records retention policy of the City.

Sec. 1.03.016 Rules of Procedure

(a) Robert's Rules of Order. For all Council meetings, Robert's Rules of Order will be followed as practicable unless suspended by a majority vote by the Council.

(b) Presiding officer. The Mayor shall be the presiding officer at all meetings of the City Council and have a voice in all of its proceedings, but shall have no vote except in the event of a tie vote by the Council. In the event of the absence of the Mayor, the Mayor Pro Tempore shall be the presiding officer and shall be able to vote in all matters. In the event of the absence of the Mayor and Mayor Pro Tempore, the Council members shall select one of its members to preside over that meeting.

(c) Call to order. All meetings will begin promptly at the hour stated and shall proceed upon declaration of a quorum.

(d) Conformance to agenda. The presiding officer shall follow the agenda as published; however, the presiding officer may address items out of order, subject to the approval of the Council, should such change facilitate guests or other factors.

(e) Presentation of agenda items. Agenda items will be presented by the individual who placed the item on the agenda. In the event that the individual requesting an item to be on the agenda is absent and an alternate presenter is not designated, the item may be tabled and placed on the subsequent Council meeting.

(f) Council action.

(1) It is the policy of the City Council to permit introduction of an item and discussion prior to making a motion for action (in lieu of the rule in Robert's Rules of Order requiring a motion to act prior to any discussion of any item on the agenda). After discussion, the Council will act by approving or disapproving a motion or tabling an item. In the event that there is no motion or a second to a motion, no action will be deemed taken and the matter is deemed moot.

(2) Council action is valid upon an affirmative vote by a majority of the members of the City Council present and voting at the meeting. There may be situations, however, in which the presiding officer concludes after discussion that there is a consensus on the matter among the Council, and the issue does not require an official, formal vote. The presiding officer shall state for the record the determination of the Council (*i.e.*, hearing no objection, so ordered).

Sec. 1.03.017 Debate and decorum

(a) Speaker recognition. When a measure is presented to the Council for consideration, the presiding officer shall recognize the appropriate individual to present the case.

(b) Citizen presentation on agenda items. A guest speaker who will speak on a posted agenda item shall address City Council when called by the presiding officer. Upon being recognized,

the speaker shall move to and speak from the podium. The speaker shall identify herself or himself by name, address, and the agency represented, if applicable. The speaker shall remain at the podium until dismissed by the presiding officer.

(c) Debate. Debate procedures, including speaker recognition and order of speaking among Council members, shall be in accordance with Robert's Rule of Order. Debate or comments from any who have not been recognized shall not be permitted.

(d) Time limits. A Council member shall speak no more than a total of five minutes on any question or amendment to the question at any one time. A member may use his time in any combination, in separate speech, or comments totaling the number of minutes permitted. The Council may allow additional time upon request by the member and an affirmative vote. A councilmember may yield a portion of his time to another member.

(e) Calling the question. The procedure for calling the question shall be that as outlined in Robert's Rules of Order.

(f) Interruptions. No Council member shall be permitted to interrupt another member who is speaking except to make a point of order or to make a point of personal privilege. Interruptions shall be silenced by voice, use of the gavel, or other means. Failure to heed the directions of the presiding officer may result in the removal of the individual from the Council Chambers.

(g) Language. No Council member or other presenter shall indulge in personalities, use personally offensive language, question motives of members, charge deliberate misrepresentation, or use language tending to hold a member up to contempt. Failure to cease may result in the removal of the individual from the Council Chambers or in the case of a Council member may subject the member to censure.

Sec. 1.03.018 Citizens to be heard; Public hearings.

(a) Agenda items. An individual may address Council on any matter not on the agenda during the public comment segment of the agenda entitled "Citizens to be heard". For a posted agenda item, the presiding officer may allow an individual to speak on the agenda item during its presentation during the meeting. An individual may address Council on an item which has been posted for a public hearing.

(b) Sign-up and time limits. Prior to addressing Council, an individual must complete a speaker's card and indicate the subject that he will address. A person will be allowed to speak upon recognition by the presiding officer. A speaker is limited to three (3) minutes total for his public comments. This time is not cumulative; in other words, the total time is for all topics addressed by a speaker and not three minutes per topic. This time is not transferable. Additional time may be granted by Council upon motion and an affirmative majority vote. Placards, banners, or any other type of sign are not allowed in the Council Chamber.

(c) The public is welcome and invited to attend Council meetings, however, the number admitted shall be limited to the fire safety capacity of the Council Chamber.

ARTICLE 1.04 RESERVED

ARTICLE 1.05 OFFICERS AND EMPLOYEES

DIVISION 1. MUNICIPAL OFFICERS

Sec. 1.05.001 Office of City Secretary

The Office of City Secretary is established. The City Council shall appoint a City Secretary as authorized by Texas Local Government Code Section 22.071, as amended, for an indefinite period. The City Secretary shall perform the duties prescribed by Texas Local Government Code Sections 22.072 and .073, as amended, and shall perform such other duties as required of him or her by the City Council under the supervision of the Chief Administrative Officer. The City Secretary shall furnish a surety bond to the City in an amount not less than \$100,000, or as required by the City Council by Ordinance or resolution, the premium to be paid by the City.

Sec. 1.05.002 City Attorney

The City Council shall appoint as a municipal officer, in accordance with Texas Local Government Code Section 22.071, as amended, a duly licensed attorney practicing law in the State of Texas to serve as the City Attorney. The City Attorney shall receive for his or her services such compensation as may be fixed by the City Council and shall hold office for an indefinite period. The City Attorney, or such other attorneys selected by the City Attorney with the approval of the City Council, shall represent the City in all litigation. The City Attorney shall be the legal advisor of, and attorney and counsel for, the City and all elected officials, employees, and departments thereof and shall be responsive to the City Council.

Sec. 1.05.003 Municipal Court Judge

The City Council shall appoint as a municipal officer, a Municipal Court Judge of the Municipal Court of the City as authorized by Texas Local Government Code Section 22.071, as amended. The judge of said court shall serve for a two-year term and shall perform all duties described in Texas Government Code Section 30.006, as amended, for the City's court of record. The judge shall be responsive to the City Council and shall not be employed by the City. The City Council shall have the power to create and appoint additional judges as provided by law.

Secs. 1.05.004–1.05.010 Reserved

DIVISION 2. ORGANIZATION AND PERSONNEL

Sec. 1.05.011 Organization

(a) **Organization Chart.** The City's organizational structure shall be as depicted in the City's Organizational Chart contained in the City's Personnel Policy. The chart shall rank Citizens first, followed by the City Council and Mayor. The CAO, City Attorney, and Municipal Judge shall be shown responsive to the Council. The City Secretary and Department Heads and City personnel shall be shown under the direction of the CAO.

(b) **Updates.** The Organization Chart shall be reviewed annually during the budget process and revised, if necessary, to allow for the provision of efficient municipal services and to accommodate budget appropriations.

Sec. 1.05.012**Chief Administrative Officer**

(a) Selection. The City Council shall select an individual with necessary qualifications established by the City Council to serve as Chief Administrative Officer (CAO) of the City. The CAO shall function as an assistant to the Mayor and City Council and will assume such administrative duties and responsibilities as directed and assigned by the Mayor and City Council. The CAO shall be responsive to and act under the direction and at the pleasure of the Mayor and City Council.

(b) Duties. The CAO shall be responsible for the proper administration of all the affairs of the City and shall supervise day-to-day operations of all departments of the City as depicted in the City's organizational chart. The CAO shall see that all State laws and City ordinances are followed and enforced. In addition to the performance of duties as assigned by Mayor and Council, the CAO may suspend or remove any City employee if necessary, including a department head; however, the suspension or removal of a department head is subject to review and approval of the Council. The CAO will attend and participate in Council meetings; prepare and administer the annual budget; and will submit monthly, quarterly, and annual financial reports to the Council.

(c) Exempt full-time position; Bond. The CAO position is a full-time, exempt, at-will position with compensation commensurate with experience and qualifications as set by the City Council. The CAO shall be bonded in an amount not less than \$100,000, the premium to be paid by the City. The CAO need not reside in the City.

Sec. 1.05.013**Administrative Departments and Personnel**

(a) Departments established. There shall be such administrative departments established by the City Council and as depicted in the organizational chart of the City. The City Council may discontinue, redesignate, or combine any of the departments and/or administrative offices as needed upon recommendation of the CAO.

(b) Department head. Each department shall have a department head who shall be a director and have supervision and control over the operations of the department. The department head shall be under the direction of the CAO. Two or more departments may be headed by the same individual and the CAO may head one or more departments.

(c) Personnel. Personnel positions within each department shall be those as depicted in the annual budget of the City. Positions shall be filled by the CAO upon recommendation of the department head.

(d) At-will status. All personnel of the City, including department heads and the CAO, are classified as at-will employees as described in the City's Personnel Policy.

ARTICLE 1.06 EMERGENCY MANAGEMENT

DIVISION 1. GENERAL

Sec. 1.06.001 National Incident Management System Adopted

The City Council hereby adopts the National Incident Management System, as amended.

Secs. 1.06.002–1.06.030 Reserved

DIVISION 2. EMERGENCY MANAGEMENT PROGRAM

Sec. 1.06.031 Operational Organization

(a) In accordance with State law, the Mayor shall be Emergency Management Director of the City.

(b) An Emergency Management Coordinator may be appointed by the Director with Council approval and serve at the pleasure of the Director.

(c) The Director shall be responsible for a program of comprehensive emergency management within the City and for carrying out the duties and responsibilities set forth in this Division. He/she may delegate authority for execution of these duties to the Coordinator, but ultimate responsibility for such execution shall remain with the Director.

(d) The operational emergency management organization of the City shall consist of the officers and employees of the City and organized volunteer groups so designated by the Director in the Emergency Management Plan. The functions and duties of this organization shall be in accordance with the terms of the Emergency Management Plan.

Sec. 1.06.032 Powers and Duties of Emergency Management Director

The duties and responsibilities of the Emergency Management Director shall include the following:

(1) Conduct an ongoing survey of actual or potential hazards that threaten life and property within the City and an ongoing program of identifying, requiring, or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.

(2) Supervision of the development and approval of an Emergency Management Plan for the City, and shall recommend for adoption by the City Council all mutual aid arrangements deemed necessary for the implementation of such Plan.

(3) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period more than seven (7) days except by or with the consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

(4) Issuance of necessary proclamations, regulations, or directives which are necessary for carrying out the purposes of this Division. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring the contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede,

promptly filed with the City Secretary.

(5) Direction and control of the operations of the City emergency management organization, as well as the training of emergency management personnel.

(6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the City.

(7) Liaison to other municipal, County, district, State, regional or Federal emergency management organizations.

(8) Marshaling of all necessary personnel, equipment, or supplies from any department of the City to aid in the carrying out of the provisions of the Emergency Management Plan.

(9) Supervision of the drafting and execution of mutual aid agreements, in cooperation with representatives of the State, County, and other local political subdivisions, for the coordination of emergency management efforts.

(10) Supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions, which may be offered for the purpose of improving emergency management within the City.

(11) Authorizing agreements, after approval by the City Attorney, for use of private property for public shelter and other purposes.

(12) Survey of the availability of existing personnel, equipment, supplies, and services which could be used during a disaster, as provided for herein.

(13) Other requirements, as specified in the Government Code, Chapter 418, the Texas Disaster Act of 1975.

Sec. 1.06.033 Emergency Management Plan

A comprehensive Emergency Management Plan shall be developed and maintained in a current state. The Plan shall set forth the form of the organization; establish and designate divisions and functions; assign responsibilities, tasks, duties, and powers; and designate officers and employees to carry out the provisions of this Division. As provided by State law, the Plan shall follow the standards and criteria established by the Texas Department of Emergency Management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the Plan and to maintain their portion of the Plan in a current state of readiness at all times. The Emergency Management Plan shall be considered supplementary to this Division and have the effect of law during the time of a disaster.

Sec. 1.06.034 Interjurisdictional program

The Mayor is hereby authorized to join with the County Judge and the Mayors of the other cities in the County in the formation of an interjurisdictional emergency management program for the County, and shall have the authority to cooperate in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a County-wide program of emergency management insofar as said program may affect the City.

Sec. 1.06.035 Override

At all times when the orders, rules, and regulations made and promulgated pursuant to this Division shall be in effect, they shall supersede and override all existing Ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

Sec. 1.06.036**Liability**

This Division is an exercise by the City of its governmental functions for the protection of the public peace, health, and safety, and neither the City, the agents and representatives of the City, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with, or attempting to comply with any order, rule, or regulation promulgated pursuant to the provisions of this Division, shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the City a license or privilege or otherwise permits the City to inspect, designate, and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack or natural or man-made disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for loss of, or damage to, the property of such person.

Sec. 1.06.037**Commitment of funds**

No person shall have the right to expend any public funds of the City in carrying out any emergency management activity authorized by this Division without prior approval by the City Council, nor shall any person have any right to bind the City by contract, agreement, or otherwise without prior and specific approval of the City Council, unless during a declared disaster. During a declared disaster, the Mayor may expend and/or commit public funds of the City when deemed prudent and necessary for the protection of health, life, or property.

Sec. 1.06.038**Offenses; Penalties**

(a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this Division.

(b) It shall likewise be unlawful for any person to wear, carry, or display any emblem, insignia, or any other means of identification as a member of the emergency management organization of the City, unless authority to do so has been granted to such person by the proper officials.

(c) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this Division and shall be subject to the penalties imposed by this Division.

(d) Convictions for violations of the provisions of this Division shall be punishable by fine not to exceed five hundred dollars (\$500.00).

Sec. 1.06.039**Limitations**

This Division shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.

ARTICLE 1.07 RECORDS MANAGEMENT

Sec. 1.07.001 Definition of Municipal Records.

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristic and regardless of whether public access to them is open or restricted under the laws of the State, created or received by the City of Johnson City, Texas or any of its officers or employees pursuant to law or in the transaction of public business are hereby declared to be the records of the City of Johnson City, Texas and shall be created, maintained, and disposed of in accordance with the provisions of this Ordinance or procedures authorized by it and in no other manner.

Sec. 1.07.002 Additional Definitions

Department head The officer who by Ordinance or administrative policy oversees an office of the City of Johnson City, Texas that creates or receives records.

Essential record A record of the City of Johnson City, Texas necessary to the resumption or continuation of its operations in an emergency or disaster, to the re-creation of its legal and financial status, or to the protection and fulfillment of obligations to the people of the State.

Permanent record A record of the City of Johnson City, Texas for which the retention period on a records control schedule is given as permanent.

Records control schedule A document prepared by or under the authority of the Records Management Officer listing the records maintained by the City of Johnson City, Texas, their retention periods, and other records disposition information that the records management program may require.

Records management Application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Records management officer The person designated in Section 1.07.005 of this Article.

Records management plan The plan developed under Section 1.07.006 of this Article.

Retention period The minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Sec. 1.07.003 Municipal Records Declared Public Property

All municipal records as defined in Sec. 1.07.001 of this Article are hereby declared to be the property of the City of Johnson City, Texas. No municipal official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

Sec. 1.07.004 Policy

It is hereby declared to be the policy of the City of Johnson City, Texas to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all municipal records through a comprehensive system of integrated procedures for their management from creation to ultimate disposition, consistent with the requirements of Texas Local Government Code Chapters 201 through 205, the Local Government Records Act and accepted records management practice.

Sec. 1.07.005 Designation of Records Management Officer

The City Secretary, and the successive holders of said office, shall serve as the Records Management Officer for the City of Johnson City, Texas. As provided by State law, each successive holder of the office shall file his or her name with the director and librarian of the Texas State Library within thirty days of the initial designation or of taking up the office, as applicable.

Section 1.07.006 Records Management Plan to be Developed; Approval of Plan; Authority of Plan.

(a) The Records Management Officer shall develop a records management plan for the City of Johnson City, Texas for submission to the City Council. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the municipality, and to properly preserve those records of the municipality that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by State law and this Ordinance effectively.

(b) Once approved by the City Council, the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the City of Johnson City, Texas and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

(c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this Ordinance and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the City of Johnson City, Texas.

Sec. 1.07.007 Duties of Records Management Officer

In addition to other duties assigned in this Article, the Records Management Officer shall:

- (1) Administer the records management program and aid department heads in its

implementation;

- (2) Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- (3) In cooperation with department heads, identify essential records and establish a disaster plan for each municipal office and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
- (4) Develop procedures to ensure the permanent preservation of the historically valuable records of the City;
- (5) Establish standards for filing, storage equipment, and recordkeeping supplies;
- (6) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the City of Johnson City, Texas;
- (7) Monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and the municipality's records control schedules follow State regulations;
- (8) Disseminate to the City Council and department heads information concerning State laws and administrative rules relating to local government records;
- (9) Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the records of the City of Johnson City, Texas are carried out in accordance with the policies and procedures of the records management program and the requirements of State law;
- (10) Maintain records on the volume of records destroyed under approved records control schedules or through records destruction authorization requests, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;
- (11) Report annually to the City Council on the implementation of the records management plan in each department of the City of Johnson City, Texas, including summaries of the statistical and fiscal data compiled under Subsection (10); and
- (12) Bring to the attention of the City Council non-compliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act.

Sec. 1.07.008 Duties and Responsibilities of Department Heads

In addition to other duties assigned in this Ordinance, Department Heads shall:

- (1) Cooperate with the Records Management Officer in carrying out the policies and procedures established in the City of Johnson City, Texas for the efficient and economical management of records and in carrying out the requirements of this Ordinance;
- (2) Adequately document the transaction of government business and the services, programs, and duties for which the department head and his or her staff are responsible; and
- (3) Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the City and the requirements of this Ordinance.

Sec. 1.07.009 Records Control Schedules to be Developed; Approval; Filing with State

- (a) The Records Management Officer, in cooperation with department heads, shall prepare

records control schedules on a department by department basis listing all records series created or received by the department and the retention period for each series. Records control schedules shall also contain such other information regarding the disposition of municipal records as the records management plan may require.

(b) Each records control schedule shall be monitored and amended as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the State and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the City.

(c) Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head and the City Council.

(d) Before its adoption, a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by State law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the director and librarian.

Sec. 1.07.010 Implementation of Records Control Schedules; Destruction of Records under Schedule

(a) A records control schedule for a department that has been approved and adopted under Section 1.07.009 shall be implemented by department heads according to the policies and procedures of the records management plan.

(b) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending lawsuit, or the department head requests in writing to the Records Management Officer that the record be retained for an additional period.

(c) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the City Council.

Sec. 1.07.011 Destruction of Unscheduled Records

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the director and librarian an approved destruction authorization request.

Sec. 1.07.012 Adoption of Local Retention Schedules

The City Council of the City adopts the following Texas State Library and Archives Commission local retention schedules: Schedules EL, GR, HR, LC, PS, PW, TX, and UT.

ARTICLE 1.08 FINANCES

Sec. 1.08.001 Fiscal Year

The fiscal year for the City shall begin on the 1st day of October of each calendar year and shall terminate on the last day of September of the next succeeding calendar year.

Sec. 1.08.002 Investment Policy

Ordinances and resolutions adopting and amending the City's Investment Policy and Strategy shall be maintained on file in the Office of the City Secretary.

REPEAL OF SELECT ARTICLES OF CODE OF ORDINANCES CHAPTER 1. GENERAL PROVISIONS

The City Council of the City of Johnson City hereby repeals the following Articles of Chapter 1 General Provisions of the City's Code of Ordinances in their entirety:

- 1) Article 1.09 Historic Preservation
- 2) Article 1.10 Visitor and Tourism Bureau
- 3) Article 1.11 Discrimination
- 4) Article 1.12 Events

ARTICLE 1.09 HISTORIC PRESERVATION

Sec. 1.09.001 Definitions

Historic district. An area which has outstanding historical and cultural significance in the state, region or community, within which the buildings, structures, accessory buildings, fences, or other appurtenances are of basic and vital importance for the development of culture and tourism because of their association with history, including:

- (1) Historic structures, sites or areas within which the buildings, structures, appurtenances, and places exemplify the cultural, political, economic or social history of the state, region or community.
- (2) Historic structures, sites or areas that are identified with the lives of historic personages or with important events in state, regional or local history.
- (3) Structures or areas that embody the distinguishing characteristics of an architectural type specimen as to color, proportion, form and architectural details.

Historic landmark. A place which has outstanding historical and cultural significance in the nation, region or community. The designation "historic landmark" recognizes that the historic place, or the building(s), structure(s), accessory building(s), fences or other appurtenances at the place, are of basic and vital importance for the preservation of culture and the development of tourism.

Sec. 1.09.002 Designation of historic districts and historic landmarks

(a) Designation of historic districts. The city council may from time to time designate certain areas in the city as historic districts, and define, amend or eliminate the boundaries of same. Such districts shall bear the word "Historic" in their zoning designation. Such designation shall be in addition to any other zoning district designation established in the zoning ordinance. All zoning maps shall reflect the historic district by the letter "H" as a suffix to the use designated.

(b) Criteria for designation of historic district. In making the designation of an area as a historic district, the city council shall consider one or more of the following criteria:

- (1) Character, interest or value as part of the development, heritage or cultural characteristics of the city;
- (2) Location as the site of a historical event;
- (3) Embodiment of distinguishing characteristics of an architectural type or specimen;
- (4) Relationship to other distinctive buildings, sites, districts or structures which are historically significant and preserved, or which are eligible for preservation;
- (5) Unique location of singular physical characteristics represents an established and familiar visual feature of a neighborhood, community or the city;
- (6) Value as an aspect of community sentiment of public pride;
- (7) Identification with a person or persons who significantly contributed to the

development or culture of the city.

(c) Designation of historic landmarks. The city council may from time to time designate certain places in the city as historic landmarks. Such places shall bear the word "Historic" in their zoning designation. Such designation shall be in addition to any other zoning district designation established in the zoning ordinance. All zoning maps shall reflect the historic landmark by the letter "H" as a suffix to the use designated.

(d) Criteria for designation of historic landmark. In making the designation of a place as a historic landmark, the city council shall follow the procedures set forth in subsection (b) of this section.

Sec. 1.09.003 Historic review board

(a) Creation; composition. The planning and zoning commission of the city shall serve as the historic review board, hereinafter the "board." In addition to its planning and zoning duties, the commission shall assume all duties and perform all functions of the board as contained and described in this article. All references to the "review board," or "historic review board" or the "board" in this article are to the planning and zoning commission.

(b) Functions. The board shall act in an advisory capacity only, and shall have no power to bind the city by contract or otherwise. It shall be the function of the board to advise the city council concerning all applications for certificates of review in historic districts or historic landmarks.

Sec. 1.09.004 Certificate of review required; procedures

(a) No person or entity shall install, construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of any historic landmark or of any building or structure located within a historic district unless application is made for a certificate of review and such a certificate is granted by the city council.

(b) The applicant shall submit to the board an application in writing for a certificate of review that includes data and information as required by the city council, including but not limited to the following:

- (1) Name of the applicant and the property owner;
- (2) Mailing address of the applicant and permanent address of the property owner;
- (3) Location of the property to be altered or repaired;
- (4) A detailed description of the nature of the proposed external alteration or repair to be completed;
- (5) The intended and desired starting date and completion date of the alterations or repairs to be made;
- (6) A drawing or sketch of the proposed external alteration, if applicable.

(c) Applications that are incomplete or not in compliance with the city building code, restrictions and other city ordinances shall be returned to the applicant for completion and compliance.

(d) If the review board determines that the application involves ordinary repair or maintenance, or alteration, change, restoration, or removal of any exterior architectural feature of a building or structure which does not involve significant changes in the architectural or historic value, style, general design or appearance, they shall within seven (7) days approve the application and forward a copy of the application and approval to the mayor, or to the mayor pro tem if the mayor is not available. The mayor or the mayor pro tem shall within three (3) business days either approve the review board decision or call for a meeting of the city council to consider the application. If the mayor or mayor pro tem does not take any action within three (3) business days, it shall be deemed that such person has approved the board's decision.

(e) If the review board determines that the application involves an alteration, change,

restoration, removal or demolition of an external architectural feature of a building or structure which involves a significant change in the architectural or historic value, style, general design or appearance, they shall refer the application to the city council and call for a meeting of the city council to consider the application. The city council shall hold a meeting to consider the application within forty (40) days after receipt of a completed application. The applicant shall be given written notice of the time and place of the meeting. Notice of the meeting shall be published in the official newspaper of the city at least five (5) days prior to such meeting. The city council may hold any additional meetings it considers necessary to carry out its responsibilities under this article. The applicant or his agent shall attend at least one meeting of the city council during which his application is considered. The council shall make its decision within sixty (60) days after receipt of a completed application unless the city council and applicant mutually agree to extend the period of review. If action is not taken within sixty (60) days after receipt of a completed application, it shall be deemed that the council approves the application.

(f) The project will be inspected by a representative of the city periodically and must conform to all submitted and approved plans and specifications.

(g) Notwithstanding anything in this section to the contrary, the city council shall make its recommendation within one hundred twenty (120) days after receipt of a completed application for a permit to demolish a historic landmark or a building within a historic district, or to move a historic landmark, or to move a building into or out of a historic district.

(h) The city council shall forward its report and recommendation to the applicant.

Sec. 1.09.005 Criteria for action on certificate of review

In determining the recommendation and action on an application for a certificate of review, the historic review board shall consider the following matters:

(1) The effect of the proposed change upon the general historic, cultural and architectural nature of the district or landmark.

(2) The appropriateness of exterior architectural features that can be seen from a public street, alley, or walkway.

(3) The general design, scale, arrangement, texture and material of the building or structure and the relation of such factors to similar features of buildings or structures in the district. The criteria shall not be the aesthetic appeal to the board of the structure or the proposed remodeling but rather its conformity to the general character of the particular historic area involved.

(4) All signs shall be in keeping with the character of the historic district or landmark.

(5) The value of the historic district or landmark as the area of unique interest and character shall not be impaired.

(6) The general and specific Standards for Rehabilitation and Guidelines for Applying the Standards for Rehabilitation as issued by the Secretary of the Interior.

(7) The importance of finding a way to meet the current needs of the property owner, and the importance of approving plans that will be economically reasonable for the property owner to carry out.

Sec. 1.09.006 Reports and recommendations by board

(a) The board shall make an annual report to the city council on the state of historic preservation in the city and shall include in the report a summary of its activities for the past year and a proposed program for the next year.

(b) The board shall have the further responsibility of recommending to the city council, the planning and zoning commission, and city departments the adoption of policies, the sources of funds, and designation of historic districts and historic landmarks that may further the city's

preservation effort.

Sec. 1.09.007 Violations; penalty

(a) It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, relocate, restore, demolish, raze, or maintain any building, structure, accessory building, fence or other appurtenance in a historic district or historic landmark in violation of the provisions of this article, and proper city officials, or their duly authorized representatives, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful construction, reconstruction, structural alteration, remodeling, renovation, restoration, relocation, demolition, razing or maintenance, to restrain, correct, or abate such violation, and to prevent any illegal act, conduct, business or maintenance in and about such premises; each day such violation continues shall constitute a separate violation.

(b) Any person, firm or corporation violating any provision of this article shall be guilty of a misdemeanor, and each shall be deemed guilty of a separate offense for each day or portion thereof during which any violation hereof is committed, continued or permitted, and upon conviction any such violation shall be punishable by a fine not to exceed two hundred dollars (\$200.00).

ARTICLE 1.10 VISITOR AND TOURISM BUREAU

Sec. 1.10.001 Established as department of city

The city visitor and tourism bureau (hereinafter called "bureau") is hereby established as a separate and distinct department of the city, which will be subject to the following.

Sec. 1.10.002 Purpose

The bureau's purpose is to conduct a continuing program to promote tourism and visitorship for the city; it shall advertise and conduct solicitations and promotional programs to attract tourists, convention delegates or registrants and other visitors to the city or its vicinity and the attractions, historic sites, and museums of the city and its vicinity, to advise the city in matters related to the tourist-derived economy, to conduct any and all activities related thereto, including but not limited to the employment of persons or organizations, the publishing and promotion of materials, attending travel shows and other events, the conduct of activities, the provision and maintenance of office space and the granting of funds or aid to others, and to do all other things for which funds are permitted to be expended by the laws of the state.

Sec. 1.10.003 Organization; supervision by council

The governing body of the bureau shall be the city council. The council shall hire and fire all persons employed by the bureau, not including those hired temporarily as contractors for a specific purpose by the bureau, shall from time to time establish rules and policies for the bureau as it shall see fit, may delegate any authority to the bureau's employees for the conduct of the bureau's affairs, and shall generally oversee the operations of the bureau.

Sec. 1.10.004 Budget; accounts

(a) The fiscal year of the bureau shall coincide with the fiscal year of the city. An annual budget for each fiscal year shall be approved by the city council prior to the beginning of such fiscal year, and expenditures made in accordance with such budget; any deviation must be approved by the city council prior to any expenditure.

(b) All funds received by the bureau shall be placed and maintained in accounts separate from those of any other city accounts and [the city] shall not commingle that revenue with any other money or maintain it in any other account. Complete and accurate records of each expenditure of local hotel occupancy tax revenue shall be kept and shall be available for inspection and review.

ARTICLE 1.11 DISCRIMINATION

Division 1. Generally

Secs. 1.11.001–1.11.030 Reserved

Division 2. Fair Housing

Sec. 1.11.031 Definitions

As used in this division, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context requires otherwise:

Age. The calendar age of an individual eighteen (18) years of age or over.

Creed. Any set of principles, rules, opinions and precepts formally expressed and seriously adhered to or maintained by a person.

Director. The housing officer or authorized assistant.

Discriminatory housing practice. An act which is unlawful under this division.

Dwelling. Any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one or more persons 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.

Family. A single individual or a group of individuals living together under one common roof.

Major life activities. Functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Marital status. An individual's status as a single, married, divorced, widowed or separated person.

Parenthood. A person's status as a parent or legal guardian of a child or children under the age of eighteen (18).

Person. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Physical or mental handicap. Any physical or mental impairment which substantially limits one or more major life activities.

Physical or mental impairment. Shall include:

- (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or
- (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Senior adult. A person fifty-five (55) years of age or older.

To rent. To lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

Sec. 1.11.032 Interpretation and effect

This division shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under title VIII of the Civil Rights Act of 1968, as amended, or the federal Equal Credit Opportunity Act (15 U.S.C. 1691). All aggrieved parties shall retain the rights granted to them [pursuant] to title VIII of the Civil Rights Act of 1968, as amended, and the federal Equal Credit Opportunity Act. In construing this division, it is the intent of the city council that the courts shall be guided by federal court

interpretations of title VIII of the Civil Rights Act of 1968, as amended, and the federal Equal Credit Opportunity Act, where appropriate.

Sec. 1.11.033 Discrimination in sale or rental of housing

Except as exempted by [this division] it shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.
- (2) To discriminate against any person in the terms, conditions, or privileges of a sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.
- (3) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood [or age], or an intention to make any such preference, limitation or discrimination.
- (4) To represent to any person because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

Sec. 1.11.034 Discrimination in housing financing

It shall be unlawful for any bank, building and loan association, insurance company, or other person whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood or age of such person or such person associated therewith or because of the race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood or age of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

Sec. 1.11.035 Discrimination in providing brokerage service

It shall be unlawful for any person to deny another person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling and renting dwellings, or to discriminate against another person in the terms or conditions of such access, membership or participation, on account of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood or age.

Sec. 1.11.036 Unlawful intimidation

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because such individual, group, or business has complied with

the provisions of this division or has exercised in good faith rights under this division, or has enjoyed the benefits of this division, or because such individual, group, or business has made a charge in good faith, testified in good faith or assisted in good faith, in any manner, in any investigation or in any proceeding hereunder or has made any report to the director.

Sec. 1.11.037 Exemptions and exclusions

(a) Nothing in this division shall apply to:

(1) Any single-family house sold or rented by an owner, provided that:

(A) Such private individual owner does not own more than three (3) single-family houses at any one time;

(B) If the owner does not reside in the house at the time of the sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period;

(C) Such bona fide private individual owner does not own any interest in, nor is there owned or reserved on such person's behalf, under any express [or] voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time;

(D) The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(E) The sale or rental is made without the publication, posting or mailing of any advertisement or written notice in violation of this division, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

(2) 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 actually maintains and occupies one of such living quarters as his residence.

(b) For the purposes of subsection (a), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(c) Nothing in this division shall prohibit a religious organization, association or society or a 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 race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood or age.

(d) Nothing in this division shall prohibit a private club, not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates

for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members, or from giving preference to its members.

(e) Nothing in this division shall bar any person from owning and operating a housing accommodation in which rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

(f) Nothing in this division shall prohibit the sale, rental, lease or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless the sale, rental, lease or occupancy is further restricted on account of race, color, creed, religion, sex, and marital status.

(g) Nothing in this division shall bar a person who owns, operates or controls rental dwellings, whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child or children; provided, however, in the event that said reserved area is completely leased or rented, the person owning, operating or controlling said rental dwelling may not refuse to rent or lease any other available dwelling to the prospective tenant on the basis of the tenant's status as parent or any other of the protected classifications set forth in this division.

Sec. 1.11.038 Violations

No person shall violate any provision of this division, or knowingly obstruct or prevent compliance with this division.

Sec. 1.11.039 Responsibility for enforcement

The director shall have the responsibility of administering and implementing this division. The director may delegate the authority to investigate and conciliate complaints to other designated city employees.

Sec. 1.11.040 Complaints

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereinafter referred to as the "charging party") may file a written complaint with the director. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based.

(b) The director shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of title VIII, Fair Housing Act of 1963, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to subsection (a) of this section.

(c) All complaints shall be filed within one hundred eighty (180) days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the director shall provide notice of the complaint by furnishing a copy of such complaint to the persons named therein (hereinafter referred to as the "respondent") who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The respondent may file an answer to the complaint within fifteen (15) days of receipt of the written complaint. A complaint shall be deemed received when deposited in the U.S. mail in Texas addressed to the address listed on the county tax rolls for the property concerning which the complaint was filed if against an owner or possessor of property or addressee or the last known address of any other respondent.

Sec. 1.11.041 Investigation and conciliation

(a) Upon the filing or referral of a complaint as herein provided, the director shall cause to be made a prompt and full investigation of the matter stated in the complaint; provided, however, that before any charge becomes accepted for investigative purposes, the director or an investigator shall have personally reviewed with the charging parties the allegations contained therein and shall have determined that said charge comes within the provisions of this division. In the event such review results in the determination that particular charge does not come within the provisions of this division, the charging party shall be given notice that it does not.

(b) If the director determines that there is not probable cause to believe that a particular alleged discriminatory housing practice has been committed, the director shall take no further action with respect to that alleged offense.

(c) During or after the investigation, but subsequent to the mailing of the notice of complaint, the director may, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice, and to obtain adequate assurance of future voluntary compliance with the provisions of this division. No offers of settlement may be made public by the director, the city council, the investigator, the conciliator, the charging party, or the respondent, or be used as evidence in a subsequent proceeding, without the written consent of all persons concerned.

(d) Upon completion of an investigation, where the director has made a determination that a discriminatory housing practice has in fact occurred, if the director is unable to secure from the respondent a conciliation agreement acceptable to the director, then the director shall refer the case to the city attorney for prosecution in municipal court or to other agencies as appropriate. With such recommendation of the director, the director shall refer his entire file to the city attorney. The city attorney shall, after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court.

Sec. 1.11.042 Penalty

If a discriminatory housing practice is found to have in fact occurred and the case has been referred to municipal court, the respondent shall be assessed a penalty of \$300.00 upon conviction.

ARTICLE 1.12 EVENTS

Sec. 1.12.001 Title

This article shall be known as the “event permit ordinance.”

Sec. 1.12.002 Definitions

Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

Applicant. The person, group, business or entity submitting an application for a permit for an event.

City designee. The person or official designated by the city to receive and approve an application for a parade, rally, or event permit.

Event. A planned occasion or activity that occurs in a certain place during a particular interval of time; an event includes a parade, rally, or recreational street use.

Float. Any type of vehicle, motorized and otherwise, for use during a parade, including, but not limited to, cars, trucks, vans, buses, motorcycles, sports utility vehicles (SUVs) or trailers that are pulled by either motorized or nonmotorized vehicles.

Parade. Any march or procession consisting of people, animals, vehicles (motorized or nonmotorized), floats or a combination thereof, except funeral processions, upon any public street or alley, which does not comply with the normal or usual traffic controls.

Rally. A mass meeting of people making a political protest or showing support for a cause.

Recreational street use. The use of a public street or alley for an event that would involve closing a portion of a street, including, but not limited to, block parties, festivals and similar recreational events, both charitable and noncharitable, which do not comply with normal or usual traffic controls.

Repeat event. One event, the same which is repeated on a regular basis throughout a calendar year, e.g., Market Days.

Sponsor. Individual who or entity which organizes the event or underwrites a part or whole of the expense of staging an event through contributions in cash or in-kind, and promotes its involvement during the sponsored event.

Sec. 1.12.003 Permit required; exceptions

(a) An event permit shall be required for each event occurring on a public street, public facility, or public property, including city parks, in the city.

(b) A person or organization promoting or sponsoring an event involving the proposed use of a public street, public facility, or public property, including city parks, shall apply for and obtain a permit for such activity from the city.

(c) Exceptions. An event permit is not required for:

(1) Funeral processions;

(2) A government agency acting within the scope of its function. Said agency shall provide notice and information on the event to the city via a permit application submitted to the city; or

(3) An event of which the city and/or county (provided advance notice and information of the county event is given via a permit application to the city) is a sponsor.

Sec. 1.12.004 Permit process; application requirements; event requirements; insurance; filing fee; costs

(a) Permit process.

(1) An applicant shall submit a permit application and a permit application fee as established by the city for each event.

- (2) A permit application must be submitted to the city secretary not less than 30 days prior to the proposed date of the event. Where good cause is shown, applications after the deadline may be considered.
 - (3) A permit application for an event for which the primary purpose is to express free speech rights may be submitted not less than five days before the proposed event date.
 - (4) For a repeat event, only one permit application and fee as established by the city for repeat events are required to be submitted. On issuance, a permit shall be valid through the end of the calendar year, December 31st.
 - (5) Decision on approval or denial of a permit shall be issued within 15 business days of receipt of the permit application.
- (b) Application requirements.
- (1) A permit application form must include the following:
 - (A) Name and address of the applicant and/or sponsor of the event;
 - (B) Date(s) and time(s) of the event;
 - (C) Location of the event;
 - (D) Whether the event is to be a repeat event;
 - (E) For a parade, description of the parade route;
 - (F) For a parade, number of floats, if applicable;
 - (G) Size and location of performance stages, booths, tents and other temporary structures or shelters, if applicable;
 - (H) Location of the staging area and/or ending area, if applicable;
 - (I) Name and address of the owner of the location of the staging or ending area to be used, along with a letter from the owner of such site indicating permission to use the location, as well as a statement describing terms and conditions of the agreement to use the location;
 - (J) Request for street closure (if applicable) for city council approval;
 - (K) Description of planned activities;
 - (L) Estimated number of participants;
 - (M) Plan for crowd safety;
 - (N) Plan for security;
 - (O) Description of proposed traffic control;
 - (P) Proof of general liability insurance;
 - (Q) Liquor license information if alcohol to be sold at the event;
 - (R) Peddler application and peddler permit if individual vendors are to participate in the event. An application may be submitted and permit issued at the same time as the event application;
 - (S) Payment of application fee; and
 - (T) Signature of applicant or sponsor.
 - (2) Filing fee; costs charged; deposit.
 - (A) Filing fee.
 - (i) An applicant shall submit with each application a nonrefundable permit application fee in an amount in accordance with the city's fee schedule.
 - (ii) The application fee may be waived for an event co-sponsored by the city, the county, or the Johnson City Independent School District or a qualified local civic organization as determined by the city designee.
 - (B) Costs charged; deposit.
 - (i) Expenses or costs incurred by the city for electricity, water, police security, or other items related to the event shall be charged by the city to the applicant for immediate payment upon receipt of invoice.
 - (ii) Expenses shall also include those costs incurred by the city as a result of the

event for public safety, sanitation, transportation, personnel and resources required to preserve public order and protect public health, safety and welfare and cost of restoration of city property related to any damage or use beyond normal wear and tear, if any.

(iii) Applicant shall be responsible for all costs of clean-up upon the conclusion of the event. An applicant shall be charged for any clean-up costs incurred by the city.

(iv) Charges for costs shall be assessed for each occurrence of the event for a repeat event application.

(v) An applicant shall provide full reimbursement for such costs to the city within 60 calendar days of the conclusion of the event. The assessed reimbursement amount may be appealed to the city council.

(vi) A refundable deposit for estimated costs per event may be required. The deposit may be applied toward payment of city costs. Said deposit may be forfeited for nonpayment of city costs on demand.

(C) Event requirements. To obtain a permit, the applicant must provide for following:

(i) Secure police services, if necessary;

(ii) Adequate sanitation and other required health facilities, if necessary;

(iii) Adequate off-site parking and transfer of attendees and participants;

(iv) Setup of the event in a manner not to prevent or interfere with normal police, fire, or emergency medical service protection nor to interrupt the efficient response of these services;

(v) Setup of the event in a manner not to substantially interrupt the safe and orderly movement of other traffic, both vehicular and pedestrian, near the event; and

(vi) Compliance with any other special conditions imposed by the city.

(D) Liability insurance; indemnity.

(i) General liability insurance shall be required for each event.

(ii) An applicant shall submit with a permit application proof of general liability insurance coverage for the event.

(iii) Such insurance shall be in amounts appropriate for the size and type of event and in amounts as prescribed by the city designee.

(iv) Such insurance shall name the city as an additional insured.

(v) If alcohol is to be sold, insurance coverage must be in the amount of \$1,000,000.00 as liquor liability insurance, in addition to the general liability insurance requirements.

(vi) Proof of insurance may be waived for an event co-sponsored by the city, the county, or the Johnson City Independent School District or other local civic organization as determined by the city designee.

(vii) By submission of an application, applicant agrees to and shall assume full responsibility and liability for and indemnifies, defends and holds the city harmless against all liability, claims for damages, and suits for or by reason of any injury to any person, including death, and damage to any property for every cause in any way connected with the holding of the event, including the preparation, setup, teardown and cleanup. The applicant also agrees to indemnify the city against all charges, expenses and costs, including the city's legal department services incurred on account of or by reason of any such injuries, damages, liability, claims, suits or losses and all damages growing out of the same.

Sec. 1.12.005 Standards for issuance; denial; revocation; appeal

- (a) The city designee shall review each permit application to identify safety issues, traffic concerns, street closures, adjustments to emergency response routes and crowd safety. The city designee shall consult with applicant on additional conditions required, if necessary.
- (b) A permit shall issue upon a showing of compliance by the applicant with the standards and requirements of this article.
- (c) The city may deny a permit only under the following circumstances:
 - (1) The applicant has failed to supply the required information or makes or permits the making of a false or misleading statement or omission of material fact on an application for a permit;
 - (2) The applicant has not paid the required permit fees and deposits;
 - (3) The event will conflict in time and location with another event for which a permit has already been issued;
 - (4) The event will substantially interfere or disrupt the educational activities of a school when such school is in session;
 - (5) There is scheduled maintenance or street closure for construction purposes;
 - (6) The applicant has not met all of the provisions of this article;
 - (7) The event will violate an ordinance of the city or any other applicable law;
 - (8) The applicant has been convicted of violating this article or has had a permit revoked within the preceding 12 months;
 - (9) The applicant has previously failed to pay for costs from a previous permit;
 - (10) The applicant fails to provide proof of a license or permit required by another city ordinance or by state law, e.g. liquor license; or
 - (11) The event would severely hinder or compromise the delivery or performance of normal services, including previously scheduled construction or maintenance services, or emergency services or constitutes a public threat.
- (d) The city designee shall have the authority to deny a permit application or revoke an issued permit for failure to comply with this article.
- (e) An applicant denied a permit may appeal a denial of a permit or revocation of a permit to the city council which shall hear the appeal as soon as possible.

Sec. 1.12.006 Additional terms

- (a) Permit to be exhibited. The applicant or designated representative shall present an issued permit on demand to any city official or police officer.
- (b) Traffic control and signs. The permit holder shall be responsible for traffic control which shall meet the standards contained in the Manual on Uniform Traffic Control Devices (MUTCD) part 6, and/or the requirements contained in Appendix A (attached hereto), whichever is most stringent and to the extent there is no conflict.
- (c) Use of city logo or name. The words "City of Johnson City," or the city's logo or a combination thereof in any manner that would imply an official endorsement of the event by the city shall not be used without written authorization from the city designee.
- (d) Temporary structures. The use of a stage, seating, tent, canopy, or other temporary structure shall meet the city's fire and building code requirements. Fire lanes for emergency equipment must be provided.
- (e) Sanitary facilities. An applicant shall secure portable type sanitary facilities, if required by the city.
- (f) Animal waste. Waste from animals shall be removed immediately after the event.
- (g) Water and/or electric usage; disposal of wastewater.
 - (1) An applicant desiring use of electricity or water from a city line or faucet must submit a deposit as determined by the city and will be billed accordingly for such use.
 - (2) An applicant shall submit a plan for the disposal of wastewater for city approval.

- (h) Solid waste collection. An applicant shall make arrangements for the collection of all waste resulting from the event, including the use of commercial solid waste dumpsters, if determined to be necessary.
- (i) Loudspeakers. Loudspeakers shall be positioned so as not to adversely affect an adjacent residential area and may be used between the hours of 9:00 a.m. and 9:00 p.m. The time may be modified when good cause is shown by the applicant.
- (j) Parking. The city may prohibit or restrict the parking of vehicles along the parade route. It shall be unlawful for any person to park or leave unattended any vehicle in violation of the parking restrictions.
- (k) Police services and security; costs.
 - (1) The city shall determine whether and to what extent police services are reasonably necessary for traffic control and public safety. The preferred ratio is one off-duty police officer for every ten motorized or nonmotorized vehicles or floats in a parade, or for every 100 persons expected to attend the event.
 - (2) The applicant must secure at its expense any additional police services.
 - (3) If additional security is provided by the city, the applicant may be required to provide and pay all costs for security incurred by the city.
 - (4) If the applicant desires to use private security officers, he shall be required to furnish prior to issuance of a permit written evidence from a state certified security agency that arrangements have been made to furnish such security officers at the ratio set forth in this section.

Sec. 1.12.007 Offense; penalty

- (a) A person who violates this article commits an offense. A person violating any provision of this article is subject to prosecution for criminal violations as well as suit for injunctive relief.
- (b) Criminal and civil penalties.
 - (1) Criminal fines. A person violating any provision of this article shall, upon conviction, be fined a sum of \$500.00, and up to \$2,000.00 if the violation also involves fire safety, zoning or public health and sanitation including dumping of refuse. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.
 - (2) Civil penalties. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including, but not limited to, the following:
 - (A) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article
 - (B) A civil penalty up to \$500.00 a day when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and
 - (C) Other available relief.

Sec. 1.12.008 Fee schedule

- (a) Permit application - Single day(s) event: \$75.00.
 - (1) This is nonrefundable.
 - (2) The application fee may be waived for an event co-sponsored by the city, the county, or the Johnson City Independent School District or a qualified local civic organization as determined by the city designee.
- (b) Permit application - Repeat event: \$150.00.
 - (1) This is nonrefundable.

- (2) The application fee may be waived for an event co-sponsored by the city, the county, or the Johnson City Independent School District or a qualified local civic organization as determined by the city designee.
- (c) Costs for security provided by city: TBD.
 - (1) Calculated at hourly rate of one off-duty police officer for every ten motorized or nonmotorized vehicles or floats in a parade, or for every 100 persons expected to attend the event.
 - (2) Costs are required per event, including repeat events.
- (d) Deposit estimate for city services: TBD.
 - (1) A deposit may be required to cover related costs for materials and services provided by the city such as electricity, water, clean up, public safety, sanitation, transportation, personnel and resources.
 - (2) A deposit is required per event, including repeat events.
 - (3) A deposit is refundable.
 - (4) A deposit may be applied toward payment of city costs.
 - (5) A deposit may be required up to \$1,000.00.
 - (6) A deposit may be forfeited for nonpayment of city costs on demand.