

RESOLUTION No. 108-20

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS TO ESTABLISH NONCOMPLIANCE WITH A JOHNSON COUNTY LOCAL HEALTH OFFICER ORDER IS A VIOLATION OF THE JOHNSON COUNTY CODE

At a regular meeting of the Board of County Commissioners of Johnson County, Kansas held on Thursday, November 19, 2020, there came before the Board for consideration the matter of establishing that noncompliance with a Johnson County Local Health Officer Order or a Johnson County Board of Health Order is a violation of the Johnson County Code.

The Board, being fully advised and after thorough discussion and careful deliberation, upon a motion duly made, seconded and carried, adopted the following Resolution, to wit:

WHEREAS, pursuant to K.S.A. 19-101, *fourth*, the Board of County Commissioners has the power to do all acts in relation to the concerns of the County, necessary to the exercise of its corporate and administrative powers; and

WHEREAS, pursuant to K.S.A. 19-101, *fifth* and K.S.A. 19-101a, the Board of County Commissioners has the power to exercise the powers of home rule to determine local affairs and government, including performing all powers of local legislation and administration it deems appropriate; and

WHEREAS, pursuant to K.S.A. 19-101, *sixth*, the Board of County Commissioners has the power to exercise such other and further powers as may be especially conferred by law; and

WHEREAS, pursuant to K.S.A. 19-101c, the Kansas Legislature has stated that county home rule powers “shall be liberally construed for the purpose of giving to counties the largest measure of self-government”; and

WHEREAS, pursuant to K.S.A. 19-101d, the Board of County Commissioners has the power to enforce all resolutions passed pursuant to county home rule powers; and

WHEREAS, pursuant to K.S.A. 19-101d, such resolutions may be enforced by enjoining violations or prescribing penalties for violations by fine; and

WHEREAS, pursuant to K.S.A. 19-101d and K.S.A. 19-4701, *et seq.*, violations of Johnson County codes and resolutions may be prosecuted in the Johnson County Codes Court and violations incur fines pursuant to Johnson County Code Part II, Chapter I, Section 1-7 and Part II, Chapter II, Article IX; and

WHEREAS, pursuant to K.S.A. 65-202, the Johnson County Local Health Officer “shall use all known measures to prevent the spread of any...infectious, contagious or communicable disease...”; and

WHEREAS, pursuant to K.S.A. 65-201, the Board of County Commissioners acts as the County Board of Health for Johnson County; and

WHEREAS, pursuant to K.S.A. 65-119, the Local Health Officer and the Board of Health are charged with exercising and maintaining supervision over infectious or contagious disease within Johnson County and are “empowered and authorized to prohibit public gatherings when necessary for the control of any and all infectious or contagious disease”; and

WHEREAS, the Board of County Commissioners desires to make any noncompliance with an order of the Johnson County Local Health Officer or of the Board of Health a violation of the Johnson County Code.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Johnson County, Kansas, that the following regulations are hereby adopted:

Section 1. Order of the Johnson County Local Health Officer.

The Johnson County Local Health Officer, appointed by the Board of County Commissioners pursuant to K.S.A. 65-201, is vested with the statutory authority to issue orders to prevent the spread of infectious, contagious, and communicable diseases. When the Johnson County Local Health Officer issues an order to prevent the spread of an infectious, contagious, or communicable disease, individuals, businesses, and organizations in Johnson County must comply with such order.

Section 2. Order of the Johnson County Local Health Officer, as Amended by the Board of County Commissioners.

In the event that an order issued by the Johnson County Local Health Officer, as described within Section 1 of this Resolution, has been amended by the Board of County Commissioners pursuant to K.S.A. 65-201 or K.S.A. 65-202, individuals, businesses, and organizations in Johnson County must comply with such amended order.

Section 3. Order of the County Board of Health.

The County Board of Health is vested with the statutory authority to issue orders to prevent the spread of infectious, contagious, and communicable diseases. When the County Board of Health issues an order to prevent the spread of an infectious, contagious, or communicable disease, individuals, businesses, and organizations in Johnson County must comply with such order.

Section 4. Violation of an Order Issued by the Johnson County Local Health Officer or the County Board of Health; Penalty.

Failure of an individual, business, or organization to comply with an order issued by the Johnson County Local Health Officer or the County Board of Health to prevent the spread of an infectious, contagious, or communicable disease shall be a violation of this Resolution. Violations of this Section shall be classified as Code Violation within Johnson County Code Part II, Chapter I, Section 1-7 and Part II, Chapter II, Article IX.

Section 5. Violation of an Order Issued by the Johnson County Local Health Officer, as Amended by the Board of County Commissioners; Penalty.

Failure of an individual, business, or organization to comply with an order issued by the Johnson

County Local Health Officer to prevent the spread of an infectious, contagious or communicable disease, as amended by the Board of County Commissioners pursuant to K.S.A. 65-201 or K.S.A. 65-202, shall be a violation of this Resolution. Violations of this Section shall be classified as Code Violation within Johnson County Code Part II, Chapter I, Section 1-7 and Part II, Chapter II, Article IX.

Section 6. Individuals Authorized to Enforce Resolution.

Any individual identified as a “code enforcement officer”, as defined Part II, Chapter II, Article IX, Section 2-732 of the Johnson County Code, shall be authorized to issue a uniform complaint and notice to appear for any individuals, businesses, or organizations accused of violating this Resolution.

Section 7. Jurisdiction.

This Resolution shall be effective within the unincorporated area of Johnson County. This Resolution shall also be effective within any cities within Johnson County whose governing bodies have consented to such Resolution applying within their city’s city limits and have entered into separate agreements with Johnson County providing for enforcement within their city limits.

Sec. 8. Enforcement.

A violation of any provision of this Resolution shall be a public infraction, punishable upon conviction by a fine in an amount not more than \$500.00 per offense, pursuant to Johnson County Code Part II, Chapter I, Section 1-7 and Part II, Chapter II, Article IX.

Sec. 9. Effective Date.

This is an ordinary home rule regulation and shall be effective upon its publication once in the county’s official newspaper.

BOARD OF COUNTY COMMISSIONERS OF
JOHNSON COUNTY, KANSAS

By _____
Ed Eilert, Chairman

ATTEST:

Lynda Sader
Deputy County Clerk

APPROVED AS TO FORM:

Ryan P. Haga
Assistant County Counselor