



**AGENDA ITEM REQUEST FORM  
CITY OF JOHNSON CITY, TEXAS  
CITY COUNCIL**

**ITEM NO. 6**

**MEETING DATE:** February 2, 2021

**AGENDA PLACEMENT:**

- ☐ Ceremonial
- ☐ Consent
- ☒ Individual
- ☐ Closed Session

**CAPTION:**

Discussion of and action on a request for a variance and an associated Memorandum of Understanding, pursuant to Municipal Code of Ordinances Chapter 13 *Utilities*, Article 13.02 *Water and Sewers*, Section 13.02.014 *Mandatory Connection to City Water and Wastewater Systems*, from Jason and Allison Hohenberger authorizing the installation of a septic system in lieu of connecting to the City's wastewater system for 118 Crestview Drive, more particularly described as ABS A0561 Survey 41 J. Shackleford, Acres 7.17. (Applicant)

**EXECUTIVE SUMMARY:**

Jason and Allison Hohenberger submitted an application for a variance requesting authorization to install a septic system in lieu of connecting to the City's wastewater system for 118 Crestview Drive on December 18, 2020.

Generally, Municipal Code of Ordinances Chapter 13 *Utilities*, Article 13.02 *Water and Sewers*, Section 13.02.014 *Mandatory Connection to City Water and Wastewater Systems* requires property owners near public utilities to connect to said utilities and pay the City for said services.

City Council reviewed the matter on January 12, 2021, and it requested the drafting of a document requiring the property owners to pay monthly water *and* sewer utility bills to the City. The attached Memorandum of Understanding (MOU) requires the property owners to:

1. Execute and record the MOU at the Blanco County Clerk's Office; and
2. In accordance with Municipal Code of Ordinances and policy, pay monthly City water and sewer utility rates, as established by the most recent adopted Municipal Fee Schedule.

**FINANCIAL:** N/a

**ATTACHMENTS:**

- Proposed MOU;
- Variance application;
- Maps; and
- Section 13.02.014 of the Code of Ordinances.

**SUGGESTED ACTION:**

Given that the property owners are prepared to pay the City for both water and wastewater service, City Staff recommends approval of the variance request. Neither the City's finances nor the City's wastewater capacity are negatively impacted by the variance request.

Motion to approve a request for a variance and an associated Memorandum of Understanding, pursuant to Municipal Code of Ordinances Chapter 13 *Utilities*, Article 13.02 *Water and Sewers*, Section 13.02.014 *Mandatory Connection to City Water and Wastewater Systems*, from Jason and Allison Hohenberger authorizing the installation of a septic system in lieu of connecting to the City's wastewater system for 118 Crestview Drive, more particularly described as ABS A0561 Survey 41 J. Shackleford, Acres 7.17.

**PREPARED BY:** City Staff

**DATE SUBMITTED:** 1/29/21

6

THE STATE OF TEXAS   §  
  §  
COUNTY OF BLANCO   §

## MEMORANDUM OF UNDERSTANDING

**THIS MEMORANDUM OF UNDERSTANDING (MOU)** is made and entered into by and between **Jason P. and Allison Hohenberger**, property owners of 118 Crestview Drive, Johnson City, Texas 78636, hereinafter called the “Property Owner,” and the **City of Johnson City, Texas**, a Type A General Law municipality and municipal corporation under the laws of the State of Texas, hereinafter called the “City.”

### RECITAL

**WHEREAS**, it is to the mutual benefit of the Property Owner and City to enter into and effectuate the terms and conditions of this Memorandum of Understanding.

### UNDERSTANDING

**NOW, THEREFORE**, the Property Owner and City, in consideration of the mutual covenants and agreements herein contained, do hereby have a mutual understanding as follows:

#### ARTICLE I COMMITMENTS MADE BY CITY TO PROPERTY OWNER

Approve a request for a variance, pursuant to Municipal Code of Ordinances Chapter 13 *Utilities*, Article 13.02 *Water and Sewers*, Section 13.02.014 *Mandatory Connection to City Water and Wastewater Systems*, from Jason P. and Allison Hohenberger authorizing the installation of a septic system in lieu of connecting to the City’s wastewater system for 118 Crestview Drive, more particularly described as ABS A0561 Survey 41 J. Shackleford, Acres 7.17.

#### ARTICLE II COMMITMENTS MADE BY PROPERTY OWNER TO CITY

1. Execute and record this MOU at the Blanco County Clerk’s Office and provide a copy to the City; and
2. In accordance with Municipal Code of Ordinances and policy, pay monthly City water and sewer utility rates, as established by the most recent adopted Municipal Fee Schedule.

#### ARTICLE III NOTICES

All notices and communications under this MOU shall be mailed by First Class mail through the U.S. Postal Service or delivered to the Parties at the following address:

TO THE CITY:  
City of Johnson City, Texas  
303 E. Pecan Dr. (Physical)  
P.O. Box 369 (Mailing)  
Johnson City, Texas 78636

TO THE OWNER  
Jason P. and Allison Hohenberger  
118 Crestview Drive  
Johnson City, Texas 78636  
  
265 Meadowlakes Dr.  
Meadowlakes, Texas 78654-7124

**ARTICLE IV**  
**EFFECTIVE DATE**

This Memorandum of Understanding becomes effective when fully executed by all parties.

**ARTICLE V**  
**ENTIRE AGREEMENT; MODIFICATIONS**

This instrument contains the entire understanding between the City and Property Owner relating to the rights herein granted and the obligations herein assumed. Any modification concerning this instrument will be of no force or effect, except a subsequent modification in writing signed by all parties hereto.

**IN TESTIMONY OF WHICH**, this Memorandum of Understanding has been executed  
on \_\_\_\_\_ of February, 2021.

**GRANTOR**

**CITY OF JOHNSON CITY**

BY: \_\_\_\_\_  
Jason P. Hohenberger

BY: \_\_\_\_\_  
Hon. Rhonda Stell, Mayor

BY: \_\_\_\_\_  
Allison Hohenberger



Development Services  
P.O. Box 369 (Mailing)  
303 E. Pecan St. (Physical)  
Johnson City, Texas 78636  
(830) 868-7111, Ext. 4  
(830) 868-7718 (Fax)

APPLICATION DATE: 12-18-2020

## APPLICATION FOR VARIANCE Municipal Code of Ordinances

NAME OF APPLICANT: JASON and ALLISON HOHENBERGER

MAILING ADDRESS: 265 MEADOWLAKES DR, MEADOWLAKES, TX 78654

PHONE NO.: 512-799-2537

EMAIL: JASONH96@GMAIL.COM

STATUS OF APPLICANT: OWNER: ☒ AGENT: ☐

(IF AGENT, ATTACH LETTER OF AUTHORIZATION FROM PROPERTY OWNER)

### PROPERTY DESCRIPTION

PHYSICAL ADDRESS: 118 CRESTVIEW DR, JOHNSON CITY, TX 78636

LEGAL DESCRIPTION: ABS A0561 SURVEY 41 J. SHACKLEFORD, ACRES 7.17

CURRENT ZONING: RESIDENTIAL

EXISTING USE:

ACRES/SQ. FT.: 7.17 ACRES

DOES OWNER OWN ADJACENT PROPERTIES?

☐

Yes

☒

No

CODE SECTION SEEKING VARIANCE / RELIEF FROM:

TYPE OF VARIANCE REQUESTED (EXPLAIN IN DETAIL):

We are requesting permission to install a septic system for our permanent residence in lieu of attaching to the city sewer tap located at the furthest SW corner of our property.

Installing conventional septic near home site will require a fraction of the infrastructure and cost compared to connecting to the city sewer tap which will require ~ 450ft of

pipe, trenching, 4 - 6 clean outs, grinder station and lift pump to send black water up hill to city sewer tap.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE INFORMATION I HAVE PROVIDED TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS APPLICATION WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A VARIANCE OR SPECIAL EXCEPTION DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING THE USE OF PROPERTY.

  
APPLICANT'S SIGNATURE

12-18-2020

DATE

OFFICE USE ONLY:

Updated 11/27/20

# 118 Crestview Drive



1/7/2021, 12:18:13 PM

☐ Parcels

☐ Abstracts

1:2,257

0 0.01 0.03 0.06 mi

0 0.03 0.05 0.1 km

Esri Community Maps Contributors, Texas Parks & Wildlife,



imagery ©2021 CAPCOG, Maxar Technologies, Map data ©2021 50 ft

**Sec. 13.02.014 Mandatory connection to city water and wastewater systems**

(a) Except as provided otherwise in this section, no building, tract of land or structure in an area of the city for which water or sewer service is available shall be occupied for residential, commercial, industrial or other such purposes unless such buildings or structures are connected by a separate connection to the city water or sewer system.

(b) Each residential unit and business unit within the city shall be connected by separate connection to the city water or sewer system as soon as city water or sewer service is available to such unit, unless specifically exempted herein. Property that abuts a street, road or other public way in which a public water supply is located and is within two hundred feet of such water or sewer line is deemed to have access to the city water or sewer system.

(c) Any unoccupied residential unit or business unit within the city for which water or sewer service has been provided previously by the city water or sewer system or its predecessor shall be connected to the city water or sewer system by a separate connection prior to occupancy.

(d) Any two or more residential units that are found to be obtaining water or sewer service through a single meter shall be required to connect each such unit by a separate connection to the city water or sewer system within 30 days of notice from the city.

(e) Any residential unit within the city which is being served by a privately owned water well or on-site septic system on the effective date of the ordinance enacting this section shall be connected to the city water or sewer system by a separate connection at such time as the well or on-site septic system fails to meet permit and Department of Health or Texas Commission on Environmental Quality requirements or other statutes or regulations of the state.

(f) Each business unit within the city shall be connected by a separate connection to the city water and wastewater system as soon as city water and wastewater service is available to such unit, unless specifically exempted herein.

(g) Any commercial or industrial establishments or entities located within a single building and served by a master meter on the effective date of the ordinance enacting this section may elect to continue to receive water service through a master meter.

(h) From the effective date of the ordinance enacting this section, no person or commercial or industrial establishment shall be permitted to obtain service through a master meter or otherwise provide water service to another person or entity.

(i) Definitions.

Business unit. Any premises, locations or entities, public or private, including all industrial and commercial entities, within the corporate limits of the city not a residential unit.

City's operator. The person, firm, corporation, municipal corporation or political subdivision which the city has designated to operate and maintain the city's water and wastewater system.

Commercial or industrial. Any establishment, public or private, rendering a service, manufacturing a product, offering a product for sale or any other similar activity.

Connection. The initial or first connection ("tap") or any subsequent additional connection of a residential or business unit to the city's water or wastewater system.

Customer. Any person, firm or corporation receiving city water or wastewater services for a residential or business unit, whether within the city or outside the city limits.

Person. An individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

Residential unit. A dwelling within the corporate limits or a service area of the city intended for occupancy by a person or group of persons comprising not more than one family. A dwelling shall be deemed occupied and shall be deemed by the city to be a separate residential unit for billing and collection purposes when either water or electrical power services are being supplied thereto.

Separate connection. The individual metering facilities for each residential or business unit for which the city services have been requested or provided, whether occupied or not.