

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOHNSON CITY, TEXAS AMENDING MUNICIPAL CODE OF ORDINANCES CHAPTER 13 UTILITIES, ARTICLE 13.02 WATER AND SEWERS, DIVISION 1 GENERALLY, SECTION 13.02.001 WATER AND SEWER RATES, SECTION 13.02.014 MANDATORY CONNECTION TO CITY WATER AND WASTEWATER SYSTEMS; AND ADDING SECTION 13.02.017 DEFINITIONS TO PROVIDE FOR CONSIDERATION OF A VARIANCE REQUEST FROM MANDATORY SEWER CONNECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, Chapter 13 Utilities of the Code of Ordinances of the City of Johnson City (“City”) requires that occupied buildings or structures on a property be hooked by separate connection to the City’s sewer system; and

WHEREAS, certain and special circumstances on a property make a mandatory hookup unfeasible and or impractical; and

WHEREAS, the City Council desires to provide a mechanism to consider a request for a variance in lieu of the mandatory connection to the City’s wastewater system; 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 that:

Section One. Adoption and Enactment. The City Council of the City of Johnson City hereby amends, and enacts as amended, Section 13.02.001 *Water and Sewer Rates*; and Section 13.02.014 *Mandatory Connection to City Water and Wastewater Systems*; and adds Section 13.02.017 *Definitions* to the Municipal Code of Ordinances, Chapter 13 *Utilities*, Article 13.02 *Water and Sewers*, Division One *Generally*, to read as follows (indicated as new text underlined and deleted text struck through):

“Sec. 13.02.001 Water and sewer rates

(F) Wastewater Rate for Residential or Commercial Properties Issued a Variance from Mandatory Sewer Hookup Requirement.

There shall be charged for sewer service for a residential or commercial property in the City and for which a variance from the City’s mandatory connection to wastewater system has been issued pursuant to Chapter 13 Utilities, Article 13.02, Section 13.02.014.

Sec. 13.02.014 Mandatory connection to City water and wastewater systems

(a) Mandatory Connection.

~~(1) (a) Except as provided otherwise in this Section, no~~ 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 and sewer system unless specifically exempted herein or a variance request is approved and issued by the City Council.

~~(2) (b)~~ Each residential unit and business unit within the City shall be connected by separate connection to the City water and sewer system as soon as City water and sewer service is available to such unit, unless specifically exempted herein or a variance request is approved and issued by the City Council. Property that abuts a street, road, or other public way in which a public water supply is located and is within two hundred feet (200') of such water and sewer line is deemed to have access to the City water and sewer system.

(b) Separate Connection Required.

~~(1) (c)~~ Any unoccupied residential unit or business unit within the City for which water and sewer service has been provided previously by the City water and sewer system or its predecessor shall be connected to the City water and sewer system by a separate connection prior to occupancy.

~~(2) (d)~~ Any two or more residential units that are found to be obtaining water and sewer service through a single meter shall be required to connect each such unit by a separate connection to the City water and sewer system within thirty (30) days of notice from the City.

~~(3) (e)~~ 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.

(c) Master Meter.

~~(1) (f)~~ 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.

~~(2) (g)~~ 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.

(d) Exemption. ~~(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 and sewer system by a separate connection at such time as the well or on-site septic system fails to meet Blanco County, Blanco-Pedernales Groundwater Conservation District, Texas Department of Licensing and Regulation, or Texas Commission on Environmental Quality permitting requirements or other statutes or regulations of the State.

(e) *Variance from Mandatory Wastewater System Connection.*

- (1) The City Council may consider a variance request for installation of an on-site sewage facility (OSSF) on a property in lieu of the mandatory wastewater system connection.
- (2) An application for a variance request shall include information prepared by either a professional sanitarian or a professional engineer (with appropriate seal, date, and signature) on the planning, materials, construction, installation, alteration, repair, extension, operation, maintenance, permitting, and inspection of the OSSF. The information shall demonstrate compliance with minimum standards for OSSF installation and operation pursuant to Texas Administrative Code, Chapter 285 On-Site Sewage Facilities, as amended, and as promulgated by the Texas Commission on Environmental Quality (TCEQ); the Texas Health and Safety Code Chapter 366 On-Site Sewage Disposal Systems; and with the rules and regulations for OSSFs of Blanco County, Texas.
- (3) A variance request must be submitted to the City as part of a plat application for the property for which the variance is sought. The variance request shall be processed in accordance with the plat application process to include review by the City Planning and Zoning Commission, public notice and hearing, and consideration and final decision by the City Council.
- (4) No variance shall be approved and issued unless the City Council finds that:
 - (A) There are special circumstances or conditions affecting the land involved such that strict application of the mandatory connection would result in an unreasonable impact on and use of the land;
 - (B) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship, as distinguished from mere inconvenience to the owner, would result from the mandatory connection. Pecuniary hardship, standing alone, shall not be deemed to constitute undue hardship;
 - (C) The variance is necessary for the preservation and enjoyment of a substantial property right;
 - (D) The granting of the variance will not be detrimental to the public health, safety, welfare or injurious to other property in the area; and
 - (E) The conditions upon which a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property;
- (5) A variance permitting an OSSF shall be issued with conditions including, but not limited to, imposing an expiration deadline of the variance if OSSF installation is not initiated; providing a copy to the City of the TCEQ annual report regarding operation and maintenance of the OSSF; immediately notifying the City of emergency issues or

substantial problems with the OSSF; reserving to the City the right to enter upon the property at any time for the purpose of reviewing emergency matters; submitting monthly payments in accordance with the City's wastewater sewer rates for administrative costs incurred by the City for initial review of the variance application and continuing OSSF oversight upon issuance of the variance; and recording the plat with appropriate notations indicating OSSF installation is permitted.

(6) Failure to comply with conditions shall result in revocation of the variance and imposition of fines for violation of the ordinance.

~~(f) Definitions.~~

Sec. 13.02.017 Definitions

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

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 City 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."

Section Two. Recitals. The City Council finds all the above recitals to be true and correct and incorporates the same in this Ordinance as findings of fact.

Section Three. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared void.

Section Four. Repealer. All other 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.

Section Five. Effective Date. This Ordinance shall be effective immediately upon its adoption by the City Council.

**PASSED AND APPROVED by the City Council of the City of Johnson City, Texas
on the 2nd day of March 2021.**

APPROVED:

Rhonda Stell
Mayor

ATTEST:

Rick Schroder
Chief Administrative Officer / City Secretary