

CITY OF JOHNSON CITY

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ARTICLE 10.03 STORMWATER
DETENTION AND DRAINAGE OF CHAPTER 10 SUBDIVISION
REGULATION OF THE CITY OF JOHNSON CITY CODE OF
ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE**

RECITALS

WHEREAS, the City Council of the City of Johnson City ("City") on January 4th, 2022 enacted Article 10.03 Stormwater Detention and Drainage of Chapter 10 Subdivision Regulation providing regulations for stormwater detention and drainage applicable to subdivision development; and

WHEREAS, the City Council desires to update Article 10.03 for additional compliance with national standards for stormwater detention and distribution; 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:

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE II. AMENDMENT, ADOPTION AND ENACTMENT

The City Council of the City of Johnson City hereby adopts and enacts the amendments to *Article 10.03 Stormwater Detention and Drainage*, as depicted in "Attachment A" attached hereto and incorporated fully herein for all intents and purposes, with strikethroughs constituting deleted text and underlines as new text or format corrections, and to read as contained in the unmarked attachment therein.

ARTICLE III. REPEALER AND SEVERABILITY

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All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

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 IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and approval.

PASSED AND APPROVED this, the _____ day of _____, 2022,
by a majority vote of the City Council of Johnson City, Texas.

CITY OF JOHNSON CITY, TEXAS

Rhonda Stell, Mayor

Attest:

Whitney Walston
City Secretary

CITY OF JOHNSON CITY CODE OF ORDINANCES
CHAPTER 10. SUBDIVISION REGULATION
ARTICLE 10.03 STORMWATER DETENTION AND DRAINAGE

Sec. 10.03.001 Purpose

The purpose of this Article is to provide adequate measures for the detention and distribution of stormwater in a manner that minimizes the possibility of stormwater flooding or the adverse impact to water quality during and after subdivision development.

Sec. 10.03.002 Scope

- (a) *Applicability.* This Article shall apply to any application for the approval of a subdivision plat, a subdivision replat, a master development plan, a building permit, a change in zoning, a zoning variance, or the redevelopment of property within the City's corporate limits or extraterritorial jurisdiction.
- (b) *Exceptions.* Lots individually platted and developed for single family use shall be exempt from the requirements of this Article, unless the lot is located wholly or partially within a floodplain and must present evidence of compliance with Article 3.04.

Sec. 10.03.003 Drainage Facilities

- (a) *New development.* Peak stormwater runoff rates for all new development shall be less than or equal to the peak runoff rates from the site's pre-development conditions for the 5-, 25-, and 100-year design storm events.
- (b) *Redevelopment.* Peak stormwater runoff rates from an area of redevelopment shall be less than or equal to the peak runoff rates produced by existing development conditions for the 5-, 25-, and 100-year design storm events.
- (c) *Stormwater detention.* Stormwater detention shall be required for all new developments or redevelopment of individual parcels of property to mitigate peak flow rates to pre-development or existing development conditions as stated in subsections (a) and (b) above. The maximum allowable out-flow rate from the detention facility must be restricted to the flow rate for the undeveloped or existing development tract for the 5-, 25-, and 100-year frequency.
- (d) *Easements.* Easements or rights-of-way shall be dedicated by the owner of the property to be developed to the public for the purpose of containing all drainage facilities, open or enclosed, and all stormwater flows to the limits of the one-hundred-year floodplain as determined in accordance with the City's Design Standards. No easement or right-of-way for such purposes shall be less than fifteen (15) feet wider than channel top width for open drainage systems or

fifteen (15) feet for enclosed drainage systems. Additional easements or right-of-way shall be provided as necessary to allow continuous access for operation, maintenance, and rehabilitation of all drainage facilities.

Sec. 10.03.004 Design Standards and Regulations

- (a) *Design.* The design and construction of all drainage facilities and improvements shall be in accordance with the City's Design Standards and shall include provisions for maintenance and protection from erosion. Calculations and plans of the drainage area in pre-development, existing development, or ultimate development shall be submitted, for review and approval by the City Engineer, as required in Section 10.03.003. The difference in runoff quantities and the flow rates shall be managed by an onsite storm detention system. The detention system shall be designed to release stormwater at a rate not to exceed that of the pre-development or existing development rate. The design of the detention "reservoir" shall preclude any pooling of water or result in additional identifiable adverse flooding within the subdivision or to other properties.
- (b) *Obstructions to waterways generally.* Except as authorized by an approved site plan, no person shall place or cause placement of any obstruction of any kind in any waterway within the city. The owner, agent, lessor, or other person in control of any property within the city, through which any waterway may pass, shall keep the waterway free from any obstruction not authorized by a site plan; and any pool of standing water which is formed in any waterway within the City on account of any unauthorized obstruction shall be deemed and same is hereby defined to be a nuisance.
- (c) *Floodplain Encroachments.* Encroachments are prohibited, including fill, new construction, substantial improvements, and other developments, unless certification by a licensed professional engineer is provided demonstrating that encroachments shall not result in any adverse impacts.
- (d) *Approval.* The drainage system design must be reviewed for acceptability and approved by the City Engineer, who then shall make a recommendation to the City Council, and it shall be approved by the City Council before any improvements may be made within the proposed subdivision.
- (e) *Maintenance.* The drainage system must be maintained in a safe and sanitary manner in accordance with its approved design.

Sec. 10.03.005 Drainage studies and floodplain delineations

- (a) *Drainage Study Required.* The owner of property to be developed may be required by the City to provide, at the owner's expense and as a condition for all items listed under Sec 10.03.002, a drainage study for the total area to be ultimately developed. The study shall be in accordance with the City Design Standards, and shall be submitted to the City for approval prior to the acceptance for review of any construction plans for any portion of the development.

- (b) *Floodplain delineations shown.* If any portion of a proposed development is included within a floodplain or floodway delineation accepted or recognized by the City, such delineation shall be clearly shown on all items listed under Sec 10.03.002 submitted for approval.
- (c) *Floodplain delineations required.* The City shall designate and maintain official floodplain maps. In any case in which official floodplain maps are not available, the owner of property to be developed shall designate the boundaries of the one-hundred-year floodplain in accordance with the City Design Standards and shall clearly show such on all items listed under Sec 10.03.002 submitted for approval.

Sec. 10.03.006 Definitions

For the purposes of this Article, a “person” is an individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind, including commercial or residential subdivision development.

Sec. 10.03.007 Fee in Lieu of Detention

- (a) *Fee in Lieu.* The City may, at its sole discretion, accept a fee in lieu of detention. Fees in lieu of detention are established by the Master Fee Schedule, as amended.
- (b) *Permit application and fee.*
- (1) A person shall submit to the City an application requesting a fee in lieu of detention.
 - (2) The application shall be accompanied by payment of a nonrefundable fee set by the Master Fee Schedule.
 - (3) All fees in lieu of detention collected will be used for regional detention basins or drainage improvements within the City.

Sec. 10.03.008 Violation and Enforcement

- (a) *Violation declared.* It shall be unlawful for any person to violate any term or provision of this Article. The City shall have the power to administer and enforce the provisions of this Article.
- (b) *Criminal offense.*
- (1) A person who violates a provision of this Article commits a misdemeanor.
 - (2) A fine for a violation may not exceed \$500.
 - (3) Each day of the violation shall constitute a separate offense.
 - (4) The penalties in this Section shall be cumulative and are not exclusive of any other rights or remedies the City may have or pursue.
- (c) *Civil action.*
- (1) Any condition caused or permitted to exist in violation of any provision of this Article constitutes a public nuisance.
 - (2) A person who violates a provision of this Article is subject to a civil fine or injunction.

- (3) The City may file suit in district court to enjoin the violation or threatened violation of this Article by a person.
 - (4) Prior to taking civil action, the City shall notify the violator of the provisions of the Article that are being or have been violated.
 - (5) The City may seek to recover damages from the violator in an amount adequate for the City to undertake activity necessary to bring compliance with this Article.
 - (6) A person who violates a provision of this Article is subject to a civil penalty up to \$1,000.00 and not less than \$250.00 per day per violation.
 - (7) The remedies in this Section shall be in addition to the penalties described above.
- (d) *Administrative enforcement.*
- (1) The CAO or designee may issue a Stop Work Order to immediately halt work on a property at which a violation is occurring or has occurred.
 - (2) The CAO or designee may withhold or revoke site plan approval, building permits, occupancy permits, or any other appropriate approvals necessary to continue development on a property at which a violation is occurring or has occurred.
 - (3) An applicant may appeal an order to the City Council who shall issue a decision without unreasonable or unnecessary delay. The decision of the City Council shall be final.
- (e) *Right of entry.* The CAO or designee shall have the authority to enter upon the property premises of an applicant within the City or its ETJ for the purpose of enforcing the provisions of this Article.
- (f) *Legal fees and costs.* In any civil or criminal action, the City shall be entitled to recover from the defendant reasonable attorney's fees, costs of suit, and any other costs of enforcement.

CITY OF JOHNSON CITY CODE OF ORDINANCES
CHAPTER 10. SUBDIVISION REGULATION
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Sec. 10.03.001 Purpose

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Sec. 10.03.002 Scope

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