

## ORDINANCE NO. 1001

### AN ORDINANCE MENDING THE JOHNSTON REVISED ORDINANCES OF 2007 BY AMENDING CHAPTER 165, 169 AND ADDING CHAPTER 174, FLOODPLAIN MANAGEMENT, AND AMENDING THE OFFICAL ZONING MAP TO THE JOHNSTON MUNICIPAL CODE OF 2007 TO REFLECT NEW FLOODWAY, FLOODWAY FRINGE AND GENERAL FLOODPLAIN OVERLAY DISTRICTS

**Be It Enacted by the City Council of the City of Johnston, Iowa that:**

**SECTION 1. PURPOSE.** The purpose of this ordinance is to add Chapter 174, Floodplain Management, to the Johnston Municipal Code.

**SECTION 2. AMENDMENT.** The following amendments to Chapter 165.01 shall be made:

Chapter 165.01 shall be amended to reflect that **Chapters 165 through 174** of this Code of Ordinances shall be known and may be cited and referred to as the “Zoning Ordinance” of the City of Johnston, Iowa, and may be referred to as “this ordinance,” adopted pursuant to Chapter 414 of the Code of Iowa.

**SECTION 3. AMENDMENT.** The following amendments to Chapter 165.04 shall be made:

The following definitions within Chapter 165.04 shall be deleted and replaced as follows:

**“FLOOD INSURANCE STUDY (FIS)”** means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

**“LOWEST FLOOR”** means the floor of the lowest enclosed area in a building including a basement **except when the criteria listed in the definition of Enclosed Area Below Lowest Floor are met.**

The following new definitions shall be added in an alphabetical order to Chapter 165.04:

**“BASE FLOOD ELEVATION (BFE)”** means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

**“ENCLOSED AREA BELOW LOWEST FLOOR”** means the floor of the lowest enclosed area in a building when all the following criteria are met:

- The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Chapter 174.06.2.D.(1) of this Ordinance, and

- The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and
- The enclosed area is not a "basement" as defined in this Chapter.

“FIVE HUNDRED (500) YEAR FLOOD” means a flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

“MAXIMUM DAMAGE POTENTIAL USES” means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

“SPECIAL FLOOD HAZARD AREA (SFHA)” means the land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

**SECTION 4. AMENDMENT.** The following amendments to Chapter 169 shall be made:

Chapter 169.02 shall be deleted in its entirety.

Chapter 169.03 shall be deleted in its entirety and replaced with the following language:

FW Floodway Overlay District. This overlay zoning district shall be made up of those areas identified as Floodway on the Official Flood Plain Zoning Map. The Floodway Overlay Zoning District boundaries shall be shown on the Official Zoning Map in addition to being identified on the Official Floodplain Zoning Map. See Chapter 174 for regulations of this overlay zoning district.

Chapter 169.04 shall be deleted in its entirety and replaced with the following language:

FF Floodway Fringe Overlay District. This overlay zoning district shall be made up of those areas identified as Zone AE on the Official Flood Plain Zoning Map, but excluding those areas identified as floodway. The Floodplain Fringe Overlay Zoning District boundaries shall be shown on

the Official Zoning Map in addition to being identified on the Official Floodplain Zoning Map. See Chapter 174 for regulations of this overlay zoning district.

Chapter 169.05 shall be deleted in its entirety and replaced with the following language:

FP General Floodplain Overlay District. This overlay zoning district shall be made up of those areas identified as Zone A on the Official Flood Plain Zoning Map. The General Floodplain Overlay Zoning District boundaries shall be shown on the Official Zoning Map in addition to being identified on the Official Floodplain Zoning Map. See Chapter 174 for regulations of this overlay zoning district.

All sections of this chapter shall be renumbered so as to remain sequential in number.

**SECTION 5. AMENDMENT.** The following new Chapter 174, Floodplain Management shall be added:

#### Chapter 174 Floodplain Management

##### 174.01 - Statutory Authority, Findings of Fact and Purpose

1. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.
2. Findings of Fact
  - A. The flood hazard areas of the City of Johnston are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
  - B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
  - C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.
3. Statement of Purpose. It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Johnston and its residents and to preserve and improve the

peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Chapter 174.01 (2) A of this Ordinance with provisions designed to:

- A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
- B. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
- C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

#### 174.02 - General Provisions

##### 1. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of Johnston shown on the Official Floodplain Zoning Map as being within the boundaries of the Floodway Overlay Zoning District and the Floodway Fringe Overlay District, as established in Chapter 169 and 174.

##### 2. Establishment of Official Floodplain Zoning Map

The Flood Insurance Rate Map (FIRM) for Polk County and Incorporated Areas, City of Johnston, Panels 19153C0160F, 0167F, 0176F, 0177F, 0178F, 0179F, 0185F, 0186F, 0187F, 0188F, 0189F, 0195F, dated February 1<sup>st</sup>, 2019, which were prepared as part of the Flood Insurance Study for Polk County, is hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this ordinance.

##### 3. Rules for Interpretation of District Boundaries

The boundaries of the zoning district areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this Ordinance.

#### 4. Compliance

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

#### 5. Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

#### 6. Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

#### 7. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Johnston or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

#### 8. Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

### Chapter 174.03 - Administration

#### 1. Appointment, Duties and Responsibilities of Local Official

- A. The Zoning Administrator is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
- B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
  - (1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

- (2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
- (3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
- (4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
- (5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
- (6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
- (7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
- (8) Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance.
- (9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
  - a. Development placed within the Floodway (Overlay) District results in any of the following:
    1. An increase in the Base Flood Elevations, or
    2. Alteration to the floodway boundary
  - b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
  - c. Development relocates or alters the channel.Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.
- (10) Perform site inspections to ensure compliance with the standards of this Ordinance.
- (11) Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

## 2. Floodplain Development Permit

- A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
- B. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
- (1) Description of the work to be covered by the permit for which application is to be made.
  - (2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
  - (3) Location and dimensions of all buildings and building additions
  - (4) Indication of the use or occupancy for which the proposed work is intended.
  - (5) Elevation of the base flood.
  - (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
  - (7) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - (8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
- C. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the County Board of Adjustment.
- D. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations,

floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

#### Chapter 174.04 - Establishment of Zoning Overlay Districts

The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:

- A. Floodway Overlay District (FW) – those areas identified as Floodway on the Official Flood Plain Zoning Map;
- B. Floodway Fringe Overlay District (FF) – those areas identified as Zone AE on the Official Flood Plain Zoning Map but excluding those areas identified as Floodway;
- C. General Floodplain Overlay District (FP) – those areas identified as Zone A on the Official Flood Plain Zoning Map, and;

The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.

#### Chapter 174.05 - Floodway Overlay District FW

##### 1. Permitted Uses

All uses within the Floodway District shall be permitted to the extent that they are not prohibited by any other ordinance or the underlying zoning district and provided they meet applicable performance standards of the Floodway District.

##### 2. Performance Standards

All Floodway District uses allowed as a Permitted shall meet the following standards.

- A. No use shall be permitted in the Floodway District that would result in any increase in the **base flood elevation**. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
- B. All uses within the Floodway District shall:
  - (1) Be consistent with the need to minimize flood damage.
  - (2) Use construction methods and practices that will minimize flood damage.
  - (3) Use construction materials and utility equipment that are resistant to flood damage.



- C. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
- D. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
- E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
- F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
- G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
- H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
- I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

#### Chapter 174.06 - Floodway Fringe Overlay District FF

##### 1. Permitted Uses

All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance or the underlying zoning district and provided they meet applicable performance standards of the Floodway Fringe District.

##### 2. Performance Standards

All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

##### A. All structures shall:

- (1) Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Use construction methods and practices that will minimize flood damage.
- (3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential structures - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Non-residential structures - All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All new and substantially improved structures:

- (1) Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two (2) openings, with positioning on at least two (2) walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage. Where the distance between the floor and ceiling of the fully enclosed area below the “lowest floor” is FIVE (5) feet or more, the applicant shall be required to sign and record with the Polk County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in Chapter 174.06.2.D.

- (2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (3) New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) elevated or floodproofed to a minimum of one (1) foot above the base flood elevation.

E. Factory-built homes:

- (1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
- (2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems:

- (1) On-site wastewater disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- (2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent

into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the **base flood elevation**. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the **base flood** with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the **base flood**. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include **base flood elevation** data for those areas located within the Floodplain (Overlay) District.

K. Accessory Structures to Residential Uses

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.

- b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
  - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  - d. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
  - e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
  - f. The structure's walls shall include openings that satisfy the provisions of Chapter 174.06.2.D.(1).a of this Ordinance.
- (2) Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles

- (1) Recreational vehicles are exempt from the requirements of Chapter 174.06.2.E of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
- a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
  - b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Chapter 174.06.2.E of this Ordinance regarding anchoring and elevation of factory-built homes.

M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

N. Maximum Damage Potential Uses – All new or substantially improved maximum damage potential uses shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls

substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

## Chapter 174.07 - General Floodplain Overlay District FP

### 1. Permitted Uses

A. All uses within the General Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance or the underlying zoning district and provided they meet the applicable performance standards of the General Floodplain District.

B. Any uses which involve placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:

(1) The bridge or culvert is located on a stream that drains less than one hundred (100) square miles, and

(2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(1)b, Iowa Administrative Code.

### 2. Performance Standards

A. All uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Overlay District Chapter 174.05.

B. All uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe Overlay District Chapter 174.06.

## Chapter 174.08 - Duties of Board of Adjustment

1. Duties of Board of Adjustment. - The Board of Adjustment is hereby authorized to hear and decide (i) appeals and (ii) requests for variances to the provisions of this ordinance, and shall take any other action which is required of the Board.
2. Appeals - Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.
3. Variance - The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
  - A. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
  - B. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
  - C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
  - E. All variances granted shall have the concurrence or approval of the Iowa Department of Natural Resources.
4. Hearings and Decisions of the Board of Adjustment
  - A. Hearings. Upon the filing with the Board of Adjustment of an Appeal or a request for a Variance, the Board shall hold a public hearing. The Board shall fix a reasonable



time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an Appeal or Variance within a reasonable time. In passing upon an Appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Variance, the board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Chapter 174.08.4.B(2).

(1) Factors Upon Which the Decision of the Board of Adjustment Shall be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept on to other land or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the City.
- f. The requirements of the facility for a floodplain location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.



- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
  - m. Such other factors which are relevant to the purpose of this Ordinance.
- (2) Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- a. Modification of waste disposal and water supply facilities.
  - b. Limitation of periods of use and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
  - e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
5. Appeals to the Court - Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

## Chapter 174.09 - Nonconforming Uses

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
  - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
  - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
  - C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance.
2. Except as provided in Chapter 174.09.1.B, any use which has been permitted as a Variance shall be considered a conforming use

## Chapter 174.10- Penalties for Violation

Any person violating any of the provisions of this Chapter shall be punished as provided in Chapter 3 Municipal Infractions of the Johnston Code of Ordinances.

## Chapter 174.11 - Amendments

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

**SECTION 6. OFFICIAL ZONING MAP AMENDED TO REFLECT NEW FLOODWAY, FLOODWAY FRINGE AND GENERAL FLOODPLAIN OVERLAY DISTRICTS.** The Official Zoning Map is hereby amended to depict the floodway, floodway fringe and general floodplain overlay districts, pursuant to the Flood Insurance Rate Map (FIRM) for Polk County and Incorporated Areas, City of Johnston, Panels 19153C0160F, 0167F, 0176F, 0177F, 0178F, 0179F, 0185F, 0186F, 0187F, 0188F, 0189F, 0195F, dated February 1<sup>st</sup>, 2019, which were prepared as part of the Flood Insurance Study for Polk County, and depicted on Attachment A which is herein made a part of this Ordinance.

**SECTION 7. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 8. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 9. WHEN EFFECTIVE.** This ordinance shall be in full effect from February 1, 2019.

Passed and approved by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
PAULA S. DIERENFELD, MAYOR

ATTEST:

\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK

1st Reading: \_\_\_\_\_

2nd Reading: \_\_\_\_\_

3rd Reading: \_\_\_\_\_

Passed: \_\_\_\_\_

Signed: \_\_\_\_\_

Published: \_\_\_\_\_

|        | 1 <sup>st</sup> Reading |     | 2 <sup>nd</sup> Reading |     | 3 <sup>rd</sup> Reading |     |
|--------|-------------------------|-----|-------------------------|-----|-------------------------|-----|
|        | Aye                     | Nay | Aye                     | Nay | Aye                     | Nay |
| Brown  |                         |     |                         |     |                         |     |
| Martin |                         |     |                         |     |                         |     |
| Cope   |                         |     |                         |     |                         |     |
| Evans  |                         |     |                         |     |                         |     |
| Temple |                         |     |                         |     |                         |     |