



AN ORDINANCE DECLARING A 120-DAY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS OR THE ISSUANCE OF PERMITS FOR PROPERTY DEVELOPMENT THAT INCREASES THE IMPERVIOUS SURFACE COVERAGE ON RESIDENTIAL PROPERTIES LOCATED IN THE SF-R, PD-6, PD-7, AND PD-9 ZONING DISTRICTS; DIRECTING CITY STAFF TO CONSIDER REGULATION AMENDMENTS AND FACILITY UPGRADES IN THE SF-R, PD-6, PD-7, AND PD-9 DISTRICTS TO ACCOMMODATE ANTICIPATED DEVELOPMENT; PROVIDING A PROCEDURE FOR VARIANCES FROM THIS MORATORIUM; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON PASSAGE.

- WHEREAS,** the City of Westworth Village (the “City”) is a Type A General Law city located in Tarrant County Texas; and
- WHEREAS,** properties within the Redevelopment Single Family Residential Zoning District (“SF-R”) and Planned Development District Nos. 6, 7, and 9 (collectively “PD”) of the City have experienced extensive flooding due to inadequate storm drainage facilities; and
- WHEREAS,** the City Council contracted Kimley-Horn to prepare an engineering analysis to determine conceptual improvements for the existing channel located along the north side of Ansley Drive (“Channel A”) and portions of the Burton Hill Road storm sewer to alleviate recurring flooding; and
- WHEREAS,** Kimley-Horn provided the City with a summary of its analysis on September 30, 2020, where it found that the storm drainage system underneath Burton Hill Road is undersized per current City drainage criteria and the system cannot contain the 100-year flow within the street right-of-way; and
- WHEREAS,** upon review of the analysis provided by Kimley-Horn, the City Council has made findings contained herein related to the inadequacy of existing essential public facilities in accordance with Section 212.135 of the Local Government Code; and
- WHEREAS,** based on the findings contained herein, information provided by City staff, and the evidence submitted at public hearings, the City Council has determined that existing residential development ordinances and regulations and other applicable laws are inadequate to prevent existing essential public facilities from exceeding capacity, thereby being detrimental to the public health, safety and welfare of the residents of Westworth Village; and
- WHEREAS,** the City Council finds a 120-day moratorium placed on the issuance or renewal of permits for property development of residential property that would increase impervious surface coverage in the SF-R and PD districts is a minimally intrusive method of maintaining the status quo until such review can be completed; and
- WHEREAS,** public hearings have been held before both the Planning and Zoning Commission of the City and the City Council in accordance with Subchapter E, Chapter 212, Local Government Code and all the notice, hearing and other procedural requirements of Section 212.134 have been observed; and
- WHEREAS,** it is the intent of the City Council that this moratorium shall only apply to residential property, as that term is defined in Section 212.131 of the Local Government Code, located within the SF-R and PD districts.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTWORTH VILLAGE, TEXAS THAT:

Section 1. Effective immediately and for a period of one hundred and twenty (120) days, no application for a new permit or renewal of a permit shall be accepted and no permit shall be issued for property development, of residential property that will increase impervious surface coverage within the SF-R and PD districts as that area is defined or depicted in Exhibit “A.” The term “permit” as used in this ordinance shall mean a license, certificate, plat, approval, registration, consent, building permit or other form of authorization required by law, rule, regulation or ordinance that must be obtained by a person in order to perform an action or development or initiate a project for which the permit is sought. The term “property development” is defined in accordance with Section 212.131(3) of the Local Government Code to include construction, reconstruction, or other alteration or improvement of residential

buildings or the subdivision or re-platting of a subdivision of residential property. This ordinance does not affect any rights acquired under Chapter 245 of the Local Government Code (the Vested Rights Act).

Section 2. The purpose of this moratorium is to maintain the status quo regarding property development within the SF-R and PD districts until such time as the City has reviewed and, if necessary, addressed the existing storm drainage issues.

Section 3. Relying on the analysis provided by Kimley-Horn, attached hereto as Exhibit "B," the outstanding permits issued by the City prior to this moratorium, attached hereto as Exhibit "C," and the City's impact fee analysis, attached hereto as Exhibit "D," the City Council makes the following findings.

- The storm drainage system underneath Burton Hill Road is at capacity because it is undersized per current City drainage criteria and the storm drainage system as shown in Exhibit B cannot contain the 100-year flow within the street right-of-way. Further, additional development could increase 100-year peak flows and increase the surcharge beyond the right-of-way boundaries; and
- The storm drainage system as shown in Exhibit B is operating at capacity, the City has issued twenty-nine (29) building permits that will increase the impervious surface in the SF-R and PD districts by 81,096 square feet, and there is no additional capacity available to commit to development of lots in the SF-R and PD districts; and
- The City does not collect a storm drainage impact fee. Therefore, there is no impact fee revenue available to allocate to address the storm drain facility need; and
- This moratorium is reasonably limited to property located in the SF-R and PD districts. The storm water runoff from properties in the SF-R and PD districts collects in the Burton Hill Road storm sewer and Channel A, which cannot accommodate additional surcharge; and
- This moratorium is reasonably limited to future property development that would increase impervious surface coverage in the SF-R and PD districts, thereby increasing the storm water runoff in the Burton Hill Road storm sewer and Channel A, which are already operating at capacity.

Section 4. The city staff is hereby directed to continue the study of the storm drainage system in the SF-R and PD districts, to consider possible upgrades to the storm drainage system to accommodate future property development, to consider amending regulations for the SF-R and PD districts to support continued development, and to make recommendations to the City Council as expeditiously as possible with regard to any such solutions.

Section 5. Any property owner that believes that the imposition of this moratorium causes a unique and unreasonable hardship on their property or business shall have the right to request a variance to the provisions of this moratorium. A property owner seeking a variance shall submit a written request to the Planning and Zoning Commission and the City Council through the city secretary's office. The request must provide the following information:

- (1) a description of the property to be covered by the variance; and
- (2) a detailed description of the proposed improvements to the property; and
- (3) an explanation as to why the application of the moratorium is unreasonable as applied to the applicant's property; and
- (4) a description of any negative impacts created by the moratorium provision.

The city secretary's office shall first place the request for a variance on the agenda of the Planning and Zoning Commission for a recommendation as to whether a unique and unreasonable hardship exists. The applicant shall receive written notice of the date of the proposed hearing on the variance request. The city staff shall not be required to provide written notice of the variance request to any other individual or entity. On the date that the item is set for hearing, the Planning and Zoning Commission shall conduct a public hearing on the variance request giving any individual who desires to present information or evidence on the appropriateness or inappropriateness of the variance the opportunity to appear before the Planning and Zoning Commission and present such information. At the conclusion of the hearing, the Planning and Zoning Commission, by majority vote, may recommend that the

variance be granted, with or without conditions, or denied based on the applicant's showing or failure to show a unique and unreasonable hardship, respectively.

The city secretary's office shall then place the request for a variance on the agenda of the City Council for the final determination on whether a unique and unreasonable hardship exists. The applicant shall receive written notice of the date of the proposed hearing on the variance request. The city staff shall not be required to provide written notice of the variance request to any other individual or entity. On the date that the item is set for hearing, the City Council shall conduct a public hearing on the variance request giving any individual who desires to present information or evidence to the City Council on the appropriateness or inappropriateness of the variance the opportunity to appear before the City Council and present such information. The recommendation of the Planning and Zoning Commission shall also be considered, but the City Council shall be the City's sole and final arbiter of whether a unique and unreasonable hardship has been shown to exist. At the conclusion of the hearing, the City Council, by majority vote, may approve a variance to the provisions of this moratorium or may deny the request for variance depending on its determination of whether a unique and unreasonable hardship has been shown by the applicant. The approval of a variance shall entitle the applicant to submit an application for the new construction or renovation permit in accordance with the approved variance.

To the extent applicable, a permit applicant on property that is subject to this moratorium may apply for a waiver from the moratorium in accordance with Section 212.137 of the Local Government Code.

Section 6. This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Westworth Village, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

Section 7. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 8. This moratorium shall remain in effect until such time as the City Council has had a reasonable opportunity to consider and act upon recommendations from staff regarding upgrades to the storm drainage system and regulation amendments to support continued development in the SF-R and PD districts. This moratorium shall expire upon the passage of an ordinance by City Council determining the purposes of the moratorium are satisfied. This moratorium shall automatically expire one hundred and twenty (120) days from the date of its adoption, unless it is specifically extended by additional City Council action for an additional period of time in accordance with Section 212.136 of the Local Government Code.

Section 9. This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

PASSED AND APPROVED ON FIRST READING this 9th day of October, 2020.

PASSED, APPROVED, AND EFFECTIVE ON SECOND READING this 13th day of October, 2020.

SIGNATURES REDACTED:

Mayor Jones

Brandy Barrett, TRMC City Secretary

Alicia Kreh, TOASE, City Attorney