

**CITY OF JOSHUA, TEXAS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, AMENDING SUBSECTION C, "PUBLIC HEARING AND NOTICE," OF SECTION 3.1.4, "AMENDMENTS, CHANGES AND ADMINISTRATIVE PROCEDURES," OF ARTICLE 3, "PROCESSES AND PROCEDURES," OF THE CITY'S ZONING ORDINANCE, FOUND IN CHAPTER 14, "ZONING," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS, BY PROVIDING FOR NOTICES RELATIVE TO A CHANGE IN A ZONING REGULATION THAT COULD RESULT IN A NONCONFORMING USE, CONSISTENT WITH SENATE BILL 929; AMENDING SECTION 4.1.11, "AMORTIZATION," OF ARTICLE 4, "NONCONFORMITIES," OF THE CITY'S ZONING ORDINANCE, FOUND IN CHAPTER 14, "ZONING," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS, PROVIDING FOR AMORTIZATION PROCEDURES CONSISTENT WITH SENATE BILL 929; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the 88th Legislature recently passed Senate Bill 929 relative to nonconforming uses of property and notice to property owners, and it is the desire of the City Council to fully comply with such legislation; and

**WHEREAS**, after public notice and public hearing as required by law, the Planning and Zoning Commission of the City of Joshua, Texas, has recommended amending the City's Zoning Ordinance to encompass those amendments as set forth herein; and

**WHEREAS**, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of said Planning and Zoning Commission and of all testimony and information submitted during said public hearing, the City Council of the City of Joshua, Texas, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the City to amend the City's Zoning Ordinance as set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, THAT:**

**SECTION 1**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Joshua, and they are hereby approved and incorporated into the body of this Ordinance as if restated herein in their entirety.

**SECTION 2**

From and after the effective date of this Ordinance, Subsection C, "Public Hearing

and Notice,” of Section 3.1.4, “Amendments, Changes and Administrative Procedures,” of Article 3, “Processes and Procedures,” of the City’s Zoning Ordinance, found in Chapter 14, “Zoning,” of the Code of Ordinances of the City of Joshua, Texas, is hereby amended by adding a new Subpart (4) to read as follows:

**“3.1.4 AMENDMENTS, CHANGES AND ADMINISTRATIVE PROCEDURES**

\* \* \*

C. Public Hearing and Notice. Upon filing of an application for an amendment to the zoning ordinance and/or map, the Planning and Zoning Commission shall call a public hearing on said application:

\* \* \*

4. In addition to the foregoing notice, the City shall provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed. The notice shall:
  - (a) be mailed by United States mail to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date;
  - (b) contain the time and place of the hearing; and
  - (c) include the following text in bold 14-point type or larger: “THE CITY OF JOSHUA IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY.”

**SECTION 3**

From and after the effective date of this Ordinance, Section 4.1.11, “Amortization,” of Article 4, “Nonconformities,” of the City’s Zoning Ordinance, found in Chapter 14, “Zoning,” of the Code of Ordinances of the City of Joshua, Texas, is hereby amended to read as follows:

**“4.1.11 AMORTIZATION**

The City Council may request that the Zoning Board of Adjustment establish a compliance date for discontinuance of a nonconformity in accordance with this Section.

In determining whether to initiate an amortization proceeding, the Zoning Board of Adjustment may consider the character of the surrounding area, the degree of incompatibility of the nonconformity to the zoning district in which it is located, the effect of the nonconformity on the surrounding area, the effect of cessation of the nonconformity on the area, any other danger or nuisance to the public caused by the nonconformity, and any other factors the Zoning Board of Adjustment considers relevant. If the Zoning Board of Adjustment determines that there is no public necessity for establishing a compliance date, the Zoning Board of Adjustment shall notify the City Council of same.

The Zoning Board of Adjustment shall, in accordance with Section 211.019 of the Texas Local Government Code, as amended, utilize the procedures and owner or lessee compensation criteria contained in said Section in the event the City determines that a nonconforming use of property shall cease.”

#### **SECTION 4**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City 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 and phrases be declared unconstitutional or invalid.

#### **SECTION 5**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, and any remaining portions of said ordinances shall remain in full force and effect.

#### **SECTION 6**

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

#### **SECTION 7**

This Ordinance shall become effective from and after its adoption and publication as required by law; however, the provisions of this Ordinance shall not be applicable to any residential development or tract of land for which one or more final plats has been approved by the City as of the effective date of this Ordinance.

**DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, ON THIS \_\_\_\_ DAY OF SEPTEMBER, 2023.**

\_\_\_\_\_  
Scott Kimble, Mayor

**ATTEST:**

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Alice Holloway, City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

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Terrence S. Welch, City Attorney