

**CITY OF JOSHUA, TEXAS**

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, REPEALING EXISTING SECTION 6.02.013, "ASSESSMENT OF EXPENSES; LIEN; APPEAL," AND SECTION 6.02.015, "ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS WITHOUT PRIOR NOTICE," OF ARTICLE 6.02, "NUISANCES GENERALLY; ABATEMENT," OF CHAPTER 6, "HEALTH AND SANITATION," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS, AND REPLACING IT WITH A NEW SECTION 6.02.013, "ASSESSMENT OF EXPENSES; LIEN; REVIEW," AND A NEW SECTION 6.02.015, "ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS WITHOUT PRIOR NOTICE"; MAKING FINDINGS RELATIVE THERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Joshua ("City") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas; and

**WHEREAS**, the City possesses all of the rights, powers, and authorities possessed by all home rule municipalities, including the authority to regulate land uses under Chapter 211 of the Texas Local Government Code, as amended; and

**WHEREAS**, the City has determined that amending the hearing requirements in an effort to make the appeal hearing process hereinafter outlined less burdensome for City staff and the public, while in no way affecting the ability of the City, as a home-rule municipality, to regulate other nuisances within the purview of Chapter 6 of the Code of Ordinances or impair the rights of owners of property to request for review of the costs incurred by the City for nuisance abatement; and

**WHEREAS**, the City Council has determined that such an amendment would be in the best interests of the City and its residents.

**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 and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2**

From and after the effective date of this Ordinance, Section 6.02.013, "Assessment of Expenses; Lien; Appeal," of Article 6.02, "Nuisances Generally; Abatement," of Chapter 6, "Health and Sanitation," of the Code of Ordinances of the City of Joshua, Texas, is

hereby amended to read as follows:

**“§ 6.02.013 Assessment of Expenses; Lien; Review.**

- (a) Lien assessed. The City does hereby assess the expenses incurred pursuant to Section 6.02.010 against the real estate on which the work is done or improvements made, and charge the owner of the property. The expenses shall include an administrative fee.
- (b) Notice. In assessing the expenses incurred against the property on which the work is done or improvements made, the City shall send the owner of the property upon which the work was done a notice which shall include:
  - (1) Identification of the property;
  - (2) Description of the violation;
  - (3) A statement that the City abated the condition;
  - (4) A statement of the City’s expenses in abating the condition;
  - (5) An explanation of the property owner’s right to request in writing a review by the City Manager of the costs incurred by the City, within 10 days of the date of the letter; and
  - (6) A statement that if the owner fails or refuses to pay the expenses within 30 days of the date of the notice, the City Manager or his designee shall place a lien against the property by filing with the county clerk, of the county in which the property is located, a notice of lien and statement of expenses incurred.
- (c) Method. The notice shall be sent in the same manner as provided in Section 6.02.009.
- (d) Written Request for Review. The City Manager or his designee will consider and determine any written request for review of the costs incurred by the City. In such written request:
  - (1) The owner may submit written testimony or written information related to the City’s abatement of the nuisance and any costs incurred by the City.
  - (2) The owner may provide evidence that the City expenses incurred to abate the violation were unreasonable.
  - (3) No later than 15 days after the City Manager’s receipt of the written request, the City Manager or his designee shall issue a written determination

whether the expenses incurred by the City were valid, and if not, he may adjust them accordingly.

- (e) Placement of lien. If no written request for review is timely received by the City, or the owner fails or refuses to pay the expenses within 30 days after the written notification to pay, the City Manager or his designee shall place a lien against the property by filing with the county clerk of the county in which the property is located a notice of lien and statement of expenses incurred. The lien shall state the name of the property owner if known, and contain the legal description of the property.
- (f) Security. The lien is security for the expenses and interest accruing at the rate of 10% per annum from the date the work was performed or the expenses were incurred by the City.
- (g) Filing. When the statement is filed, the City shall have a privileged lien on that property, second only to tax liens and liens for street improvements.
- (h) Suit. The City may institute suit to recover the expenses, with interest, and may foreclose on the property. The original or a certified copy of the statement of expenses is prima facie proof of the expenses incurred by the City in doing the work or making the improvements.”

### **SECTION 3**

From and after the effective date of this Ordinance, Section 6.02.015, “Additional Authority to Abate Dangerous Weeds without Prior Notice,” of Article 6.02, “Nuisances Generally; Abatement,” of Chapter 6, “Health and Sanitation,” of the Code of Ordinances of the City of Joshua, Texas, is hereby amended to read as follows:

#### **“§ 6.02.015 Additional authority to abate dangerous weeds without prior notice.**

- (a) Abatement. The city may abate, without prior notice, weeds that have grown higher than 48 inches, and are an immediate danger to the health, life, or safety of any person.
- (b) Notice. Not later than the 10th day after the date the city abates weeds under this section, the City shall give notice to the property owner in the same manner provided in Section 6.02.013. This notice shall contain:
  - (1) An identification, which is not required to be legal description, of the property;
  - (2) A description of the violations that occurred on the property;
  - (3) A statement that the city abated the weeds or grass; and

- (4) An explanation of the property owner's right to request in writing a review by the City Manager of the costs incurred by the City, within 10 days of the date of the letter.
- (c) Written Request for Review. The City Manager or his designee will consider and determine any written request for review of the costs incurred by the City. In such written request:
  - (1) The owner may submit written testimony or written information related to the City's abatement of the nuisance and any costs incurred by the City.
  - (2) The owner may provide evidence that the City expenses incurred to abate the violation were unreasonable.
  - (3) No later than 15 days after the City Manager's receipt of the written request, the City Manager or his designee shall issue a written determination whether the expenses incurred by the City were valid, and if not, he may adjust them accordingly.
- (d) Placement of lien. If no written request for review is timely received by the City, or the owner fails or refuses to pay the expenses within 30 days after the written notification to pay, the City Manager or his designee shall place a lien against the property by filing with the county clerk of the county in which the property is located a notice of lien and statement of expenses incurred. The lien shall state the name of the property owner if known, and contain the legal description of the property."

#### **SECTION 4**

If any word, section, article, phrase, paragraph, sentence, clause, or portion of this Ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity which remaining portions shall remain in full force and effect.

#### **SECTION 5**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

#### **SECTION 6**

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the laws of the State of Texas.



**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, THIS 16TH DAY OF MAY 2024.**

**APPROVED:**

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Scott Kimble, Mayor

**ATTEST:**

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Alice Holloway, City Secretary

**APPROVED AS TO FORM:**

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Terrence S. Welch, City Attorney