

CITY OF JOSHUA, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, AMENDING SECTION 6.02.009, "NOTICE OF VIOLATION; ORDER TO ABATE PRIOR TO ABATEMENT BY THE CITY," OF ARTICLE 6.02, "NUISANCES; GENERALLY," OF CHAPTER 6, "HEALTH AND SANITATION," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS, BY PROVIDING FOR THE PROVISIONS IN SAID SECTION TO BE IN CONFORMITY TO THE PROVISIONS CONTAINED IN SECTION 342.006 OF THE TEXAS HEALTH AND SAFETY CODE, AS AMENDED; MAKING FINDINGS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Joshua, Texas ("City"), is a Home Rule municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City is authorized and empowered to amend ordinances from time to time in order to protect the welfare of its inhabitants; and

WHEREAS, Chapter 342, "Local Regulation of Sanitation," of the Texas Health and Safety Code, as amended, provides in Section 342.006, "Work or Improvements by Municipality; Notice," for a process and procedure to be utilized in the event that a property owner does not comply with a municipal ordinance regulating sanitation, as more fully described and defined in said Chapter 342; and

WHEREAS, it is the purpose of this Ordinance to adopt the process and procedures authorized by said Section 342.006 and to accordingly amend Section 6.02.009 of the Code of Ordinances of the City of Joshua, Texas.

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 6.02.009, "Notice of Violation; Order to Abate Prior to Abatement by City," of Article 6.02, "Nuisances; Generally," of Chapter 6, "Health and Sanitation," of the Code of Ordinances of the City of Joshua, Texas, is hereby amended to read as follows:

"ARTICLE 6.02

NUISANCES; GENERALLY

* * *

Generally

§ 6.02.009. Notice of Violation; Order to Abate Prior to Abatement by City.

- (a) Notice Required for Abatement Action by the City. If the owner of land fails to comply with the requirements of this article, a City official may cause the property owner to be notified and ordered to cut the grass, weeds, or brush, remove rubbish, garbage, refuse or brush or otherwise clean up the property as required within 7 days of the date of the notice. Prior notice shall not be required to issue a citation for violation of this Article, or in accordance with Section 6.02.012 of this Article.
- (b) Method of notice. The notice shall be given:
- (1) Personally to the owner in writing;
 - (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 - (3) If personal service cannot be obtained:
 - (A) By publication in the City's official newspaper at least once;
 - (B) By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (c) Unclaimed notice. If notice is mailed to a property owner in accordance with Subsection (b), above, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

- (d) Additional violations. In a notice provided under this Section, the City may:
- (1) Inform the owner by regular mail and a posting on the property, or by personally delivering the notice, that if the owner commits another violation of the same kind or nature (including but not limited to failure to mow weeds or high grass or remove rubbish, refuse or garbage) that poses a danger to the public health and safety on or before the first anniversary of date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expenses against the property; and
 - (2) If a violation occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City, without notice, may take corrective action as authorized by Subsection (a), above, and thereafter assess the expenses against the property.
- (e) Contents of notice. The notice may contain a statement in accordance with subsection (d), above, and shall contain:
- (1) The name and address of the record owner;
 - (2) An identification, which is not required to be a legal description, of the property upon which the violation is located;
 - (3) A statement describing the violation and the work necessary to correct the violation;
 - (4) A statement advising the owner that if the work is not completed within 7 days, the City will complete the work and charge the expenses against the property; and
 - (5) A statement that if the City performs the work and the owner fails to pay the expenses, a priority lien may be placed on the property, in accordance with Section 342.007 of the Texas Health & Safety Code, as amended.
- (f) In the event of any conflict between this Subsection and any applicable provision of state law, including but not limited to, Chapter 342 of the Texas Health & Safety Code, as amended, state law shall prevail.

* * *

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances of the City of Joshua, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4

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 5

All rights and remedies of the City of Joshua are expressly saved as to any and all violations of the provisions of existing ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6

Any person, firm or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine of not less than less than One Dollar (\$1.00) and not more than Five Hundred Dollars (\$500.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense, except for a violation of section 4.09.031, for which the fine amount is up to Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall constitute a separate offense.

SECTION 7

This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, ON THIS THE ____ DAY OF AUGUST, 2024.

Scott Kimble, Mayor

ATTEST:

Alice Holloway, City Secretary

APPROVED AS TO FORM:

Terrence S. Welch, City Attorney