

CITY OF JOSHUA, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, AMENDING SUBSECTIONS (C)(1), "PUBLIC HEARING AND NOTICE," AND (D)(3), "ACTION OF THE CITY COUNCIL," 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, RELATIVE TO ZONING PUBLIC NOTICE, PUBLIC HEARINGS AND ZONING PROTESTS; AMENDING SECTION 5.8, "HOME OCCUPATIONS," OF ARTICLE 5, "PERMITTED USES," OF THE CITY'S ZONING ORDINANCE, FOUND IN CHAPTER 14, "ZONING," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS, TO INCLUDE THE PREEMPTIVE EFFECT OF SECTION 229.902 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; MAKING FINDINGS; PROVIDING CUMULATIVE/REPEALER CLAUSES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Joshua, Texas ("City"), is a home-rule municipality under the laws of the State of Texas and is duly incorporated; and

WHEREAS, House Bill 24, adopted by the 89th Session of the Texas Legislature, amended Chapter 211 of the Texas Local Government Code relative to zoning protests and added definitions to said Chapter, among others; and

WHEREAS, House Bill 2464, adopted by the 89th Session of the Texas Legislature, amended Chapter 229 of the Texas Local Government Code by adding certain definitions related to no-impact home-based businesses and municipal regulation of same, among others; and

WHEREAS, the City Council desires to amend its ordinances to be consistent with the new state law and in coordination with recent jurisprudential precedents and therefore has determined that the following amendments are in the best interest of the health, safety, and welfare of the citizens of the City of Joshua.

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

SECTION 1

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2

From and after the effective date of this Ordinance, existing Subsections (C)(1), "Public Hearing and Notice," and (D)(3), "Action of the City Council," 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 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 hold at least one public hearing on each application as applicable by state law (Texas Local Government Code Chapter 211, as so may be amended).

1. Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within two hundred (200) feet of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings on proposed changes in the text of the Zoning Ordinance shall be accomplished by one publication in the official newspaper of the City not less than 15 days prior to both the Planning and Zoning Commission and City Council meetings. Notice of a proposed comprehensive zoning change, as defined in Texas Local Government Code Chapter 211, shall be given by publication in the official newspaper of the City and on the City's website, stating the time and place of such hearing, a minimum of 15 days prior to the date of the public hearing. Changes in the ordinance text which do not change zoning district boundaries and proposed comprehensive zoning changes do not require written notification to individual property owners.

* * *

(D) Action of the City Council.

* * *

3. Three-fourths vote. If a written protest against a proposed amendment, supplement or change to a zoning regulation or district boundary that is not a proposed comprehensive zoning change has been filed with the Planning Department, duly signed and acknowledged by the owners of (i) at least 20

percent of the lots or land covered by the proposed change; (ii) except as otherwise provided in subsection (iii) herein, at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area; or (iii) at least 60 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area if the proposed change has the effect of allowing more residential development than the existing zoning regulation or district boundary and does not have the effect of allowing additional commercial or industrial uses unless the additional use is limited to the first floor of any residential development and does not exceed 35 percent of the overall development, such amendments shall not become effective except by the affirmative vote of at least (x) three-fourths of all members of the City Council for a protest described by subsection (i) or (ii); or (y) a majority of all members of the City Council for a protest described by subsection (iii). Written protests shall be subject to the following requirements:

- a. All protests must be submitted to the City Secretary in writing before 5:00 p.m. of the fourth (4th) business day immediately preceding the date advertised for the City Council public hearing in the statutory notice published in the official newspaper of the City. For example, a written protest must be received by 5:00 p.m., on the Friday prior to a regularly scheduled Thursday City Council meeting. A protest sent through the mail must be received by the City Secretary before the deadline. Such written protest(s) shall include the zoning case number, the name of the protesting property owner, the address(es) or property description(s) of the property for which the property owner is asserting a protest, the reasons for the property owner's protest such as the zoning classifications or uses to which the property owner is opposed, and the signature of the protesting property owner(s).
- b. In all cases where a protest has been properly signed pursuant to this section, the City shall presume that the signatures appearing on the protest are authentic and that the persons whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented. Upon the advice of the City Attorney, this presumption shall not be followed in a specific case based on evidence presented.
- c. A person may by written request withdraw his or her signature from the protest at any time prior to the close of the public hearing for the zoning case. If the withdrawal of an owner's signature from a protest reduces the percentage of land area ownership protesting the zoning change to less than the 20 percent of the total area of land, a three-

fourths (3/4) vote of the City Council for approval of the zoning change shall not be required.

- d. In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls.
- e. At any time before City Council action on a zoning case, the filing deadline for a protest is automatically extended whenever the zoning case is postponed or continued to a later date."

SECTION 3

From and after the effective date of this Ordinance, existing Section 5.8, "Home Occupations," of Article 5, "Permitted Uses," 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:

"§ 5.8. Home Occupations.

* * *

- C. Preemptive Effect of Section 229.902, Local Government Code. In the event of any conflict between this section and Section 229.902 of the Texas Local Government Code, as amended, Section 229.902 shall control."

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 _____, 2025.

Scott Kimble, Mayor

ATTEST:

Alice Holloway, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, City Attorney