

ORDINANCE NO. 479-2009

AN ORDINANCE OF THE CITY OF JOSHUA, TEXAS, AMENDING ORDINANCE NO. 469-2008, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, TO REZONE APPROXIMATELY 3.739 ACRES OUT OF THE T. W. BAIRD SURVEY, ABSTRACT NO. 40, JOSHUA, TEXAS, FROM “MH” MANUFACTURED HOME DISTRICT AND “I” INDUSTRIAL TO “R-1” SINGLE FAMILY RESIDENTIAL; CHANGING THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR A REPEALER CLAUSE; SEVERABILITY; A SAVINGS CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000 AND AUTHORIZATION TO SEEK INJUNCTIVE RELIEF TO ENJOIN VIOLATIONS WHICH CONSTITUTE AN IMMINENT HAZARD OR DANGER TO THE PUBLIC HEALTH AND SAFETY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Joshua, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Joshua and laws of the State of Texas, at a meeting of the City Council, to be held on the 21st day of May 2009, for the purpose of considering rezoning 3.739 acres out of the T. W. Baird Survey, Abstract No. 40, in the City of Joshua, Johnson County, Texas from “MH” Manufactured Home District and “I” Industrial to “R-1” Single Family Residential; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Joshua, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the Planning and Zoning Commission of said City pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance on the 4th day of May 2009; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 21st day of May, 2009; and

WHEREAS, the City Council is of the opinion and finds that such rezoning would not be detrimental or injurious to the public health, safety and general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Joshua, and as well, the owners and occupants thereof, and the City generally.

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

SECTION 1.
INCORPORATION OF PREMISES

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

SECTION 2.
REZONING OF CERTAIN DESCRIBED TRACTS

2.01 The Comprehensive Zoning Ordinance No. 469-2008, as previously amended, is hereby further amended to rezone 3.739 acres out of the T. W. Baird Survey, Abstract No. 40, in the City of Joshua, Johnson County, Texas from "MH" Manufactured Home District and "I" Industrial to "R-1" Single Family Residential Zoning District, said property being described in the legal description on Exhibit "A" attached hereto.

SECTION 3.
CHANGE TO OFFICIAL ZONING MAP

It is directed that the official zoning map of the City of Joshua be changed to reflect the zoning classification established by this Ordinance.

SECTION 4.
CUMULATIVE REPEALER

This ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of said Ordinances except those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided, however, that any complaint, action, claim or lawsuit that has been initiated or has arisen under or pursuant to any of the Ordinance or sections thereof that have been specifically repealed on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance or section thereof and for that purpose the Ordinance or section thereof shall remain in full force and effect.

SECTION 5.
SEVERABILITY

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed

such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6.
SAVINGS CLAUSE

All rights and remedies of the City of Joshua are expressly saved as to any and all violations of the provisions of any Ordinances affecting and 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 7.
PENALTY CLAUSE

7.01 Any person violating any of the provisions of this Ordinance shall be deemed guilty of a Class C misdemeanor and, upon conviction, shall be fined, except as otherwise provided herein, in a sum not to exceed Two Thousand Dollars (\$2,000) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

7.02 If the City Council of the City of Joshua determines that a violation of this Ordinance creates a threat to the public health and safety, the City of Joshua may bring suit in district court to enjoin the person, firm, partnership, corporation, or association from engaging in the prohibited activity. The City of Joshua is not required to give bond as a condition to the issuance of injunctive relief.

SECTION 8.
PUBLICATION

The City Secretary of the City of Joshua is hereby directed to publish in the Official Newspaper of the City of Joshua the Caption, Penalty, and Effective Date of this Ordinance as required by Section 52.013 of the Texas Local Government Code.

SECTION 9.
ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Joshua is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Joshua and by filing this Ordinance in the Ordinance records of the City.

SECTION 10.
EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and publication, in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS THIS THE 21st DAY OF May, 2009.

Merle Breitenstein, Mayor
City of Joshua, Texas

ATTEST:

Mary Beth Thomas, City Secretary
City of Joshua, Texas

APPROVED AS TO FORM AND CONTENT:

City Attorney
City of Joshua, Texas

EXHIBIT "A"

BEING, a part of a called 7.93 acre tract of land described in deed conveyed to Kyle Freeman recorded in Volume 3511, Page 930, Deed Records, Johnson County, Texas (D.R.J.C.T.) and being in the Thomas W. Baird Survey, Abstract No. 40, Johnson County, Texas more particularly described as follows:

BEGINNING, at a ½" iron rod found for a corner at an ell corner in said called 7.93 acre tract, being the southeast corner of a called 6.201 acre tract of land described in Deed recorded in Volume 1280, Page 217, D.R.J.C.T., from which a ½" iron rod found in the east line of State Highway No. 174, bears S 89°40'40" W, 863.64 feet for the most westerly northwest corner of said called 7.93 acre tract and the southwest corner of said called 6.201 acre tract;

THENCE, N 00°30'23" W, called N 00°20'00" W along the most northerly west line of said 7.93 acre tract and the east line of said 6.201 acre tract, passing at 307.93 feet a railroad cross tie found for the northeast corner of same and the southeast corner of a called 6.24 acre tract of land described in Deed recorded in Volume 1800, Page 0603, D.R.J.C.T. a total distance of 617.84 feet, called 617.60 feet to a ½" iron rod found for the most northerly northwest corner of said 7.93 acre tract, from which a 1" iron pipe found for reference bears N 08°23'35" E, 0.59 feet;

THENCE, N 89°57'12" E, called S 89°47'00" E, along the most northerly line of said called 7.93 acre tract and the south line of a tract of land described in Deed recorded in Volume 2889, Page 0296, D.R.J.C.T., a distance of 271.30 feet, called 270.90 feet, to a ½" iron rod found for the northeast corner of said 7.93 acre tract, said ½" iron rod also being the northwest corner of a tract of land described in Deed recorded in Volume 535, Page 470, D.R.J.C.T.;

THENCE, S 00°52'24" W, called S 01°03'00" W, along the east line of said 7.93 acre Freeman tract, a distance of 616.66 feet to a point for a corner in the east line of same;

THENCE, S 89°40'40" W, a distance of 256.45 feet to the place of beginning and containing 3.739 acres of land.