

**CITY OF JOSHUA, TEXAS
ORDINANCE NO. 489-2009**

AN ORDINANCE OF THE CITY OF JOSHUA, TEXAS, AMENDING ORDINANCE NO. 469-2008, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, BY GRANTING A CONDITIONAL USE PERMIT TO ALLOW OUTSIDE STORAGE, INCLUDING CARPORTS, ON PROPERTY LOCATED IN THE ALLISON ADDITION, MORE COMMONLY KNOWN AS 457 N. BROADWAY, JOSHUA, TEXAS, CURRENTLY ZONED "I" INDUSTRIAL; 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, for a public hearing to be conducted at a meeting of the City Council on the 15th day of October 2009, for the purpose of considering a conditional use permit on property located in the Allison Addition, more commonly known as 457 N. Broadway; 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 5th day of October 2009; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearings and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on October 15, 2009 and November 19, 2009; and

WHEREAS, the City Council is of the opinion and finds that such conditional use permit to allow outside storage, including carports, in "I" Industrial Zoning District 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 in the City of Joshua, the owners and occupants thereof, and the City generally, and

WHEREAS, the City Council additionally finds:

(1) That the establishment, maintenance, or operation of the conditional use will not be materially detrimental to, or endanger, the public health, safety, morals, or general welfare;

(2) That the uses, values and enjoyment of other property in the neighborhood, for purposes already permitted, shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance, or operation of the conditional use;

(3) That the establishment of the conditional use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

(4) That adequate utilities, access roads, drainage and other necessary site improvements have been or will be provided;

(5) That adequate measures have been or will be taken to provide ingress or egress, so designed as to minimize traffic congestion in the public streets; and

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.
CONDITIONAL USE PERMIT GRANTED IN CERTAIN DESCRIBED TRACTS

The Comprehensive Zoning Ordinance No. 469-2008, as previously amended, is hereby further amended to allow a conditional use permit on property located in the Allison Addition, more commonly known as 457 N. Broadway in the City of Joshua, Johnson County, Texas to allow outside storage, including carports, in "I" Industrial Zoning District, subject to the following conditions:

- a. all weather surface is required under each display unit;
- b. the entrance to the property shall have stone columns, landscaping and an updated fence;
- c. no display unit will be more than twenty-five feet (25') in height;
- d. the permitted outside storage is limited to the display of storage units for sale;
- e. there will not be more than twenty percent (20%) lot coverage for the permitted outside storage;
- f. no storage or parking of vehicles will be permitted inside the displayed storage units; and
- g. no displays will be located in any easements.

SECTION 3.
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 4.
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 5.
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 6.
PENALTY CLAUSE

6.01 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.

6.02 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 7.
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 8.
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 9.
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 19th DAY OF November, 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