

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

ORDINANCE NO. 21

AN ORDINANCE PROVIDING FOR A TEMPORARY MORATORIUM ON CONSTRUCTION AND EXCAVATION WITHIN THE CITY OF ANNETTA, TEXAS, PENDING ENACTMENT OF A COMPREHENSIVE ZONING ORDINANCE FOR THE CITY; DECLARING AN EMERGENCY AND AUTHORIZING PUBLICATION OF THIS DESCRIPTIVE CAPTION AND PENALTY CLAUSE.

WHEREAS, the City of Annetta presently has no comprehensive zoning ordinance as contemplated by Articles 1011a through 1011j, Texas Revised Civil Statutes; and,

WHEREAS, this lack of controls has caused the establishment of inappropriate and inconsistent uses which tend to reduce property values and to make the City a less pleasant place to live; and,

WHEREAS, such uses include the establishment of sand and gravel mining operations in close proximity to residential and other incompatible uses; and,

WHEREAS, the Board of Aldermen has determined that a comprehensive zoning ordinance is necessary to promote the health, safety, morals and general welfare of the community and to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence and other purposes as provided by Article 1011a, Texas Revised Civil Statutes; and,

WHEREAS, the Board of Aldermen has heretofore on May 14, 1984, appointed a committee on zoning and passed a motion for a six (6) month moratorium on commercial business, sand and gravel pits and movement excavation; and,

WHEREAS, immediately after the enactment of such moratorium by the Board of Aldermen certain persons immediately began violating the same; and,

WHEREAS, it is essential to preserve the ability of the City to plan to protect the health, safety and general welfare of the citizens of Annetta and to protect the value, use and enjoyment of existing uses from the establishment of interharmonious, inconsistent and incompatible uses which make it difficult if not impossible to plan for the welfare of the community; and,

WHEREAS, the Board of Aldermen has determined that it should be possible to enact permanent regulations on or before November 14, 1984; NOW, THEREFORE,

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ANNETTA, TEXAS:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Sec. 1. All of the matters contained in the preamble hereto are found by the Board of Aldermen to be true and correct and are hereby incorporated as if copied in their entirety, and the actions of the Board of Aldermen taken on May 14, 1984, with respect to a moratorium are hereby ratified.

Sec. 2. The purpose of this ordinance is to enable the City of Annetta to maintain the status quo for a reasonable time in order to follow the provisions of Articles 1011a through 1011j and to establish a comprehensive plan and a comprehensive zoning ordinance for the City of Annetta, Texas.

Sec. 3. Until November 14, 1984, no permit shall be issued for and no commercial use of land shall be established or begun; there shall, likewise, be no excavation of land for sand and gravel or open pit mining operations on any land or portion of land where such excavations were not occurring prior to the enactment of this moratorium. No commercial use of land shall be initiated nor shall any commercial use of land be extended beyond what existed prior to the enactment of this moratorium.

Sec. 4. Notwithstanding the provisions of the foregoing sections, subject to issuance of a building permit therefor, construction of accessory buildings, structures and uses, and fences, maintenance or repair of existing buildings where no change in use or increase in intensity of use is involved, may occur if the Board of Aldermen has determined, pursuant to the following section, that the moratorium would impose an extraordinary hardship on the owner or user of land.

Sec. 5. The Board of Aldermen may authorize exceptions to the moratorium imposed by this ordinance when it finds, based on evidence presented to it, that deferral of action on a permit for the duration of the moratorium imposed by this ordinance would impose an extraordinary hardship on the owner or user of property in question.

The request for an exception based upon extraordinary hardship shall be filed by the person desiring such exception and shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship. Prior to consideration of any such request, the Board of Aldermen shall cause written notice to be sent to all persons within two hundred (200) feet of the property on which the exception is requested informing the owners of such land of the request for the exception and of the date of a public

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

hearing to be held on the matter before the Board of Aldermen.

Applications for extraordinary hardship shall be accompanied by a fee of One Hundred Dollars (\$100.00) to cover the expenses of mailing, and the Board of Aldermen shall consider the following matters in determining the existence of extraordinary hardship:

1. The extent to which the applicant has, prior to the enactment of the moratorium, made a substantial commitment of money or resources directly associated with the proposed use to be allowed by the exception and the extent to which such money or resources will be lost or may be recovered if the exception is granted or denied.

2. Whether the delay caused by the moratorium will expose the applicant to substantial liability to third persons.

3. Whether the applicant has, prior to the enactment of the moratorium, incurred contractual commitments which are made impossible or substantially more difficult by the enactment of the moratorium.

4. The extent to which the actions of the applicant were undertaken in good faith or whether they were done with a view to defeat or avoid the ultimate zoning of the property.

Sec. 6. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon final conviction thereof fined in an amount not to exceed Two Hundred Dollars (\$200.00). Each day any such violation shall continue shall constitute a separate violation and shall be punishable hereunder.

Sec. 7. Should any section, clause, sentence, phrase, or provision of this ordinance be declared invalid, held unconstitutional or ineffective for any reason by a court of competent jurisdiction, the same shall not affect the validity of the remainder of this ordinance or any part of the provision thereof other than the part so decided to be invalid, unconstitutional or ineffective. It is hereby declared to be the intent of the Board of Aldermen that if any such portion of this ordinance had been known to be invalid, unconstitutional or ineffective, then it is the intent of the Board of Aldermen that the remainder of this ordinance would have been enacted without such invalid, unconstitutional or ineffective portion.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Sec. 8. This ordinance is hereby declared an emergency measure for the protection of property and general welfare and shall become effective immediately upon passage.

Sec. 9. The City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause of this ordinance in every issue of the official newspaper of the City for a period of ten (10) days as provided by Article 1013, Texas Revised Civil Statutes.

AND IT IS SO ORDERED.

Passed and adopted this 22nd day of May, 1984 by a vote of 4 to 0.

CITY OF ANNETTA

By: G. H. O'Neal
G. H. O'Neal, Mayor

ATTEST:

Maxine O'Neal
Maxine O'Neal
City Secretary