

City of Houston, Texas, Ordinance No. 2009- 825

**ORDINANCE AMENDING ARTICLE VI OF CHAPTER 9 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS RELATING TO AIRPORT COMPATIBLE LAND USE REGULATIONS; MAKING FINDINGS AND CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, the City of Houston, Texas (the "City"), owns and operates George Bush Intercontinental Airport/Houston, William P. Hobby Airport, and Ellington Airport (the "Airports"); and

**WHEREAS**, the Airports are used in the interest of the public to the benefit of the City; and

**WHEREAS**, the City of Houston is a municipal corporation and home rule city organized under the Constitution and the general and special laws of the State of Texas, and thereby exercises powers granted by the City's Charter and the provisions of Article XI, Section 5 of the Texas Constitution; and

**WHEREAS**, in the exercise of its lawful authority, the City may enact police power ordinances to promote and protect the health, safety and welfare of the public; and

**WHEREAS**, the City may, under the provisions of Chapter 241 of the Texas Local Government Code ("Chapter 241") and its police power, establish by ordinance regulations to administer and enforce airport compatible land use regulations for the controlled compatible land use area of an airport, in order to promote the health, safety, morals or general welfare of the City, and to promote

the safe, orderly and healthful development of the City if an airport is used in the interest of the public to the benefit of the City; and

**WHEREAS**, the City may implement, under the provisions of Chapter 241, in connection with airport compatible land use regulations, any federal law or rules controlling the use of land located adjacent to or in the immediate vicinity of the airport; and

**WHEREAS**, the City Council approved Ordinance No. 2008-1052 on December 3, 2008, establishing regulations relating to compatible airport land uses around the Airports codified in Article VI of Chapter 9 of the Code of Ordinances, Houston, Texas (“Article VI”); and

**WHEREAS**, Article VI as adopted provides that no new single family residential development uses will be allowed in the areas identified by that Article as Tier Two; and

**WHEREAS**, the policy discussion leading up to the adoption of Article VI indicated that new single family residential uses were to be allowed in Tier Two under the condition that the new construction meets certain sound attenuation requirements; and

**WHEREAS**, the City Council, upon recommendation of the Airport Commission, desires to amend Article VI to permit construction of new single family residential uses in Tier Two provided the new construction meets certain sound attenuation requirements; and

**WHEREAS**, on June 11, 2009, the Airport Commission held a meeting and adopted its preliminary report on the proposed amendments to Article VI and called for proper notice of a public hearing to be given; and

**WHEREAS**, on July 9, 2009 and July 23, 2009, the Airport Commission held two properly noticed public hearings on the proposed amendments to Article VI; and

**WHEREAS**, on July 23, 2009, the Airport Commission considered the proposed amendments to Article VI and adopted its final report thereon; and

**WHEREAS**, on September 16, 2009, the City Council held a properly noticed public hearing on the proposed amendments to Article VI; and

**WHEREAS**, the City Council finds that, in order to promote the public health, safety, morals and general welfare of the City, it is desirable to amend Article VI; and

**WHEREAS**, the City Council finds that all procedural requirements necessary for the adoption of this Ordinance and the amendments to Article VI have been complied with and satisfied; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings and recitals contained in the preamble of this Ordinance are declared to be true and correct and are hereby adopted and made a part of this Ordinance.

**Section 2.** That Item (4) of subsection (b) of each of Sections 9-404, 9-504, and 9-604 is hereby amended to read as follows:

“(4) A new single family use shall be permitted only on the condition that the new construction shall meet or exceed a 45 dBA interior sound level.”

**Section 3.** That if any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their applicability to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 4.** The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code Annotated; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 5.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing

by the Mayor; therefore, this Ordinance shall be passed finally on that date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND APPROVED this 16th day of September, 2009.

Bill White  
Mayor of the City of Houston

(Prepared by Legal Dep't) DEBORAH F. ACHARY  
(DFM:dfm September 15, 2009) Senior Assistant City Attorney  
(Requested by Eric Potts, Interim Director, Houston Airport System)  
(L.D. File No. 0040400188001)  
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AYE	NO	
✓		MAYOR WHITE
••••	••••	COUNCIL MEMBERS
		<del>ABSENT-CITY BUSINESS</del> LAWRENCE
✓		JOHNSON
✓		CLUTTERBUCK
✓		ADAMS
✓		SULLIVAN
		<del>ABSENT</del> KHAN
✓		HOLM
✓		GONZALEZ
✓		RODRIGUEZ
✓		BROWN
✓		LOVELL
		<del>ABSENT DUE TO BEING ILL</del> NORIEGA
✓		GREEN
✓		JONES
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT  
REVIEW  
DATE: SEP 22 2009

MAY 017 Rev. 6/24