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**CITY OF SEABROOK
ORDINANCE NO. 2021-09**

**ISSUANCE OF CONDITIONAL USE PERMIT
TO ALLOW FOR A “GASOLINE SERVICE STATION/CONVENIENCE STORE” AT
1304 BAYPORT BLVD
IN THE 146-M ZONING DISTRICT**

AN ORDINANCE AMENDING THE CODE OF THE CITY OF SEABROOK, APPENDIX A, COMPREHENSIVE ZONING, ARTICLE 13, “TEMPORARY AND NONTEXT CHANGES,” SECTION 13.03, BY ADDING A NEW PARAGRAPH TWENTY EIGHT (28), GRANTING A CONDITIONAL USE PERMIT FOR A “GASOLINE SERVICE STATION/CONVENIENCE STORE” AT 1304 BAYPORT BLVD. WITHIN A 146-M (SH 146 MAIN COMMERCIAL) DISTRICT OF THE CITY; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR VIOLATION OF ANY PROVISIONS HEREOF BY INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

WHEREAS, 146 Real Estate Investment, LLC, requests the issuance of a Conditional Use Permit (“CUP”) to allow for the operation of a “Gasoline Service Station/Convenience Store” to be located in a 146-M (SH 146 Main Commercial) zoning district in accordance with the requirements of Section 4.11.13 of the City’s Comprehensive Ordinance; and

WHEREAS, the City’s Zoning Ordinance, Section 3.15 requires the issuance of a Conditional Use Permit to allow for the operation of a “Gasoline Service Station/Convenience Store” in a 146-M zoning district; and

WHEREAS, the Planning and Zoning Commission of the City of Seabrook has conducted a public hearing, received input from staff and has issued its final report recommending approval of the subject CUP with the following conditions: (1) Due to limited visibility from the convenience store, the Owner/Developer shall install a camera security system at the newly constructed canopy to be monitored from within the convenience store. (2) The Owner/Developer shall remove the existing driveway located on SH 146 at the southeast corner of the property; relocating the driveway to the northeast to be located off the newly constructed SH 146 feeder road as reflected within the exhibit presented at the March 18, 2021 Planning and Zoning Commission Meeting; and

WHEREAS, all required hearings on this matter have been held, all criteria have been established for the consideration by City Council, and the applicant has agreed to comply with all ordinances of the City of Seabrook;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEABROOK, STATE OF TEXAS:

SECTION 1. FINDINGS OF FACT.

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The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct and incorporated by reference, including the representations of Applicant, (as referenced in its application for CUP, the final report from the Planning & Zoning Commission March 18, 2021 recommending this CUP with conditions and the minutes of City Council of April 20, 2021 and May 4, 2021), the performance of which City Council is specifically relying upon in granting this CUP, as provided hereafter.

SECTION 2. USE PERMITTED.

A Conditional Use Permit is hereby granted to allow for the operation of a “Gasoline Service Station/Convenience Store” at 1304 Bayport Blvd. which is located in a (146-M) SH 146 Main Commercial Zoning District. Such Conditional Use Permit shall be in conformance with all conditions contained herein, and city ordinances, including the Comprehensive Zoning Ordinance and Subdivision Ordinance, specifically including 4.11.13 of the Comprehensive Code.

SECTION 3. AMENDMENT TO THE CODE.

The Code of the City of Seabrook, Appendix A, “Comprehensive Zoning”, Article 13, Section 13.03 “Conditional use permits granted” is hereby amended by adding a new paragraph twenty-eight (28) which shall read as follows:

“(28) By Ordinance No. 2021-09, a conditional use permit is granted to allow the operation of a “Gasoline Service Station/Convenience Store” at 1304 Bayport Blvd. which is located in the (146-M) SH 146 Main Commercial Zoning District, such use strictly conditioned upon: (1) the Owner/Developer shall install an appropriate camera security system at the newly constructed canopy to be monitored from within the convenience store to provide needed visibility for public security, with compliance to be determined by the building code official; (2) The Owner/Developer shall remove the existing driveway located on SH 146 at the southeast corner of the property, relocating the driveway to the northeast for access to the newly constructed SH 146 feeder road as reflected within the exhibit presented at the March 18, 2021 Planning and Zoning Commission Meeting and as approved by City Council. This permit shall not be transferred to any other address.”

SECTION 4. INCORPORATION INTO THE CODE; PENALTY CLAUSE.

This Ordinance is hereby incorporated into and made a part of the Seabrook City Code and violation of any provision hereof shall be subject to the penalty described in said Code, Section 1-15 “General Penalty; continuing violations” which provides that any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

SECTION 5. REPEAL OF CONFLICTING ORDINANCES.

94 All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent
95 of such inconsistency or conflict, hereby repealed.

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97 **SECTION 6. SEVERABILITY.**

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99 In the event any clause, phrase, provision, sentence, or any part of this Ordinance or the
100 application of the same to any person or circumstances shall for any reason be adjudged invalid
101 or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or
102 invalidate this Ordinance as a whole or any part or provision hereof other than the part declared
103 to be invalid or unconstitutional; and the City Council of the City of Seabrook, Texas, declares
104 that it would have passed each and every part of the same notwithstanding the omission of any
105 such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

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107 **SECTION 7. NOTICE.**

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109 The City Secretary shall give notice of the enactment of this Ordinance by promptly
110 publishing it or its descriptive caption and penalty after final passage in the official newspaper
111 of the City; the Ordinance to take effect upon publication.

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113 **PASSED, APPROVED, AND ADOPTED**, on first reading with a quorum present, by an
114 affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City
115 Charter Section 2.10 on this 20th day of April, 2021.

116
117 **PASSED, APPROVED, AND ADOPTED**, on final reading with a quorum present, by an
118 affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City
119 Charter Section 2.10 on this 4th day of May, 2021.

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123 By: _____
124 Thomas G. Kolupski
125 Mayor

126 ATTEST:

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129 By: _____
130 Robin Hicks, TRMC
131 City Secretary

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133 APPROVED AS TO FORM:

134
135
136 _____
137 Steven L. Weathered
138 City Attorney