

**CITY OF ROLLINGWOOD, TEXAS**

**CONSTRUCTION NUISANCE ORDINANCE**

**ORDINANCE NO. 2008-5-21-1**

**AN ORDINANCE OF THE CITY OF ROLLINGWOOD, TEXAS, AMENDING CHAPTER 5, SUBCHAPTER D, SECTION 3, ENTITLED “NOISE DISTURBANCE PROHIBITED;” TO DELETE SUBSECTION 14 DEALING WITH CONTRACTOR AND SUBCONTRACTOR ACTIVITIES ON WEEKENDS AND WEEKDAY EVENINGS; AMENDING CHAPTER 5, SUBCHAPTER E, NUISANCES, TO ADD A NEW SECTION 8 ENTITLED “CONSTRUCTION NUISANCE;” AMENDING CHAPTER 11, SUBCHAPTER G, ARTICLE XV, SECTION 2 TO ADD SUBSECTIONS (h) THROUGH (j) TO SPECIFY THE TIMES WHEN CERTAIN CONSTRUCTION ACTIVITIES ARE ALLOWED UNDER A BUILDING PERMIT; PROVIDING FOR PROHIBITION OF CONSTRUCTION NUISANCES; PROVIDING FOR A PENALTY OF \$500.00 PER VIOLATION; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 5, Subchapter D, Section 3 of the City of Rollingwood Code of Ordinances indicates that noise disturbances are prohibited and provides specific types of noise disturbances that constitute a violation; and

**WHEREAS**, the City Council of the City of Rollingwood recognizes that most of its community is residential in nature and believes that due to such residential nature and the nature of the roads that exist within the City, that the public health, safety and welfare of its citizens and particularly its children may be jeopardized when construction or demolition work within the City limits takes place during evenings, nights, on weekends, and during holidays; and

**WHEREAS**, the City Council of the City of Rollingwood further recognizes that construction noise has been shown to be hazardous to the public health and safety due to loss of hearing, an obstruction to effective communication, an interference with learning capabilities; a deterrent and/or interference with good sleep, to have harmful effects on human health and welfare and can be a disruption of one’s peace of mind and the enjoyment of one’s environment; and

**WHEREAS**, the City Council of the City of Rollingwood further believes that the fire and police safety of its citizens is hindered or impacted by the presence of commercial construction vehicles in addition to the normal residential traffic and parking along the roadways within the City and the citizens can be better protected by reducing the presence of such vehicles during evenings, nights, on weekends and during holidays unless there is an emergency; and

**WHEREAS**, the City Council of the City of Rollingwood further believes that public health, safety and welfare of its citizens are best protected by reducing and limiting construction or demolition work within the City limits during evenings, nights, on weekends and during holidays unless there is an emergency; and

**WHEREAS**, the City Council of the City of Rollingwood is of the opinion that prohibiting construction or demolition work in the City during evening and nighttime hours, on weekends and during holidays is best effectuated as a condition under which Building Permits are issued as well as being defined and prohibited as a general nuisance; and

**WHEREAS**, the City Council of the City of Rollingwood is of the opinion that its Code of Ordinances should be amended to reflect that construction or demolition work is prohibited, with limited exceptions, during evening and nighttime hours, during the week, on weekends, and during holidays;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLINGWOOD, TEXAS THAT:**

**SECTION 1.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** Chapter 5, Subchapter D, Section 3, entitled “Noise Disturbances Prohibited” is hereby amended to delete Subsection (14) entirely and to renumber the subsequent subsections accordingly.

**SECTION 3.** Chapter 5, Subchapter E, Nuisances, Section 8, entitled “Construction Nuisance” is hereby added which will further define a construction nuisance, prohibit such nuisance, set forth exceptions, and provide a penalty so that the section shall hereafter read as follows:

Section 8. Construction Nuisance

- (a) Construction or demolition activities shall not be permitted on weekends, federal holidays, or between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, and construction or demolition activities occurring during such times, unless excepted hereunder, are hereby declared to be a nuisance.

(b) Exceptions:

1. Minor Construction. Minor construction activities include maintenance and repair work normally associated with home or business ownership and occupancy, landscaping, mowing, fencing, or painting, provided that no such activity creates a nuisance condition related to noise, traffic, odor, dust, or other conditions and is not in violation of any other City ordinance.
2. Between the hours of 10:00 a.m. and 4:00 p.m. on Saturdays, interior construction activities are permitted provided the activities (A) take place wholly within a dried-in structure (i.e. for which exterior veneer and roof are substantially complete ), (B) do not require large equipment such as cement trucks, dozers, cranes or dump trucks, (C) do not create a nuisance condition related to noise, traffic, odor, dust, or other conditions and is not in violation of any other City ordinance.
3. Emergency work or work on public service utilities or work in the interest of public safety, as may be approved by the City Administrator or his/her designee is permitted.

(c) If the Building Official or the Police Department determines that there is a violation of this Section, such Building Official or Police Officer may issue a ticket or citation.

(d) A violation of this Section shall constitute a Class C misdemeanor that, upon conviction, may result in a fine not exceeding five hundred dollars (\$500.00) per violation. Each day that such violation continues shall constitute a separate offense.

**SECTION 4.** Chapter 11, Subchapter G, Article XV, Section 2 entitled “Building Permits” shall be modified by adding new subsections (h) through (j) which will define the hours that a professional contractor or subcontractor may work, exceptions and provide a penalty for violation of such provision so that the new subsection shall hereafter read as follows:

- (h) Construction or demolition activities that require a Building Permit under this Article are not permitted on weekends, federal holidays or between the hours of 7:00 p.m. and 7:00 a.m. on weekdays.
- (i) Exceptions:

1. Minor Construction. Minor construction activities include maintenance and repair work normally associated with home or business ownership and occupancy, landscaping, mowing, fencing, or painting, provided that the no such activity creates a nuisance condition related to noise, traffic, odor, dust, or other conditions and is not in violation of any other City ordinance.
  2. Between the hours of 10:00 a.m. and 4:00 p.m. on Saturdays, interior construction activities are permitted provided the activities (A) take place wholly within a dried-in structure (i.e. for which exterior veneer and roof are substantially complete ), (B) do not require large equipment such as cement trucks, dozers, cranes or dump trucks, (C) does not create a nuisance condition related to noise, traffic, odor, dust, or other conditions and is not in violation of any other City ordinance.
  3. Emergency work or work on public service utilities or work in the interest of public safety as may be approved by the City Administrator or his/her designee.
- (j) Citations issued to professional contractors or subcontractors for violations of this provision will be reported to the general contractor responsible for the worksite. If a general contractor receives more than three (3) citations on different calendar days or two (2) on the same day for violations of this provision in any ninety (90) day period, the City Council may direct the Building Official to refrain from issuing any additional Building Permits to such general contractor or to the person for whom the contractor is working for a period of up to one hundred eighty (180) days.

**SECTION 5.** All provisions of the ordinances of the City of Rollingwood in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Rollingwood not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 6.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 7.** This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**APPROVED, PASSED AND ADOPTED** by the City Council of the City of Rollingwood, Texas, on the 21st day of May, 2008.

APPROVED:

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Dale Dingley, Mayor

ATTEST:

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Kelly Heikkila, City Secretary