

**ORDINANCE 2009-O-6**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MOULTON, TEXAS, CHAPTER 8, "OFFENSES AND NUISANCES," ARTICLE 8.05, "NOISE," ADOPTING NEW SECTION 8.05.004 OF THE CODE OF ORDINANCES RELATING TO SPECIAL EVENT PERMITS; PROVIDING FOR FINDINGS OF FACT, A REPEALER, SEVERABILITY, IMPOSING PENALTIES, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the City Council of the City of Moulton seeks to promote the health, safety and general welfare of the citizens of the City, and the best interests of the City; and

**WHEREAS**, the City Council seeks to control noises and the nuisance thereby created in such a manner as to cause the least hardship or offense to the greatest number of people; AND

**WHEREAS**, the City Council seeks to provide a mechanism that will allow the City to conditionally permit loud noises for special events such as festivals, parades and public celebrations; and

**WHEREAS**, pursuant to Texas Local Government Code section 51.001, the City Council is authorized to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Texas Local Government Code section 51.012, the City Council is authorized to adopt an ordinance, not inconsistent with state law, that the council considers proper for the government, interest, welfare or good order of the City; and

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

**SECTION I. FINDINGS OF FACT.**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Moulton and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

**SECTION II. AMENDMENT.**

That the Code of Ordinances, City of Moulton, Texas, Chapter 8, "OFFENSES AND NUISANCES," **ARTICLE 8.05, "NOISE,"** is hereby amended by the addition of a new Section 8.05.004, "SPECIAL EVENTS PERMITS," as follows:

Sec. 8.05.004 Special Events Permits

1. The City Administrator or the City Administrator's designee may grant permits for relief from any provision in the City's noise ordinance on the basis of undue hardship in cases where:

- a. The sound source will be of short duration and the activity cannot be conducted in a manner that complies with this ordinance;
  - b. Additional time is necessary for the applicant to alter or modify the applicant's activity or operation to comply with this ordinance; or
  - c. No reasonable alternative is available to the applicant.
2. An automatic variance will be granted without the payment of a permit fee for the purpose of conducting parades or other public events, provided that any noise disturbance created by such activity will be abated when such request is made by the City Manager or the City Manager's designee.
  3. The City Administrator or the City Administrator's designee may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects and may suspend any permit issued under this section for violating any provisions prescribed in the permit.
  4. A fee of \$10.00 shall be charged to each applicant for processing permit applications."

### **SECTION III. REPEALER**

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

### **SECTION IV. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

### **SECTION V. EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its passage and publication as may be required by governing law.

### **SECTION VI. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED AND APPROVED** this 12th day of November, 2009, by a three (3) Ayes, zero(0) Nays, and zero (0) Abstain vote of the City Council of the City of Moulton, Texas.

**CITY OF MOULTON, TEXAS**

By: \_\_\_\_\_,  
Cynthia McIntosh, Mayor

**ATTEST:** \_\_\_\_\_  
Gloria Jasek, City Secretary