

ORDINANCE NO. 2009-O-6E

AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS AMENDING CHAPTER 13 “MISCELLANEOUS OFFENSES” BY ADDING NEW SECTIONS PROHIBITING THE ERECTION, DEMOLITION, ALTERATION OR REPAIR OF ANY BUILDING IN A RESIDENTIAL DISTRICT DURING CERTAIN HOURS AND DECLARING SUCH ACTIVITY DURING THE PROHIBITED HOURS A PUBLIC NUISANCE; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A PENALTY NOT TO EXCEED \$500 FOR EACH VIOLATION AND MAKING EACH DAY OR PORTION OF A DAY THAT THE VIOLATION CONTINUES A SEPARATE VIOLATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; PROVIDING AN EFFECTIVE DATE CLAUSE AND PROVIDING FOR OTHER PURPOSES.

WHEREAS, the erection, demolition, alteration or repair of any building during evenings and early morning hours in residential neighborhoods interferes with residents’ peaceful enjoyment of their property, creates conditions that interfere with the relaxation and rest of the neighboring residents, which may cause loss of sleep, and can cause noise that is offensive to persons of ordinary sensibilities; and

WHEREAS, the City Council finds it in the public interest to amend the Angleton Code of Ordinances to regulate the hours such construction activities are permitted to take place in residential neighborhoods:

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

SECTION 1. FINDINGS. The forgoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part of this Ordinance for all purposes as findings of fact.

SECTION 2. That Article I “In General” of Chapter 13 “Miscellaneous Offenses” of the Code of Ordinances of the City of Angleton, Texas is hereby amended to add new sections 13 – 13 “Prohibited hours of construction activities; residential neighborhoods” and 13 – 14 “Construction activities during prohibited hours declared a public nuisance” which shall read as follows:

Section 13 – 13. Prohibited hours of construction activities; residential districts.

- “(a) It shall be unlawful for any person, corporation or other entity to erect, demolish, alter or repair any building or other structure in a residential district within the City except between the hours of 7:00 A.M. and 6:00 P.M. on weekdays and 9:00 A.M. and 4:00 P.M. on Saturdays except as set forth in subsection (b) herein.

- (b) In the case of an urgent public necessity in the interest of public safety which includes, without limitation, the demolition of a hazardous structure, the City Manager or his designee may grant a permit to allow such construction activities during prohibited hours. Any person, corporation or other entity wishing to engage in such construction activities shall make application for a prohibited hours construction permit from the City Manager or his designee on a form provided by the City Manager or his designee. The City Manager or his designee shall make a decision on the granting of the permit within ten days of his receipt of the application and will notify the applicant in writing of his decision. If the City Manager or his designee grants the permit, he or she will set forth the hours and times the applicant may conduct the applicant's construction activities. The applicant may appeal a decision to deny the permit to the City Council by filing a written appeal, fully setting out the grounds for the applicant's appeal, with the City Manager or his designee within ten days of the applicant's receipt of the notice of denial. The City Council will hear the appeal within thirty days of the receipt of the appeal by the City Manager or his designee. The City Manager or his designee will inform the applicant of the City Council's decision within five business days of its decision."

Section 13 – 14. Construction activities during prohibited hours declared a public nuisance.

- “(a) The erection, demolition, alteration or repair of any building in a residential district within the corporate limits of the city or within 5,000 feet from the corporate limits other than between the hours of 7:00 A. M. and 6:00 P.M. on weekdays and 9:00 A.M. and 4:00 P.M. on Saturdays, except in the case of urgent necessity in the interest of public safety with a prohibited hours permit issued by the City Manager or his designee, interferes with the residents peaceful use of their property, with their rest and relaxation and may create noise which is offensive to persons of ordinary sensibility, is detrimental to the health, safety or welfare of the public and is a public nuisance.
- (b) The City shall have the right to summarily abate the public nuisance without notice and hearing when it is deemed to be an immediate threat to the health, safety or welfare of the public. The City Manager or his designee shall send written notice setting forth all the City's costs of abating the nuisance to the owner of the property on which the erection, demolition, alteration or repair is taking place as shown on the tax records for the City of Angleton and Brazoria County, Texas. If the property owner does not pay the costs of abatement within ten days of the receipt of the notice, the City may assess all costs of abating the nuisance against the property owner and record a lien on the property in the real property records of Brazoria County, Texas in accordance with applicable law.”

SECTION 3. PENALTY. Any person, firm, corporation or other legal entity violating any provisions of this Ordinance shall, upon conviction, be fined not more than \$500. Each day or portion of a day during which any violation continues shall be a separate offense.

SECTION 4. SEVERABILITY. If any provision of this Ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected, the remaining provisions shall remain in full force and effect and the provisions of this Ordinance are declared to be severable.

SECTION 5. SAVINGS AND REPEALER. All provisions of the Code of Ordinances of the City of Angleton, Texas that are in conflict with the provisions of this Ordinance are repealed to the extent of that conflict only. All the remaining provisions of the Code of Ordinances that are not in conflict with this Ordinance shall remain in full force and effect.

SECTION 6. OPEN MEETINGS. The City Council has found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of this meeting was given as required by the Texas Open Meetings Act, Chapt. 551, Tex.Gov't. Code, as amended, and that a quorum was present.

SECTION 7. EFFECTIVE DATE. This Ordinance shall be effective not less than ten days from the date of its passage in accordance with the City Charter and the City Secretary is hereby directed to cause the caption of this Ordinance to be published in the official newspaper of the City at least once within ten days after the passage of the Ordinance.

PASSED AND APPROVED on the _____ day of _____, 2009.

CITY OF ANGLETON, TEXAS

By: _____
J. Patrick Henry, Mayor

ATTEST:

By: _____
Shelly Deisher, City Secretary

APPROVED AS TO FORM:

By: _____
Herbert L. Prouty, Interim City Attorney