CITY OF MOULTON, TEXAS

ORDINANCE NO. 06112019-02

OFFENSES & NUISANCES

ARTICLE 8.01 GENERAL PROVISIONS

ARTICLE 8.02 OBSTRUCTIONS

Sec. 8.02.001 Violations

(a) It shall be a violation for any person, firm or corporation to obstruct or encumber, to any extent, any portion of any street, alley, accessway, fire lane or sidewalk by or with any vehicle, object or anything whatever in any manner whatever.

(b) It shall be a violation for any person, firm or corporation to obstruct or encumber, to any extent, any portion of any private driveway and or any intersection of a street, within fifteen feet (15') of either side by or with any vehicle, object or anything whatever in any manner whatever.

(c) It shall be a violation for any person, firm or corporation to obstruct or encumber, to any extent, any fire hydrant within twenty feet (20') of either side by or with any vehicle, object or anything whatever in any manner whatever.

Sec. 8.02.002 Penalty

Any person, firm or corporation violating any section or subsection of this article shall upon conviction be fined in accordance with the general penalty found in section 1.01.009, and each and every day of violation shall be a separate offense.

ARTICLE 8.03 JUNKED VEHICLES*

Sec. 8.03.001 Definitions

As used in this article, the following terms shall have the meanings ascribed:

Antique vehicle. A passenger car or truck that is at least twenty-five years old.

Junked vehicle. Any vehicle that is self-propelled and:

(1) Does not have lawfully attached to it:

(A) Displays an expired license plate or does not display a license plate;

(B) A valid motor vehicle inspection certificate; and

(2) Is wrecked, dismantled or partially dismantled or discarded; or

(3) Is inoperable and has remained inoperable for more than:

(A) Seventy-two hours if the vehicle is on public property; or

(B) Thirty consecutive days if the vehicle is on private property.

Motor vehicle collector. A person who:

(1) Owns one or more antique or special interest vehicles; and

(2) Acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle. A motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Sec. 8.03.002 Declaration of public nuisance

A junked vehicle, including a part of a junked vehicle, that is visible from a public place or public right-of-way:

(1) Is detrimental to the safety and welfare of the general public;

(2) Tends to reduce the value of private property;

(3) Invites vandalism;

(4) Creates fire hazards;

(5) Is an attractive nuisance creating a hazard to the health and safety of minors;

(6) Produces urban blight adverse to the maintenance and continuing development of municipalities; and

(7) Is a public nuisance.

Sec. 8.03.003 Authority to enter property

A person authorized to administer the procedures under this article may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

Sec. 8.03.004 Notice

(a) Prior to any official action being taken to abate and remove a junked vehicle constituting a public nuisance from private property, public property or public right-of-way, not less than ten days' notice shall be given. The notice must be personally delivered or sent by certified mail with a five-day return requested to:

(1) The last known registered owner of the junked vehicle;

(2) Each lienholder of record of the junked vehicle; and

(3) The owner or occupant of:

(A) The property on which the junked vehicle is located; or

(B) If the junked vehicle is located on a public right-of-way, the property adjacent to the right-of-way.

(b) The notice must state that:

(1) The nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed; and

(2) Any request for a hearing must be made before that 10-day period expires.

(c) If the post office address of the last known registered owner of the junked vehicle is unknown, notice may be placed on the junked vehicle or, if the owner is located, personally delivered.

(d) If any notice is returned undelivered by the United States post office, official action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return of the notice.

Sec. 8.03.005 Hearing

(a) At the public hearing, the city council shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance. The hearing may be continued from time to time.

(b) If a hearing is requested by a person for whom notice is required under section 8.03.004(a)(3), the hearing shall be held not earlier than the 11th day after the date of the service of notice.

(c) At the hearing the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(d) Following the public hearing, the city council shall consider all evidence and determine whether the vehicle, or any part thereof, constitutes a public nuisance as alleged. If the city council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance and that notice requirements provided in this article have been met, the city council shall make a written order setting forth its findings and ordering that the nuisance be abated.

(e) If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the vehicle's:

(1) Description;

(2) Vehicle identification number; and

(3) License plate number.

(f) The relocation of a junked vehicle that is a public nuisance to another location within the corporate city limits after a proceeding for the abatement or removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

Sec. 8.03.006 Abatement of nuisance

In the event the city council orders abatement of the nuisance, the city or any duly authorized person may abate such public nuisance by removal and disposal of the junked vehicle.

Sec. 8.03.007 Reconstruction or making operable after removal

After any junked vehicle has been removed under the authority of this article, it shall not be reconstructed or made operable again.

Sec. 8.03.008 Notice to department of transportation

No later than the fifth day after the date of removal of a junked vehicle pursuant to this article, notice must be given to the state department of transportation. Such notice must identify the vehicle. On receipt of notice of removal under this section, the department shall immediately cancel the certificate of title issued for the vehicle.

Sec. 8.03.009 Disposal

Any junked vehicle taken into custody by the city or any duly authorized person pursuant to a provision of this article shall be disposed of in accordance with applicable provisions of chapter 683, subchapter E, of the Texas Transportation Code.

Sec. 8.03.010 Inapplicability of article

The provisions of this article shall not apply to a vehicle or vehicle part that is:

(1) Completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(2) Stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

(A) Maintained in an orderly manner;

(B) Not a health hazard; and

(C) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Sec. 8.03.011 Offense; penalty

(a) A person commits an offense if the person maintains a public nuisance described by section 8.03.002. An offense under this section is a misdemeanor punishable by a fine in accordance with the general penalty found in section 1.01.009 of this code. Each day an offense occurs shall be a separate offense.

(b) The court shall order abatement and removal of the nuisance on conviction.

Sec. 8.023.12 Notice given within one year

Upon giving written notice to a property owner in violation of the city health ordinances, the city may inform the property owner by certified mail that if the owner commits another violation of the same kind or nature on or before the first anniversary of the date of the notice, the city may without further notice correct the violation at the owner's expense and assess the expense against the property.

ARTICLE 8.04 NOTICES OR ADVERTISEMENTS

Sec. 8.04.001 Posting on light poles or public property

It shall be unlawful for a person, firm or corporation to post, tack, nail or in any manner attach any political advertisement, notice, or advertisement of any nature, including placards of candidates, on any electrical light poles, owned or maintained by the city, or any public property within the city.

Sec. 8.04.002 Penalty

Any person, firm, or corporation committing the acts prohibited by this article shall be deemed guilty of a misdemeanor and shall be fined in accordance with the general penalty found in section 1.01.009, and each day that such political advertisement, notice, or advertisement of any nature remains posted shall constitute a separate offense.

ARTICLE 8.05 NOISE

Sec. 8.05.001 Definition

The word "person" as used in this article shall include corporations, companies, societies and associations.

Sec. 8.05.002 Unreasonable noise

(a) Any unreasonably loud, disturbing, unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is prohibited.

(b) Any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities is hereby declared to be a nuisance and is prohibited.

Sec. 8.05.003 Noisy Animals

The keeping of any animal which barks, whines, howls, cries, crows, cackles or makes any noise excessively and continuously, and such noise disturbs a person of reasonable and ordinary sensibilities, is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels.

Sec. 8.05.004 Noisy Vehicles

a. The use or running of any automobile, motorcycle or other vehicle in such a manner so as to create loud and unreasonable grating, grinding, spinning, rattling or any other loud and unreasonable sound, including the excessive revving of engines and squealing of tires, is hereby and declared to be unlawful.

b. The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh sounds; and the sounding of any such device for any unnecessary and unreasonable period of time.

c. The use or operation of any speaker, sound amplifier, radio, stereo, cassette tape player, compact disc player or other device which is contained within or affixed to a motor vehicle while it is in operation upon streets, parked upon the roadway, or parked in a private drive in such a manner ass to emit loud and/or raucous noise which is disturbing or offensive to a person of ordinary and reasonable sensibilities is prohibited and declared to be unlawful.

Sec. 8.05.005 Miscellaneous Noise

The following acts, among others, are declared to be nuisances in violation of this article, but said enumeration shall not be deemed to be exclusive:

(1) The playing of any radio, phonograph or other musical instrument in such manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.

(2) The use of any stationary loudspeaker or amplifier of such intensity that annoys and disturbs persons of ordinary sensibilities in the immediate vicinity thereof, including the use of any stationary loudspeaker or amplifier operated on any weekday between the hours of 10:00 p.m. and 7:00 a.m., or at any time on Sunday.

(3) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

(4) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(5) The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.

(6) The erection, including excavation, demolition, alteration or repair work on any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays except in case of urgent necessity in the interest of the public safety and convenience, and then only by permit from the city council, which permit may be renewed by the council during the time the emergency exists.

(7) The creation of any excessive noise on any street adjacent to any school or institution of learning while the same is in session or adjacent to any hospital which unreasonably interferes with the workings of such institutions, providing conspicuous signs are displayed in such manner indicating that the same is a school or hospital.

(8) The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

(9) The raucous shouting and crying of peddlers, hawkers, and vendors, which disturb the peace and quiet of the neighborhood.

(10) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show or sale of merchandise.

ARTICLE 8.06 JUVENILE CURFEW

Sec. 8.06.001 Definitions

Adult. For the purposes of section 8.06.003(2), any person 21 years of age or older.

Emergency. Includes but is not limited to fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.

Guardian. Any person to whom custody of a minor has been given by a court order.

Minor. Any person under seventeen (17) years of age.

Parent. A person who is the natural or adoptive parent of a person. As used herein, “parent” shall also include a court-appointed guardian or other person 18 years of age or older, authorized by the parent, by a court order, or by the court-appointed guardian to have the care and custody of a person.

Public place. Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Sec. 8.06.002 Offenses

(a) It shall be unlawful for any minor to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the city between the hours of 10:00 p.m. and 6:00 a.m. on Sunday, Monday, Tuesday, Wednesday and Thursday nights (August 16 through May 31) and between the hours of 12:00 midnight and 6:00 a.m. on Friday and Saturday nights (January 1 through December 31). It shall be unlawful for any minor to purposefully remain, walk, run, stand, drive or ride about in or upon any public place in the city between the hours of 12:00 midnight and 6:00 a.m. on Sunday, Monday, Tuesday, Wednesday and Thursday nights (June 1 through August 15).

(b) It shall be unlawful for the parent having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in subsection (a) of this section.

Sec. 8.06.003 Defenses

It is a defense to prosecution under section 8.06.002 of this article that:

(1) The minor was accompanied by his or her parent;

(2) The minor was accompanied by another adult approved by the parents;

(3) The minor was on an emergency errand;

(4) The minor was attending a school or religious activity or was going to or coming from a school or religious or organized community activity;

(5) The minor was engaged in a lawful employment activity or was going directly to or coming directly from lawful employment;

(6) The minor was on the sidewalk of a place where such minor resides or on the sidewalk of a place where the minor has permission from his/her parent or guardian to be or on the sidewalk of a next-door neighbor not communicating an objection to the police officer;

(7) The minor was upon an errand directed by his or her parent;

(8) The minor was in a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through the curfew area is the most direct route;

(9) The minor was exercising his or her First Amendment rights protected by the United States Constitution, including but not limited to the free exercise of religion, freedom of speech, and the right of assembly; and

(10) The minor was married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code.

Sec. 8.06.004 Enforcement procedure

(a) Any police officer, upon finding a minor in violation of section 8.06.002 of this article, shall determine the name and address of the minor, and the name and address of his or her parent or guardian. The minor shall be brought to the police department and the parent or guardian of the minor shall be called to come to the police department and then shall be given a warning notice in writing of the curfew violation. The minor and his or her parent or guardian shall be counseled regarding the curfew ordinance, and the cooperation of the minor and his or her parent or guardian will be solicited. In the event that the minor's parent or guardian cannot be contacted, the police officer will issue a warning notice to the minor and will order the minor to go home by the most direct means and route. A copy of the warning and a letter shall be forwarded to the parent or guardian of the minor advising of the fact that the minor was found in violation of this article, and soliciting cooperation in the future.

(b) However, if a police officer shall find a minor in violation of section 8.06.002, who has once previously been so found and warned as in subsection (a) above, the officer shall again follow the procedure set out in subsection (a) above with the exception that a warning shall not be issued. The minor and his or her parent or guardian shall be informed that a complaint shall be filed in municipal court against the minor for a violation of section 8.06.002(a) of this article and the case transferred to proper authorities for handling under the provisions of title 3 of the Family Code and that a complaint will be filed against the parent in municipal court for violation of section 8.06.002(b) hereof. The police department shall file all necessary testimony as required for pursuing violation of this article by either the minor or by any parent or guardian.

Sec. 8.06.005 Penalties

(a) Any minor violating the provisions of this article shall be guilty of a class C misdemeanor as defined in the state Penal Code and shall be dealt with in accordance with the provisions of title 3 of the state Family Code.

(b) A parent or guardian of a minor violating this article shall be guilty of a class C misdemeanor, which shall be punishable by a fine in accordance with the general penalty set forth in section 1.01.009 of this code.

Sec. 8.07.001 Solicitation

Definitions

Charitable purpose shall mean philanthropic, religious or other nonprofit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veteran's association or organization; the benefit of any fraternal, social or civil organization, or the benefit of any educational institution. "Charitable purpose" shall not be construed to include the direct benefit of the individual making the solicitation. "Charitable purpose" shall not be construed to include the benefit of any political group or political organization which is subject to financial disclosure under state or federal law.

Handbill, Commercial mean and includes any printed or written matter, any sample or devise, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original copies of any matter or literature, which
(a) advertises for sale any merchandise, product, commodity, service, or thing;
(b) directs attention to any business, mercantile, commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof;
(c) directs attention or advertises any meeting, theatrical performance, exhibition, group, fundraiser, or other event whether the purpose of directing attention and advertising is for private gain or for raising funds for a charitable purpose; or
(d) contains information that is of a noncommercial nature, but remains predominantly and essentially and advertisement, and is distributed or circulated for advertisement purposes, for private gain, or for raising funds for a charitable purpose.

Sec. 8.07.002 This ordinance regulates the time, place and manner for the solicitation of funds and the distribution of handbills. The provisions of this ordinance shall not apply to:

(a) The regular delivery of newspapers, magazines, or other items which have been subscribed to by the persons receiving them or by occupants of the premises to which they are delivered;

(b) The interruption of service notices by utility companies;

(c) The service of any lien foreclosure;

(d) Governmental notices of any character distributed by the City of Moulton or any other governmental entity;

(e) Any exception authorized by state law.

Sec. 8.07.003 Advertising

Scattering or distributing in streets, public buildings and vehicles shall be unlawful for any person to distribute any advertisements, circulars, handbills, printed or written announcements or papers of like character upon the streets, sidewalks, alleys, gutters or within the public buildings or on the public grounds, or in or upon vehicles of any kind, within the city limits.

Sec. 8.07.004 Permits Required for Solicitation

(a) Except as otherwise provided, a permit is required for an individual to personally, or through an agent or employee:
(1) Solicit funds; or
(2) Distribute any handbill in or upon another's property.

(b) A permit is not required for:
(1) The solicitation of funds for charitable purposes by a person when such solicitation occurs on premises owned or controlled by the person soliciting funds or with the permission of the person who owns or controls the premises, when previously invited to the premises for the solicitation;
(2) The solicitation or distribution of commercial or noncommercial handbills on a public sidewalk designed for pedestrian use as long as the solicitation or distribution does not block the sidewalk for pedestrian use; or
(3) The issuance of any announcement or advertisement that charitable solicitation will occur or which announces or advertises an event at which unannounced charitable solicitation will occur.

Sec. 8.07.005 Application or Permit

(a) Permit application must be submitted in writing to the City of Moulton Police Department and shall include the following:
(1) The name of person applying, their residence and business addresses and their residence and business telephone numbers.

(2) If different from the person applying, the name of the handbill sponsor if the permit is for the purpose of distributing commercial handbills and the name of the merchant if the permit is for the purpose of solicitation.

(3) In regards to any handbill sponsor and/or merchant, the following:
(a) If a natural person, the business and residence addresses and telephone numbers.
(b) If a partnership: (1) the names of all partners; (2) the name, principal business address; (3) telephone number of the partnership and the agent for service of process; and (4) the state of formation.
(c) If a corporation or limited liability company, the person applying must state:
(1) the mailing address and telephone number of the principal place of business, and

the registered agent; (2) the mailing address, business location, telephone number and name of the individual in charge of the local office of such entity, if any; (3) the names of all officers and directors or trustees of such corporation, or all members (if member managed), managers and officers of such limited liability company; and (4) the state of incorporation or formation.

Sec. 8.07.006 Permit Issuance, Denial and Duration

(a) When an application is filed with the City of Moulton Police Department, the Department shall review the application and make determination based on:

(1) If the application fails to comply with the provisions in this article;

(2) A previous permit issued under this article was revoked within the past twelve months;

(3) The Police Department determines that the applicant has been convicted of a felony;

(4) The applicant has recently been convicted of the possession or distribution of any controlled substances including illegal drugs, drug paraphernalia in any level of the court systems;

(5) The Police Department determined that the applicant has provided false information or identification;

(6) The applicant has a warrant for their arrest;

(7) A court of law has issued an emergency protective order against the applicant;

(8) The Police Department shall notify the applicant of their decision to approve or deny a permit application within ten (10) business days of the receipt of the application. Notification of the decision shall be given in writing and either sent via U. S. mail to the applicant's address as listed on the permit application or delivered to the applicant in person.

(9) If the application was submitted as incomplete, the Police Department shall not grant or deny the application, but shall return the application with an explanation of what additional information/documents are needed to process the application. The incomplete application and explanation shall be sent within ten (10) days of the receipt of the application to the applicant's address as listed on the permit application or it shall be delivered to the applicant in person.

(10) The permit requested under this section shall be issued for the length requested, but not to exceed thirty (30) days.

(11) The city shall prescribe the form of the permit. The following shall be printed prominently on each permit:

THE ISSUANCE OF THIS PERMIT IS NOT AN ENDORSEMENT BY THE CITY OF MOULTON OR ANY OF ITS OFFICERS OR EMPLOYEES.

Sec. 8.07.007 Permit Fee and Exemptions

(a) Except as otherwise provided, every application shall be accompanied by a nonrefundable application fee of $25.00 to compensate the City for the cost of administering this ordinance, and such fee will not be refunded if a permit is not

issued. No permit provided for by this ordinance shall be issued until such fee has been paid by the applicant.

(b) The following applicants are not required to pay a permit fee:

(1) Individuals operating under licenses granted by a State of Texas agency.

(2) A duly authorized, non-profit, "charitable organization", as defined in Section 84.003(1) of the Texas Civil Practice and Remedies Code, as it exists or may be amended, and registered as such with the Secretary of State of Texas or the Internal Revenue Service, seeking to use such permit for charitable purposes only. Proof of such registration status must be provided to the City upon application.

Sec. 8.07.008 Permit Suspension or Revocation

(a) It a permit holder fails to comply with this ordinance, the Moulton Police Department will take the following action:

(1) For a first offense under this ordinance, any permit issued hereunder to the offender shall be suspended for a period not to exceed thirty (30) days. The Chief of Police, or his/her designee, shall determine the number of days of the suspension.

(2) For a second offense under this ordinance within a twelve (12) month period, any permit issued hereunder to the offender shall be revoked, and such offender shall not be eligible to apply for another permit for a period of twelve (12) months from the date of revocation.

(b) If the permit holder is arrested and charged with a felony, the permit shall be suspended until final disposition of the criminal charges.

(1) Upon conviction or acceptance of deferred adjudication by the court, the permit shall be revoked.

(2) If the permit holder is found innocent or charges dismissed, the suspension of the permit shall be lifted.

(c) Upon suspension or revocation the permit holder shall tender the permit to the Moulton Police Department.

Sec. 8.07.009 Penalty

Any owner, person, firm, corporation or business entity violating this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Fiver Hundred Dollars ($500). Each continuing day's violation under this ordinance shall constitute a separate offense. The penal provisions imposed under this ordinance shall not preclude the City of Moulton from filing suit to enjoin the violation. The City of Moulton retains all legal rights and remedies available to it pursuant to local, state and federal law.

Sec. 8.07.010 Severability Clause

Should any article, section, subsection, clause or phrase of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this ordinance shall remain in full force and effect. The City of Moulton hereby declares that it would have adopted this ordinance, and each article, section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one of or more article, section, subsection, sentence, clause or phrase be declared unconstitutional or invalid.

Sec. 8.07.011 Repealing/Savings Clause

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

This ordinance shall take effect on the date of approval.

PASSED AND APPROVED BY THE CITY COUNCIL OF MOULTON, TEXAS ON THIS 11th DAY OF JUNE, 2019.

Mark Zimmerman, Mayor

LuAnn D. Rogers, TRMC
City Administrator, City Secretary