

NUISANCE ORDINANCE NO. 05-14-05

AN ORDINANCE AMENDING ORDINANCE NO. 94-14-2 WHICH WAS PASSED BY THE REDWATER CITY COUNCIL ON AUGUST 14, 2000. THE PURPOSE OF THIS AMENDMENT IS TO MORE FULLY DESCRIBE SAID NUISANCES, BUT NOT DEEMING THE SAME EXCLUSIVELY TO BE THE ONLY NUISANCES; PROVIDING THAT IF A NUISANCE EXISTS AT THE TIME OF THE CONVICTION, THE JUDGE MAY ORDER THE ABATEMENT, REMOVAL, OR DESTRUCTION OF SAID NUISANCE; PROVIDING A MEANS OF RECOVERY FOR COSTS INCURRED BY THE CITY; PROVIDING FOR PUBLICATION AND POSTING AS REQUIRED BY LAW; AND TO INCREASE THE PENALTY TO AN AMOUNT NOT EXCEEDING \$500.00 FOR EACH VIOLATION.

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BE IT ORDAINED BY THE COUNCIL OF THE CITY OF REDWATER, TEXAS:

**Section 1.** That this ordinance shall be known as "**The Nuisance Ordinance.**"

**Section 2. General Definition of a Nuisance:** A nuisance is "whatever is dangerous to human life or public health, or whatever renders the ground, the water, the air, or food a hazardous injury to human life or health, or threatens to become, detrimental to the public health, including but not limited to:

Stagnant water, abandoned vehicle(s) or more than one (1) unregistered and uninsured vehicle, abandoned manufactured housing or mobile homes or trailers, refrigerators or other appliances, substandard structures, scrap wood, scrap metal, rubbish, litter, brush and weeds.

**Section 3. Noise Nuisances:** 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 hereby 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 hereby prohibited. C. The following acts, conditions and things, among others, are declared to be noise nuisances in

violation of this ordinance, but said enumeration shall not be deemed to be exclusive, to-wit:

1) Radios, Phonographs, Television sets, etc.: the playing of any radio, phonograph, television set, or other musical instrument or device in such manner or with such volume, particularly between the hours between Ten O'clock PM and Seven O'clock AM, that annoys and disturbs persons of ordinary sensibilities in the immediate vicinity thereof; (b) Or the operation of such loud speaker or amplifier or other musical instrument or device at any time on Sunday, so as to disturb church services and congregations therein; (C ) Provided, however that upon application by the user of such devices, the City Council may, by resolution, make special exemption or exception to this subsection, or such time or times as the said City Council feels will serve the public welfare.

(3) Animals: The keeping of any animal or bird, which by causing frequent or long continued noise shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.

(4) Whistle: 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, or the blowing of any other loud or far-reaching steam or air whistle of unreasonable lengths of time within the corporate limits of the City.

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

6) Building: The erection, including excavation, demolition, alteration or repair work on any building at any time other than between the hours of Seven O'clock AM and Six O'clock PM on week days; provided. That in case of necessity in the interest of public safety and convenience, the City council may grant a permit by resolution to allow such activities to continue for such time and under such conditions as the City council may deem proper during said emergency.

7) Schools, Churches, noise near: The creation of any excessive, unreasonable or unnecessary noise on any street adjacent to any school or institution of learning while the same is in session, or adjacent to any hospital, convalescence, old age or rest home, which unreasonably interferes with the workings of such institution or may interfere with the comfort of patients within such institution, provided conspicuous signs or other evidence indicating the presence of such school, hospital, convalescence, old aged or rest home are displayed, giving the public adequate notice of the presence of such institutions.

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

9) Shouting of Peddlers: The raucous shouting and crying of peddlers, hawkers and vendors, which disturbs the peace and quiet of the neighborhood.

10) Speaking or Orating on Public Street: The loud speaking, preaching, orating or exhorting by any person upon any public street or sidewalk within the corporate limits of the City.

11) Drums, etc.: The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by creation of noises, such as speaking, music or hallooing, to any performance, show, theater, moving-picture house, sale of merchandise, or display which causes crowds of people to block or congregate upon the sidewalks and /or streets near or adjacent thereto.

12) Mufflers: The operation a motor vehicle, including motorcycles, motor scooters or any conveyance operated by a gasoline or diesel engine, without a suitable muffler in operation at all times within the corporate limits of the city, said muffler designed to prevent excessive or unusual noises. A muffler within the meaning of this subsection is defined to be a device through which the escaping gases of the motor a motor vehicle, motor scooter, motorcycle or any conveyance operated by a gasoline or diesel engine, pass, designed to muffle or minimize the noise to the greatest extent as produced by the operation of such motor. (Art.6701d, 133 (a), and 134 (a)).

(13) Dangerous Toys: The carrying, discharging, selling or offering for sale of any pistol, gun or object, designed as a toy, which may be fired or discharged with any substance and which is capable of discharging a wad, missile or other object likely to produce bodily injury or property damage.

(14) Firearms: The firing of any firearm at any time within the corporate limits of this city, except that which is necessary and lawful for the protection of one's person, premises or property; provided that this subsection shall riot apply to a shooting gallery or gunsmith's establishment, when said gallery or gunsmith's establishment is properly outfitted and arranged for the purpose so that no danger arises there from.

(15) Equipment: The operation of any equipment to include, but not limited to truck tractors, trucks in excess of one ton in size, earth moving equipment, tree trimmers and mulchers, portable engines for welders or other equipment, which by their operation cause un unreasonable loud, disturbing or unnecessary noise, which cause material distress, discomfort or injury or by its character,

intensity or continued duration substantially interferes with the comfortable enjoyment of private homes in areas zoned residential by persons of ordinary sensibilities is hereby declared to be a nuisance and is hereby prohibited. There is excepted from the prohibitions of this ordinance, operation of equipment in pursuit of ordinary and reasonable activities during the hours from Seven O'clock AM to six O'clock PM during weekdays.

#### **Section 4. Offensive Odor Nuisances:**

A. Any unreasonably noxious, unpleasant, or strong odor, 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 hereafter prohibited.

B. Any order, stench or smell of such character, stench 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 hereby prohibited.

C. The following things are, among other, declared to be offensive odors and odor nuisances in violation of this section, but said enumerations shall not be deemed to be exclusive, to-wit:

(1) Horse, cow lots, etc: Offensive odors from house, cow or hog lots or pens or chicken yards or enclosures, or other similar places where animals are kept, which has become offensive from use, or which shall disturb the comfort and repose of persons of ordinary sensibilities.

(2) Smoke: Offensive odors from smoke from the burning of rubbish, trash, rubber, chemical substances, or other things or substances.

(3) Stagnant Pools: Offensive odors from stagnant pools allowed to remain on any premises, or from rotting garbage, refuse, offal or dead animals, on any premises.

(4) Laundry discharge: The discharge of waste water from any laundry, dry cleaning, launderette, or similar establishment into the streets or storm sewers within the corporate limits, which discharge gives of offensive, obnoxious, unpleasant or strong odor.

(5) All cellars, vaults, drains, pools, sewers, yards, ground or premises which from any cause become foul, nauseous, offensive or injurious to health, or unpleasant to adjacent residents or to person passing by.

(6) Chemicals: Offensive odors from the use or possession of chemicals, or from industrial processes or activities which shall disturb the comfort and repose of persons of ordinary sensibilities.

(7) Dead Animal: the failure of the owner or possessor of

any animal which shall die within the corporate limits of this city, or the failure of the owner or possessor the any premises upon which any animal may die within the corporate limits of this city to remove or have the carcass of the same removed within 24 hour after the death of said animal.

**Section 5: Weed Nuisances:** The following things are hereby declared to be Weed Nuisances in violation of this ordinance and are hereafter prohibited, to-wit:

(A) Reptile and Rodents: Weeds and or grass, or other non-ornamental vegetation on any premises within the corporate limits of this city, which grow in such rank profusion as to harbor reptiles or rodents or create a fire hazard

(B) Height of weeds: Weeds and or grass, or other non-ornamental vegetation on any premises within the corporate limits of this city, which are permitted to or do attain a greater height than twelve inches on average.

**Section 6. Trash and Rubbish:** the following acts and things, among others, are hereby declared to be trash and rubbish nuisances in violation of this ordinance, but said enumerations shall not be deemed to be exclusive, to-wit:

(A) Heaps of Rubbish: the keeping of any and all stacks, heaps or piles of old lumber, refuse, junk, old cars or machinery or parts thereof, garbage, rubbish, scrap material, ruins or demolished or partly demolished structure or buildings, or piles of stones, bricks or broken rock, on any premises visible from any public street within the corporate limits of this city, so as to produce an unsightly and ugly appearance, or which may harbor reptiles or rodents, or create a fire hazard, or result in unsanitary conditions.

(B) Dumping of Trash: the dumping, placing or depositing of any trash, rubbish, garbage, tin cans, refuse, grass, weeds, scrap material, offal, dead animals. Or junk, in or upon any street, alley sidewalk, branch, creek, ditch or gutter, or along or upon the sides thereof, in the corporate limits of this city.

**Section 7 Sight Nuisances:** The following acts and things, among other, are hereby declared to be sight nuisances in violation of this ordinance, but said enumerations shall not be deemed to exclusive, to-wit:

(A) Poster, billboards, etc.: The printing, pasting, stitching or placing of any advertisement, handbill or placard of any printed, pictured or written matter upon any house, wall, building or fence, or other property, private or public, without the permission of the owner

or person in charge thereof.

(B) Sleeping in Public Places: Persons found asleep upon the sidewalks, streets, alleys or in any public place or public thoroughfare within the corporate limits of this city, or upon the private property of another with the latter's permission.

(C) Shrubbery and trees: The maintaining of shrubbery and trees at street intersections in such a manner that the view of intersections is obstructed, hindered or obscured; or the maintaining of trees or shrubbery having overhanging limbs, or extending branches that obstruct, hinder or obscure the vision of operators of motor vehicles or pedestrians either upon the streets, sidewalks or alleys of this city.

**Section 8:** It shall be the duty of the owner, or his agent, or the occupant or his agent, of any building, premises or place of any kind within the corporate limits of this city, where any nuisance may exist, to remove, abate or destroy the same without delay. On rented premises the owner or his agent, as well as the occupant may each be charged with a violation of this ordinance, and each, upon conviction, shall be liable for the penalties imposed against him respectively.

**Section 9.** Any person or persons, firm, corporation or association of persons, who shall, within the corporate limits of the City or Redwater, commit, cause, create, permit, keep or otherwise maintain a nuisance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Five Hundred (\$500.00) dollars, and each and every day such nuisance shall continue shall constitute a separate offense.

**Section 10.** In all cases arising under the preceding section of this ordinance whenever it shall appear to the County trying said cause that the nuisance continues at the time of conviction, the court shall order the removal, abatement or destruction of said nuisance, as the case may require. If the owner of property in the municipality does not comply with the court order within 10 days, the municipality may:

1) do the work or make the improvements required; and  
2) Pay for the work done or improvements made and charge the expenses to the owner of the property.

3) the notice must be given: personally to the owner in writing; or by letter addressed to the owner at the owner's post office address; or by publication at least twice within 10 consecutive days if personal service cannot be obtained or the owner's post office address is unknown.

**Section 11. Assessment of expenses; Lien**

A) The governing body of a municipality may assess expenses incurred against the real estate on which the work is done or improvements made.

Such charges may include, but are not limited to:

I. the current hourly wage of the city employees involved in the work

II. The current hourly rate for any equipment or supplies used in completing the work

III. The expense involved in the transportation of articles removed from the property

B) To obtain a lien against the property, the Mayor, municipal health authority, or other municipal official designated by the Mayor must file a statement of expenses with the county clerk of the county in which the municipality is located.

C) The lien obtained by the municipality's governing body is security for the expenditures made and interest accruing at the rate of 10 percent on the amount due from the date of payment by the municipality.

D) the lien is inferior only to:

1) tax liens

2) liens for other street improvements

E) The governing body of the municipality may bring a suit for foreclosure in the name of the municipality to recover the expenditures an interest due.

F) The statement of expenses for a certified copy of the statement is prima facie proof of the expenses incurred by the municipality in doing the work or making the improvements.

G) The remedy provided by this section is in addition to the remedy provided by Section 342.005 of the Local Government Code.

**Section 12 Separability:** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of the competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such finding shall not affect the validity of the remaining portions thereof.

**Section 13 Ordinances Repealed:** All ordinance or parts of ordinance in conflict with this ordinance are hereby repealed.

**Section 14 The City Council of the City of Redwater, Texas,** finds that there is an immediate necessity and an emergency requiring the immediate passage of this ordinance and this ordinance shall

become effective immediately upon its publication as required by law.

**PASSED AND APPROVED** by the City Council of the City of Redwater  
on this 11<sup>th</sup> day of April, 2005.

  
Charles Bradford, Mayor

Attest:

  
Cynthia Lewis  
City Secretary