

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS; AMENDING ORDINANCE NO. 06-47, SECTION 5(B)(6) (SPECIFIC NOISE DISTURBANCE PROHIBITED), ESTABLISHING REVISED HOURS OF CONSTRUCTION/MAINTENANCE WORK IN THE TOWN OF PROSPER; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town Council") has investigated and determined that Ordinance No. 06-47 of the Town of Prosper, Texas ("Prosper") should be amended; and

WHEREAS, it is the express intent of the Town Council to control the level of construction/maintenance work noise in a manner which promotes commerce, protects the sleep and repose of citizens and preserves the quality of life and the environment; and

WHEREAS, the Town Council finds that noise pollution is a serious concern to all inhabitants of the community and that it is in the best interest of the citizens of Prosper to amend Ordinance No. 06-47, Section 5(B)(6) (Specific Noise Disturbance Prohibited), establishing revised hours of construction/maintenance work in Prosper.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS:

SECTION 1: Findings. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Ordinance No. 06-47, Section 5(B)(6) (Specific Noise Disturbance Prohibited). Ordinance No. 06-47, Section 5(B)(6) (Specific Noise Disturbance Prohibited) is hereby amended as follows:

“ . . .

6. Construction/Maintenance Work -

- a. Operating or permitting to be operated any equipment used in construction, maintenance, repair, alteration or demolition work on buildings, structures, streets, alleys, lawns, golf courses or appurtenances thereto and/or the erection, including excavation, demolition, alteration or repair of any building within a residential district or quiet zone, or

within five hundred feet (500') of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of: (i) 7:00 p.m. and 7:00 a.m., Monday through Friday; (ii) 7:00 p.m. Friday night through 8:00 a.m., Saturday morning; (iii) 5:00 p.m. Saturday afternoon through 12:00 p.m., Sunday afternoon; and (iv) 7:00 p.m. Sunday afternoon through 7:00 a.m. Monday morning. A noise disturbance is not created by residential lawn maintenance or in the event emergency repairs are required on personal property.

....”

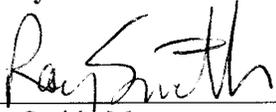
SECTION 3: Savings/Repealing Clause. Ordinance No. 06-47 shall remain in full force and effect, except has amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 4: Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 5: Penalty Provision. Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of FIVE HUNDRED DOLLARS (\$500.00), unless the violation relates to fire safety, zoning or public health and sanitation, including dumping and refuse, in which the fine shall not exceed the sum of TWO THOUSAND DOLLARS (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 6: Effective Date. This Ordinance shall become effective upon its passage and publication as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 26th DAY OF, April, 2011 by vote of 6-0.



Ray Smith, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Amy Piukana, Town Secretary

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