

CITY OF TEHUACANA, ORDINANCE NO. 12898

AN ORDINANCE FORBIDDING QUARRYING OR BLASTING OPERATIONS WITHIN THE CITY LIMITS.

WHEREAS, the City of Tehuacana is predominantly a residential city, with little or no industry inside the city limits; and

WHEREAS, a rock quarry operating near the city limits has indicated its intention to begin quarrying and blasting operations within the city limits of the City of Tehuacana; and

WHEREAS, the quarrying and blasting operations would constitute a public nuisance and result in excessive noise and vibration to city residents; and

WHEREAS, the quarrying and blasting operations could constitute a physical danger to residents of the city due to the possibility of overfly of rock or other material from blasting onto residents of the city or property of residents of the city; and

WHEREAS, the blasting and quarrying operations would have a detrimental effect on the quality of residential life in the city due to vibration, excessive noise from blasting, excessive noise from the operation of heavy equipment, the potential for injury or death from overfly of rock, (flyrock), air blast damage, ground motion damage, and excessive dust from operations.

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

SECTION I. It shall be unlawful for any person, company, entity, or corporation to engage in the following activities within the city limits of the City of Tehuacana, Limestone County, Texas:

- A. the quarrying or mining of rock utilizing blasting operations or use of explosives, or surface mining;
- B. the use of explosives for the purpose of blasting rock, or in connection with mining or quarrying operations;
- C. the use of heavy equipment in connection with quarrying or mining operations within the city limits of Tehuacana, Limestone County, Texas.
- D. the use of explosives for any commercial or industrial activity or for any other reason except the use of fireworks in connection with celebrations as may be allowed by law from time to time.

DEFINITIONS: As used herein, the following words shall be defined as follows:

"Quarry" or "Quarrying" - a place where stone or slate is excavated, or removed utilizing explosives and machinery, and operations to remove stone or slate by excavation and/or explosives and machinery.

"Mining" - an excavation in the earth for the purpose of removing rock, slate, coal or other natural resource or mineral (excluding wells for the purpose of producing water).

"Explosive" / "Blasting" - the use of any type of explosive material or detonation for any reason, including use in connection with any type of mine or quarry operation, or for the removal of rock, or soil or other material overlying rock or other substances to be mined or removed. (This definition does not include the use of fireworks in connection with celebrations as may be authorized by law from time to time).

SECTION II. Enforcement - Any person, entity or corporation who refuses or fails to comply with any directive or order of this ordinance to refrain from quarrying operations, mining operations or blasting operations in connection with mining or quarrying shall, be guilty of a misdemeanor and shall, upon conviction, be fined not less than \$200.00 or more than \$2000.00 per day for each day or part of a day of non-compliance. The violation of each provision, and each separate violation thereof, shall be deemed a separate offense, and shall be punished accordingly.

Any penalty, fine, or forfeiture imposed for a violation of any provision of this ordinance shall be effective on and after the 5th day after publication of the ordinance.

SECTION III. If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person, entity, or corporation, or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this ordinance for the application to such other persons, entities or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Tehuacana, in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion or provision.

SECTION IV. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION V. This ordinance shall become effective in accordance with state law and shall remain in full force and effect from and after the date of publication.

PASSED AND APPROVED THIS THE 8th DAY OF December, 1998.

E. B. Kriller
Mayor

ATTEST:

Bonnie H. Duke
City Secretary

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**NOTICE TO LANDOWNERS IN THE CITY OF TEHUACANA,
LIMESTONE COUNTY, TEXAS, OR WITHIN 200 FEET
OF THE CITY LIMITS OF THE CITY OF
TEHUACANA, LIMESTONE COUNTY, TEXAS**

Dear Landowner:

Pursuant to the Texas Local Government Code, notice is hereby given to all landowners within the city limits of the City of Tehuacana, Limestone County, Texas, and all landowners within 200 feet of the city limits of the City of Tehuacana, Limestone County, Texas, that the City of Tehuacana is considering the passage of an ordinance forbidding quarrying or blasting operations within the city limits of the City of Tehuacana, Limestone County, Texas.

You are further notified that a public hearing will be held concerning the proposed ordinance forbidding the quarrying or blasting operations within the city limits on the 10th day of November, 1998, at 6:00 p.m. in the City Hall located on Railroad Street, Tehuacana, Limestone County, Texas. Members of the public, as well as all landowners within the city limits, or within 200 feet of the city limits of the City of Tehuacana, Texas, are invited to attend the public hearing and to voice their views or concerns concerning the proposed ordinance.

It is anticipated that the City Council of the City of Tehuacana, Limestone County, Texas, will consider, and possibly vote on passage of the proposed ordinance included herein during the regular City Council meeting to be held on the 8th day of December, 1998, at 7:00 p.m., in the City Hall of the City of Tehuacana, Limestone County, Texas. However, the City Council reserves the right to consider this or any other ordinance or matter in accordance with law, if the need arises.

The proposed ordinance forbidding quarrying or blasting operations is as follows: