

**ORDINANCE NO. 20-05-07-12**

**AN ORDINANCE OF THE CITY OF CORINTH, TEXAS REPEALING SECTION 94.35, "DEFINITIONS", OF CHAPTER 94, "NUISANCES", OF TITLE IX, "GENERAL REGULATIONS", OF THE CITY'S CODE OF ORDINANCES AND AMENDING AND READOPTING SECTION 94.36, "NOISE NUISANCES", OF CHAPTER 94 OF TITLE IX OF THE CITY'S CODE OF ORDINANCES, IN ITS ENTIRETY, TO PROVIDE CLARIFICATION REGARDING ENFORCEMENT OF THE CITY'S NOISE NUISANCE ORDINANCE; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AMENDMENTS; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500); PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Corinth, Texas is a home rule municipality located in Denton County, Texas created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas and its home rule charter; and

**WHEREAS**, Section 42.01 of the Texas Penal Code provides the state law on noise nuisances, providing that a person commits an offense if they intentionally or knowingly make an unreasonable noise in a public place or in or near a private residence; and

**WHEREAS**, noise nuisances are detrimental to the community and disruptive to a person's ability to enjoy the peace and comfort of home and neighborhood; and

**WHEREAS**, the City Council has determined it necessary to repeal Section 94.35 and amend and readopt Section 94.36 of Chapter 94 of Title IX of the Code of Ordinances to clearly stipulate the allowed noise levels within the City of Corinth, to provide clarification regarding enforcement, and to ensure compliance with state law; and

**WHEREAS**, the City Council has determined that it is in the best interest of the health, safety, and welfare of the citizens of Corinth to amend and readopt Section 94.36 of the City's Code of Ordinances as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORINTH, TEXAS THAT:**

**SECTION 1.**  
**INCORPORATION OF PREMISES**

The above and foregoing recitals are found to be true and correct and are incorporated into the body of this Ordinance for all purposes.

**SECTION 2.**  
**AMENDMENT**

**2.01** That the City of Corinth’s Code of Ordinances, Section 94.35, “Definitions”, of Chapter 94, “Nuisances”, of Title IX, “General Regulations” is hereby repealed in its entirety.

**2.02.** That the City of Corinth’s Code of Ordinances, Section 94.36, “Noise Nuisances”, of Chapter 94, “Nuisances”, of Title IX, “General Regulations”, is hereby amended and readopted in its entirety as follows:

**§ 94.36 – NOISE NUISANCES**

(A) Definitions.

*Bounding Property Line.* The Bounding Property Line is the nearest property line of the property on which the noise is being generated.

*Daytime Hours.* Daytime Hours are the hours between 7:00 a.m. and 9:00 p.m. on any given day.

*Nighttime Hours.* Nighttime Hours are the hours between 9:01 p.m. and 6:59 a.m. on any given day.

*Sound Pressure Level.* Sound Pressure Level is the measurement made with a sound level meter Type II using the A-weighting network in accordance and conforming with the noise measurements standards promulgated by the American National Standards Institute or its successor body.

(B) Noise nuisance standards.

(1) At no point within or at the Bounding Property Line of a residential use district shall the Sound Pressure Level of any operation or activity exceed 65 dB(A) during Daytime Hours or 58 dB(A) during Nighttime Hours. At no point at the Bounding Property Line of a non-residential use district shall the sound pressure level of any operation or activity exceed 70 dB(A) during Daytime Hours or 60 dB(A) during Nighttime Hours.

(2) *Exemptions.* The following uses and activities shall be exempt from the noise level regulations specified in subsection (B)(1):

- (a) Noises emanating from construction and maintenance activities, including lawn and groundskeeping maintenance, during Daytime Hours;
- (b) Noises of safety signals, warning devices, and emergency pressure relief valves;
- (c) Noises caused by natural phenomena;

- (d) Noises necessary to immediately and reasonably prevent the threat of bodily injury, death, or loss of property;
  - (e) Noises produced by lawfully scheduled events in full compliance with all issued permits including, but not limited to:
    - (i) A stadium or sporting event;
    - (ii) A school-sponsored event;
    - (iii) A City-owned amphitheater event;
    - (iv) An outdoor concert/musical or event (which may only be held until 11:59 p.m. on Friday and Saturday and until 9:00 p.m. on Sunday through Thursday);
    - (v) An event, fun run, race, festival, fiesta, or concert that was sponsored or co-sponsored by the City; and
    - (vi) A special event as defined by the Code of Ordinances; and
  - (f) Noises produced from reasonable activities conducted in public parks, public playgrounds, or public or private school functions.
- (C) In addition to the standards listed in subsection (B), the following acts shall automatically be deemed noise nuisances:
- (1) *Building and construction.* Building and construction work, including but not limited to the erection, including excavation, demolition, alteration, or repair work on any building, or building construction site, at any time, other than during Daytime Hours, on any day of the week, is a noise nuisance, except when work is performed in response to an urgent necessity and the work must be done in the interest of public health, safety or convenience. Notwithstanding the foregoing, the Director of Planning and Development, Director of Public Works, Building Official and/or City Engineer may issue a special written waiver authorizing building and or construction work outside of the hours authorized in this section. When determining whether to issue a waiver, the following factors shall be considered:
    - (a) Proximity of the proposed construction to residential properties;
    - (b) The presence of noise buffering screening, whether live screening, such as trees, or man-made screening;
    - (c) The nature of the proposed construction activities and the type and duration of the noise that will be created by the activities; and
    - (d) The business reason that the work must be performed outside of the time authorized in this section. A request for waiver shall be made at least five business days prior to the date for which alternative work hours are being requested. Denial of a waiver may be appealed to the City Manager within

one business day after the date of denial. The decision of the City Manager shall be final.

- (2) *Refuse compacting vehicles.* Operating or permitting to be operated any refuse compacting, processing or collection vehicle or parking lot sweeper during Nighttime Hours is a noise nuisance.
- (3) *Noise near schools.* The creation of any noise adjacent to any school or institution of learning while in session which interferes with the workings of such institution is a noise nuisance.

(D) Enforcement. Noise nuisances will be enforced on a citizen complaint basis only.

### **SECTION 3. CUMULATIVE REPEALER**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

### **SECTION 4. PENALTY**

Any person, firm or corporation who intentionally, knowingly or recklessly violates any provision of this Ordinance or the Code of Ordinances, as amended hereby, shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense.

### **SECTION 5. SAVINGS**

All rights and remedies of the City of Corinth, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting fees which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

### **SECTION 6. SEVERABILITY**

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

**SECTION 7.  
EFFECTIVE DATE**

This Ordinance shall take effect upon its passage and publication as required by law. The City Secretary is directed to publish the caption of this Ordinance as required by the City Charter and state law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CORINTH,  
TEXAS on this 7 day of MAY, 2020.**



Bill Heidemann, Mayor

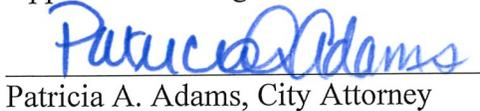
Attest:



Kimberly Pence, City Secretary



Approved as to legal form:



Patricia A. Adams, City Attorney