

CITY OF THE COLONY, TEXAS

ORDINANCE NO. 2014-2053

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE CODE OF ORDINANCES BY REPEALING IN ITS ENTIRETY AND REPLACING WITH A NEW CHAPTER 6, ARTICLE IX, SECTION 6-192, ENTITLED “NOISE;” AUTHORIZING CITY COUNCIL TO APPROVE SPECIAL EXCEPTIONS TO THE NOISE ORDINANCE FOR USE OF CONSTRUCTION EQUIPMENT BETWEEN 10:00 P.M. AND 7:00 A.M.; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has discussed and considered such revisions and has determined that it is in the best interest of the City to repeal the current Chapter 6, Article IX, Section 6-192, entitled “Noise, ” and replace it with a new Chapter 6, Article IX, Section 6-192, entitled “Noise,” to regulate noise within the City.

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

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

SECTION 2. That the Code of Ordinances of the City of The Colony, Texas be, and the same is, hereby amended by amending Chapter 6, Article IX, Section 6-192, entitled “Noise,” by repealing in its entirety and replacing with a new Chapter 6, Article IX, Section 6-192, entitled “Noise,” which shall read as follows:

“Sec. 6-192. Noise.

- (a) Any unreasonably loud, disturbing 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, among others, are declared to be noise nuisances in violation of this Code, but such enumeration shall not be deemed to be exclusive:

- (1) Radios: The playing of any radio, television, 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 type of residence.
- (2) Loudspeakers: The use of any loudspeaker or amplifier or musical instrument in such manner or with such volume, particularly between 10:00 p.m. and 7:00 a.m., that annoys and disturbs persons of ordinary sensibilities in the immediate vicinity thereof; provided, however, that upon application by the user of such devices, the city council may make special exemption or exception to this clause for such time as the 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) Compressed air: The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.
- (5) Construction: The erection, including excavation, demolition, alteration, or repair work on any building at any time other than those hours specified in the Code of Ordinances, as amended; except in case of urgent necessity in the interest of public safety and convenience. The use of any construction equipment in such manner or with such volume, particularly between 10:00 p.m. and 7:00 a.m., that annoys and disturbs persons of ordinary sensibilities in the immediate vicinity thereof; provided, however, that upon application by the user of such devices, the city council may make special exemption or exception to this clause for such time as the city council feels will serve the public welfare.
- (6) Engine-exhaust braking prohibited: No person may use an engine-exhaust braking system while operating a motor vehicle within the corporate limits of the city. For the purpose of this section, the term engine-exhaust braking system means an engine-exhaust braking system device which converts diesel-engine power into an air compressor and when engaged operates to slow the vehicle.”

SECTION 3. If any section, article paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

SECTION 6. This Ordinance shall become effective from and after its date of passage in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 13th day of FEBRUARY, 2014.

/s/Joe McCourry, Mayor

ATTEST:

/s/Christie Wilson, City Secretary

APPROVED AS TO FORM:

/s/Jeff Moore, City Attorney