

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON GRANTING GREENBERG FARROW A NOISE EXCEPTION PURSUANT TO SECTION 17-20 OF THE CITY OF DENTON CODE OF ORDINANCES, WITH RESPECT TO SOUND LEVELS AND HOURS OF OPERATION FOR CONCRETE FOUNDATION POURS AND SLABS RELATED TO CONSTRUCTION OF A NEW RETAIL BUILDING LOCATED AT 2950 W UNIVERSITY DR; GRANTING AN INCREASE IN SOUND LEVELS AND A VARIANCE IN THE HOURS OF OPERATION WHICH MAY BE AFFECTED BY WEATHER, FROM 12:00 A.M. TO 8:30 P.M., WITH SOUND NOT TO EXCEED 85 DECIBELS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 17-20 of the Code of Ordinances of the City of Denton, the City Council may make exceptions upon application for sound levels or hours of operation when the public interest will be served thereby; and

WHEREAS, Greenberg Farrow has made an application to the City Council for an exception to the provision of Section 17-20 of the Code of Ordinances regarding sound levels and hours of operation for approximately 14 instances of concrete foundation and slab pours related to construction of a new retail building at 2950 W University Drive, with such construction activity occurring from April 2023 through November 2023; and

WHEREAS, based upon the application narrative provided by Greenberg Farrow, the City Council of the City of Denton, finds that granting a noise exception for the described construction activity, subject to the restrictions contained herein, would serve the public interest; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. Pursuant to Section 17-20 of the Code of Ordinances, Greenberg Farrow is hereby granted an exception to said section's amplified sound prohibition subject to the following restrictions:

1. This exception to the limitations imposed by Section 17-20 of the Code of Ordinances of the City of Denton, is granted only in connection with the construction of the foundation of a new retail building site, at 2950 W University Dr., for the following months (weather permitting): April 2023, May 2023, June 2023, July 2023, August 2023, September 2023, October 2023, and November 2023.
2. Greenberg Farrow agrees to take full responsibility for ensuring that the conditions of this exception are met and to take all reasonable measures necessary to avoid disturbing persons of ordinary sensibilities in the immediate vicinity of the event.
3. Under no circumstances shall Greenberg Farrow continue construction past 8:30 p.m. on any day.
4. Under no circumstances shall Greenberg Farrow use construction equipment that exceeds

85 dba when measured from the perimeter of the source as measured by an approved measuring instrument.

- 5. This Ordinance confers no personal or property rights, and may be amended, modified, suspended, or revoked in whole or in part at the will of the City Council of the City of Denton, without any advance warning, hearing, or compensation, for any reason at all, or for no reason.
- 6. This Ordinance shall be strictly construed as an exception granted pursuant to Section 17-20 of the Code of Ordinances of the City of Denton. The City of Denton expressly reserves unto itself and all other persons any and all legal remedies, both civil and criminal, relating to excessive noise in connection with the construction activity, and hereby disclaims any promissory, or equitable estoppel which might in any way impede the pursuit of such remedies by any person.

SECTION 2. This Ordinance shall be effective immediately upon its passage and approval and shall expire upon the completion of the foundation pour on or before December 1, 2023, unless sooner repealed, modified, or rescinded.

The motion to approve this ordinance was made by _____ and seconded by _____, the ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth,	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Jesse Davis, District 3:	_____	_____	_____	_____
VACANT, District 4:	_____	_____	_____	_____
Brandon Chase Mcgee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2023.

GERARD HUDSPETH, MAYOR

ATTEST:
JESUS SALAZAR, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:  _____
Hilary Negron
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