

**ORDINANCE NO. 0921-4**

**AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS, AMENDING CHAPTER 90 "ANIMALS" AND CHAPTER 91 "NUISANCES" BY CREATING REGULATIONS REGARDING NOISE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Lindsay, Texas, is a Type A general law municipality located in Cooke County, created in accordance with Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the legislature has codified many statutes that authorize municipalities to adopt regulations and procedures for the control of animals in the city; and

**WHEREAS**, the City Council previously adopted regulations codified in Chapter 90 of the Lindsay, Texas Code of Ordinances regulating animals; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City to adopt additional regulations concerning animal noise in the city; and

**WHEREAS**, the City Council has also determined that it is in the best interest of the City to adopt regulations concerning noise, in general, in the city.

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

**SECTION 1.**

Chapter 90 "Animals" of the Lindsay, Texas Code of Ordinances is hereby amended by adding a new Section 90.11 to read as follows:

**"§ 90.11 NOISE.**

It shall be unlawful for any owner to allow an animal to cause a disturbance by excessive barking or noise-making near the private residence of another."

**SECTION 2.**

Chapter 91 "Nuisances" of the Lindsay, Texas Code of Ordinances is hereby amended by adding a new subsection called "NOISE" to read as follows:

## “NOISE

### § 91.40 NOISE STANDARDS.

(A) The following noise standards, unless otherwise specifically indicated, shall apply to all property with a designated land use district:

Land Use District	Time of Day	Energy Equivalent Sound Levels (leq)
Residential	10:00 p.m. to 7:00 a.m.	52 dB(A)
	7:00 a.m. to 10:00 p.m.	62 dB(A)
Office, retail	10:00 p.m. to 7:00 a.m.	62 dB(A)
Commercial	7:00 a.m. to 10:00 p.m.	67 dB(A)
Industrial	Anytime	70 dB(A)

(B) It shall be unlawful for any person at any location in the city to create any noise, or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on or beyond the boundaries of the property on which the noise is produced, or measured within any other residential dwelling unit or commercial space, to exceed:

(1) The noise standard in any measurement period not less than 30 minutes.

(2) The noise standard, plus 15 dB(A) in any one minute average of a measurement period.

(3) The noise standard, plus 20 dB(A) at any time in a measurement period.

(C) For the purpose of enforcing the provisions of this section, a measurement period shall not be less than 30 minutes.

(D) The sound level limits established in Section 91.40(A) for residential districts shall be applicable to all quiet zones.

(E) If the ambient sound level exceeds the resulting standards, the ambient level shall be the standard.

(F) If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the applicable standard in the receiving land use district on which the sound is measured.

(G) Correction for character of sound. For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in Section 91.40(A) shall be reduced by five dB(A). Notwithstanding compliance with this subsection, it shall be a violation of this chapter for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying, or repetitive impulsive sound which creates a noise disturbance.

(H) When the land use district designation of the property on which the source of sound originates differs from the designation of the property on which the sound is measured, the maximum permissible sound level of the more restrictive land use district designation shall apply.

(I) For sound emitted on public property, the measurement distance shall be 50 feet (15 meters), and the sound level limit for the appropriate land use district shall apply.

#### **§ 91.41 PROHIBITED NOISE.**

(A) No person shall allow, make or cause to be made any unreasonably loud or disturbing noise in the city which is offensive to an adult person within the city, which noise renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort, nor shall any person allow, make or cause to be made any unreasonably loud or disturbing noise in the city.

(B) Owning, keeping, possessing or harboring any animals that by noise making disturb or interfere with the peace, comfort or repose of neighboring residents or that cause a noise disturbance is declared to create unreasonably loud or disturbing noises in violation of this chapter. The provisions of this article shall apply to all public and private facilities, including any animal shelter or commercial kennel, which hold or treat animals.”

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

This Ordinance shall be cumulative of all provisions of ordinances of the City of Lindsay, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances; in which event the conflicting provisions of such ordinances are hereby repealed.

#### **SECTION 4. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 5. PENALTY**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$2,000.00.

**SECTION 6.  
SAVINGS**

All rights and remedies of the City of Lindsay are expressly saved as to any and all violations of the ordinances of the City of Lindsay related to animal noise and noise in general within the City that have accrued 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 courts.

**SECTION 7.  
PUBLICATION**

The City Secretary is authorized and directed to cause publication of the descriptive caption and penalty clauses of this ordinance as provided by law.

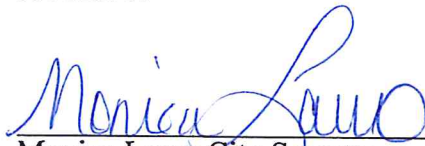
**SECTION 8.  
EFFECTIVE DATE**

This Ordinance shall be in full force and effect after its passage and publication.

PASSED AND APPROVED ON THIS 14 DAY OF September, 2021.

  
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Scott Neu, Mayor

ATTEST:

  
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Monica Laux, City Secretary

