ORDINANCE NO. 0522-1

AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS PROHIBITING THROUGH TRUCK TRAFFIC; ESTABLISHING NO THROUGH TRUCK TRAFFIC ROUTES; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; 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 the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council has the authority to regulate heavy truck traffic on the public roadways of the City pursuant to Sections 311.002 and 621.303 of the Texas Transportation Code; and

WHEREAS, the City Council finds that it is in the best interest of the health, safety and welfare of its citizens to prohibit through truck traffic on certain streets within the City; and

WHEREAS, the City Council further finds that the prohibition of through truck traffic on the streets designated herein will help to prolong the life of those streets so designated; and

WHEREAS, the City Council desires to prohibit through truck traffic on the streets designated below; and

WHEREAS, the City Council of the City of Lindsay has determined that these regulations are in the best interest of the health, safety and general welfare of the citizens of the City of Lindsay.

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

SECTION 1.

A. Definitions. The following words, terms and phrases when used in this ordinance shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) "Authorized emergency vehicles" shall mean fire department trucks, police trucks, public ambulances for which permits have been issued by the State Board of Health, emergency trucks of municipal departments or public service corporations as are designated or authorized by the governing body of an incorporated city, private trucks operated by volunteer firemen or certified emergency medical volunteers while answering a fire alarm or responding to a medical emergency, and trucks owned by the state or by a

political subdivision engaged in emergency utility repair or electric, water, or wastewater services.

(2) Terms not defined herein shall be construed in accordance with ordinary usage.

B. Through Truck Traffic Prohibited.

(1) A person commits an offense if the person drives or operates, on any street or roadway within the corporate limits of the City that is designated as a no through truck route and is marked with a sign prohibiting through truck traffic, a vehicle that:

(a) has dual or tandem rear axles;

(b) is a tractor-trailer combination; or

(c) has a gross vehicle weight rating of 26,001 pounds or more.

(2) It shall be an affirmative defense to prosecution under Subsection B(1) that:

(a) The vehicle is being used to make deliveries or pick-ups from a residence or business located on the no through truck route and the driver possesses a log book, delivery slip or other evidence of his or her destination and point of origin for such vehicle;

(b) The vehicle is being used or operated by a service, construction or other business to perform work at a residence or business located on the no through truck route;

(c) The vehicle is a recreational vehicle which is designed for a temporary or short-term occupancy for travel, recreational or vacation uses, including vacation travel trailers, recreational vehicles, tent trailers or similar vehicles used for temporary portable housing;

(d) The vehicle is a personal trailer pulled by a personal vehicle, such as a horse trailer, stock trailer, dog trailer, motorcycle trailer, boat trailer, lawn equipment trailer, and gooseneck trailer;

(e) The vehicle is a vehicle for street construction, maintenance, and repair and is engaged in the construction, maintenance, or repair of streets;

(f) The vehicle is used by a public service company in providing or expanding their service within the City;

(g) The vehicle is an authorized emergency vehicle responding to a call;

(h) The vehicle is used or operated by the City performing City business, including transit uses;

(i) The vehicle is used by the City's franchisee for the franchisee's approved activities;

(j) The vehicle is being used or operated by a public school system to transport children;

(k) The vehicle is operating under a valid permit issued by the state department of highways and public transportation under Section 623.071, Texas Transportation Code; or

(l) The vehicle is operating with a valid permit issued by the City.

(3) Any person violating this section shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed the sum of Five hundred dollars ($500.00) for each offense, except, however, where a different penalty has been established by state law for such offense, the penalty shall be that fixed by state law.

C. **No Through Truck Traffic Routes Designated.**

(1) The following routes, described below, shall be designated as no through truck traffic routes:

Route	Location
Pecan Street	Between State Highway 82 and Main Street (FM 1199) within the corporate limits of the City.

(2) The City Secretary or his/her designee shall direct that signs designating the above routes as no through truck routes shall be erected and placed accordingly.

SECTION 2.
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 3.
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 4.
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 $500.00.

SECTION 5.
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 operating trucks 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 6.
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 7.
EFFECTIVE DATE

This Ordinance shall be in full force and effect after its passage and publication, and it is so ordained.

PASSED AND APPROVED ON THIS 10 DAY OF May, 2022.

Scott Neu, Mayor

ATTEST:

Monica Laux, City Secretary