

ORDINANCE NO. 16 -2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINDALE, TEXAS, REGULATING UNREASONABLY LOUD NOISE FROM AN OUTDOOR VENUE; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Lindale is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Section 1.03 of the Lindale City Charter states that the City of Lindale shall have power to ordain and establish such acts, laws, rules, regulations, and ordinances, not inconsistent with the Constitution and laws of Texas and of this Charter, as shall be needful for the government, interests, health, welfare and good order of the City and its inhabitants; and

WHEREAS, the City has determined that reasonable noise regulations are necessary to promote the health, safety and welfare of its inhabitants.

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

Section 1.01 Definitions

*Commercial Property* means real property that is owned primarily for business use or to produce income, but not for residential purposes.

*Decibel dB(A)* means the unit of measurement for sound pressure at a specific location.

*House of Worship* means a church, mosque, temple, or similar place where believers go to practice their faith.

*Outdoor Venue* means a Commercial Property that is not fully enclosed by permanent solid walls and a roof, from which Sound Equipment is used to amplify sound.

*Person* includes an individual, partnership, corporation, and unincorporated association but

does not include the City or other governmental unit.

*Private Property* means real property that is owned by a Person and used as a residence or House of Worship.

*Sound Equipment* means a loud speaker, public address system, amplification system, musical instrument, radio, CD player, or any other sound producing device.

*Unreasonable Noise* means any sound emitted by Sound Equipment from an Outdoor Venue that exceeds the dB(A) level during the time periods set forth in section 1.02, using the measurement criteria set forth in Section 1.03.

#### Section 1.02 Maximum Permissible Sound Levels

The maximum permissible sound emitted by Sound Equipment from an Outdoor Venue when measured in accordance with Section 1.03 is:

- A. 50 dB(A) during the hours 11:01 pm Saturday to 7:59 a.m. Monday, 10:01 p.m. to 7:59 a.m. Monday through Friday and 11:01 p.m. Friday to 7:59 a.m. Saturday; and
- b. 70 dB(A) during the hours 8:00 a.m. to 10:00 p.m. Monday through Thursday and 8:00 a.m. to 11:00 p.m. Friday and Saturday.

#### Section 1.03 Method of Sound Measurement

Sound shall be measured with a Type 1 or Type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American National Standards Institute (A.N.S.I. S1.4-1984/85A). Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used. Measurements of sound generated shall be taken from the property line of the Private Property where the sound is received towards the source of the sound.

*Sections 1.04-1.99 are reserved.*

#### Section 2.01 Offense

A Person commits an offense if the Person makes, assists in making, continues, or causes to be made or continued, an Unreasonable Noise that substantially interferes with another Person's peaceable enjoyment of their Private Property.

Section 2.02 Penalty

Any Person who is convicted of an offense under Section 2.01 shall be punished by a fine not to exceed \$1,000.00. Each hour or portion thereof in which any violation shall occur shall constitute a separate offense.

Section 2.03 Defense

It is a defense to prosecution for an offense under Section 2.01 that the sound is generated from property owned by a public or private school.

*Sections 2.04 -2.99 are reserved.*

Section 3.01 Severability Clause


If any provision or any section of this ordinance shall be held to be invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this ordinance, nor the context in which such provision or section so held invalid may appear, except to the extent that a provision or section may be inseparably connected in meaning and effect with the provision or section to which such holding shall directly apply so as to render it meaningless.

Section 3.02 Effective Date

This ordinance shall become effective upon its publication in the newspaper in accordance with Section 13.14 of the City Charter.


*Sections 3.03 -3.99 are reserved.*

PASSED AND APPROVED this 17<sup>th</sup> day of October 2017.

  
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JEFF D. DAUGHERTY, MAYOR  
OF THE CITY OF LINDALE, TEXAS

ATTEST:      APPROVED:

  
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MICHELLE PHILLIPS, CITY SECRETARY

  
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CITY ATTORNEY