

**CITY OF DECATUR, TEXAS
ORDINANCE 2024-07-20**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DECATUR, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DECATUR, TEXAS, IN CHAPTER 3 “ANIMALS,” ARTICLE I “IN GENERAL,” SUBSECTION 3-6 “EXCESSIVE NOISE”; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Decatur is a home rule municipality in the state of Texas as established by the Texas Constitution and the laws of the State of Texas; and

WHEREAS, the City Council of the City of Decatur (“Council”) desires to include a reasonability standard in the animal nuisance ordinance for enforcement purposes; and

WHEREAS, the Council desires to designate a standard that a person complaining of an animal noise nuisance be a person of “ordinary sensibilities”; and

WHEREAS, the Council desires to add a prima facie evidence standard and an exemption for wildlife rescue operations; and

WHEREAS, the Council finds that it is in the best interest of the health, welfare, and safety of the community to provide the “ordinary sensibilities” and evidence standards and the exemption;

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

SECTION 1. INCORPORATION OF PREMISES. The foregoing recitals are findings of the City Council and are incorporated into this Ordinance as if set forth fully herein.

SECTION 2. AMENDMENT. Subsection 3-6 “Excessive Noise,” of Article I “In General,” of Chapter 3 “Animals,” of the Code of Ordinances of the City of Decatur, Texas is hereby amended as follows to read in its entirety:

“Sec. 3-6. - Excessive noise.

- A. Offense. A person commits an offense if the person knowingly or recklessly owns or harbors an animal that makes an unreasonably loud or persistent noise near a private residence that disturbs the peace and quiet of a person or ordinary sensibilities.
- B. Prima Facie Evidence. If the noise lasts for a period of fifteen (15) minutes, continuous or sporadic, such shall be prima facie evidence of a violation of this provision and that the same constitutes a nuisance.
- C. Exemption. A licensed wildlife rehabilitator or a citizen working under the permit of such, who is currently handling or housing wildlife in rehabilitation shall be exempt from this regulation.
- D. Penalty. Any person, firm, or corporation convicted of a violation under this section shall be subject to a fine not to exceed the sum of five hundred dollars

(\$500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense.”

SECTION 3. SAVINGS CLAUSE. This Ordinance shall be cumulative of all provisions of state or federal law and other ordinances of the City of Decatur, 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 other ordinances are hereby repealed.

SECTION 4. SEVERABILITY CLAUSE. 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 of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5. PENALTY CLAUSE. Any person, firm, or corporation who intentionally, knowingly or recklessly violates any provision of this Ordinance or the Code of Ordinances, as amended hereby, shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense.

SECTION 6. REPEALER. Any provisions of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provision of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 7. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect on its final passage and publication, and it is so ordained.

PRESENTED ON FIRST READING ON THE 8TH DAY OF JULY 2024.

PRESENTED ON SECOND READING AND APPROVED ON THE 22ND DAY OF JULY 2024 BY A VOTE OF __ AYES, __ NAYS, __ ABSTENTIONS, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF DECATUR, TEXAS.

Mike McQuiston, Mayor

ATTEST:

Asucena Delgado, TRMC, City Secretary

APPROVED AS TO FORM:

Pamela H. Liston, City Attorney