

## Chapter 46 - NOISE CONTROL<sup>[1]</sup>

Footnotes:

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**Editor's note**—Ord. No. 150190, § 1, adopted May 7, 2015, repealed former ch. 46, §§ 46-1—46-5, 46-31—46-36, 46-61—46-63, 46-91—46-93, 46-121—46-126, 46-161—46-165, and 46-191—46-193, and enacted a new ch. 46. Former chapter 46 pertained to similar subject matter and derived from the Code of General Ordinances of 1967, §§ 24.1—24.28 and 24.30; Ord. No. 53435, adopted April 7, 1982; Ord. No. 61549, adopted October 22, 1987; Ord. No. 64437, adopted September 14, 1990; Ord. No. 910609, adopted May 30, 1991; Ord. No. 980199, adopted March 26, 1998; Ord. No. 000656, adopted May 25, 2000; and Ord. No. 130608, adopted August 29, 2013.

**Charter reference**— Power to prohibit and restrain noises, § 1(47).

**Cross reference**— Airports and aviation, ch. 6; amusements and commercial recreation, ch. 12; buildings and building regulations, ch. 18; excessive animal noise, § 14-30; health and sanitation, ch. 34; operation of oil or gas well drilling equipment at night, § 32-60; nuisances, ch. 48; discharging firearms, § 50-263; security alarms, § 50-331 et seq.; vehicles making excessive noise, § 70-847.

### ARTICLE I. - IN GENERAL

#### Sec. 46-1. - Title of chapter.

This chapter shall be known and referred to as the city noise control code or the noise code.

(Ord. No. 150190, § 1, 5-7-15)

#### Sec. 46-2. - Findings; general policy.

##### (a) The city council finds that:

- (1) Excessive sound is a serious hazard to the public health, welfare and safety and the quality of life;
- (2) A substantial body of science and technology exists by which excessive sound may be substantially abated; and
- (3) The citizens of the city have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life.

##### (b) It is the policy of the city to prevent excessive sound which may jeopardize the health, welfare or safety of its citizens or degrade the quality of life.

(Ord. No. 150190, § 1, 5-7-15)

#### Sec. 46-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terminology used in this chapter, not defined in this section, shall be in conformance with the USA Standard Acoustical Terminology American National Standards Institute Document S1.1-1994 (R 2004).

*Ambient Noise* means the total of all noise in the environment, other than the noise from the source of interest. This term is used interchangeably with background noise.

*A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

*Commercial property* means property located in a district zoned as "office" or "business" or "O" or "B," under the Kansas City Zoning and Development Code, Chapter 88 and subsequent amendments, but shall also include properties zoned as DC, DX, M1-M4, US, KCIA, MPD and UR, provided, however, that MPD and UR-zoned property will only be considered commercial property if a majority of the lots or units approved in the MPD or UR development plan identify a commercial use. Commercial property shall also mean any property within the area

bound by the Missouri River to the north, the Kansas City Terminal Railway tracks on the south, state line to the west and Troost to the east. When a property is located in an overlay district, the underlying zoning district will apply.

*Construction* means any site preparation, assembly, erection, repair, alteration or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

*Decibel (dB)* means a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma, property damage or protection of commerce which demands immediate action.

*Emergency work* means any work performed for the purpose of preventing or alleviating the physical trauma, property damage or protection of commerce threatened or caused by an emergency.

*Equivalent A-weighted sound level (Leq)* means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. For the purposes of this chapter, a time period of not less than two continuous minutes or two minutes, whether continuous or not, of a 30-minute period shall be used, unless otherwise specified.

*Gross vehicle weight rating (GVWR)* means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle.

*Ground cover* means any of various low, dense-growing plants, such as ivy, myrtle, low weeds or brush.

*Hard test site* means any test site having the ground surface covered with concrete, asphalt, packed dirt, gravel or similar reflective material for more than half the distance between the microphone target point and the microphone location point.

*Model aircraft* means any contrivance now known or hereafter invented which is used or designed for flight in the air and which is controlled by manual or remote means but which is not used or designed for the carriage of persons or objects.

*Motor vehicle* means any vehicle which is propelled or drawn on and by a motor, such as but not limited to passenger cars, trucks, truck-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, but not including motorcycles and unlicensed construction motor vehicles as defined in this section. For purposes of this noise control code, motor vehicle shall also include electric and hybrid vehicles, or other combinations thereof.

*Motorcycle* means an unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including but not limited to motor scooters and minibikes.

*Noise* means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

*Noise disturbance* means any sound level which, except as authorized by permit or variance, meet or exceeds the levels in table I of this noise control code.

*Octave Band* means a frequency band where the upper band edge frequency is double its lower band edge frequency. Nine typical octave bands are identified by their center frequencies, such as 31.5, 63, 125, 250, 500, 1,000, 2,000, 4,000, and 8,000 Hertz.

*Plainly audible* means any sound that can be detected by a person using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise control officer or police officer need not determine the title, specific words, or the artist performing the song.

*Real property boundary* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

*Receiving property* means a property from which a noise from another property is heard. A receiving property is often a complainant's property.

*Residential property* means property that does not come within the definition of "commercial property" in this section. When a property is located in an overlay district, the underlying zoning district will apply.

*Soft test site* means any test site having the ground surface covered with grass, other ground cover, or similar absorptive material for half or more of the distance between the microphone target point and the microphone location point.

*Sound* means any oscillation in pressure, partial displacement, partial velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of any sound, including duration, intensity and frequency.

*Sound level* means the quantity in decibels measured by a sound level meter satisfying the requirements of American National Standards Specification for Sound Level Meters S1.4-1983 (R2006)/S1.4A-1985 (2006), and for Integrating-Averaging Sound Level Meters S1.43-1997 (R2007). Unless indicated otherwise, the A-weighting is understood.

*Sound level meter* means a Type 1 or Type 2 instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, octave band analyzer and weighting networks issued to measure sound pressure levels. All microphones shall be a Type 1 or Type 2 microphone.

*Sound Pressure Level* means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference of 20 micronewtons per square meter.

*Unlicensed construction motor vehicle* means any vehicle or equipment used for construction purposes, not required to be licensed by the state, which is propelled or drawn on land by a motor, such as but not limited to cranes, bulldozers, hloaders, graders, steamshovels or earth-movers, but not including motorcycles or motor vehicles as defined in this section.

(Code of Gen. Ords. 1967, § 24.3; Ord. No. 53435, 4-7-82; Ord. No. 64437, 9-14-90; Ord. No. 910609, § 1, 5-30-91; Ord. No. 980199, § 1, 3-26-98; Ord. No. 150190, § 1, 5-7-15)

Sec. 46-4. - Prohibited noise, generally.

- (a) No person shall make, cause, suffer, continue, allow or permit the operation of any source of sound on any receiving property in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Table I, when measured at the real property boundary or within the real property lines of any of the receiving properties listed in Table I.
- (b) No person shall make, cause, suffer, continue, allow or permit the operation of any source of sound that disturbs the peace, quiet and comfort of the neighboring residential inhabitants at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in

which the noise is generated and who are voluntary listeners, nor shall a person make a noise that is plainly audible across a residential property line 50 feet or more from the source of the noise.

- (c) Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this section, but shall not be exempt from the specific provisions of section 46-5.
- (d) *Ambient noise*. It shall not be a violation of this article unless the sound measured is at least more than five decibels, db or db(A), above ambient noise. Ambient noise shall be measured no closer than 50 feet from the source of the sound or measured at the outside wall of a building adjacent to the public right-of-way or public space from which the sound originates. If a sound cannot be excluded for an ambient reading, including due to a potential violator's failure to cooperate, a plainly audible standard may be used.

Table I: Maximum Permissible A-Weighted Sound Levels and Octave Band dB Limits

Receiving Property	Residential Property		Residential Property		Commercial Property	Commercial Property
Octave Band Center Frequency (Hz)	Outdoors Octave Band Sound Pressure Level (dB)		Indoors Octave Band Sound Pressure Level (dB)		Outdoors Octave Band Sound Pressure Level (dB)	Indoors Octave Band Sound Pressure Level (dB)
Time	7 a.m. -10 p.m.	10 p.m. -7 a.m.	7 a.m. -10 p.m.	10 p.m. -7 a.m.	24 Hours	24 Hours
31.5	<u>77</u>	<u>72</u>	<u>64</u>	<u>61</u>	97	86
63	<u>76</u>	<u>71</u>	<u>58</u>	<u>54</u>	96	<u>72</u>
125	<u>69</u>	<u>64</u>	<u>51</u>	<u>46</u>	89	<u>64</u>
250	<u>64</u>	<u>59</u>	45	40	84	<u>57</u>
500	56	<u>51</u>	<u>42</u>	<u>37</u>	<u>76</u>	53
1,000	50	45	<u>39</u>	<u>34</u>	70	50
2,000	<u>47</u>	<u>42</u>	36	31	<u>67</u>	<u>47</u>
4,000	45	40	<u>33</u>	28	<u>65</u>	45
8,000	40	<u>35</u>	30	25	60	<u>43</u>
dB(A)	60	55	45	40	80	<u>52</u>

(Code of Gen. Ords. 1967, § 24.10; Ord. No. 53435, 4-7-82; Ord. No. 64437, 9-14-90; Ord. No. 910609, § 2, 5-30-91; Ord. No. 150190, § 1, 5-7-15)

## Sec. 46-5. - Specific prohibitions.

Due to the noise inherent in certain activities and for other reasons, special rules apply to the following acts and situations:

- (1) *Domestic power tools.* No person shall operate or permit the operation of any mechanically or electrically-powered saw, drill, sander, grinder, lawn or garden tool, or similar device used in a residential district between the hours of 10:00 p.m. and 7:00 a.m. on a residential property or within 250 feet of a residential real property boundary (when operated on commercial or light-industrial property), unless such activities do not exceed the limits set forth in Table I.
- (2) *Loading and unloading.* No person shall load, unload, open, close or perform other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a residential real property boundary, except when necessary in the performance of construction work as defined in [section 46-3](#).
- (3) *Refuse and recycling vehicles.* No person shall collect refuse or recycling materials with a refuse or recycling collection vehicle or operate the compacting mechanism of any motor vehicle that compacts refuse or recycling between the hours of 8:00 p.m. and 7:00 a.m. the following day in a residential property area or within 500 feet of such an area.
- (4) *Portable sound systems.* Self-contained, portable, non-vehicular music or sound production or amplification devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 7:00 a.m., sound from such equipment, operated on a public space, shall not be plainly audible by any person other than the operator. [Section 46-4](#) shall still apply, however, to the use of such devices on property not in public spaces or on public rights-of-way.
- (5) *Powered model vehicles and aircraft.* No person shall operate or permit the operation of powered model vehicles or model aircraft so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- (6) *Racing events.* No person shall operate or permit any motor vehicle or motorcycle racing event at any place so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- (7) *Vehicular stereos.*
  - a. *Daytime.* Vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator or sound source between the hours of 8:00 a.m. and 10:00 p.m.
  - b. *Nighttime.* Vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction from the operator or sound source between the hours of 10:00 p.m. and 8:00 a.m.
- (8) *Security alarms.*
  - a. Security alarm systems, commercial or residential, failing to cease emitting an audible sound within 15 minutes of activation are prohibited and shall also constitute a nuisance.
  - b. Security alarm systems, commercial or residential, which emit an intermittent signal failing to cease within 15 minutes of activation are prohibited and shall also constitute a nuisance.
- (9) *Places of public entertainment.* No person shall operate, play or permit the operation or playing of any radio, television, music player, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound at a sound level greater than 85 db(A) as read by the slow response on a sound level meter at any point that is normally occupied by a customer in any place of public entertainment with a seating capacity of less than 500 persons, unless a conspicuous and legible

sign is located outside such place, near each public entrance, stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT." Section 46-4 shall still apply, however, to places of public entertainment.

(Code of Gen. Ords. 1967, § 24.11; Ord. No. 53435, 4-7-82; Ord. No. 61549, 10-22-87; Ord. No. 64437, 9-14-90; Ord. No. 910609, § 3, 5-30-91; Ord. No. 130608, § 1, 8-29-13; Ord. No. 150190, § 1, 5-7-15)

Sec. 46-6. - Methods of measurement.

- (a) All sound level measurements, when taken, shall be taken using guidelines approved by the director of health. Such procedures shall be made available upon request.
- (b) Noise control officers shall have the discretion and authority to take measurements using methods and testing locations that they deem appropriate in their professional judgment in certain situations. In some situations, for example, it may be more practical to measure sound at the location of the complainant, rather than at the property line.

(Ord. No. 150190, § 1, 5-7-15)

Secs. 46-7—46-15. - Reserved.

ARTICLE II. - MOTOR VEHICLES

Sec. 46-16. - Operating sound limits.

- (a) It shall be unlawful for any person to operate or cause to be operated a motor vehicle or motorcycle at any time which creates a noise which exceeds the sound level set forth in Table II.

TABLE II. MOTOR VEHICLE AND MOTORCYCLE SOUND LIMITS MEASURED AT 15 METERS OR 50 FEET

	Decibels (A)					
	Street Operations Tests				Stationary Run-Up Tests	
	Soft Site		Hard Site			
Vehicle Class	<u>35</u> mph or less	Over 35 mph	<u>35</u> mph or less	Over 35 mph	Soft Site	Hard Site
Any motorcycle	82	86	84	88	82	84
Any motor vehicle of GVWR of less than 10,000 lbs.	<u>76</u>	80	<u>78</u>	82	<u>76</u>	<u>78</u>
Any motor vehicle of GVWR of 10,000 lbs. or more	86	90	88	92	86	88

- (b) If the distance between the microphone location point and the microphone target point is other than 50 feet, the maximum sound level established by table A shall be corrected as follows:

DISTANCE CORRECTION FACTORS

TABLE INSET:

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If the distance between the microphone location point and the microphone target point is:	The value dB(A) to be applied to the observed sound level reading is:
35 feet or more but less than 39 feet	-3
39 feet or more but less than 43 feet	-2
43 feet or more but less than 48 feet	-1
48 feet or more but less than 58 feet	0
58 feet or more but less than 70 feet	+1
70 feet or more but less than 83 feet	+2

(c) Notwithstanding the limits established by subsections (a) and (b), no person may cause a noise disturbance across property lines into any residential district.

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-17. - Mufflers or other sound-dissipative devices.

- (a) No person shall operate any motor vehicle, motorcycle or unlicensed construction motor vehicle designed and manufactured with a muffler or other sound-dissipative device unless equipped with a muffler or other sound-dissipative device in good working order and in constant operation.
- (b) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repairs or replacement, any muffler or sound-dissipative device on a motor vehicle or motorcycle.

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-18. - Use of horns and other signaling devices.

The following act and the causing thereof is declared to be in violation of this chapter: the sounding of any horn or other auditory signaling device on or in any motor vehicle or motorcycle on any public right-of-way or public space, unless reasonably necessary to ensure safe operation.

(Ord. No. 150190, § 1, 5-7-15)

Secs. 46-19—46-25. - Reserved.

ARTICLE III. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - EXCEPTIONS AND SPECIAL PERMITS

Sec. 46-26. - Exceptions to the noise code.

The provisions of the noise code shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency;
- (2) The emission of sound in the performance of emergency work;
- (3) Construction work, as defined in 46-3;
- (4) The unamplified human voice;

- (5) Interstate railway locomotives and cars;
- (6) Activities for which the director has issued either a special variance or special permit pursuant to the noise code; or
- (7) Noise disturbances that are the result of any act of God, war, labor disturbance, riot, catastrophe or other cause beyond the control of such person.

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-27. - Special permits.

- (a) *Authority of director of health.* The director shall have the authority, consistent with this chapter, to grant special permits which may be requested by any person proposing to engage in any activity which the applicant believes will create a noise disturbance prohibited by this chapter.
- (b) *Application; hearing.* Any person seeking a special permit pursuant to this section shall file an application with the director. The application shall contain information which demonstrates that compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. Any individual who claims to be adversely affected by allowance of the special permit may file a statement with the director containing any information to support his claim. If the director finds that a sufficient controversy exists regarding an application, a public hearing may be held.
- (c) *Granting or denial.* In determining whether to grant or deny the application, the director shall balance the hardship to the applicant, the community and other persons of not granting the special permit against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special permit. Applicants for special permits and persons contesting special permits may be required to submit any information the director may reasonably require. In granting or denying an application, the director shall maintain a copy of the decision and the reasons for denying or granting the special permit.
- (d) *Conditions.* A special permit shall be granted by notice to the applicant containing all necessary conditions on the permitted activity. The special permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special permit shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special permit was granted.
- (e) *Procedural rules.* The director may issue rules and regulations defining the procedures to be followed in applying for a special permit and the criteria to be considered in deciding whether to grant a special permit.

(Ord. No. 150190, § 1, 5-7-15)

Secs. 46-28—46-35. - Reserved.

DIVISION 2. - PENALTIES, ABATEMENT AND OTHER REMEDIES

Sec. 46-36. - Administration of noise control program.

The noise control program established by this chapter shall be administered by the director of health, who may be referred to in this chapter as "the director."

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-37. - Duties.

- (a) *Investigation of violations.* The director shall have the authority to investigate and pursue possible violations of this chapter. If a complaint is made, upon presentation of proper credentials, the director may enter and inspect any property or place, and inspect any relevant report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act on behalf of the



owner. When permission to enter is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon a showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

- (b) *Delegation of authority.* The director may delegate his or her functions under this chapter. The city police department is hereby authorized to enforce the prohibitions established by this Code without the explicit delegation from the director of health.

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-38. - Abatement orders.

The director of health may issue an order requiring abatement of any source of sound if he or she has reason to believe that it is in violation of this chapter, within a reasonable time period and according to rules and regulations which the director may prescribe.

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-39. - Penalty for violation of chapter.

- (a) Any person convicted of a violation of any provision of this chapter shall be punished for that violation by a fine of not less than \$50.00 but not more than \$1,000.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment.
- (b) Each day of violation of any provision of this chapter shall constitute a separate offense.

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-40. - Appeals.

Appeals of an adverse decision of the director under this chapter shall be made to the director, who may hear the appeal or designate a hearing officer.

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-41. - Filing fees.

- (a) The filing fee for application to the director of health for a special permit under this chapter shall be \$50.00 per application.
- (b) The filing fee for appeals shall be \$50.00.

(Ord. No. 150190, § 1, 5-7-15)

Sec. 46-42. - Other remedies.

No provision of this chapter shall be construed to impair the city's right to pursue any other legal remedy, relief, or cause of action, including injunctive relief, related to any violation of this chapter or from any other law.

(Ord. No. 150190, § 1, 5-7-15)