

Chapter 215. Offenses

Article V. Offenses Concerning Public Peace

Section 215.237. Regulation of Noise Levels.

[R.O. 2007 §215.340; Ord. No. 3914 §§1—19, 7-20-1999; Ord. No. 5713 §1, 6-23-2011]

- A. The City of O'Fallon, Missouri, recognizes that the right and privilege to participate in or to attend sporting events is favored by public policy, legislation and court decisions.
- B. The public policy is to encourage family-oriented activities and open-air amusements, tourism, economic and general welfare.
- C. Sporting events and surrounding activities, bands, fireworks and parades are beneficial to the residents of the City of O'Fallon and surrounding areas.
- D. Residents of cities are subject to variable levels of noise from trains, diesel vehicles and highway traffic, etc., and as the City grows more, new noises have to be expected and accommodated so long as they are not unreasonably loud.
- E. The City recognizes that sporting events conducted near or even adjoining private residential property are not a nuisance per se; nevertheless, the time or manner of conducting such events may make the noise level a nuisance in fact outside the stadium or field area.
- F. It shall be a violation of this Section for any person to make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, health, peace or safety of others within the limits of the City. Noises which are the result of legally operating businesses engaged in their normal operations are to be subject to the objective noise level limits listed in this Section.
- G. The following acts, among others, when created by activities which are not normal, or approved business activity which are governed by the objective noise standards, may be declared to be loud, disturbing and unnecessary noises in violation of the provisions of this Section, but said enumeration shall not be deemed to be exclusive, namely:
 1. *Horns, signaling devices, etc.* The sound of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the City, except as a warning or danger signal, the creation by means of any such signaling device of any unreasonable period of time. The use of any signaling device except tone operated by hand or electricity the use of any horn, whistle or other device operated by engine exhaust and the use of any such signaling device when traffic is for any reason held up.
 2. *Loud speakers, amplifiers for advertising.* The use, operation or permitting to be played, used or operated any radio-receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is broadcast from the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure that is determined to be excessive based upon the criteria set out in this Section.
 3. *Yelling, shouting, etc.* Prolonged yelling, shouting, hooting or whistling on the public streets, particularly between the hours of 10:30 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons of reasonable sensitivity in any office, dwelling, hotel or other type of

residence, or of any persons in the vicinity.

4. *Animals, birds, etc.* The keeping of any animal or bird on residential premises that causes frequent or long continued noise which disturbs the comfort or repose of any persons in the vicinity.
 5. *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
 6. *Engines and equipment, etc.* Allowing vehicle or equipment engines to rev up or idle for prolonged periods or at times or locations which can reasonably be expected to annoy or disturb the quiet, comfort or repose of persons of reasonable sensitivity in nearby areas.
- H. *Enforcement Factors.* In the enforcement of standards established in this Section, an Enforcement Officer may be required to exercise judgment in determining if a particular noise is sufficiently loud or otherwise so offensive that it would unreasonably disturb other persons in the vicinity. When making such determinations, the Enforcement Officer shall consider the following factors:
1. The intensity (sound pressure level) of the noise.
 2. Whether the nature of the noise is usual or unusual.
 3. Whether the origin of the noise is natural or manmade.
 4. The volume and intensity of the background noise, if any.
 5. The proximity of the noise in residential sleeping facilities during the sleeping hours of 10:30 P.M. to 7:00 A.M.
 6. The nature and zoning of the area within which the noise emanates.
 7. The time of the day or night along with the day of week and time of year the noise occurs.
 8. The duration of the noise.
 9. Whether the noise is recurrent, intermittent or constant.
- I. *Definitions.* All words used in this Section not defined below shall be in conformance with applicable publication of the American National Standards Institute (ANSI) or its successor body for the purpose of this Section. The following words and phrases are defined and shall be construed as defined below unless it shall be apparent from the context that a difference meaning is intended.

A-WEIGHTED SOUND LEVEL

The sound pressure level in decibels as measured on a sound level meter using an A-Weighting network. The level so read is designated dBA.

DECIBEL (dB)

A unity for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.

EMERGENCY WORK

A work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril. Emergency work may also be declared by the City as outlined above.

HOLIDAY

For the purposes of this Section, the following days will be recognized as holidays for the purpose of granting permits to exceed maximum sound level: Memorial Day, Independence Day, Labor Day and December thirty-first (31st).

MUFFLER

An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while significantly reducing sound emanating from such apparatus.

NOISE

Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

OUTDOOR AMPLIFIED SOUND

Any sound using sound equipment, whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.

PERSON

Any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of the United States, the State of Missouri, or any political subdivisions thereof.

SLOW RESPONSE

Metering function to be used in measurement of sound for determination of enforcement of the objective noise level limits stated within this Section.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression, and rarefaction of that medium resulting in air pressure variations perceptible by the human ear. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL

The unweighted ("flat") or weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such A, B or C as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER

An ANSI standard S1.4 Type 0, I or II class instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting network used to measure sound pressure levels.

SOUND PRESSURE LEVEL

Twenty (20) times the logarithms to the base 10 of the ratio of the root mean squared (RMS) sound pressure to the reference pressure of twenty (20) micronewtons per square meter.

SOUND RECEPTOR

The location or property boundary receiving noise from a sound source.

SOUND SOURCE

The location of property boundary from which a sound emanates.

TIME WEIGHED AVERAGE

For the purposes of enforcement of the allowable noise level limits in this Section, sound level measurements shall be average when possible and appropriate over a fifteen (15) minute period, using a sound level meter which includes an ANSI standard integration feature. The proper designation for sound level measurements made using this technique is dBA LEQ (Equivalent Level).

J. *Classification Of Use Occupancies.* Use occupancies shall be as follows:

1. *Residential use.* All premises containing habitually-occupied sleeping quarters. However, premises containing transient commercial sleeping quarters are considered commercial use. Hospitals, nursing homes, schools, libraries, fraternity and sorority houses and charges are considered residential uses.
2. *Public nuisance.* An offense against the public order by any act which annoys, injures, endangers, renders

insecure, interferes with or obstructs the rights or property of the whole community or neighborhood or of any considerable number of persons, even though extent of the annoyance, injury or damage may be unequal or may vary in its effect on individuals.

3. *Commercial.* All premises where sales, professional or other commercial activity is legally permitted, except that residentially zoned properties with lawful home occupations are considered residential.
 4. *Industrial.* All premises where goods or wares are made, warehoused or stored or where manufacturing is legally permitted.
 5. *Agricultural.* All premises which are bona fide farms, golf courses, or which are characterized by farming activities as the primary use of the premises.
 6. *Recreational/athletic/amusement/outdoor activity.* All premises which are designated as indoor and outdoor entertainment and/or recreational activities.
- K. *Measurement Methodology.* This Section describes acceptable methods of techniques for the measurement and reporting of noise for the purpose of determining compliance with the allowable noise levels listed above.
1. *Measurement location.* Measurement of sound must be made at the front building line on the property of the noise receptor.
 2. *Calibration.* All sound level measuring devices must be calibrated by a certified agency or the City.
 3. Sound level measurement shall be made with a sound level meter using the A-weighting scale set on "slow" response.
 4. Sound level meters shall be at least Type II meeting American National Standard Institute (ANSI S1.4-1983 requirements). Persons using the sound levels shall be trained in sound level measurement and the operation of sound level measurement equipment.
 5. *Measurement procedures.* The following procedures must be followed to obtain representative sound level measurements.
 - a. Measurement location must be at least three (3) feet above the ground and not more than ten (10) feet above ground.
 - b. Measurement shall be taken in location on receptor property with line of sight to the noise source if possible.
 - c. Measurements made in sustained winds over ten (10) knots may be subject to review and considered not valid. Precipitation or other sounds which result in a difference of less than 10 dBA between the background or ambient noise level and the noise source being measured may also invalidate measurements.
 - d. Measurements must be made with the sound level meters set for "A" weighting and "slow" response.
 - e. Measurements are to be made when possible and appropriate to the noise source over a fifteen (15) minute period with the sound level meter in the "averaging" or Leq mode. Measurements should be made over a continuous period, unless a transient event which is easily identified, such as an aircraft overflight, occurs. In this case, the averaging period may be paused for the duration of the transient event and the measurement restarted when the transient event sound level is 10 dBA below the noise source being measured.
 6. *Date documentation.* A record of all sound level measurements must be completed and signed by the person marking the measurements. The record sheet should include:
 - a. Date.
 - b. Time of measurement.
 - c. Location (street address if possible).

- d. Noise source.
 - e. Wind speed and direction (measured, estimate or from airport or weather service records).
 - f. Temperature (if readily available).
 - g. Humidity (if readily available).
 - h. Make, model and serial number of sound level meter, date of last certification/calibration.
 - i. Field calibration results.
 - j. Ambient (background) noise level.
 - k. Name of complainant (if available).
- L. In addition to the subjective standards established above, it shall be presumed that the allowable noise level limits have been violated whenever any noise or sound is projected from one property in the City onto another if such sound, measured at the front building line on the property receiving the sound, exceeds the following decibel standards at a location appropriate to determine the level of disturbance.

Objective Noise Standards—Allowable Levels

In residentially zoned districts:

7:00 A.M. to 10:30 P.M. 55 dB

10:30 P.M. to 7:00 A.M. 50 dB

In commercially zoned districts:

7:00 A.M. to Midnight 65 dB

Midnight to 7:00 A.M. 60 dB

In industrially zoned districts:

7:00 A.M. to Midnight 70 dB

Midnight to 7:00 A.M. 65 dB

Multi-family structures shall have the same noise limits between units as for single-family or detached dwellings, as measured at any point in the interior of the sound receptor residential unit with windows closed.

- M. *Exceptions.* The following are exempt from the provisions above:
1. Crowd sounds emanating from scheduled outdoor athletic events and/or festivals, concerts and activities operating under permit from the City.
 2. Noise of safety signals, warning devices, emergency pressure relief valves.
 3. All church bells, church chimes, either actual or electronic, or artificial sound reproduction system intended to sound like church bells or chimes operated between the hours of 6:00 A.M. and 10:30 P.M.
 4. Noise resulting from any authorized emergency vehicle.
 5. Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or Federal law for which a local permit has been granted by the City, provided such activity is of a temporary duration lasting no longer than two (2) hours during any twenty-four (24) hour period. Regulation of noise emanating from activities under permit shall be according to the conditions and limits stated in this Section and according to any additional conditions stated on the permit.
 6. Unamplified and amplified sound at public affairs conducted, sponsored or sanctioned by the City of O'Fallon, so long as such sound remains within the parameters of this Section.
 7. All noises coming from the normal and legal operations of properly equipped aircraft.
 8. Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit.
 9. Noise from trains and associated railroad rolling stock when operated in a proper manner.

10. Emergency work, as defined above.
11. *Special event permits.* When approved by the City Council, the City Administrator or his/her designated representative may issue special event permits for events such as, but not limited to, concerts, festivals, parades and athletic events to permit reasonable and limited exceptions to the provisions of this Section. Any special event permit issued shall contain specific provisions as to the activities which will be conducted and dates and times during which the provisions of this Section are to be suspended. Specific sources to the noise which may exceed the established sound limits shall be identified, with projected or estimated noise levels, and special conditions may be established in the permit which will minimize the noise impact of the special event on the community.
- N. *Special Use Districts, Overlay Zones.* When approved by the City Council, the objective, allowable noise limits may be modified or amended to reflect the specialized or unique nature of the land use being allowed. Such modifications or amendments to the allowable noise level limits shall be in force for the zoning district only and shall not serve as an overall modification to the noise level limits throughout the City.
- O. *Annexed Or Rezoned Property.* Annexed property that has been granted a non-residential zoning or is currently operating as a commercial or amusement use shall have twelve (12) months to comply with the allowable noise level limits listed above. In the event that a transient lodging or residential zoning is being requested adjacent to or within one thousand (1,000) feet of an existing commercial or industrial zone, applicant or owner shall demonstrate, whether through field testing or by use of the Shell Isolation Rating system, that planned or existing housing provides 35 dBA of attenuation from outside to inside the building.
- P. The City Administrator or his/her designated representative may temporarily waive the requirements of this Section to permit work of an emergency nature necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from imminent exposure to danger or work by public or private utilities when restoring utility service.
- Q. Whenever any public nuisance, as defined in this Section, is determined to exist, the City Administrator or the City Administrator's designate shall cause to be served a notice in writing upon the person permitting, causing, maintaining, allowing to remain or creating the nuisance, stating the existence of the nuisance and requesting its abatement in the time specified in this Section.
- R. The City Administrator or his/her designate may enter at any reasonable time, with reasonable notice, into or upon any private or public property, for the purpose of inspection and investigating any condition or equipment which the City Administrator or his/her designate shall have reasonable cause to believe to be causing a violation of this Section. The City Administrator or his/her designate may inspect at any reasonable time and in a reasonable manner with reasonable notice any sound-emitting equipment. No person shall refuse entry nor obstruct, delay, prevent or in any way interfere with the City Administrator or his/her designate while carrying out an inspection, or in the performance of his/her duties.
- S. *Violations And Penalties.*
 1. If the alleged violator denies responsibility for the noise level problem or if the City Administrator or his/her designate is not able to amicably abate the noise level problem, he/she shall issue a notice to the person responsible for such noise level problem which shall specifically state the facts of the violation and the provisions of this noise level problem Section violated; and he/she shall require such person to answer the allegations contained in such notice at a hearing before the City Administrator or his/her designate to be held not less than seven (7) days after the date of such notice.
 2. If the respondent to such notice of violation desires to offer evidence at the hearing, he/she shall file a written answer thereto with the City Administrator or his/her designate not less than two (2) days before the hearing at the O'Fallon City Hall, setting forth a summary of the facts and evidence to be presented at the hearing, in default whereof the facts stated in the notice of violation shall be deemed by the City Administrator or his/her designate to be true; and if he/she finds that adequate corrective measures will not be employed to abate the noise level.
 3. After due consideration of all matters at the hearing, or upon the default in appearance of the alleged violator, and if he/she finds that adequate corrective measures will not be employed to abate the noise level, the City Administrator or his/her designate shall make such determinations and issue such orders as

are appropriate and commensurate with the provisions of this Section, and he/she shall forthwith give notice thereof in writing to the alleged violator.

4. The City Administrator or his/her designate, upon determination of a violation of this Section after such hearing is conducted, may proceed to sign a complaint form at the Police Department of the City, and should the City Prosecutor decide to proceed with such signed complaint, a summons will be issued which is returnable in the O'Fallon Municipal Court.
5. Any person determined to be in violation of any provision of this Section shall, upon conviction, be assessed a fine of up to five hundred dollars (\$500.00). Each day of such violation shall constitute a separate violation.