

Ordinance 953

Noise Disturbance

Definitions.

The following words and phrases, when used in this article, shall be for the purpose of this article, have the meanings respectively ascribed to them in this section unless otherwise defined in the text of the section;

(a) Commercial Area - property zoned C-1, C-2, C-3 (if use of the property is commercial in nature), property operating under a special use permit for a commercial use, or property upon which a legal non-conforming commercial use is operating.

(b) dB(A) - a weighted sound level measured in decibels by a general purpose, properly calibrated, sound level meter.

(c) Emergency Motor Vehicle-a motor vehicle belonging to a fire department or certified private volunteer firefighter or firefighting association, partnership or corporation, an ambulance, or a motor vehicle belonging to a federal, state, county or municipal law enforcement agency, provided such vehicle is being used as an emergency vehicle by one authorized to use such vehicle for that purpose.

(d) Industrial Area - property zoned I-1, I-2 (if use of the property is industrial in nature), property operating under a special use permit for an industrial use, or property upon which a legal non-conforming industrial use is operating.

(e) Plainly Audible - capable of being heard. It is not necessary to distinguish words or melodies. A plainly audible may consist of bass alone

(f) Property Owner- the named property owner as indicated by the records of the Register of Deeds or Appraiser's Office in Medicine Lodge, Barber County, Kansas.

(g) Residential Area - property zoned R-S, R-1, R-2, R-3 (if the use is residential) or property upon which a legal non-conforming residential use is operating.

(h) Sound Amplification or Producing Device or Similar Equipment shall mean radio, radio receiving set, television, phonograph, stereo, tape player, cassette player, compact disc player, "boom box", loudspeaker, drum, juke box, nickelodeon, musical instrument, sound amplifier or other device which produces, reproduces or amplifies sound.

(i) Tenant - any person who has an interest in real property either by oral or written lease or covenant

Noise disturbance unlawful.

It shall be unlawful to make or cause to be made a Noise Disturbance within the City. A Noise Disturbance shall include any or all of the following:

(a) A sound registered on a decibel meter from any source not exempted or otherwise regulated by this Section and which, when measured at or within the property boundary of the land area receiving the noise, is in excess of the dB(A) established for the time period and receiving land areas listed below:

<u>Receiving Land Area</u>	<u>7:00 a.m. to 10:00 p.m.</u>	<u>10:00 p.m. to 7:00 a.m.</u>
Residential	55 dB(A)	50 dB(A)
Commercial	65 dB(A)	60 dB(A)
Industrial	80 dB(A)	75 dB(A)

(For an example, if the sound is measured out into another zoned area such as the sound is initiated in a commercial zone but was being heard from the commercial zone into the residential zone, the residential decibels above shown are what is required by the commercial sound being produced as the standard required when a commercial sound reaches a residential zone or into the residential zone.)

(b) The owning, keeping or harboring of any animal that continuously, repeatedly, or persistently for thirty (30) minutes or more, without provocation by the complainant, creates a sound which is Plainly Audible across any property boundary line.

(c) A sound resulting from the erecting, constructing, excavating, demolishing, altering or repairing of any structure, or operating, or permitting the operation of any tools or equipment used in construction, drilling, or demolition work in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 10:00 p.m. and 7:00 a.m. Between the hours of 7:00 a.m. and 10:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection (a).

(d) The repairing, rebuilding, modifying or stationary testing of any motor vehicle, motorcycle, or motorboat in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 10:00 p.m. and 7:00 a.m. Between the hours of 7:00 a.m. and 10:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection (a) above.

(e) The operating or occupancy of a vehicle, which is moving or stationary, standing or parked, whether persons are seated in the vehicle or not, from which any Sound Amplification or Producing Device or Similar Equipment is creating a sound that is Plainly Audible at least fifty (50) feet from the source of the sound. A violation of this subsection shall be a traffic offense.

(f) The operation of any power tool, garden tool, lawnmower, snow blower or other similar equipment or device in Residential Areas in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 10:00 p.m. and 7:00 a.m. Between the hours of 7:00 a.m. and 10:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection (a) above.

(g) The operating, playing, permitting or causing to be operated or played any Sound Amplification or Producing Device or Similar Equipment in a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 12:00 a.m. (midnight) and 6:00

a.m. Between the hours of 6:00 a.m. and 12:00 a.m. (midnight), this activity is subject to the area and dB(A) limits set forth in subsection (a) above

Unlawful to allow a noise disturbance; Responsibility for abatement.

(a) It is unlawful for any Properly Owner or Tenant, or other person with control, occupancy, or possession of residential property to allow or permit a person or group of persons to create a Noise Disturbance as defined in Section 11-302 on said property.

Exemptions.

The following shall not be considered to be Noise Disturbances for purposes of this Article:

(a) Sound from law enforcement motor vehicles and other Emergency Motor Vehicles including, but not limited to public snow-clearing equipment.

(b) Sound from vehicles or equipment belonging to the city, state, county, federal government, school or other governmental agencies or utilities engaged in preparing for or remedying a potentially hazardous situation.

(c) Sound from vehicles or equipment being used by or for the city, state, county, federal government, school or other governmental agencies or utilities engaged in a project that cannot reasonably be completed under the noise restrictions contained in these regulations.

(d) Sound that a person or entity is making or causing to be made when said person or entity has received and maintains a valid license or permit, in writing, which specifically allows sound levels in excess of those set forth in this article from the Governing Body of the City. When any such permits or licenses are issued, the City Clerk shall provide the City's law enforcement with copies of the same.

Penalties.

(a) Upon a first conviction for a violation of this article, the Court shall assess a fine of no less than fifty dollars (\$50.00). Upon a second conviction, the Court shall assess a fine of no less than one hundred fifty dollars (\$150.00). Upon a third or subsequent conviction, the Court shall assess a fine of no less than two hundred fifty dollars (\$250.00). No prior conviction shall be considered in determining the penalty to be assessed if twenty-four (24) months have elapsed between the date of the violation and the date of the conviction next immediately preceding the sentencing date.

(b) No person shall be eligible for a parole, suspension or reduction of any part of said fine except that the portion of any fine or combination of fines that exceeds two hundred dollars (\$200.00) assessed from the same set of operative facts may be suspended for twelve (12) months on the condition the violator have no further violations of the noise ordinance during that period. In addition to any such fine imposed, the Court may impose a jail term of up to six (6) months.

(c) Each occurrence of a violation, or in the case of a continuous violation, each day a violation occurs or continues, constitutes a separate offense and shall be punishable as such hereunder.

Tom Lee, Mayor

ATTEST:

Kandi Williams, City Clerk

DISTRICT CLASSIFICATIONS

"A-L"	Agriculture District
"F - P"	Floodplain Overlay District
"R - S"	Residential Suburban District
"R - 1"	Single-Family Dwelling District
"R - 2"	Two-Family Dwelling District
"R - 3"	Multiple-Family Dwelling District
"PUD"	Planned Unit Development
"M- H"	Manufactured Home Overlay District
"MH-I"	Manufactured Home Subdivision District
"M- P"	Manufactured Home Park District
"C - S"	Highway Service District
"C - 1"	Central Business District
"C - 2"	General Commercial District
"C - 3"	Adult Entertainment District
"I - 1"	Light Industrial District
"I - 2"	Heavy Industrial District
"A - H"	Airport Height Control District