

Can we reduce excessive noise in Midtown?

A guide for discussion and positive steps

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Intro

KC's noise control code (Code of Ordinances, Ch. 46¹) notes that excessive sound is a serious hazard to the public's health, welfare, safety, and quality of life; that reasonable solutions exist to substantially abate it; and that we are right to expect the city to pursue this end by such means (sec. 46-2).

What is "excessive noise"?

- Objectively, the Code deems a noise level excessive if it exceeds the decibel limits outlined for certain scenarios in Table 1 (sec. 46-4).
- Subjectively, the Code defines it as "sound which may jeopardize the health, welfare or safety of its citizens or degrade the quality of life" (46-2.b) and "sound that disturbs the peace, quiet and comfort of the neighboring inhabitants at any time with louder volume than necessary" (46-4.b).

Is excessive noise a problem in our community?

During times when the weather encourages us to open the windows of our homes, sit outside on our porches, enjoy a meal or beverage at a dining establishment's patio, ride a bicycle, or go for a walk, are we able to do so without the intrusion of noise defined above as "excessive"?

Are you able to sleep well with your windows open at night, especially on weekends?

I (Matt) have found that, when the weather turns nice, hoards of individuals fill our surrounding streets (Broadway, 39th, Westport Rd, SW Tfwy) with unnecessarily, intentionally, excessively loud vehicles (cars and trucks with modified exhaust mufflers, crotch rocket motorcycles, dirt bikes, ATVs) especially on nights and weekends.

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Amending Chapter 46, Code of Ordinances, entitled "Noise Control" by repealing it in its entirety and enacting in lieu thereof a new Chapter 46 entitled "Noise Code" of like subject matter, consisting of Sections 46-1 through 46-42.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 46, Code of Ordinances, entitled "Noise Control" is hereby amended by repealing it in its entirety and enacting in lieu thereof a new Chapter 46 of like name and subject matter, consisting of Sections 46-1 through 46-42, to read as follows:

ARTICLE I. IN GENERAL

Sec. 46-1. Title of chapter.

This chapter shall be known and referred to as the Kansas City, Missouri Noise Control Code or the Noise Code.

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.

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).

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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 Tables 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.

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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		INDOORS		OUTDOORS	INDOORS
Time	Octave Band Sound Pressure Level (dB)		Octave Band Sound Pressure Level (dB)		Octave Band Sound Pressure Level (dB)	Octave Band Sound Pressure Level (dB)
	7 AM - 10 PM	10 PM- 7 AM	7 AM- 10 PM	10 PM- 7 AM	24 Hours	24 Hours
31.5	77	72	64	61	97	86
63	76	71	58	54	96	72
125	69	64	51	46	89	64
250	64	59	45	40	84	57
500	56	51	42	37	76	53
1,000	50	45	39	34	70	50
2,000	47	42	36	31	67	47
4,000	45	40	33	28	65	45
8,000	40	35	30	25	60	43
dBA	60	55	45	40	80	52

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(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.

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.

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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.

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.

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.

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;

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."

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 Kansas City, Missouri Police Department is hereby authorized to enforce the prohibitions established by this Code without the explicit delegation from the director of health.

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.

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 \$1000.00, 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.

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.