

## Chapter 21. Noise

[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Animals and fowl — See Ch. 7.

Nuisances generally, §§ 22-3 — 22-5.

Peddlers — See Ch. 25.

Unnecessary noise from swimming pools — See § 34-11C.

Provisions of Traffic Code relative to vehicle horns and other warning devices — See § 36-55.

Provisions of Traffic Code relative to mufflers — See § 36-66.

## Article I. In General

### § 21-1. Findings and declarations of fact; purpose of chapter.

[P&L Code § PL201A]

A. The City Commission hereby finds and declares that:

- (1) The making or creation of excessive or unusually loud noises within the limits of the City is a condition which has existed for some time and the extent and volume of such noises are increasing;
- (2) The making, creation or maintenance of such excessive or unusually loud noises, which are prolonged, unusual or unreasonable in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety and welfare of the residents of the City; and
- (3) The necessity in the public interest for the provisions and prohibitions hereinafter contained in this chapter is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and the peace and quiet of the inhabitants of the City of Kalamazoo.

### § 21-2. Definitions.

[P&L Code § PL202A.2]

As used in this chapter, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this section:

#### **AMBIENCE**

Surrounding or background noise associated with a given environment, usually a composite of sounds from many sources.

#### **ANY PERSON**

When referring to persons intended to be protected by the provisions of this chapter, shall mean a reasonable person of normal sensitiveness.

#### **dB(A)**

The sound pressure level in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI S1.4-1971, for a Type 2 Instrument.

### **DECIBEL**

A unit used to express the magnitude of sound pressure and sound intensity. The difference in decibels between two sound pressures is 20 times the common logarithm of their ratio. In sound pressure measurements, the sound pressure level of a given sound is defined to be 20 times the common logarithm of the ratio of that sound pressure to a reference pressure of  $2 \times 10^{-5}$  N/m<sup>2</sup> (Newtons per meter squared). As an example of the effect of this formula, a three-decibel change in the sound pressure level corresponds to a doubling or halving of the sound intensity, and a ten-decibel change corresponds to a tenfold increase or a decrease to 0.10 the former sound intensity.

### **HARMONIC OR PURE TONES**

Sounds which have a specific frequency or pitch associated with them.

### **IMPULSIVE SOUNDS**

Very short duration, although they may be repeated at regular or irregular intervals, such as gun shots or automobile backfire sounds.

## **§ 21-3. Enforcement of chapter.**

[P&L Code § PL202A.4]

In addition to the employees and officers regularly required to enforce City ordinances generally, the City Manager may assign duties of enforcement of this chapter to personnel trained in noise-control techniques and procedures and equipped with calibrated sound level meters of a standard design.

## **§ 21-4. Exemptions from chapter.**

[P&L Code §§ PL201A, PL204A]

A. The provisions of this chapter shall not apply to:

- (1) Law enforcement or governmental agencies when engaged in activities authorized by law.
- (2) Emergency work performed for the safety, welfare and public health of the citizens of the City. "Emergency work" is work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or potential danger.
- (3) Warning devices emitting sound for warning purposes, as authorized by law.
- (4) Parades, fairs, circuses and other similar public entertainment events, sanctioned sporting events, sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above.
- (5) Flights of aircraft which are in all respects conducted in accordance with, or pursuant to, federal law, federal air regulations and air-traffic-control instructions.

## **§ 21-5. Violations of chapter as nuisances.**

[P&L Code § PL206A]

In addition to the penalty imposed for a violation of this chapter, the operation or maintenance of any noise source in violation of any provision of this chapter, which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health, or peace of residents in the area, shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

## § 21-6. General prohibition.

[P&L Code §§ PL202A.1, PL202A.3]

- A. It shall be unlawful for any person to make or cause to be made or continued any excessive or unusually loud noise or any noise, measured or unmeasured, which either disturbs, injures or endangers the comfort, repose, health, peace or safety of any person within the limits of the City.
- B. The acts enumerated in the following sections of this chapter are declared to be loud, disturbing noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive.

## § 21-7. Noise limitations based on dB(A) criteria.

[P&L Code § PL202A.4; amended 4-20-1981 by Ord. No. 1223]

- A. Generally. Any noise in excess of the maximum decibel limits according to the regulations set out in this section shall be deemed to be prima facie evidence of a violation of § 21-6.
- B. Noise from private property. The maximum decibel limits on noise originating from private property shall be as set forth in the following table. Noise will be measured at the boundaries of the lot. To be in violation, the source or sources of noise must be identifiable in relation to the ambience, and must exceed the limitations established for the zoning districts and times listed below:

Zones	dB(A) Maximum Limitations	
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
Residential 7, 7A, 8	50 dB(A)	45 dB(A)
Commercial 4, 5, 5A, 6	55 dB(A)	50 dB(A)
Industrial 1, 2, 3	75 dB(A)	70 dB(A)

The following provisions shall apply to the interpretation and enforcement of this subsection:

- (1) At boundaries between zones, the lower of the dB(A) levels shall be applicable.
  - (2) Harmonic or pure tones and periodic or repetitive impulsive sounds shall be in violation when such sounds are at a sound pressure level of five dB(A) less than those listed above.
  - (3) Construction projects shall be subject to the maximum permissible noise levels specified for industrial districts for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of the project.
  - (4) Noises caused by home or building repair and ground maintenance are excluded from these limits between the hours of 7:00 a.m. and 10:00 p.m., provided they do not exceed 74 dB(A) at the property line or at a distance of 50 feet (15 meters), whichever is furthest from the source of the noise.
  - (5) All railroad rights-of-way shall be considered as industrial districts for the purpose of this subsection and the operation of trains shall be subject to the maximum permissible noise levels for such district. The allowable noise levels at the boundaries of the right-of-way shall be those appropriate within industrial districts, without regard for the zone of the abutting property.
- C. Noise from motor vehicles:
    - (1) Definitions.
      - (a) For the purpose of this subsection, the following terms shall have the meanings indicated:

### COMBINATION VEHICLE

Any combination of truck, truck tractor, trailer, semitrailer or pole trailer used upon the highways or streets in the transportation of passengers or property.

**DECIBEL**

A unit of sound level on a logarithmic scale measured relative to the threshold of audible sound by the human ear, in compliance with American National Standards Institute standard S1.1-1960.

**DECIBELS ON THE A-WEIGHTED NETWORK or dB(A)**

Decibels measured on the a-weighted network of a sound level meter, as specified in American National Standards Institute standard S1.4-1971.

**EXHAUST SYSTEM**

The system comprised of a combination of components which provides for enclosed flow of exhaust gas from engine parts to the atmosphere.

**FAST METER RESPONSE**

The meter ballistics of meter dynamic characteristics as specified by American National Standard standard S1.4-1971.

**GROSS VEHICLE WEIGHT RATING**

The value specified by the manufacturer as the loaded weight of a vehicle.

**MAXIMUM NOISE**

The noise emitted from a vehicle during that manner of operation which causes the highest dB(A) level possible from that vehicle.

**MUFFLER**

A device for abating the sound of escaping gases of an internal combustion engine.

**NOISE**

Any sound.

**TOTAL NOISE**

Noises radiating from a vehicle but does not include noises emitted from a horn, siren, bell or other similar device of an authorized emergency vehicle.

- (b) For purposes of this subsection, a motor vehicle does not include a special mobile equipment.
- (2) Prohibitions.
  - (a) A motor vehicle, while being operated on a highway or street, shall be equipped with an exhaust system in good working order to prevent excessive or unusual noise and shall be equipped to prevent noise in excess of the limits established in this subsection.
  - (b) A motor vehicle shall not be operated or driven on a highway or street if the motor vehicle produces total noise exceeding one of the following limits at a distance of 50 feet except as provided in Subsections C(2)(b)[2][c] and C(2)(b)[3][c]:
    - [1] A motor vehicle with a gross weight or gross vehicle weight rating of 8,500 pounds or more, combination vehicle with gross weight or gross vehicle weight ratings of 8,500 pounds or more:
      - [a] Ninety dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour.
      - [b] Eighty-six dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour.
      - [c] Eighty-eight dB(A) under stationary run-up test.
    - [2] A motorcycle or a moped:
      - [a] Eighty-six dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour.
      - [b] Eighty-two dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour.

miles per hour.

[c] Ninety-five dB(A) under stationary run-up test at 75 inches.

[3] A motor vehicle or a combination of vehicles towed by a motor vehicle not covered in Subsection **C(2)(a)** or **(b)**:

[a] Eighty-two dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour.

[b] Seventy-six dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour.

[c] Ninety-five dB(A) under stationary run-up test 20 inches from the end of the tailpipe.

- (c) A person shall not operate a vehicle on a highway or street if the vehicle has a defect in the exhaust system which affects sound reduction, is not equipped with a muffler or other noise-dissipative device, or is equipped with a cutout, bypass, amplifier or a similar device.
- (d) A person shall not modify, repair, replace or remove a part of an exhaust system, if the act causes the motor vehicle to which the system is attached to produce noise in excess of the levels established by this subsection, or operate a motor vehicle so altered on a street or highway.
- (e) A person, either acting for himself or herself or as the agent of employee of another, shall not sell, install or replace a muffler or exhaust part, if that act causes the motor vehicle to which the muffler or exhaust part is attached to exceed the noise limits established by this subsection.
- (f) A dealer shall not sell or offer for sale for use upon a street or highway in this state a new motor vehicle manufactured after April 1, 1978, which produces a maximum noise exceeding the following limits:
- [1] A motor vehicle with a gross vehicle weight rating of 8,500 pounds or more: 83 dB(A).
- [2] A motorcycle or a moped: 83 dB(A).
- [3] A motor vehicle not covered in Subsection **C(2)(f)[1]** or **[2]**: 80 dB(A).
- (g) A dealer shall not sell a used or secondhand motor vehicle for use upon a street or highway which is not in compliance with this subsection.
- (3) Proof of violation. If it is shown that the noise level of a motor vehicle is in excess of the dB(A) levels established in this section, that evidence shall be prima facie evidence that the motor vehicle was producing excessive noise in violation of this section.
- (4) Penalties.
- (a) A person who violates Subsection **C(2)(a), (b), (c)** or **(d)** is responsible for a civil infraction.
- (b) A person who violates Subsection **C(2)(e), (f)** or **(g)** is guilty of a misdemeanor.
- (5) Fine. A person who, at the time of installation, knowingly installs a muffler or exhaust system which exceeds the decibel limits of this section shall be liable to the person who receives a citation for violation of Subsection **C(2)** for the amount of not less than \$100 plus reasonable attorney fees and court costs.
- (6) Test procedures. Test procedures under this Subsection **C** shall comply with those established pursuant to MCLA § 257.707e.

## § 21-8. Use or operation of radios, phonographs, etc.

[P&L Code § PL202A.3]

No person shall use, operate or permit to be played any radio receiving set, musical instrument, television set, phonograph or other machine or device for the production or reproduction of sound, in such manner as to disturb

the quiet, comfort or repose of any person. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be in violation of § 21-7 shall be prima facie evidence of a violation of this section.

## § 21-9. Use of loudspeaker or sound amplifier for commercial purposes.

[P&L Code § PL202A.3]

The installing, using or operating, within the City, of a loudspeaker or sound amplifying equipment, for commercial purposes, in such a manner as to disturb the quiet, comfort or repose of any person is prohibited. The operation of any such equipment or device in such a manner as to be in violation of § 21-7 shall be prima facie evidence of a violation of this section.

## § 21-10. Use of sound trucks.

[Traf. Code § 38]

No sound truck or other vehicle equipped with amplifier or loudspeaker shall be driven upon any street for the purpose of selling, offering for sale or advertising in any fashion.

## § 21-11. Yelling, whistling, etc.

[P&L Code § PL202A.3]

Yelling, shouting, hooting, whistling or singing at any time or place, so as to disturb the quiet, comfort, or repose of any person, is prohibited. The occupant or person in charge of any building emitting such noise and the person owning or operating any vehicle or device emitting such noise shall be deemed responsible therefor and shall be in violation of this section.

## § 21-12. Selling by outcry in residential districts.

[P&L Code § PL202A.3]

The selling of anything by outcry within any area of the City zoned primarily for residential uses is prohibited.

## § 21-13. Use of drum or other device to attract attention to show, sale, etc.

[P&L Code §§ PL202A.3, PL1203.6]

No person shall use any drum, bell, buzzer or other instrument or device for the purpose of attracting attention, by the creation of noise, to any performance, show, auction or other sale, or for any other commercial purpose.

## § 21-14. Handling of boxes, crates, containers, etc.

[P&L Code § PL202A.3]

The loading, unloading, opening or otherwise handling of boxes, crates, containers, garbage containers or other objects, in such a manner as to disturb the quiet, comfort or repose of any person, is prohibited.

## § 21-15. Noisy animals and fowl.

[P&L Code § PL202A.3]

No person shall own, keep, harbor or have possession of any animal or fowl which, by frequent or habitual howling, barking, meowing, squawking or other noise, shall disturb the quiet, comfort or repose of any person.

## § 21-16. Noise from vehicles generally.

[P&L Code § PL202A.3]

The use of any truck, automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise is prohibited.

## § 21-17. Repairing, rebuilding or testing vehicles.

[P&L Code § PL202A.3]

The repairing, rebuilding or testing of any truck, automobile, motorcycle or other motor vehicle within the City, in such a manner as to disturb the quiet, comfort or repose of any person, is prohibited.

## § 21-18. Sounding of vehicle horn or signaling device.

[P&L Code § PL202A.3]

The sounding of any horn or signaling device on any truck, automobile, motorcycle or other motor vehicle on any street or public place of the City, except as a warning signal as provided in the Michigan Vehicle Code, is prohibited.

## § 21-19. Unmuffled exhaust from engine or motor; modifying noise-abatement device on engine or motor.

[P&L Code § PL202A.3]

The discharge, into the open air, of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is prohibited. Modifying any noise-abatement device on any motor vehicle or engine in a manner so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle or engine as originally manufactured shall be a violation of this section.

## § 21-20. Construction noises.

[P&L Code § PL202A.3]

The performing of any construction or repair work on buildings, structures or projects, or the operating of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other construction-type device, in such a manner as to disturb the quiet, comfort or repose of any person, is prohibited, except in cases of unnecessary hardship. In such cases, a permit shall be obtained from the City Manager in accordance with Article II of this chapter.

## § 21-21. Noise near school, church, court, hospital or nursing home.

[P&L Code § PL202A.3]

No person shall create any excessive noise within the vicinity of any school, institution of learning, church or court while the same is in use, or within the vicinity of any hospital or nursing home, which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed on streets within the vicinity indicating the presence of a school, hospital, court, church or nursing home.

## § 21-22. (Reserved)

## § 21-23. (Reserved)

§ 21-24. (Reserved)

§ 21-25. (Reserved)

§ 21-26. (Reserved)

§ 21-27. (Reserved)

§ 21-28. (Reserved)

§ 21-29. (Reserved)

§ 21-30. (Reserved)

§ 21-31. (Reserved)

§ 21-32. (Reserved)

## Article II. Permits for Noise in Excess of Designated Levels

### § 21-33. When authorized.

[P&L Code § PL203A.1]

- A. The City Manager shall authorize the issuance of a permit to any person which will allow noise in excess of the noise levels designated in this chapter, when he shall find the following facts to exist:
- (1) That all of the statements made in the permit application are true;
  - (2) That the control and supervision of the-production of such noise will be under responsible and reliable persons;
  - (3) That unnecessary hardships would result if a permit is not issued; and
  - (4) That the public health and safety will not be impaired by the noise permitted.

### § 21-34. Term.

[P&L Code § PL203A.2]

Permits may be granted under this article for a period not to exceed 60 days while the hardship continues. Such a permit may be renewed for periods of 60 days while the hardship continues.

### § 21-35. Restriction on hours of noisemaking activity.

[P&L Code § PL203A.2]

A permit issued under this article shall restrict the noise-creating activity to within the hours of 7:00 a.m. and 10:00



p.m., except in the case of urgent necessity in the interest of public health and safety, in which case a permit may be issued granting permission for such activity between the hours of 10:00 p.m. and 7:00 a.m.

## § 21-36. Suspension.

[P&L Code § PL203A.3]

- A. Upon complaint filed with the City Manager by any person, or upon his own motion, the Manager may suspend the permit of any person granted under this article, for good cause shown. "Good cause" shall include:
  - (1) Any material misrepresentation in the application for a permit or any fraud in its procurement, or failure to carry out any commitment or representation contained in the application or in the rules of this chapter; or
  - (2) Any cause which would have prevented the granting of the permit in the first place.
- B. After the City Manager has suspended a permit, the holder of the permit shall have the right to appeal to the City Commission within 10 days after receiving notice of such suspension. Such appeal shall be made by filing written notice with the City Clerk.