

Chapter 46 - NOISE CONTROL^[1]

Footnotes:

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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 Kansas City, Missouri, Noise Control Code.

(Code of Gen. Ords. 1967, § 24.1; Ord. No. 53435, 4-7-82)

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.

(Code of Gen. Ords. 1967, § 24.2; Ord. No. 53435, 4-7-82)

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 S1.1-1960 (R 1971).

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.

Aircraft means any contrivance now known or hereafter invented which is used or designed for navigation or for flight in the air; provided, however, that this definition shall not include model aircraft.

Airport means a landing area used regularly by aircraft for receiving and discharging passengers or cargo.

Commercial/light industrial district means any of the following zoning districts as shown on the zoning map: districts C-1, C-2, C-3, C-3a1, C-3a2, C-3b, C-4, CP-1, CP-2, CP-3, O, CPO-1, CPO-2, CX, M-1, PD/C-1, PD/C-2, PD/C-3, PD/C-3a1, PD/C-3a2, PD/C-3b, PD/C-4, PD/CP-1, PD/CP-2, PD/CP-3, PD/O, PD/CPO-1, PD/CPO-2, PD/CPR and PD/M-1, all as provided for in either chapter 65 of the Revised Ordinances of Kansas City, Missouri, 1956, commonly known as the zoning ordinance, or chapter 80 of this Code of Ordinances.

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 10 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.

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:**

- (1) Exceeds an equivalent A-weighted sound level (Leq) of 60 dB(A) across a residential real property boundary or within a noise-sensitive zone, between the hours of 7:00 a.m. and 10:00 p.m.;
- (2) Exceeds an equivalent A-weighted sound level (Leq) of 55 dB(A) across a residential real property boundary or within a noise-sensitive zone, between the hours of 10:00 p.m. and 7:00 a.m.; or

- (3) Exceeds an equivalent A-weighted sound level (Leq) of 80 dB(A) across a real property boundary within a commercial/light industrial district; or
- (4) Disturbs the peace, quiet and comfort of the neighboring residential inhabitants, or 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, or is plainly audible across a residential property line 50 feet or more from the source of the noise; or
- (5) Is generated from public property, including public waters, or on a public right-of-way, within a residential district and is plainly audible 50 feet or more from the source of noise or in a park and is plainly audible 100 feet or more from the source of noise.

For purposes of subsections (1), (2) and (3), when background sound exceeds an equivalent A-weighted sound level (Leq) of 75 dB(A), sound originating from a public right-of-way or public space within a commercial/light industrial district shall not constitute a noise disturbance if the sound level does not exceed an equivalent A-weighted sound level (Leq) of five dB(A) above background sound. Background sound 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.

Noise-sensitive zone means any area designated pursuant to section 46-62(7) for the purpose of ensuring exceptional quiet.

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 intrabuilding real property divisions.

Residential district means any of the following zoning districts, as shown on the zoning map: districts R-1aa, R-1a, R-1b, RA, R-2a, R-2b, R-3, R-4, R-4-O, R-5, R-5-O, R-6, PD/R-1aa, PD/R-1a, PD/R-1b, PD/RA, PD/R-2a, PD/R-2D, PD/R-3, PD/R-4, PD/R-4-O, PD/R-5, PD/R-5-O and PD/R-6, all as provided for in either chapter 65 of the Revised Ordinances of Kansas City, Missouri, 1956, commonly known as the zoning ordinance, or chapter 80 of this Code of Ordinances.

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 S1.4-1971. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. Sound level is the frequency-weighted sound pressure level obtained with the standardized dynamic characteristic "fast" or "slow" weighting A, B or C. Unless indicated otherwise, the A-weighting is understood.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks issued to measure sound pressure levels.

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)

Cross reference— Definitions and rules of construction generally, § 1-10.

Sec. 46-4. - Prohibited noise generally.

- (a) No person shall make, continue, or cause to be made or continued any noise disturbance, except when necessary in the performance of construction work as defined in section 46-3.
- (b) 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.
- (c) This section shall not apply to activities specifically regulated by this chapter.

(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)

Sec. 46-5. - Specific prohibitions.

The following acts, and the causing thereof, are declared to be in violation of this chapter:

- (1) Aircraft. It shall be unlawful for any person to operate or cause to be operated any type of aircraft over the city which produces noise levels exceeding 65 dB(A) within the city, but any aircraft operated in conformity with or pursuant to federal law or regulations shall be exempt from the provisions of this chapter. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of any emergency under federal air regulations shall also be exempt from the provisions of this chapter.
- (2) Animals and birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which create a noise disturbance:
 - a. Across a residential real property boundary; or
 - b. Within a noise-sensitive zone.

Public zoos or the keeping or maintaining of livestock more than 100 feet from the nearest residential dwelling as provided for in section 14-15 shall not be regulated by this chapter.

- (3) Domestic power tools. Operating or permitting the operation of any mechanically or electrically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
- (4) Firearms and similar devices. The use or firing of firearms or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way. Explosive permits are issued pursuant to chapter 26, article III, and are not regulated by this section. Use of firearms is also regulated by section 50-263.
- (5) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 7:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone, except when necessary in the performance of construction work as defined in section 46-3.
- (6) Loudspeakers and public address systems.

- a. Using or operating for any commercial or noncommercial purpose any loudspeaker, public address system, handheld electrically powered device amplifying speech, or similar device such that the sound therefrom creates a noise disturbance.
 - b. Using or operating for any commercial purpose any loudspeaker, public address system, handheld electrically powered device amplifying speech, or similar device between the hours of 7:00 p.m. and 8:00 a.m. the following day on a public right-of-way or public space.
- (7) Noise-sensitive zones.
- a. Creating or causing the creation of any sound within any noise-sensitive zone designated pursuant to section 46-62(7), so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or
 - b. Creating or causing the creation of any sound within any noise-sensitive zone designated pursuant to section 46-62(7), containing a hospital, nursing home or similar activity, so as to interfere with the functions of such activity, provided that conspicuous signs are displayed indicating the presence of the zone.
- (8) Places of public entertainment.
- a. Operating, playing or permitting the operation or playing of any radio, television, phonograph, 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."
 - b. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment which creates a noise disturbance across a residential real property boundary or within a noise-sensitive zone.
 - c. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device at or within a place of entertainment situated within a commercial/light industrial district as defined in section 46-3 which produces, reproduces or amplifies sound in such a manner as to create a sound level which exceeds the equivalent A-weighted sound level (Leq) of 80 dB(A) when measured at or within the real property boundary of the receiving real property.
- (9) Powered model vehicles and aircraft. Operating or permitting the operation of powered model vehicles or model aircraft so as to create a noise disturbance across a residential property boundary, in a public space or within a noise-sensitive zone between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- (10) Racing events. Operating or permitting any motor vehicle or motorcycle racing event at any place so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise-sensitive zone between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- (11) Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:
- a. At any time in such a manner as to create a noise disturbance across a real property boundary or within a noise-sensitive zone.
 - b. In such a manner as to create a noise disturbance at 50 feet from such device, when operated in or on a public right-of-way or public space, or in or on public waters.

(12) Security alarms.

a. Failure to cease emitting sound.

1. Residential areas. Local alarm systems located within a residential district or within 500 feet of a residential district failing to cease emitting an audible sound within 15 minutes of activation are prohibited and shall also constitute a nuisance.
2. Nonresidential areas. Local alarm systems not located within a residential district and not within 500 feet of a residential district failing to cease emitting an audible sound within 30 minutes of activation are prohibited and shall also constitute a nuisance.
3. Intermittent sounds. Alarm systems which emit an intermittent signal failing to cease emitting an audible sound within 15 minutes of activation in a residential district or within 500 feet of a residential district, or within 30 minutes of activation in all other areas, are prohibited and shall also constitute a nuisance.

b. Exceptions. Alarm systems installed prior to January 1, 1987, which do not have the capability to automatically discontinue the audible alarm sound within the times prescribed by subsection (12)a of this section shall not be subject to section 46-31.

(13) Compression release braking systems. It shall be unlawful for any person to utilize a motor vehicle's compression release braking system while traveling on roads or highways within the city with posted right-of-way signs that say "Noise Ordinance Enforced."

(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](#))

Secs. 46-6—46-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 46-31. - 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 \$25.00 but not more than \$500.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment.
- (b) Any person who willfully or knowingly violates any provision of this chapter shall be fined for each offense a sum of not less than \$100.00 and not more than \$500.00, and in addition to such monetary fine may also be punished by imprisonment of not more than 180 days.
- (c) Each day of violation of any provision of this chapter shall constitute a separate offense.

(Code of Gen. Ords. 1967, § 24.25; Ord. No. 53435, 4-7-82; Ord. No. 64437, 9-14-90)

Sec. 46-32. - Abatement orders.

- (a) Except as provided in subsection (b) of this section, the director of health may issue an order requiring abatement of any source of sound if he 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.

- (b) An abatement order shall not be issued for any violation covered by section 46-165 or when the director has reason to believe that there will not be compliance with the abatement order.

(Code of Gen. Ords. 1967, § 24.26; Ord. No. 53435, 4-7-82)

Sec. 46-33. - Security alarm nuisance abatement.

- (a) Abatement authorized. The director of health or his designees are authorized to take necessary and reasonable steps to abate the nuisances declared by section 46-5(12), pertaining to security alarms, in addition to all other authorized remedies of this chapter. These steps shall be limited to the exterior of buildings or other structures.
- (b) Notice to permit holder. The director of health or his designee shall send to the permit holder a notice indicating that a noise disturbance and nuisance was abated. The notice shall indicate how the nuisance was abated.

(Code of Gen. Ords. 1967, § 24.26.1; Ord. No. 61549, 10-22-87)

Cross reference— Security alarms, § 50-331 et seq.

Sec. 46-34. - Injunction.

The director of health may, if he deems it necessary, request the office of the city counselor to institute an action in the name of the city in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this chapter or any regulation or order of the director.

(Code of Gen. Ords. 1967, § 24.27; Ord. No. 53435, 4-7-82)

Sec. 46-35. - Other remedies.

No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.

(Code of Gen. Ords. 1967, § 24.28; Ord. No. 53435, 4-7-82)

Sec. 46-36. - Effective date of chapter.

This chapter shall take effect on April 19, 1982.

(Code of Gen. Ords. 1967, § 24.30; Ord. No. 53435, 4-7-82)

Secs. 46-37—46-60. - Reserved.

DIVISION 2. - POWERS AND DUTIES OF DIRECTOR OF HEALTH

Sec. 46-61. - 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."

(Code of Gen. Ords. 1967, § 24.4; Ord. No. 53435, 4-7-82)

Sec. 46-62. - Powers.

In order to implement and enforce this chapter and for the general purpose of noise abatement and control, the director of health shall have, in addition to any other authority vested in him, the power to:

- (1) Studies. Conduct, or cause to be conducted, research, monitoring and other studies related to sound.
- (2) Education.
 - a. Conduct programs of public education regarding:
 1. The causes, effects and general methods of abatement and control of noise.
 2. The actions prohibited by this chapter and the procedures for reporting violations.
 - b. Encourage the participation of public interest groups in related public information efforts.
- (3) Coordination and cooperation.
 - a. Coordinate the noise control activities of all municipal departments.
 - b. Cooperate to the extent practicable with all appropriate state and federal agencies.
 - c. Cooperate or combine to the extent practicable with appropriate county and municipal agencies.
- (4) Review of actions of other departments. Request any other department or agency responsible for any proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this chapter.
- (5) Inspections. If a complaint is made, upon presentation of proper credentials, 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 for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.
- (6) Product performance standard recommendations.
 - a. Develop, after consultation with interested persons, and recommend for adoption by the council provisions regulating the use and operation of any product, including the specification of maximum allowable sound emission levels of such product.
 - b. Develop and recommend for adoption by the council provisions regulating the sale of products which do not meet specified sound emission levels, where the sound level of the product is not regulated by the United States Environmental Protection Agency under section 6 of the Noise Control Act of 1972 (42 USC 4905).
 - c. The director shall keep a record of all regulations recommended for adoption by the city council. A copy of this record shall be kept in his office and be subject to public inspection and copying.
- (7) Noise-sensitive zone recommendations. Prepare recommendations, to be approved by the council, for the designation of noise-sensitive zones which contain noise-sensitive activities. Existing quiet zones shall be considered noise-sensitive zones until otherwise designated. Noise-sensitive activities include but are not limited to operations of schools, libraries open to the public, churches, hospitals and nursing homes.

(Code of Gen. Ords. 1967, § 24.5; Ord. No. 53435, 4-7-82)

Sec. 46-63. - Duties.

In order to implement and enforce this chapter effectively, the director of health shall:

- (1) Development of standards, testing methods and procedures. Develop and establish standards, testing methods and procedures. Testing procedures established for the enforcement of article III of this chapter shall be in accordance with Federal Highway Administration Department of Transportation regulations, 49 CFR 325 et seq.
- (2) Investigation of violations. In consonance with other provisions of this chapter, investigate and pursue possible violations of this chapter.
- (3) Delegation of authority. Delegate functions, where appropriate under this chapter, to personnel within the health department. Members of the Kansas City, Missouri, police department are authorized to enforce the prohibitions established by this Code without the explicit delegation from the director of health.
- (4) Transportation planning.
 - a. Study the existing transportation systems such as truck routes within the community, determine areas with sensitivity to sound caused by transportation, and recommend changes or modifications to transportation systems to minimize the sound impact on residential areas and noise-sensitive zones.
 - b. Assist in or review the total transportation planning of the community, including planning for new roads and highways, bus routes, airports and other systems for public transportation, to ensure that the impact of sound receives adequate consideration.
- (5) Airport and aircraft operations. Consult with the director of aviation to recommend changes in airport operations to minimize any noise disturbance which the director of aviation may have authority to control; but nothing in this chapter shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate airport operations. Nothing in this chapter shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft which is in all respects conducted in accordance with or pursuant to applicable federal laws or regulations.
- (6) Conformance with state and federal laws and regulations.
 - a. Prepare and publish, with the approval of the council, a list of those products manufactured to meet specified noise emission limits under federal, state or local law for which tampering enforcement will be conducted.
 - b. Make recommendations for modifications or amendments to this chapter to ensure consistency with all state and federal laws and regulations.

(Code of Gen. Ords. 1967, § 24.6; Ord. No. 53435, 4-7-82; Ord. No. 980199, § 2, 3-26-98)

Secs. 46-64—46-90. - Reserved.

DIVISION 3. - DUTIES OF OTHER DEPARTMENTS

Sec. 46-91. - Generally.

All city departments and agencies shall, to the fullest extent consistent with other law, carry out their programs in such a manner as to further the policy of this chapter.

(Code of Gen. Ords. 1967, § 24.7; Ord. No. 53435, 4-7-82)

Sec. 46-92. - Contracts.

Any written contract, agreement, purchase order or other instrument whereby the city is committed to the expenditure of \$5,000.00 or more in return for goods or services shall contain provisions requiring compliance with this chapter.

(Code of Gen. Ords. 1967, § 24.8; Ord. No. 53435, 4-7-82)

Sec. 46-93. - Use of low noise emission products.

Any product which has been certified by the administrator of the United States Environmental Protection Agency pursuant to section 15 of the Noise Control Act of 1972 (42 USC 4914) as a low noise emission product, and which the administrator determines is suitable for use as a substitute, shall be procured by the city and used in preference to any other product, provided that such certified product is reasonably available and has a procurement cost which is not more than 125 percent of the least expensive type of product for which it is certified as a substitute.

(Code of Gen. Ords. 1967, § 24.9; Ord. No. 53435, 4-7-82)

Secs. 46-94—46-120. - Reserved.

DIVISION 4. - EXCEPTIONS AND VARIANCES

Sec. 46-121. - Emergency exceptions.

The provisions of this chapter shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency; or
- (2) The emission of sound in the performance of emergency work.

(Code of Gen. Ords. 1967, § 24.19; Ord. No. 53435, 4-7-82)

Sec. 46-122. - Uncontrollable force.

No noise disturbance which would otherwise be a violation of any section of this chapter shall be deemed to be a violation and no liabilities therefor shall be imposed if such noise disturbance is the result of any act of God, war, labor disturbance, riot, catastrophe or other cause beyond the control of such person.

(Code of Gen. Ords. 1967, § 24.20; Ord. No. 53435, 4-7-82)

Sec. 46-123. - Special variances.

- (a) Authority of director of health. Upon the director's determination that a violation of section 46-4 or 46-5 has occurred and is likely to continue, the director shall have the authority, consistent with this section, to grant special variances which may be requested.

- (b) Application; hearing. Any person seeking a special variance pursuant to this section shall file an application with the director of health. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into 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 variance may file a statement with the director containing 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 variance 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 variance. Applicants for special variances and persons contesting special variances may be required to submit any information the director may reasonably require. In granting or denying an application, the director shall place on public file a copy of the decision and the reasons for denying or granting the special variance.
- (d) Conditions. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit not to exceed 120 days, on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance 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 variance was granted.
- (e) Extension of time limits. Applications for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under subsection (b) of this section.
- (f) Procedural rules. The director may issue rules and regulations defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

(Code of Gen. Ords. 1967, § 24.21; Ord. No. 53435, 4-7-82)

Sec. 46-124. - 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 place on public file 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.

(Code of Gen. Ords. 1967, § 24.22; Ord. No. 53435, 4-7-82)

Sec. 46-125. - Appeals.

Appeals of an adverse decision of the director under this chapter shall be made to the air quality control board.

(Code of Gen. Ords. 1967, § 24.23; Ord. No. 53435, 4-7-82)

Sec. 46-126. - Filing fees.

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

(Code of Gen. Ords. 1967, § 24.24; Ord. No. 53435, 4-7-82; Ord. No. 000656, § 4, 5-25-00)

Secs. 46-127—46-160. - Reserved.

ARTICLE III. - MOTOR VEHICLES²

Footnotes:

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Cross reference— Traffic and vehicles, ch. 70; vehicles making excessive noise, § 70-847.

Sec. 46-161. - 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 A.

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

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

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(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

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) The director of health shall adopt, pursuant to section 46-63(1), procedures for the measurement of sound levels established by this section which are in accordance with established scientific principles, so as to ensure uniformity of testing by his subordinates.
- (d) Notwithstanding the limits established by subsections (a) and (b), no person may cause a noise disturbance across property lines into any residential district.

(Code of Gen. Ords. 1967, § 24.12; Ord. No. 53435, 4-7-82; Ord. No. 980199, § 3, 3-26-98)

Sec. 46-162. - 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.

(Code of Gen. Ords. 1967, § 24.13; Ord. No. 53435, 4-7-82)

Sec. 46-163. - 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.

(Code of Gen. Ords. 1967, § 24.14; Ord. No. 53435, 4-7-82)

Sec. 46-164. - Refuse collection vehicles.

No person shall:

- (1) Operate or permit the operating of the compacting mechanism of any motor vehicle which compacts refuse, between the hours of 8:00 p.m. and 7:00 a.m. the following day, in a residential area or noise-sensitive zone, or within 500 feet of either.
- (2) Collect refuse with a refuse collection vehicle between the hours of 8:00 p.m. and 7:00 a.m. the following day in a residential area or noise-sensitive zone, or within 500 feet of either.

(Code of Gen. Ords. 1967, § 24.15; Ord. No. 53435, 4-7-82)

Cross reference— Solid waste, ch. 62.

Sec. 46-165. - Exemption for racing events and model vehicles.

Sections 46-161 and 46-162 shall not apply to the activities described in section 46-5(9) and (10).

(Code of Gen. Ords. 1967, § 24.16; Ord. No. 53435, 4-7-82)

Secs. 46-166—46-190. - Reserved.

ARTICLE IV. - SOUND LEVELS BY RECEIVING DISTRICT

Sec. 46-191. - Maximum permissible sound levels by receiving residential districts.

(a) No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the equivalent A-weighted sound level (Leq) limits set forth in table 1 when measured at or within the property boundary of the receiving residential district. A measurement period shall not be less than two minutes.

TABLE 1

Receiving Land Use Category	Time	Equivalent A-Weighted Sound Level Limit, Leq
Any residential district	7:00 a.m.—10:00 p.m.	60 dB(A)
	10:00 p.m.— 7:00 a.m.	55 dB(A)

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

(Code of Gen. Ords. 1967, § 24.17; Ord. No. 53435, 4-7-82; Ord. No. 980199, § 4, 3-26-98)

Sec. 46-192. - Maximum permissible sound levels by receiving commercial/light industrial districts.

No person shall operate or cause to be operated on private property within a commercial/light industrial district any source of sound in such a manner as to create a sound level which exceeds the equivalent A-weighted sound level (Leq) limits set forth in table 2 when measured at a distance of 25 feet from the structure wherein the source of sound is located, or at the real property boundary of the property whereon the sound is generated, whichever is greatest. A measurement period shall not be less than ten minutes.

TABLE 2

Receiving Land Use Category	Equivalent A-Weighted Sound Level Limit, Leq
Any commercial/industrial district	80 dB(A)

(Code of Gen. Ords. 1967, § 24.17.1; Ord. No. 64437, 9-14-90)

Sec. 46-193. - Exceptions to article.

The provisions of this article shall not apply to:

- (1) Activities covered by the following sections:
 - a. The definition of the term "construction" in section 46-3;

- b. Section 46-5(1), pertaining to aircraft and airport operations;
 - c. Section 46-5(3), pertaining to domestic power tools;
 - d. Section 46-161, pertaining to operating sound limits for motor vehicles; and
 - e. Section 46-164, pertaining to refuse collection vehicles;
- (2) The unamplified human voice; and
 - (3) Interstate railway locomotives and cars.

(Code of Gen. Ords. 1967, § 24.18; Ord. No. 53435, 4-7-82; Ord. No. 910609, § 4, 5-30-91)