

(d) Each day that any violation of this chapter shall continue shall constitute a separate offense;

(e) The city shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provision of this chapter and to seek civil penalties, and to abate nuisances maintained in violation thereof, and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful excessive growth of vegetation. (Ord. 08-109 § 12, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

**CHAPTER 6.12. Health Nuisances.** Repealed. (Ord. 90-21 § 1, 1990; Prior code § 7-101, 102, 103.)

**CHAPTER 6.16. Inoperable Vehicles.** Repealed. (Ord. 90-21 § 1, 1990; Ord. 87-30 § 25, 1987; Ord. 807 § 1, 2, 1979; Ord. 111 § 1-9, 1972.)

## **CHAPTER 6.18**

### **NOISE CONTROL**

**Sections:**

- 6.18.010 Short Title and Scope.
- 6.18.020 Definitions.
- 6.18.030 Powers/Duties of Noise Control Officer.
- 6.18.040 Prohibited Acts.
- 6.18.050 Variances.
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- 6.18.130 Liability.
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**6.18.010 Short Title and Scope.** This ordinance may be cited as the "Noise Control Ordinance of the City of Olathe" and it shall apply to the control of all noise and sound originating within the limits of the City of Olathe. (Ord. 85-13 § 1, 1985.)

**6.18.020 Definitions.** For the purpose of this chapter, the following items have the meaning ascribed to them as hereinafter defined, unless where otherwise expressly stated or where the context clearly defines a different meaning.

Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the words "shall" or "must" are mandatory; and the term "used for" includes the meaning "designated for" or "intended for." All terminology used in this ordinance, not defined as follows, shall be in conformance with the American National Standards Institute (ANSI) document: American National Acoustical terminology ANSI S1.1 1994 (R1997) or the latest approved revision thereof.

(a) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dba.

(b) "Background Noise" means noise which exists at a point as a result of a combination of many distant sources individually indistinguishable.

(c) "Commercial area" means a district that has been assigned a zoning designation of District C-0, C-1, C-2 or C-3 in accordance with Chapters 19.32, 19.34, 19.36, and 19.38 of the Olathe Municipal Code.

(d) "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, buildings, utilities or similar property.

(e) "Decibel (dB)" means a unit for measuring the level of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the RMS pressure of the sound measured to the RMS reference pressure, which is 20 micropascals (20 micronewtons per square meter.)

(f) "Demolition" means any dismantling, intentional destruction or removal of structures, buildings, utilities, public or private right-of-way surfaces or similar property.

(g) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

(h) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(i) "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 ordinance, a time period of not less than ten (10) minutes, and representative of the noise condition of interest, shall be used, unless otherwise specified.

(j) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(k) "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

(l) "Industrial area" means a district that has been assigned a zoning designation of District M-1, M-2 or M-3 in accordance with Chapters 19.42; 19.44; and 19.46 of the Olathe Municipal Code.

(m) "Motor carrier vehicle engaged in interstate commerce" means any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

(n) "Motor vehicle" means every vehicle which operates on land, other than a motorcycle, which is self-propelled as defined in K.S.A. 8-126.

(o) "Motorboat" means any vessel which operates in or on water, propelled by machinery, whether or not such machinery is the principal source of propulsion as defined in K.S.A. 32-1102. Such a vessel would include, but is not limited to, boats, barges, amphibious craft, water ski towing devices and hovercraft.

(p) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor", as defined in K.S.A. 8-126.

(q) "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine, or for abating sound transmitted in a duct, chase, pipe or other opening.

(r) "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(s) "Noise control officer (NCO)" means the designated representative of the director of the Development Services, City of Olathe, where the responsibility for the city noise control program is established.

(t) "Noise disturbance" means any sound which

- (a) endangers or injures the safety or health of humans or animals, or
- (b) annoys or disturbs a reasonable person of normal sensitivities, or
- (c) endangers or injures persons or real property.

(u) "Noise sensitive zone" means any area designated pursuant to Section 6.18.030 (a) (3) of this ordinance for the purpose of ensuring exceptional quiet.

(v) "Person" means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

(w) "Planned unit development" means a district that has been assigned a zoning designation of District PUD in accordance with Chapter 19.10 of the Olathe Municipal Code.

(x) "Powered model vehicle" means any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

(y) "Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

(z) "Public space" means any real property, buildings or structures thereon which are owned or controlled by a governmental entity.

(aa) "Pure tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

(bb) "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.

(cc) "Recreational aircraft" means flying vehicles which have a primary purpose of sport flying, such as motorized hang gliders, ultralight aircraft and hot air balloons.

(dd) "Residential area" means a district that has been assigned a zoning designation of District R-A, R-A-1, R-1, R-2, R-3, R-4 or R-5 in accordance with Chapters 19.14; 19.16; 19.18; 19.20; 19.22; 19.24; 19.26 and 19.28 of the Olathe Municipal Code.

(ee) "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted Prms.

(ff) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium, and is the objective cause of hearing. The description of sound may include any characteristic of such sound, including duration, level and frequency.

(gg) "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.42 1986 (R 1998) or the latest approved revision thereof). If the frequency weighting is not indicated, the A-weighting shall apply. If the meter time response is not indicated, the "slow" response shall apply.

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

(ii) "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

(jj) "Sound pressure level" means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ( $20 \times 10^{-6}$  N/m<sup>2</sup>). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

(kk) "Weekday" means any day Monday through Friday which is not a legal holiday. (Ord. 00-89 § 1, 2000; Ord. 87-30 § 26, 1987)

### **6.18.030 Powers/Duties of Noise Control Officer (NCO.)**

(a) The noise control program established by this ordinance shall be administered by the Department of Development Services. In order to implement and enforce this ordinance, the director of the Development Services will appoint a noise control officer who shall have, in addition to any other authority vested, the power to:

(1) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any 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 ordinance may exist.

Such inspection may include administration of any necessary tests.

(2) In consonance with subparagraph (a) (1) preceding; Sections 6.18.130 and 6.18.140; other provisions of this ordinance and the city prosecutor, investigate and pursue possible violations of this ordinance.

(3) Prepare recommendations, to be approved by the Governing Body 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. (Ord. 00-89 § 2, 2000; Ord. 87-30 § 26, 1987; Ord. 85-13 § 1, 1985.)

**6.18.040 Prohibited Acts.** No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance. Non-commercial 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. The following acts, and the causing thereof, are declared to be in violation of this ordinance:

(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:

(1) Between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone (except for activities open to the public and for which a permit has been issued by the city clerk.)

(2) In such a manner as to create a noise disturbance at 50 feet (15 meters) from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters.

(3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier.

(4) This section shall not apply to non-commercial spoken language covered under subparagraph (b) following.

(b) Using or operating loudspeakers/public address systems as follows:

(1) For any non-commercial purpose any loudspeaker, public address system, or similar device between the hours of 11:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(2) For any commercial purpose any loudspeaker, public address system, or similar device;

[a] such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or  
[b] between the hours of 11:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space.

(c) Offering for sale anything by shouting or outcry within any residential or commercial area of the city (except by permit issued by the city clerk and/or except between the hours of 8:00 a.m. and 7:00 p.m.).

(d) 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 across a residential real property boundary or within a noise sensitive zone.

(e) Loading, unloading, opening, closing or other handling of boxes, crates, containers, trash, building materials or similar objects between the hours of 11:00 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.

(f) Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work:

(1) Between the hours of 11:00 p.m. and 7:00 a.m. the following day, seven days a week, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued pursuant to Section 6.18.050(a.)

(2) At any other time such that the sound level at or across a real property boundary exceeds 65 dba. This subsection shall not apply to construction hand tools (to include power tools) that are mobile in nature and are being used at a field construction site for temporary construction purposes.

(3) This section shall not apply to the use of domestic power tools subject to Section 6.18.040(p.)

(g) Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(h) Airport and aircraft operations as provided following:

(1) The director of Development Services shall consult with the Johnson County Airport Commission to recommend changes in airport operations to minimize any noise disturbance which the airport manager may have authority to control.

(2) Nothing in this section shall be construed as to prohibit, restrict, penalize, enjoin, or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations.

(i) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, or amplifies sound in any place of public entertainment at a sound level greater than 85 dba as read by the slow response on a sound level meter at any point that is normally occupied by a customer, 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."

(j) The use or firing of explosives, 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, without first obtaining a special variance issued pursuant to Section 6.18.050(a.). (Such permit need not be obtained for licensed game-hunting activities on property where such activities are authorized.)

(k) Operating or permitting the operation of powered model vehicles 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 11:00 p.m. and 7:00 a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Section 6.18.060(a) and shall be measured at a distance of 25 feet from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by Section 6.18.060(a) and Section 6.18.040(o) respectively.

(l) Stationary non-emergency signaling devices as provided following:

(1) Sounding or permitting the sounding of a signal from any stationary bell, chime, siren, whistle or similar device, intended primarily for non-emergency or non-warning purposes, from any place between the hours of 11:00 p.m. and 7:00 a.m. the following day and for more than three (3) minutes in any hourly period between the hours of 7:00 a.m. and 11:00 p.m.

(2) Sound sources covered by this provision and not exempted under subparagraph (1) preceding shall be exempted by the director of Development Services using criteria set forth in Section 6.18.050.

(m) Emergency signaling devices as provided following:

(1) The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil emergency alarm, siren, whistle or similar stationary emergency signaling device, except for emergency or warning purposes or for testing, as provided in subparagraph (2) following:

(2) (a) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 7:00 a.m. or after 11:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 10 minutes.

(b) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur except as required for training, for testing after repairs or for proper functioning. Such testing shall not occur before 7:00 a.m. or after 11:00 p.m. The time limit specified in subparagraph (a) above shall not apply to such complete system testing.

(n) Operating or permitting the operation of any motorboat in any lake, river, stream, or other waterway in such a manner as to exceed a sound level of 88 dba at 25 feet or the nearest shoreline, whichever distance is less.

(o) The creation or causing of the creation of any sound within any noise sensitive zone designated pursuant to Section 6.18.030(a)(3):

(1) So as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or

(2) Containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.

(p) Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors in residential areas between the hours of 11:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary, except for the twenty four (24) hour period immediately following a snowfall or other weather related emergency.

(q) Tampering acts or the causing thereof as follows:

(1) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any noise control device or element of design or noise label of any product.

(2) The intentional removing or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the NCO.

(3) The use of a product which has had a noise control device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

(r) Operating or permitting the operation of any parking lot sweeper or similar device that sweeps clean parking lots or sidewalks of trash, dirt, mud or other debris (exclusive of City street sweeping activities) between the hours of 11:00 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. (Ord. 00-89 § 3, 2000; Ord. 85-13 § 1, 1985.)

**6.18.050 Variances.** The provisions of this ordinance shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work. Variances may be requested as provided following:

(a) Special variances.

(1) The director of Development Services shall have the authority, consistent with this section, to grant special variances which may be requested pursuant to Sections 6.18.040(f) (Construction) and 6.18.040(j) (Explosives, firearms, and similar devices.)

(2) Any person seeking a special variance pursuant to this section shall file an application with the director of Development Services. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit 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 ordinance regulating the source of sound or activity for which the special variance was granted.

(3) Application 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 subparagraph (2) preceding.

(4) The director of Development Services may issue guidelines 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.

(b) Variances for time to comply.

(1) Within 60 days following the effective date of this ordinance, the owner of any commercial or industrial source of sound may apply to the director of Development Services for a variance in time to comply with Section 6.18.060. The director of Development Services shall have the authority, consistent with this section, to grant a variance, not to exceed 180 days from the effective date of this ordinance.

(2) Any person seeking a variance in time to comply shall file an application with the director of Development Services. The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this ordinance prior to the date requested in the application would constitute unreasonable hardship or be extremely difficult to accomplish within the allotted time.

(3) Applicants for variances for time to comply and persons contesting variances may be required to submit any information the director of Development Services may reasonably require. In granting or denying an application, the director of Development Services shall place on public file a copy of the decision and the reasons for denying or granting the variance in time to comply.

(4) Variances for time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The variance for time to comply shall not become effective until all conditions are agreed to by the applicant. Non-compliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this ordinance for which the variance was granted.

(5) Application for extension of time limits specified in variances for time to comply or for modification of other substantial conditions shall be treated like applications for initial variances under subparagraph (2) preceding, except that the director of Development Services must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

(6) The director of Development Services may issue guidelines defining the procedures to be followed in applying for a variance for time to comply and the criteria to be considered in deciding whether to grant a variance.

(c) Appeals. Appeals of an adverse decision of the director of Development Services shall be made to the Board of Zoning Appeals as it is constituted in Section 19.64.020 of the Olathe Municipal Code (OMC). The procedure for filing an appeal with the Board of Zoning Appeals will be the same as provided in Sections 19.64.030 and 19.64.040(a) of the (OMC). The Board of Zoning Appeals, in review of an appeal of the director of Development Services as provided for in this ordinance, will be guided by criteria as developed under subparagraph (6) preceding and their interpretation of this ordinance. Should the appellant desire, the decision of the Board of Zoning Appeals may be further appealed to the District Court of Johnson County for judicial decision. (Ord. 00-89 § 4, 2000; Ord. 85-13 § 1, 1985.)

**6.18.060 Sound Levels by Receiving Land Use.**

(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 limits set forth for the receiving land use category shown following when measured at or within the property boundary of the receiving land use:

Sound Levels by Receiving Land Use

Receiving land-use category	Time	Sound level limit, dba
R-A, R-A-1, R-1, R-2, R-3, R-4, R-5, PUD, A (Residential, public space, open space or agricultural or institutional)	7:00 a.m.-11:00 p.m.	55
	11:00 p.m.-7:00 a.m.	50

C-O, C-1, C-2, C-3 (Commercial or business)	At all times	65
M-1, M-2, M-3 (Industrial)	At all times	70

(b) For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in subparagraph (a) preceding shall be reduced by 5 dba.

(c) The provisions of this section shall not apply to the unamplified human voice, interstate railway locomotives and railway cars, and any agricultural activity.

(d) When background sound levels exceed those Sound Level Limits identified by the table in 6.18.060 (a) due to indistinguishable noise sources (such as but not limited to; freeways, wind, birds, crickets, etc.) a particular sound is not a violation of this Noise Control Ordinance unless it exceeds a Leq of 5 dB(A) above the background sound level. Appropriate noise level measurements will be taken on the receiving property to determine the background noise level and the level of the suspect sound. If the suspect sound is determined to exceed a Leq of 5 dB(A) above the background sound level, the creation of this sound is a violation of the ordinance. (Ord. 00-89 § 5, 2000; Ord. 85-13 § 1, 1985.)

**6.18.070 Motor Vehicle Maximum Sound Levels.**

(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound emitted by the motor vehicle or motorcycle exceeds the level set forth following:

Motor Vehicle and Motorcycle Sound Limits  
(Measured at 50 Feet or 15.2 Meters)

Vehicle Class	Sound level in dba		
	Speed Limit 35 MPH or Less	Speed Limit over 35 MPH	Stationary run-up
All motor vehicles of GVWR or GCWR of 10,000 lbs. or more	88	92	87
Any motorcycle	84	88	84
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	78	82	78

(b) Mufflers and sound dissipative devices.

(1) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.

(2) No person shall remove or render inoperative, or cause to be removed or rendered inoperative other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

(c) No person shall sound a horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as provided in K.S.A. 8-1738.

(d) No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than 30 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within 300 feet (92 meters) of a residential area or designated noise sensitive zone, between the hours of 11:00 p.m. and 7:00 a.m. the following day.

(e) No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth following at a distance of 50 feet (15.2 meters) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious craft, campers, dune buggies and recreational aircraft, but not including motorboats:

Recreational Motorized Vehicle Sound Limits  
(Measured at 50 Feet or 15.2 Meters)

Vehicle Type	Sound Level, dba
Motorcycle	88
Any other vehicle	82

(Ord. 04-121 § 1, 2004; Ord. 00-89 § 6, 2000; Ord. 85-13 § 1, 1985.)

**6.18.080 Immediate Threats to Health and Welfare.**

(a) The director of Development Services shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subparagraph (b) following, to continuous sound levels or to impulsive sound levels in excess of those shown in the tables of subparagraph (e) following. Within 10 days following issuance of such an order, the municipal counsel shall apply to the appropriate court for an injunction to replace the order.

(b) No order pursuant to subparagraph (a) preceding shall be issued if the only persons exposed to sound levels in excess of those listed in subsection (e) following are exposed as a result of

- (1) trespass;
- (2) invitation upon private property by the person causing or permitting the sound; or
- (3) employment by the person or a contractor of the person causing or permitting the sound. (Employee exposure at their work place are exempted because employee sound exposure levels are regulated under the Occupational Safety and Health Act.)

(c) Any person subject to an order issued pursuant to subparagraph (a) preceding shall comply with such order until:

- (1) the sound is brought into compliance with the order, as determined by the director of Development Services; and
- (2) a judicial order has superseded the director of Development Services order.

(d) Any person who violates an order issued pursuant to this section shall, for each day of violation, be fined not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00.)

(e) The tables following list the sound level limits which could pose an immediate threat to public health and welfare, as measured at any point that is normally occupied by a person:

Continuous Sound Levels which Pose an Immediate Threat

Sound Levels Limit, Leq	Duration
90	24 Hours
93	12 Hours
96	6 Hours
99	3 Hours
102	1.5 Hours
105	45 Minutes
108	22 Minutes

Impulsive Sound Levels which Pose an Immediate Threat

Sound Level Limit (dba) (As measured using "impulse" meter time response)	Number of Repetitions per 24 hour period
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145	1
135	10
125	100

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(Ord. 00-89 § 7, 2000; Ord. 85-13 § 1, 1985.)

**6.18.090 Compliance Required--Violation--Penalty.** It is unlawful for any person, corporation, association, partnership or individual to fail to comply with any lawful orders issued pursuant to the provisions of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00) or be imprisoned in the county jail for a period not exceeding one (1) year or be so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 85-13 § 1, 1985.)

**6.18.100 Manner of Enforcement.** Violation of this chapter shall be prosecuted in the same manner as other misdemeanor violations of the city's code; provided, however, that in the event of violation of Sections 6.18.060 and 6.18.070, a written notice of intention to prosecute will be given the alleged violator not less than ten (10) calendar days prior to the issuance of a misdemeanor complaint. No complaint shall be issued in the event the cause of the violation is removed, the condition abated or fully corrected within such ten (10) day period. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his or her last known address or at the place where the violation occurred, in which event the ten (10) day period shall commence on the date of the day following the receipt of such notice. (Ord. 85-13 § 1, 1985.)

**6.18.110 Injunction.** As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and 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 the District Court of Johnson County, Kansas. (Ord. 85-13 § 1, 1985.)

**6.18.120 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. (Ord. 85-13 § 1, 1985.)

**6.18.130 Liability.** No officer, agent, Governing Body member or employee of the City of Olathe shall render himself or herself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his or her duties under this chapter. (Ord. 87-30 § 27, 1987; Ord. 85-13 § 1, 1985.)

**6.18.140 Separability.** If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. 85-13 § 1, 1985.)