

# TITLE 7 - HEALTH AND SANITATION

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## 7.08 NOISE

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### 7.08.001 Definitions.

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

**Commercial Area**– property zoned C-O, CP-O, C-1, CP-1, C-2, CP-2, C-3, CP-3, CBD, DD, Oxford Township Districts CP-0J, CP-1J, CP-2J, CP-3J (per the March, 1982, Zoning and Subdivision Regulations for Oxford Township), or property operating under a special use permit for a commercial use.

**dB(A)**– A-weighted sound level measured in decibels by a general purpose, properly calibrated, sound level meter complying with the provisions of the American National Standard Institute.

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

**Industrial Area** - property zoned BP, M-1, MP-1, M-2, MP-2, and Oxford Township Districts IP-1J and IP-2J (per the March, 1982, Zoning and Subdivision Regulations for Oxford Township).

**Plainly Audible**– capable of being heard. It is not necessary to distinguish words or melodies. A plainly audible sound may consist of bass alone.

**Property Owner**– the named property owner as indicated by the records of the Register of Deeds or Appraiser’s Office in Johnson County, Kansas.

**Residential Area**– property zoned RE, R-1, RP-1, R-1A, RP-1A, R-2, RP-2, R-3, RP-3, RP-4, R-5, RP-5, R-6, RP-6, former District R-4, and Oxford Township Districts RR, R-1A, R-1B, R-2, R-3 and R-4 (per the March, 1982, Zoning and Subdivision Regulations for Oxford Township) or property upon which a legal non-conforming residential use is operating.

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

**Tenant**– any person who has an interest in real property either by oral or written lease or covenant.

(History: Ord. NOI-2287 §1, 2001)

### 7.08.002 Unlawful to Cause a Noise Disturbance.

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

- A. A sound registered on a decibel meter from any source not exempted or otherwise regulated by this Chapter and which, when measured anywhere off of the property of the sound source, is in excess of the dB(A) established for the time period and zones listed below.

AREA	7:00 a.m. – 10:00 p.m.	10:00 p.m. – 7:00 a.m.
Residential	60 dB(A)	55 dB(A)
Commercial	65 dB(A)	60 dB(A)
Industrial	70 dB(A)	65 dB(A)

- B. The owning, keeping or harboring of any animal that howls, barks or emits audible sounds, without provocation of the complainant, that are unreasonably loud or disturbing which are of such character, intensity and duration as to disturb the peace and quiet of a reasonable person in the neighborhood or to be detrimental to the life and health of any individual.
- C. A sound resulting from the erecting, constructing, excavating, demolishing, altering or repairing of any structure, or operating, or permitting the operation of any tools or equipment used in construction, drilling, or demolition work in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 9:00 p.m. and 7:00 a.m. Between the hours of 7:00 a.m. and 9:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection A.
- D. The repairing, rebuilding, modifying or stationary testing of any motor vehicle, motorcycle, or motorboat in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 10:00 p.m. and 7:00 a.m. Between the hours of 7:00 a.m. and 10:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection A.
- E. The operating or occupancy of a vehicle, which is moving or stationary, standing or parked, whether persons are seated in the vehicle or not, from which any Sound Amplification or Producing Device or Similar Equipment is creating a sound that is Plainly Audible at least fifty (50) feet from the source of the sound.\* A violation of this subsection shall be a traffic offense. □
- F. The operation of any power tool, garden tool, lawnmower, snow blower or other similar equipment or device in Residential Areas in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 10:00 p.m. and 7:00 a.m. Between the hours of 7:00 a.m. and 10:00 p.m., this activity shall not be subject to the time, area and dB(A) limits set forth in subsection A.
- G. The operating, playing, permitting or causing to be operated or played any Sound Amplification or Producing Device or Similar Equipment in a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 12:00 a.m. (midnight) and 6:00 a.m. Between the hours of 6:00 a.m. and 12:00 a.m. (midnight), this activity is subject to the area and dB(A) limits set forth in subsection A above.

\*As to vehicle equipment and maintenance and prevention of excessive or unusual noise therefrom, see OPMC 12.04.175(a).

(History: Ord. NOI-3051 §1, 2014; NOI-2772 §1, 2008; NOI-2373 §1, 2002; NOI-2287 §2, 2001)

### **7.08.003 Unlawful to Allow a Noise Disturbance; Responsibility for Abatement.**

- A. It is unlawful for any Property Owner or Tenant, or other person with control, occupancy, or possession of residential property, to allow or permit a person or group of persons to create a Noise Disturbance as defined in subsections A through G of Overland Park Municipal Code Section 7.08.002 on said property.
- B. The Property Owner, Tenant or other such person with control, occupancy, or possession of property, shall be responsible for abatement of Noise Disturbances occurring on that property and failure to do so shall be a violation of this section.

(History: Ord. NOI-2310, §1, 2001; Ord. NOI-2287, §3, 2001)

### **7.08.004 Exemptions.**

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

- A. Sound from law enforcement motor vehicles and other Emergency Motor Vehicles including, but not limited to, snow-clearing equipment.
- B. Sound from vehicles or equipment belonging to the city, state, county, federal government, school or other governmental agencies or utilities engaged in preparing for or remedying a potentially hazardous situation.
- C. Sound that a person is making or causing to be made when said person has received and maintains a valid license or permit which specifically allows sound levels in excess of those set forth in this ordinance from any department, board or commission of the City authorized to issue such license or permit.
- D. Sound originating from private property, provided that such property was annexed into the City by either Ordinance No. A-2367 or Ordinance No. A-2719.

(History: Ord. NOI-2696 §1, 2008; NOI-2402 §1, 2002; NOI-2373 §2, 2002; NOI-2291 §1, 2001; NOI-2287 §4, 2001)

### **7.08.005 Penalties.**

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- A. Upon a first conviction for a violation of this chapter, the Court shall assess a fine of no less than fifty dollars (\$50.00). Upon a second conviction, the Court shall assess a fine of no less than one hundred fifty dollars (\$150.00). Upon a third or subsequent conviction, the Court shall assess a fine of no less than two hundred fifty dollars (\$250.00). No prior conviction shall be considered in determining the penalty to be assessed if twenty-four (24) months have elapsed between the date of the violation and the date of the conviction next immediately preceding the sentencing date.
- B. No person shall be eligible for a parole, suspension or reduction of any part of said fine except that that portion of any fine or combination of fines that exceeds two hundred dollars (\$200.00) assessed from the same set of operative facts may be suspended for twelve (12) months on the condition the violator have no further violations of the noise ordinance during that period. In addition to any such fine imposed, the Court may impose a jail term of up to six (6) months.
- C. Each occurrence of a violation, or in the case of a continuous violation, each day a violation occurs or continues, constitutes a separate offense and shall be punishable as such hereunder.

(History: Ord. NOI-2287 §5, 2001)