

CHAPTER 7.41. - NOISE

Sec. 7.41.010. - Loud and unnecessary noise prohibited.

- (a) It is unlawful for any person to make, continue or allow to be made or continued, any excessive, unnecessary, unusual or loud noise which creates a nuisance or injures or endangers the comfort, repose, health or safety of others, or which interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area unless the making and continuing of such noise is necessary for the protection and preservation of property or the health and safety of some individual.
- (b) The following acts, which enumeration shall not be deemed to be exclusive, are hereby declared to be noise nuisances in violation of this section and are unlawful:
- (1) The playing or permitting or causing the playing of any radio, radio receiving set, television, phonograph, "boom box," loudspeaker, drum, juke box, nickelodeon, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound when done in such a manner or with such volume, intensity or with continued duration so as to annoy, to distress or to disturb the quiet, comfort or repose of any person of reasonable sensibilities within the vicinity or hearing thereof. This subsection shall not apply to persons who have written authorization for an event which includes use of such a device, or to the police or public authorities who are using such a device in the performance of their duties.
 - (2) Steam Whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the opening or closing of the establishment or institution, or of the time to begin or stop work, or as a warning of danger.
 - (3) Exhaust of Steam Engines, Etc. The discharge into the open air of the exhaust of any stationary steam engine, internal combustion engine, noise creating blower or power fans, or devices operated by compressed air, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (4) Motor Vehicles. The use of any motor vehicle, motorcycle, bus or other vehicle so out of repair or in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise which shall annoy, distress or disturb the quiet, comfort or repose of any person of reasonable sensibilities within the vicinity.
 - (5) Peddlers, Hawkers, Etc. The raucous shouting, whistling, yelling, singing, hooting or crying of peddlers, hawkers, vendors before eight a.m. or after ten p.m.
 - (6) Construction. The erection, including construction, excavation, demolition, alteration or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools, or equipment used in construction, excavation, drilling, demolition, alteration or repair work:
 - (i) Other than between the hours of seven a.m. and ten p.m.;
 - (ii) This subsection shall not apply in cases of extreme and urgent necessity in the interest of public safety and convenience, and then only by permit obtained from and issued by the director of public works, or any of the director's duly appointed assistants.
 - (7) Loading and Unloading. The creation of loud, excessive and unreasonable noise in connection with loading or unloading any vehicle, in the opening and destruction of bales, boxes, crates and containers or in the handling of ash, trash and garbage cans, either in the loading or unloading, or the creation by

improper loading of excessive and unreasonable noise by the transportation of any materials over and along streets.

- (c) It shall be a defense to charges filed pursuant to subsection (a) of Section 7.41.010 that such noise levels did not exceed those set forth in Section 7.41.030. Such measurements shall be taken in accordance with the provisions of Section 7.41.020 pertaining to noise levels. It shall be the burden of the individual charged to present evidence of decibel readings obtained from properly calibrated testing equipment operated by an individual trained to operate such equipment. Such evidence shall be submitted to the city attorney's office no later than seven days prior to the trial date of any complaint. Failure to submit such evidence to the city attorney's office will waive any such defense.

(Ord. No. 46-564 § 1)

Sec. 7.41.020. - Classification and measurement of noise.

For the purposes of determining and classifying any noise from a fixed, stationary source as loud, unusual or unnecessary as declared to be unlawful and prohibited by subsection (a) of Section 7.41.010 herein, the following test measurements and requirements may be applied:

- (a) Noise occurring within the jurisdiction of the city shall be measured at a distance of at least twenty-five feet from a noise source if located within the public right-of-way, and if the noise source is located on private property or property other than the public right-of-way, at least twenty-five feet from the property line of the property on which the noise source is located.
- (b)
 - (1) The noise shall be measured on the "A" weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.
 - (2) For purposes of this section, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five miles per hour, or twenty-five miles per hour with a wind screen.
 - (3) In all sound level measurements consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement.

(Ord. No. 41-918 § 2)

Sec. 7.41.030. - Excessive noise levels.

- (a) A noise measured or registered as provided herein from any source not exempted by this chapter at a level which is equal to or in excess of the db(A) established for the time period and zones listed below or that exceeds the background level by five db(A), whichever is greater, is declared to be excessive, unusual, loud and unnecessary, for the purposes of Section 7.41.010:

Zone	8:00 a.m. to next 10:00 p.m.	10:00 p.m. to next 8:00 a.m.
Residential	<u>55</u> db(A)	<u>50</u> db(A)
Commercial	<u>60</u> db(A)	<u>55</u> db(A)
Light industrial	<u>70</u> db(A)	<u>65</u> db(A)
Industrial	<u>80</u> db(A)	<u>75</u> db(A)

Parks	<u>60</u> db(A)	<u>55</u> db(A)
Old Town district as set forth in subsection (b)		

Background noise means noise from all sources other than that under specific consideration, including traffic operating on public thoroughfares, and is established by measuring the noise level over a fifteen-minute period of time.

- (b) The noise levels for subsection (a) of this section shall be modified for the Old Town district as follows:
- (1) Noise levels may exceed background levels by five db(A) to a maximum of eighty db(A).
 - (2) Noise levels shall be measured from the outside property line when measurements are being made of an activity on a property other than streets or public right-of-way.
 - (3) Noise levels under this section may be increased or waived for specific special events when approved in advance by the city manager under procedures adopted by the city council.
- (c) For purposes of this section, the aforementioned zones shall be defined as follows:
- (1) "Residential" means an area of single or multifamily dwellings where businesses may or may not be conducted in such dwellings. The zone includes areas where multiple unit dwellings, high-rise apartment districts and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. "Residential" zone includes educational facilities, hospitals, nursing homes and similar institutions.
 - (2) "Commercial" means an area where offices, clinics and the facilities needed to serve them are located; an area with local shopping and service establishments located within walking distances of the residents served; a tourist-oriented area where hotels, motels and gasoline stations are located; a large integrated regional shopping center; a business trip along a main street containing offices, retail businesses and commercial enterprises; a central business district; or a commercially dominated area with multiple unit dwellings.
 - (3) "Light industrial" means an area containing clean and quiet research laboratories, an area containing light industrial activities which are clean and quiet; an area containing warehousing; or an area in which other activities are conducted where the general environment is free from concentrated industrial activity.
 - (4) "Industrial" means an area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activity, but shall not include agricultural operation.
 - (5) "Old Town district" means the Old Town overlay district as defined in the zoning code.
 - (6) "Parks" means any public park, recreational facility or other property under the ownership, jurisdiction or control of the Board of Park Commissioners of the City of Wichita or the City of Wichita.
 - (7) Adjacent Zones. When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern."

(Ord. No. 44-294 § 1; Ord. No. 47-030, § 1, 5-16-06)

Sec. 7.41.040. - Exceptions.

The following activities, as long as they are conducted in daytime hours as a normal function of a permitted use and the equipment is maintained in proper working condition, are excepted from the provisions of this chapter:

- (a) Lawn maintenance;

- (b) Repair of personal use vehicles;
- (c) Home repair of place of residence.

(Ord. No. 41-581 § 4)

Sec. 7.41.042. - Application.

To receive written authorization for the use of sound amplification equipment as authorized by Sections 7.41.010(b)(1) and 7.41.030(b)(3), a person must complete and file an application for such authorization with the City Manager's Office, on a form approved by the City. The applicant must provide the following information:

- (1) The type of proposed event or activity;
- (2) The number of participants for the proposed event or activity;
- (3) The location, including street address of the area to be utilized for the activity;
- (4) The date or dates and specific times for the activity;
- (5) The plans for sound control and sound amplification, including the number, location and power of amplifiers and speakers.
- (6) The name, address and phone number of the party responsible for the event."

(Ord. No. 47-030, § 2, 5-16-06)

Sec. 7.41.043 - Review process.

(a) In determining if written authorization should be granted as allowed by Sections 7.41.010(b)(1) and 7.41.030(b)(3) of the Code of the City of Wichita, the following factors are to be considered by the City Manager or his designee:

- (1) The volume of the noise;
- (2) The volume of the existing background noise, if any;
- (3) The zoning of the area within which the noise emanates, as well as where the noise can be heard;
- (4) The time of the day or night the noise occurs;
- (5) The duration of the noise;

(b) No authorization may be issued for the use of sound amplifiers, loud speakers or other similar devices between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday and the hours of 11:00 p.m. and 8:00 a.m. on Friday and Saturday.

(c) No authorization may be issued for noise levels in excess of eighty db (A)."

(Ord. No. 47-030, § 3, 5-16-06)

Sec. 7.41.045. - Appeal.

Any person denied written authorization for the use of sound amplification devices shall have a right of appeal from the denial to the Wichita City Council by filing a written request therefor with the City Clerk. The notice of appeal must be filed with the City Clerk within ten days of the denial of such application and shall be heard at the next regularly scheduled City Council meeting. The City Council's decision may be appealed to the Eighteenth Judicial District Court pursuant to K.S.A. 60-2101."

(Ord. No. 47-030, § 3, 5-16-06)

Sec. 7.41.050. - Enforcement.

In addition to all law enforcement officers, the following personnel employed by the city shall have the power to enforce the provisions of this section:

- (a) All health officers that are authorized representatives of the director of the Wichita-Sedgwick County department of community health;

(b) All authorized representatives of the superintendent of central inspection.

(Ord. No. 41-581 § 5)

Sec. 7.41.060. - Penalty.

Any person who violates any of the provisions of this section within the corporate limits of the city is guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars or be imprisoned in jail for a period not to exceed six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(Ord. No. 41-581 § 6)