

(Published in The Morning Sun on November 29th, 2013)

ORDINANCE NO. G-1196

AN ORDINANCE amending and replacing Sections 54-131, 54-132, 54-133, 54-134 and 54-135 of the Pittsburg City Code and creating Sections 54-136, 54-137 and 54-138 of the Pittsburg City Code regulating the making, creation and maintenance of excessive, unnecessary or loud sounds and noises within the Pittsburg city limits, and setting standards for measurement of such sound and noises.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PITTSBURG, KANSAS:

Section 1. Section 54-131 of the Pittsburg City Code is hereby amended as follows:

Sec. 54-131. Findings.

It is hereby found:

- (1) The making and creation of excessive, unnecessary or unusually loud sounds and noises within the limits of the City is a condition which has existed for some time in certain areas of the City;
- (2) The making, creation or maintenance of such excessive, unnecessary, or unusually loud sounds and noises which are prolonged and unusual in their time, place and use, and any noise which unreasonably either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others, are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City; and
- (3) It is necessary and in the public interest for the provisions and prohibitions contained in this ordinance to be enacted, and it is further declared that the provisions and prohibitions contained in this ordinance and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City and its inhabitants.

Section 2. Section 54-132 of the Pittsburg City Code is hereby amended and replaced as follows:

Sec. 54-132. Definitions

The following definitions shall apply

Decibel (dB) A unit of level when the base of the logarithm is the tenth root of ten (10) and the quantities concerned are proportional to power. Unit symbol, dB.

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. All emergency response vehicles belonging to a federal, state, county, or municipal governmental agency, provided such vehicle is being used as an emergency vehicle by one authorized to use such vehicle for that purpose.

Emergency work. All work performed for the purposes of maintaining public safety, preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Property line. The line which represents the legal limits of property owned, leased, or otherwise occupied by a person, business, corporation or other entity. In cases involving sound from an activity on a public street or other public right-of-way, the "property line" shall be the nearest boundary of the public right-of-way.

Property Owner. The named property owner as indicated by the records of the Register of Deeds or Appraiser's Office in Crawford County, Kansas.

Sound Amplification System or Device. Includes all radio, radio receiving set, television, phonograph, stereo, tape player, cassette player, compact disc player, "boom box," loudspeaker, drum, jukebox, nickelodeon, musical instrument, sound amplifier or other device that produces, reproduces, or amplifies sound.

Sound level meter. A device used to measure sound pressure levels with a standardized frequency weighting and indicated exponential time weighting for measurements of sound level, or without time weighting for measurement of time-average sound pressure level or sound exposure level.

Zone or District. A section of the zoning area within a jurisdiction for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are established.

Section 3. Section 54-133 of the Pittsburg City Code is hereby amended and replaced as follows:

Sec. 54-133 Exemptions

Exemptions. The following uses and activities shall be exempt from sound and noise level regulations:

- (1) Air-conditioning, pool and spa equipment when it is functioning in accord with manufacturer's specifications and is in proper operating condition provided that no unit may cause the sound or noise level to exceed the residential zoning district sound and noise standards set forth in this ordinance;

- (2) Lawn maintenance equipment when it is functioning in accord with manufacturer's specifications and with all mufflers and noise-reducing equipment in use and in proper operating condition;
- (3) Non-amplified sounds and noises resulting from the activities such as those planned for school, governmental or community groups or duly authorized by such groups;
- (4) Safety signals, warning and alarm devices, emergency generators, storm warning sirens, emergency pressure relief valves or horns and the authorized testing of such equipment;
- (5) Authorized emergency vehicles when responding to an emergency call or acting in time of emergency;
- (6) Normal train operation;
- (7) Church chimes or bells;
- (8) Organized sporting events;
- (9) Aircrafts and helicopters;
- (10) Public or utility owned or operated stationary mechanical equipment so long as such equipment is properly functioning pursuant to manufacturer's specifications;
- (11) Road and street noise generated from the normal operation of traffic.
- (12) Emergency work necessary to restore property or public utilities to a safe condition following a fire, accident or natural disaster.
- (13) Sound made to alert persons of the existence of an emergency, imminent danger, or attempted crime.
- (14) Parades, concerts, festivals, fairs or similar activities subject to any sound limits in the approval by the city.
- (15) Athletic, musical, or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools, public or private colleges or universities, and Pittsburg Memorial Auditorium.
- (16) Regular activities or operations of governmental units or agencies.
- (17) Equipment and activities creating sound and noise from the collection of solid waste.

Section 4. Section 54-134 of the Pittsburg City Code is hereby amended and replaced as follows:

Sec. 54-134. Unlawful noise generally.

It shall be unlawful for any person to be in charge of any premises, or to participate in or be in any party or gathering of people, from which any unusually loud, excessive or unnecessary sound or noise emanates so as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of any person of reasonable sensibilities residing in or occupying the area. A police officer may order all persons present at such a party or gathering to immediately disperse from the vicinity of the party or gathering in lieu of being charged under this ordinance; provided, however, that owners or tenants are not required to leave their own dwelling unit. Owners or tenants residing in a dwelling unit from which such noise emanates or where the party or gathering occurs shall, upon request of a police officer, cooperate fully in abating the disturbance and failing to do so shall be in violation of this section.

Section 5. Section 54-135 of the Pittsburg City Code is hereby amended and replaced as follows:

Sec. 54-135. Specific noises prohibited; standards.

The following acts, among others, are declared to be loud, excessive and unnecessary sounds and noises from a fixed, stationary source in violation of this section, but such enumerating shall not be deemed to be exclusive, namely:

(1) The playing, using, operating, or permitting to be played, used or operated, any radio, receiving set, musical instrument, phonograph, tape player, television, VCR, compact disc player, loudspeaker, or other machine or device for the producing or reproducing of sound in such manner, or with such volume, intensity or continued duration so as to disturb the peace, quiet, repose, and comfort of any person of reasonable sensibilities within the vicinity or hearing thereof. The operation of one such set, instrument, phonograph, tape player, television, VCR, compact disc player, loudspeaker, machine or device above the limits listed in the table below shall be prima facie evidence of a violation of this section.

(2) Yelling, shouting, whistling or singing on the public streets, highways, alleys or sidewalks, or while on a private or public parking area or parking lot, or while in or upon a private residence, lot or driveway, so as to annoy or disturb the peace, quiet, comfort or repose of any person of reasonable sensibilities within the vicinity or hearing thereof. Such yelling, shouting, hooting, whistling or singing above the limits listed in the table below from the boundary of such street, highway, alley, sidewalk, parking area or parking lot, or property line of such private residence, lot or driveway, shall be prima facie evidence of a violation of this section.

(3) It is an affirmative defense to a charge under this section that the owner, operator or occupier of the premises was in compliance with the terms and conditions as set forth in a special event permit issued by the governing body

a. The following factors shall be considered by the governing body in making its determination to grant or deny a special event permit which alters the time restrictions applicable to sounds and noises prohibited by this section:

- i. The public purpose to be served or advanced;
- ii. The character of the surrounding neighborhood; and
- iii. The impact on the public safety and welfare.

Section 6. Section 54-136 of the Pittsburg City Code shall be created as follows:

Sec. 54-136. Measurement criteria

For the purpose of determining and classifying any sound or noise as loud, unusual or unnecessary as declared to be unlawful and prohibited by Section 54-134 or Section 54-135, the test measurements and requirements set forth below may be applied.

It shall be unlawful to make or cause to be made sound or noise in excess of the sound and noise performance standards established in this section. For the purpose of enforcement of the provisions of this section, sound level shall be measured on the a-weighted scale on a sound level meter of standard design and quality and having characteristics established by the American National Standards Institute. The sound level meter shall be set for slow response speed, except that for impulse noises or rapidly varying sound levels, fast response speed may be used. A sound or noise registered on a sound level meter from any source not exempted or otherwise regulated by this section and which, when measured anywhere off of the property of the sound or noise source, is in excess of the dB(A) established for the time period and zoning district shall be a violation. Prior to measurement, the sound level meter shall be verified, and adjusted according to the manufacturer's specifications by means of an acoustical calibrator. When a sound can be measured from more than one zoning district, the maximum permissible sound level of the more restrictive zone shall apply.

(1) Performance Standards. The measured sound source from the property shall not exceed the dB(A) established for the time period and zoning district listed below:

Zoned Area	Time	dB(A) Level
R-1A, R-1B, R-1C, R2, RP-3 RP-4, (Residential)	7:00 AM - 10:00 PM	60
	10:00 PM - 7:00 AM	55
CP-0, CP-1, CP-2, CP-3, CP-4 (Commercial)	7:00 AM - 10:00 PM	65
	10:00 PM - 7:00 AM	60
DO (Downtown Overlay)	7:00 AM - 1:00 AM	70
	1:00 AM - 7:00 AM	65
IP-1, IP-2 (Light / Medium Industrial)	7:00 AM - 10:00 PM	70
	10:00 PM - 7:00 AM	65
IP-3 (Heavy Industrial)	7:00 AM - 10:00 PM	75
	10:00 PM - 7:00 AM	70
AP (Airport)	N/A	N/A

Section 7. Section 54-137 of the Pittsburg City Code shall be created as follows:

Sec. 54-137. Loud sound amplification systems; motor vehicles.

(1) It shall be unlawful for any person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway to operate or permit the operation of any sound amplification system or devise from within the motor vehicle so that the sound is plainly audible at a distance of 100 or more feet from the motor vehicle.

(2) The term "plainly audible" means any sound produced by a sound amplification system or devise from within the motor vehicle, which may be clearly heard at a distance of 100 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.

Section 8. Section 54-138 of the Pittsburg City Code shall be created as follows:

Sec. 54-138. Loudspeakers; amplifiers; permit.

It shall be unlawful for any person, either as principal, agent or employee, to play, use or operate for personal enjoyment, for purpose of attracting attention, or for advertising purposes on the streets or alleys of the City, or upon any private property any device known as a loudspeaker, or sound amplifier, or an instrument known as a calliope, or any other musical instrument of similar character, without first procuring permission therefor from the City Commission. The permission shall be granted at the discretion of the City Commission.

Section 9: This Ordinance shall take force and effect following its publication in the official city paper.

PASSED AND APPROVED this 26th day of November, 2013.



Tammy Nagel
City Clerk - Tammy Nagel

Michael E. Gray
Mayor - Michael E. Gray