

**CERTIFICATION OF CLERK**

I, Brenda K. Wolf, the duly appointed, qualified, and Deputy City Clerk of Manhattan, Kansas, do hereby certify that the foregoing Ordinance was duly adopted at a meeting of the City of Manhattan, Kansas, held on the 11<sup>th</sup> day of October, 2016, and that said Ordinance has been compared by me with the original thereof on file and of record in my office, is a true copy of the whole of said original.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Manhattan, Kansas, 12<sup>th</sup> day of October, 2016.



*Brenda K. Wolf*

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Brenda K. Wolf, CMC, Deputy City Clerk

## **ORDINANCE NO. 7250**

**AN ORDINANCE AMENDING SECTIONS 22-54 THROUGH 22-58 AND SECTIONS 6-24 AND 21-12 OF THE CODE OF ORDINANCES OF THE CITY OF MANHATTAN, KANSAS, RELATING TO NOISE.**

**WHEREAS**, the governing body finds that excessive and unreasonably loud noises are detrimental to the physical, mental, and social wellbeing of the citizens of the City; and,

**WHEREAS**, the governing body finds that excessive and unreasonably loud noises are detrimental to the use, enjoyment and value of property within the City; and,

**WHEREAS**, the governing body finds that excessive and unreasonably loud noises within businesses or work environments can be harmful to employees, patrons, or citizens; and,

**WHEREAS**, the governing body finds that the establishment of decibel levels based upon a zoning district's predominant use will help limit excessive and unreasonably loud noises and improve the overall quality of life within the district and surrounding areas; and,

**WHEREAS**, the governing body finds that the C-3, Aggieville Business District; and C-4, Downtown Business District, are historical entertainment, shopping, and tourist destination districts of a nature that warrants specific regulation that varies from other zoning districts within the City to accommodate these characteristics while still protecting the health, safety and welfare of surrounding properties located outside of these zoning districts; and,

**WHEREAS**, the governing body desires to exercise its police power to preserve and protect the public health, safety and welfare of its citizens.

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

**Section 1.** That Section 22-54 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

**Sec. 22-54. – Noise; definitions.** The following words or phrases when used in this article shall have the following meanings:

- (a) *A-weighted sound level* means the sound pressure level in decibels as measured on a general purpose sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.
- (b) *Amplified sound* means any sound played on, emanated or coming from, a sound amplification/producing device or similar equipment, including but not limited to voices, music, or bass.
- (c) *Commercial district* means any property located within a commercial zoning district, as defined by the Manhattan Zoning Regulations, including but not limited to C-1, C-2, C-3, C-4, C-5, or C-6 zoning districts.

- (d) *Construction* means any site preparation, excavation, assembly, erection, repair, alteration or demolition of any building, structure or property.
- (e) *Decibel* means the unit of measurement for sound pressure at a specified location.
- (f) *Industrial district* means any property located within an industrial zoning district, as defined by the Manhattan Zoning Regulations, including but not limited to I-1, I-2, I-3, I-4, I-5, or LM-SC zoning districts.
- (g) *Person* means any natural person, association, partnership, corporation, firm, sorority, fraternity, association or organization of whatever name or nature. Person shall further include an agent, occupant, property owner, lessee, contract purchaser, manager, employee, or person having possession or control of a property, or a person supervising construction.
- (h) *Plainly audible* means capable of being heard, whether or not the words or melodies can be distinguished, and includes the sound of bass alone.
- (i) *Property owner* means a property owner as recorded with the Register of the Deeds in the county in which the property is located.
- (j) *Residential district* means any property located within a residential zoning district, as defined by the Manhattan Zoning Regulations, including but not limited to the RS, R, R-1, R-2, R-3, R-4 and R-M zoning districts.
- (k) *Solid waste refuse hauler* means any person who holds a refuse haulers license pursuant to Chapter 16 of the City Code, or any person who collects, loads, unloads, transports or hauls refuse within the City.
- (l) *Sound amplification/producing device or similar equipment* means musical instrument, radio, radio receiving set, television, stereo, tape player, compact disc player, loudspeaker, sound amplifier, speaker, loudspeaker, public address system, bullhorn, or any other device which plays, produces, reproduces or amplifies sound.
- (m) *Tenant* means any person who has an interest in real property either by oral or written lease or covenant.

**Section 2.** That Section 22-55 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

**Sec. 22-55. – Noise disturbances; prohibited acts.**

- (a) It shall be unlawful for any person to make or to continue, or cause, allow or permit to be made or continued, any noise disturbance in the city. The following sounds are declared to be a noise disturbance in violation of this section, regardless of whether the sound complies with the decibel levels set forth in Sec. 22-56:
  - (1) Any sound which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of ordinary sensitivities, or endangers or injures personal or real property. A determination of whether a sound violates this subsection (a)(1) may include consideration of factors such as the sound's cause, volume, intensity, nature, and duration, as well as consideration of the time of day or night and zoning and location of where the sound can be heard.
  - (2) **Amplified sound originating in all zoning districts except C-3 or C-4 zoning districts (Non-vehicle source).** Amplified sound that originates in any zoning district other than the C-3 or C-4, and that is plainly audible between the hours

of 11:00 p.m. through 7:00 a.m. from across the real property boundary line of its source is a noise disturbance in violation of this section.

- (3) **Amplified sound originating in the C-3 or C-4 zoning districts (Non-vehicle source).** Amplified sound that originates in the C-3 Aggieville Business District or C-4 Central Business District, and that is plainly audible between the hours of 11:00 p.m. through 7:00 a.m. from at least fifty (50) feet outside a zoning boundary line of the C-3 Aggieville Business District or C-4 Central Business District is a noise disturbance in violation of this section.
  - (4) **Amplified sound originating in a vehicle in any zoning district.** Amplified sound that originates from within or upon any vehicle which is moving or stationary, standing or parked, whether occupied or not, if such sound is plainly audible from at least fifty (50) feet from the vehicle is a noise disturbance in violation of this section.
- (b) The following acts and sounds shall not be considered noise disturbances in violation of subsection (1):
- (1) Any sound created from an assembly with an assembly permit issued by the City pursuant to Chapter 30 of this code;
  - (2) Sound created by law enforcement or emergency services activities, or emanating from authorized emergency vehicles;
  - (3) Sound from fields, grounds, or facilities from any sporting arena, stadium, playground, or sports complex operated by a school or governmental entity during activities sponsored by a school or governmental entity; or,
  - (4) Sound from activities, vehicles or equipment of the city, state, county, federal government, school or other government agency or public utility provider.

**Section 3.** That Section 22-56 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

**Sec. 22-56. – Noise; restrictions on decibel levels.**

- (a) It shall be unlawful for any person to make or to continue, or to cause, allow or permit to be made or continued, any sound that, when registered on a decibel meter in accordance with subsection (b), is in excess of the db(A) established for the zones listed below:

<b>District</b>	
Residential	65 dB(A)
<b>District</b>	
Commercial/Industrial	80 db(A)

A property that is zoned as a Planned Unit Development (PUD) shall comply with the decibel restrictions that apply to the most intensive permitted use within the PUD. For example, a PUD that contains permitted residential and commercial uses shall comply with the commercial zoning district requirements stated in this subsection.

- (b) Noise Measurement.

- (1) **Sound originating in the C-3 or C-4 Commercial Zoning Districts.** In determining whether a violation of subsection (a) exists for a sound originating in the C-3, Aggieville Business District, or C-4, Downtown Business District, the noise measurement shall be taken using a decibel meter for a minimum of 30 seconds in duration from any location at least 50 feet outside a zoning boundary line of the zoning district containing the source of the sound. A violation will be based upon the highest registered reading in the measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time and location of the measurement.
- (2) **Sound originating in all other Zoning Districts.** In determining whether a violation of subsection (a) exists for a sound originating in a zoning district other than the C-3 or C-4 zoning districts, the noise measurement shall be taken using a decibel meter for a minimum of 30 seconds in duration from any location beyond the real property boundaries of the property containing the source of the sound. A violation will be based upon the highest registered reading in the measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time and location of the measurement.
- (3) Exemptions. The following sounds shall not be subject to the decibel levels set forth in subsection (a), as indicated below:
  - (1) Sound created from an assembly with an assembly permit issued by the City pursuant to Chapter 30 of this code;
  - (2) Sound created by law enforcement or emergency services activities, or emanating from authorized emergency vehicles;
  - (3) Sound from fields, grounds, or facilities from any sporting arena, playground, stadium, or sports complex operated by a school or governmental entity during activities sponsored by a school or governmental entity;
  - (4) Sound from activities, vehicles or equipment of the city, state, county, federal government, school or other government agency or public utility provider;
  - (5) Any sound from the operation of lawn care equipment, including but not limited to lawn mowers, chippers, trimmers, leaf blowers, snow blowers, or other similar lawn care equipment, if such sound is produced between the hours of 7:00 a.m. through 9:00 p.m.
  - (6) Any sound from snow removal equipment;
  - (7) Any sound from construction;
  - (8) Any sound from loading, unloading or collecting refuse by a solid waste refuse hauler.

**Section 4.** That Section 22-57 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

**Sec. 22-57. – Noise; enforcement and penalties**

- (a) Declared a nuisance. A violation of any provision of Section 22-55 or Section 22-56 is hereby declared to be and constitute a nuisance. The city may pursue abatement of the nuisance condition pursuant to Chapter 21 of the Code, in addition to the prosecution of any offense and/or the pursuit of injunctive or other civil relief.

- (b) Person(s) Responsible. If more than one person is making or continue to make, or causing, allowing or permitting to be made or continued, any noise in violation of Section 22-55 or Section 22-56, each person may be held jointly and severally responsible for such noise with respect to any enforcement of the violation.
- (c) A violation of any provision of Section 22-55 or Section 22-56 shall be punished as follows:
  - (1) For a first conviction within the preceding 12-month period, the person shall be punished by a fine of at least \$100, but not exceeding \$500.
  - (2) For a second conviction within the preceding 12-month period, the person shall be punished by a fine of at least \$250, but not exceeding \$500.
  - (3) For a third or subsequent conviction within the preceding 12-month period, the person shall be punished by a fine of \$500. In addition, the person may be punished by a term of imprisonment for a period not exceeding six months.

**Section 5.** That Section 22-58 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

**Sec. 22-58. Reserved.**

**Section 6.** That Section 6-24 of the Code of Ordinances shall be amended to read as follows:

**Sec. 6-24. – Animal noise; animal nuisances.**

- (a) It shall be unlawful for a person who owns, keeps or harbors an animal to fail to prevent such animal from making loud, frequent, habitual, persistent, excessive, or untimely audible noise, including but not limited to howling, barking, yelping, crowing or calling, if such audible noise annoys or disturbs a reasonable person of ordinary sensitivities or interferes with a reasonable person of ordinary sensitivities use or enjoyment of his or her property.
- (b) It shall be unlawful for any person who owns, keeps or harbors an animal to fail to prevent such animal from becoming a nuisance. An animal shall be considered a nuisance if it:
  - (i) damages, soils, defiles or defecates on private property other than its owner's, keeper's or harborer's, or on public rights-of-way or recreation areas, unless such waste is immediately removed and properly disposed of by its owner, keeper or harborer;
  - (ii) causes unsanitary, dangerous or offensive conditions; and/or,
  - (iii) chases vehicles, or molests, attacks or interferes with persons or domestic animals on property other than property of its owner, harborer or keeper.

In addition, there shall be a rebuttable presumption that an animal nuisance is created if any person keeps or harbors more than five dogs or cats, over the age of 90 days, or any combination of such animals exceeding five in number, upon any premises within the City of Manhattan, Kansas, unless such premises are licensed as a kennel by the City of Manhattan, Kansas.

**Section 7.** That Section 21-12 of the Code of Ordinances shall be amended to read as follows:

**Sec. 21-12. - Illustrative enumeration.**

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation when such growth reaches 12 to 18 inches in height;
- (2) Accumulation of garbage, rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things which creates an unsightly appearance;
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin;
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;
- (5) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
- (6) The carcasses of animals or fowl not disposed of within a reasonable time after death;
- (7) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances;
- (8) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;
- (9) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;
- (10) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

**Section 8.** This ordinance shall take effect upon publication in the official city newspaper.

**PASSED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS,  
THIS 11<sup>TH</sup> DAY OF OCTOBER, 2016.**



  
Gary S. Fees, MMC, City Clerk

  
Usha Reddi, Mayor

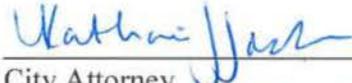
(PUBLISHED IN *THE MANHATTAN MERCURY* ON OCTOBER 16, 2016)

**ORDINANCE NO. 7250 SUMMARY**

On October 11, 2016, the City of Manhattan, Kansas, adopted the following ordinance:

**AN ORDINANCE AMENDING SECTIONS 22-54 THROUGH 22-58 AND SECTIONS 6-24 AND 21-12 OF THE CODE OF ORDINANCES OF THE CITY OF MANHATTAN, KANSAS, RELATING TO NOISE.**

The Ordinance relates to the adoption of amendments to the current noise ordinance to update to more reasonable and modern standards, and improve enforcement and prosecution. The complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 1101 Poyntz Avenue, Manhattan, KS 66502, Monday – Friday, 8 a.m. – 5 p.m., and is available for at least one week following the publication date of this summary at [www.cityofmhk.com](http://www.cityofmhk.com). This Summary certified to be legally accurate and sufficient by City Attorney Katharine Jackson.

  
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City Attorney  
Date certified: 10/12/16