



Jackson County Missouri

Jackson County Courthouse
415 E. 12th Street, 2nd floor
Kansas City, Missouri
64106
(816)881-3242

Legislation Text

File #: 3494, Version: 0

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing sections 5510. and 5511., Jackson County Code, 1984, relating to petty offenses and enacting in lieu thereof five new sections relating to petty offenses and noise regulation, with a penalty provision.

ORDINANCE # 3494, May 3, 2004

INTRODUCED BY Dennis Waits, County Legislator

WHEREAS, the Constitutional Home Rule Charter of Jackson County authorizes the Legislature to adopt ordinances regulating, restricting, or prohibiting the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens; and,

WHEREAS, excessive sound vibration and inadequately controlled noise are serious hazards to the public health, safety and welfare, and a source of annoyance to the populace; and,

WHEREAS, the citizens of the County have a right to an environment free from excessive sound and vibration that may jeopardize their health and welfare or degrade the quality of life; and,

WHEREAS, it is the policy of Jackson County to protect the health, safety, and welfare of its citizens and to promote an environment free from sound and noise disruptive of peace and good order; and,

WHEREAS, it is the policy of the County to prevent excessive noise that may jeopardize the health or welfare of its citizens or degrade the quality of life; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri as follows:

Section A. Enacting Clause.

Sections 5510. and 5511., Jackson County Code, 1984, are hereby repealed, and five new sections enacted in lieu thereof, to be known as sections 5510., 5563., 5564., 5565., and 5566., to read as follows:

5510. Definitions.

The following words and phrases are defined as follows:

Director means the Director of Public Works of Jackson County or the Director's designee.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency Work means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

Noise Sensitive Area includes, but is not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar institution is located.

Person means any individual, firm, association, partnership, joint venture, or corporation.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

Public Space means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

Residential Area means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of Jackson County's Unified Development Code, chapter 240 of this Code.

Sheriff means the Sheriff of Jackson County or the Sheriff's designee.

5563. Noise, General Prohibition.

(a) No person shall make, continue, or cause to be made or continued:

(1) any unreasonably loud or raucous noise; or

(2) any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of Jackson County; or

(3) any noise which is so harsh, prolonged, unnatural, or unusual in time or place as

to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

(b) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:

(1) The proximity of the sound to sleeping facilities, whether residential or commercial;

(2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;

(3) the time of day or night the sound occurs;

(4) the duration of the sound; and

(5) Whether the sound is recurrent, intermittent, or constant.

5564. Noises Prohibited.

The following acts are declared to be per se violations of this chapter. This enumeration does not constitute an exclusive list:

(a) Unreasonable Noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual

standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

(b) Vehicle Horns, Signaling Devices, and Similar Devices: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space, for more than ten (10) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.

(c) Non-Emergency Signaling Devices: Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the County for traffic control purposes are exempt from the operation of this provision.

(d) Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (1) and (2), below.

(1) Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen (15) minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this chapter.

(e) Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices: The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.

(f) Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices: The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:

- (1) Within or adjacent to residential or noise-sensitive areas;
- (2) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.

This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the County.

(g) Yelling, Shouting, and Similar Activities: Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.

(h) Animals and Birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops or pet kennels, licensed under and in compliance with licensing and permitting provisions set forth in the Unified Development Code, chapter 240 of this Code are exempt from this subsection.

(i) Loading or Unloading Merchandise, Materials, Equipment: The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

(j) Construction or Repair of Buildings, Excavation of Streets and Highways: The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 7:00 a.m. and 7:00 p.m., on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the Director may issue a permit, upon application, if the Director determines that the public health and

safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7:00 p.m. and 7:00 a.m. will not be impaired, and if the Director further determines that loss or inconvenience would result to a party in interest. The permit shall grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.

(k) Noise Sensitive Areas - Schools, Courts, Churches, Hospitals, and Similar Institutions:

The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.

(l) Blowers, and Similar Devices: In residential or noise sensitive areas, between the hours

of 7:00 p.m. and 7:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

(m) Commercial Establishments Adjacent to Residential Property: Unreasonably loud and

raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. which is plainly audible at a distance of five (5) feet from any residential property.

5565. Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in section 5564. and are in addition to the exemptions specifically set forth in section 5564:

- (a) Motor vehicles on trafficways of the County, provided that the prohibition of section 5564.(b) continues to apply.
- (b) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.
- (c) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in section 5564.(d) continues to apply.
- (d) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- (e) Repairs or excavations of bridges, streets or highways by or on behalf of the County, the State, or the federal government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.
- (f) Outdoor School and Playground Activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- (g) Other Outdoor Events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.

5566. Enforcement.

(a) The following individuals shall enforce this chapter: The Sheriff will have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this chapter shall prevent the Sheriff from obtaining voluntary compliance by way of warning, notice or education.

(b) If a person's conduct would otherwise violate this chapter and consists of speech or communication, of a gathering with others to hear or observe speech or communication, or of a gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political or religious questions, the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

Section B. Penalty Provision.

A violation of any provision of this Ordinance shall be punishable pursuant to section 5520., Jackson County Code, 1984.

Section C. Severability Clause.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of this Ordinance shall not affect the validity of the remaining parts of this Ordinance.

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

Acting County Counselor

I hereby certify that the attached Ordinance, Ordinance # 3494 introduced on May 3, 2004

Absent 2

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