

## AN ORDINANCE

Amending: Municipal Code of the City of Republic, Missouri, Chapter 215, ARTICLE V, Offenses Concerning Public Peace, by enacting new Sections 215.282.1 through 215.282.12, which shall be known as the "Noise Control Code".

### Section 215.282.1 **Title.**

Sections 215.282.1 – 215.282.12 shall be known and referred to as the Noise Control Code.

### Section 215.282.2 **Findings; general policy.**

A. The City Council finds that:

1. Excessive sound is a serious hazard to the public health, welfare and safety and the quality of life;
2. A substantial body of science and technology exists by which excessive sound may be substantially abated; and
3. The citizens of the City have a right to and should be ensured an environment free from excessive sound that may jeopardize their health, welfare or safety or degrade their quality of life.

B. It is the policy of the City to prevent excessive sound which may jeopardize the health, welfare or safety of its citizens or degrade their quality of life.

### Section 215.282.3 **Definitions.**

The following words and phrases (whether or not capitalized) when used in this Noise Control Code shall, for the purpose of this Noise Control Code, have the meanings respectively ascribed to them in this Section unless otherwise defined in the text of the Noise Control Code.

#### **AMBIENT NOISE**

The total of all noise in the environment, other than the noise from the source of interest. This term is used interchangeably with background noise.

#### **A-WEIGHTED SOUND LEVEL**

The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level read is designated dB(A) or dBA.

#### **CODE ENFORCEMENT OFFICER**

Any public servant having both the power and duty to make arrests for violations of the laws of the City, county, and state, and federal law enforcement officers

authorized to carry firearms and to make arrests for violations of the laws of the United States, or any other public servant authorized by the City to enforce this Noise Control Code.

## **COMMERCIAL AREA**

Property zoned C-O, C-1, C-2, C-3, MSD, or property operating under a special use permit for a commercial use. When a property is located in an overlay district "C-O", the underlying zoning district will apply. When a property is located in a Planned Development District "PDD", the underlying proposed development will apply by means of discretion by the investigating Code Enforcement Officer.

## **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.

## **DECIBEL (dB)**

A unit of measurement for sound pressure level at a specified location.

## **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.

## **IMPULSIVE SOUND**

A sound having a duration of approximately one second or less with an abrupt onset and rapid decay.

## **INDUSTRIAL AREA**

Property zoned M-1 and M-2. When a property is located in an overlay district "C-O", the underlying zoning district will apply. When a property is located in a Planned Development District "PDD", the underlying proposed development will apply by means of discretion by the investigating Code Enforcement Officer.

## **PLAINLY AUDIBLE**

Capable of being heard by a person using his or her unaided hearing faculties of normal acuity. It is not necessary to distinguish words or melodies to be plainly audible. A plainly audible sound may consist of bass alone, and the detection of

the bass component of music, including reverberations and/or vibrations, is sufficient to verify plainly audible sound. Measurement standards shall be by the auditory senses, based upon direct line of sight.

## **PROPERTY BOUNDARY LINE**

Any of: (1) the imaginary line including its vertical extension that separates one parcel of real property from another; (2) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (3) on a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

## **PROPERTY OWNER**

The named property owner as indicated by the records of the Recorder of Deeds or Assessor's Office in Greene County, Missouri and Christian County, Missouri, as applicable.

## **PUBLIC SPACE**

Any real property or structures thereon that are owned, leased or controlled by a governmental entity.

## **RECEIVING PROPERTY**

The property at which sound levels are measured.

## **RESIDENTIAL AREA**

Property zoned AG, R1-L, R1-M, R1-H, R1-MH, R1-Z, R-2, R-3, or property upon which a legal non-conforming residential use is operating. When a property is located in an overlay district "C-O", the underlying zoning district will apply. When a property is located in a Planned Development District "PDD", the underlying proposed development will apply by means of discretion by the investigating Code Enforcement Officer.

## **SOUND**

An oscillation in pressure, stress, particle displacement, particle velocity, etc., in a medium with internal forces (e.g., elastic, viscous), or the superposition of such propagated oscillation which evokes an auditory sensation (which, without limiting the foregoing, may consist of bass alone, and the detection of the bass component of music, including reverberations and vibration).

## **SOUND AMPLIFICATION OR PRODUCING DEVICE OR SIMILAR EQUIPMENT**

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.

## **SOUND LEVEL METER**

Any instrument certified to meet or exceed American National Standard Institute standards which includes an omnidirectional microphone, an amplifier, an output meter and frequency weighting network(s) for the measurement of sound level.

## **SOUND SOURCE PROPERTY**

The property which is producing sound or from which sound is emanating.

## **TENANT**

Any person who has an interest in real property either by oral or written lease or covenant.

### **Section 215.282.4 Sound Emission Standards and Limitations.**

- A. Unless otherwise indicated in Section 215.282.5 below, or specifically exempted from this Noise Control Code, it shall be unlawful for anyone to cause or allow the emission of sound from any source or sources on any Receiving Property which, when measured pursuant to Section 215.282.9, exceeds the maximum decibel limits specified in the following table when measured at the Property Boundary Line or within the real property lines of any Receiving Property listed in the table below. The investigating Code Enforcement Officer operating the Sound Level Meter may cease taking readings as soon as the readings show a violation of this Noise Control Code.

<b>AREA</b>	<b>7:00 a.m. – 9:00 p.m.</b>	<b>9:00 p.m. – 7:00 a.m.</b>
Residential	60 dB(A)	55 dB(A)
Commercial	65 dB(A)	60 dB(A)
Industrial	70 dB(A)	65 dB(A)

When a noise source can be identified and its sound is measured in more than one district or area (e.g., commercial and residential), the average of the sound limitations of the two (2) districts shall apply.

- B. Unless otherwise specifically indicated in Section 215.282.5 below or exempted from this Noise Control Code, no person shall make, cause, suffer, continue, allow or permit the operation of any source of sound that disturbs the peace, quiet and comfort of the neighboring residential inhabitants at any time with

louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which the sound is generated and who are voluntary listeners, nor shall a person make a sound that is Plainly Audible across a residential property line fifty (50) feet or more from a Sound Source Property.

- C. It shall not be a violation of this Section 215.282.4 or of Section 215.282.5 below unless the sound measured is at least more than five (5) dB(A), above Ambient Noise. Ambient Noise shall be measured no closer than fifty (50) feet from the source of the sound or measured at the outside wall of a building adjacent to the public right-of-way or public space from which the sound originates. If a sound cannot be excluded from Ambient Noise, including due to a potential violator's failure to cooperate, a Plainly Audible standard may be used.
- D. Notwithstanding the location of hospitals, rest homes, family care homes, group care facilities, public or private or parochial school or day care facilities, it shall be unlawful for any person to cause or allow the emission of sound onto the structures of such uses which exceeds the maximum sound limitation for Residential Areas.

#### **215.282.5 Unlawful Noise.**

In addition to any other violation of this Noise Control Code, and due to the noise inherent in certain activities, the following shall constitute a noise disturbance, the emission of which shall be unlawful and in violation of this Noise Control Code, unless otherwise specifically indicated or exempted from this Noise Control Code. Such enumeration shall not be deemed to be exclusive.

- A. The repairing, rebuilding, modifying or stationary testing of any motor vehicle, motorcycle, or motorboat in such a manner as to cause a sound that is 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 the table in Section 215.282.4.A.
- B. The operation of any power tool (including mechanically or electrically-powered saws, drills, sanders, or grinders), garden tool, lawnmower, snow blower, powered model vehicles and aircrafts, or other similar equipment or device in Residential Areas in such a manner as to cause a sound that is 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 the table in Section 215.282.4.A.
- C. 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 that is 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 is subject to the time, area and dB(A) limits set forth in the table in Section 215.282.4.A.

- D. The use of fire explosives, firearms or similar devices that create Impulsive Sound so as to create a sound that is Plainly Audible across a Property Boundary Line or on a public right-of-way except as otherwise permitted by the terms of a permit issued to the owner or operator of a shooting range or user of explosives or similar devices, but excepting hunting activities on agricultural lands within the City that is in compliance with all federal and state laws and Impulsive Sound from fireworks that are permitted by, and if used in accordance with, any other provisions of this Municipal Code.
- E. The loading, unloading, opening, closing or performing other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to cause a sound that is Plainly Audible across a residential Property Boundary Line, excepting such activities if in performance of construction or repair under Municipal Code Section 215.800 and which are not in violation of that Section (which activities, if performed under and do not violate Section 215.800, shall not be subject to the time, area and dB(A) limits set forth in the table in Section 215.282.4.A).
- F. Collecting or recycling materials with a refuse or recycling collection vehicle or the operating of a compacting mechanism of any motor vehicle that compacts refuse or recycling between the hours of 9:00 p.m. and 7:00 a.m. in a Residential Area or within five hundred (500) feet of such an area. 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 the table in Section 215.282.4.A.
- G. Self-contained, portable, non-vehicular music or other Sound Amplification or Producing Device or Similar Equipment operated on a Public Space or public right-of-way in such a manner as to be Plainly Audible at a distance of fifty (50) feet in any direction from the operator between the hours of 7:00 a.m. and 9:00 p.m. Between the hours of 9:00 p.m. and 7:00 a.m., sound from such equipment, operated on a Public Space, shall not be Plainly Audible by any person other than the operator.
- H. Security alarms systems, commercial or residential, failing to cease emitting a sound that is Plainly Audible within fifteen (15) minutes of activation, and security alarm systems, commercial or residential, which emit an intermittent signal failing to cease within fifteen (15) minutes of activation.
- I. Sounding of any horn or signal device of any automobile, taxicab, motorcycle, bus or other vehicle, whether or not in motion, except when necessary to give warning of threatened collision with another vehicle or with a pedestrian; provided, however, that the foregoing shall not apply to Emergency Motor Vehicles.

- J. Between 7:00 a.m. and 9:00 p.m., Impulsive Sound may not equal or exceed eighty (80) dB(A). Between 9:00 p.m. and 7:00 a.m., Impulsive Sound which occurs less than four (4) times in any hour may not equal or exceed eighty (80) dB(A). Impulsive Sound which repeats four (4) or more times in any hour shall not exceed the requirements as set forth in the table in Section 215.282.4.A..
- K. Construction and Repair Noises: Refer to Municipal Code Section 215.800.
- L. Animal Noises: Refer to Municipal Code Section 215.130.
- M. Sound Amplification in Motor Vehicles: Refer to Municipal Code Section 240.330.
- N. Other Equipment of Motor Vehicles: Refer to Municipal Code Section 380.140.

#### **215.282.6 Factors for Determination of Violation.**

Factors which may be considered by the Law Enforcement Officer in determining whether a violation of this Noise Control Code exists include, but are not limited to, the following:

- A. The volume of the sound;
- B. The intensity of the sound;
- C. Whether the origin of the sound is natural or unnatural;
- B. The duration of the sound;
- C. Whether the sound is continuous, recurrent, or intermittent;
- D. The volume and intensity of any Ambient Noise;
- E. Whether the sound is intentional;
- F. The time of day or night the sound occurs; and
- G. The proximity of the sound to sensitive areas of a Receiving Property.

#### **Section 215.282.7 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 any real property, to allow or permit a person or group of persons to create any noise disturbance or sound in violation of this Noise Control Code 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 or sounds occurring on that property that are in violation of this Noise Control Code, and failure to do so shall be a violation of this Section.

**Section 215.282.8 Exemptions.**

The following shall not be considered to be noise disturbances or sounds in violation of this Noise Control Code:

- A. Sound from Emergency Motor Vehicles.
- 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, including, but not limited to, snow-clearing equipment.
- C. Sound that a person is making or causing to be made when said person has received and maintains a special event permit under Municipal Code Section 212.013, which specifically allows sound levels in excess of those set forth in this Noise Control Code from any department, board or commission of the City authorized to issue such license or permit.
- D. Transient sounds from moving sources, including automobiles, trucks, airplanes and railroads unless otherwise specified within this Noise Control Code.
- E. Sounds from agricultural activities conducted on property zoned and utilized for agricultural activities.
- F. Activities hosted by or sanctioned by a governmental agency or school district, such as, but not limited to, sporting events, running events, community festivals.
- G. 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.
- H. Outdoor gatherings, public dances, shows and sporting events, and other similar events, provided that a permit has been obtained from the appropriate permitting authority.
- I. The reasonable sounding of bells, chimes, carillon sounds associated with religious worship.

**Section 215.282.9 Measurement Techniques.**

- A. Sound measurements shall be made by the investigating Code Enforcement Officer at the Property Boundary Line of the Sound Source Property. If

measurement on private property is not possible or practical, sound measurements may be made at the boundary of the public right-of-way which adjoins the Receiving Property. Such sound measurements shall be made at a height of approximately four (4) feet from the ground and at a point approximately ten (10) feet away from walls, barriers, obstructions (trees, bushes, etc.) on a Sound Level Meter operated on the A-Weighted Sound Level. In the case of sounds within multi-family or multi-tenanted structures, sound measurements shall be made in the complaining unit at a height of at least four (4) feet above the floor and at a point approximately equi-distant from all walls on a sound level meter operated on the A-Weighted Sound Level.

- B. No individual other than the investigating Code Enforcement Officer shall be within ten (10) feet of the Sound Level Meter during the sample period.
- C. Sound measurements shall be conducted at that time of day or night when the suspect Sound Source Property is emitting sound.
- D. It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurements.

#### Section 215.282.10 **Penalties.**

- A. A violation of this Noise Control Code shall be subject to those penalties set forth in Municipal Code Section 100.220.
- B. 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.
- C. As an additional remedy, this Noise Control Code may be enforced, either before or after the institution of any other action or proceeding authorized by this Noise Control Code, by an action for injunctive relief to restrain the violation. The action shall be brought in the appropriate division of the applicable district court. The institution of an action for injunctive relief shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Noise Control Code. This Noise Control Code may also be enforced through any appropriate equitable remedy.

#### Section 215.282.11 **Enforcement.**

Any Code Enforcement Officer may issue a citation for any violation under this Noise Control Code. Any Code Enforcement Officer having both the power and duty to make arrests for violations of City, county, state, and/or federal laws may arrest for instances when the alleged violator refused to provide the Code Enforcement Officer with such person's name and address and any proof thereof as may be reasonably needed of the alleged violator.

#### Section 215.282.12 **Severability Clause.**

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