

Chapter 46 - NOISE CONTROL - Summary of Changes

Major Changes:

1. Definitions edited or added:
 - a. City Code
 - b. Commercial Property
 - c. Director
 - d. Entertainment District
 - e. Mixed Use Development
 - f. Person
2. Specific circumstance added under table 1 in Sec. 46-4
3. Sec. 46-5-3, *Refuse and recycling vehicles* moved under 46-5-(i)
 - a. Section (i) (2) added
 - b. Section (i) (3) edited
 - c. Section (i) (4) added
4. Sec. 46-39 Added *Administrative fine for violation of chapter* instead of *Penalty for violation of chapter*.
5. Sec. 46-40 Added *Payment of Administrative Fine* and removed *Appeals*.
6. Sec. 46-41 Added *Administrative Citation*
7. Sec. 46-42 Added *Request for an Administrative Hearing*
8. Sec. 46-43 Added *Hearing Officer Designated*
9. Sec. 46-44 Added *Hearing*
10. Sec. 46-45 Added *Administrative hearing procedures*.
11. Sec. 46-46 Added *Written Decision*
12. Sec. 46-47 Added *Final Decision by Hearing Officer*
13. Other section numbers adjusted as necessary for sections added.

| Section | 2014 | 2021 |
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| 46-3 – Definitions | | Added: City Code means the Code of Ordinances of the City of Kansas City, Missouri. |
| 46-3 - Definitions | <i>Commercial property</i> means property located in a district zoned as "office" or "business" or "O" or "B," under the Kansas City Zoning and Development Code, Chapter 88 and subsequent amendments, but shall also include properties zoned as DC, DX, M1-M4, US, KCIA, MPD and UR, provided, however, that MPD and UR-zoned property will only be considered commercial property if a majority of the lots or units approved in the MPD or UR development plan identify a commercial use. Commercial property shall also mean any property within the area bound by the Missouri River to the north, the Kansas City Terminal Railway tracks on the south, state line to the west and Troost to the east. When a property is located in an overlay district, the underlying zoning district will apply. | <i>Commercial property</i> means property located in a district zoned as "office" or "business" or "O" or "B" under the Kansas City Zoning and Development Code, Chapter 88 and subsequent amendments, but shall also include properties zoned as DC, DX, M1-M4, US, KCIA, MPD and UR. Commercial property shall also mean any property within the area bound by the Missouri River to the north, the Kansas City Terminal Railway tracks on the south, state line to the west and Troost to the east. When a property is located in an overlay district, the underlying zoning district will apply. |
| 46-3 – Definitions | | Added: Director means the director of the Kansas City, Missouri Health Department. |
| 46-3 - Definitions | | Added: Entertainment district means an urban mixed-use project containing not less than 200,000 gross leasable square feet of space intended for retail, entertainment, shopping and restaurant purposes, all within 2500 feet of a convention facility owned or operated by the City within an area designated as a development area under sections 99.915-99.980, RSMo, and which is zoned as an urban redevelopment district (URD) or a project within an area |

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| | | designated as a redevelopment area under sections 99.800-99.865, RSMo, containing a multipurpose arena with approximately 18,000 to 20,000 seats. |
| 46-3 - Definitions | | Added: <i>Mixed use development</i> means areas that contain a complimentary mix of residential and non-residential uses. Mixed use development shall also mean any property within the area bound by the Missouri River to the north, the Kansas City Terminal Railway tracks on the south, state line to the west and Troost to the east. When a property is located in an overlay district, the underlying zoning district will apply. |
| 46-3 - Definitions | | Added: <i>Person</i> . The term "person" includes a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law |
| Sec. 46-4 – Prohibited noise, generally | | Added: * (Asterisk after “Receiving Property” in table denoting specific circumstance below table 1.) *Mixed-Use Developments, Entertainment Districts, and Urban Renewal Districts (URD). When measuring sound levels at the property line of a receiving residential property, if the sound emanates from a commercial property that is within a mixed-use development, entertainment district, or URD and within 250 feet of the receiving residential property, the maximum allowable decibel levels shall be the levels allowed on receiving commercial properties in Table 1. |
| Sec. 46-5 Specific Prohibitions | Due to the noise inherent in certain activities and for other reasons, special rules apply to the following acts and situations: | Due to the noise inherent in certain activities and for other reasons, special rules apply to the following acts and situations: |

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| | <p>(1) <i>Domestic power tools.</i> No person shall operate or permit the operation of any mechanically or electrically-powered saw, drill, sander, grinder, lawn or garden tool, or similar device used in a residential district between the hours of 10:00 p.m. and 7:00 a.m. on a residential property or within 250 feet of a residential real property boundary (when operated on commercial or light-industrial property), unless such activities do not exceed the limits set forth in Table I.</p> <p>(2) <i>Loading and unloading.</i> No person shall load, unload, open, close or perform other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a residential real property boundary, except when necessary in the performance of construction work as defined in section 46-3.</p> <p>(3) <i>Refuse and recycling vehicles.</i> No person shall allow for the collection or collect refuse or recycling materials with a refuse or recycling collection vehicle or operate the compacting mechanism of any motor vehicle that compacts refuse or recycling, between the hours of 8:00 p.m. and 7:00 a.m. the following day in a residential property area or within 500 feet of such an area.</p> <p>(4) <i>Portable sound systems.</i> Self-contained, portable, non-vehicular music or sound production or amplification devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 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. Section 46-4 shall still apply, however, to</p> | <p>(a) <i>Domestic power tools.</i> No person shall operate or permit the operation of any mechanically or electrically-powered saw, drill, sander, grinder, lawn or garden tool, or similar device used in a residential district between the hours of 10:00 p.m. and 7:00 a.m. on a residential property or within 250 feet of a residential real property boundary (when operated on commercial or light-industrial property), unless such activities do not exceed the limits set forth in Table I of section 46-4 above.</p> <p>(b) <i>Loading and unloading.</i> No person shall load, unload, open, close or perform other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a residential real property boundary, except when necessary in the performance of construction work as defined in section 46-3 above</p> <p>(c) <i>Portable sound systems.</i> Self-contained, portable, non-vehicular music or sound production or amplification devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 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. Section 46-4 shall still apply, however, to the use of such devices on property not in public spaces or on public rights-of-way.</p> <p>(d) <i>Powered model vehicles and aircraft.</i> No person shall operate or permit the operation of powered model vehicles or model aircraft so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m. the following day.</p> <p>(e) <i>Racing events.</i> No person shall operate or permit any motor vehicle or motorcycle racing event at any place</p> |
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| | <p>the use of such devices on property not in public spaces or on public rights-of-way.</p> <p>(5) <i>Powered model vehicles and aircraft.</i> No person shall operate or permit the operation of powered model vehicles or model aircraft so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m. the following day.</p> <p>(6) <i>Racing events.</i> No person shall operate or permit any motor vehicle or motorcycle racing event at any place so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m. the following day.</p> <p>(7) <i>Vehicular stereos.</i></p> <p>a. <i>Daytime.</i> Vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator or sound source between the hours of 8:00 a.m. and 10:00 p.m.</p> <p>b. <i>Nighttime.</i> Vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction from the operator or sound source between the hours of 10:00 p.m. and 8:00 a.m.</p> <p>(8) <i>Security alarms.</i></p> <p>a. Security alarm systems, commercial or residential, failing to cease emitting an audible sound within 15 minutes of activation are prohibited and shall also constitute a nuisance.</p> <p>b. Security alarm systems, commercial or residential, which emit an intermittent signal</p> | <p>so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m. the following day.</p> <p>(f) <i>Vehicular stereos.</i></p> <p>(1) <i>Daytime.</i> Vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator or sound source between the hours of 8:00 a.m. and 10:00 p.m.</p> <p>(2) <i>Nighttime.</i> Vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction from the operator or sound source between the hours of 10:00 p.m. and 8:00 a.m.</p> <p>(g) <i>Security alarms.</i></p> <p>(1) Security alarm systems, commercial or residential, failing to cease emitting an audible sound within 15 minutes of activation are prohibited and shall also constitute a nuisance.</p> <p>(2) Security alarm systems, commercial or residential, which emit an intermittent signal failing to cease within 15 minutes of activation are prohibited and shall also constitute a nuisance.</p> <p>(h) <i>Places of public entertainment.</i> No person shall operate, play or permit the operation or playing of any radio, television, music player, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound at a sound level greater than 85 db(A) as read by the slow response on a sound level meter at any point that is normally occupied by a customer in any place of public entertainment with a seating capacity of less than 500 persons, unless a conspicuous and legible sign is</p> |
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failing to cease within 15 minutes of activation are prohibited and shall also constitute a nuisance.

- (9) *Places of public entertainment.* No person shall operate, play or permit the operation or playing of any radio, television, music player, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound at a sound level greater than 85 db(A) as read by the slow response on a sound level meter at any point that is normally occupied by a customer in any place of public entertainment with a seating capacity of less than 500 persons, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT." Section 46-4 shall still apply, however, to places of public entertainment.

located outside such place, near each public entrance, stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT." Section 46-4 shall still apply, however, to places of public entertainment.

(i) Refuse and recycling vehicles.

(1) No person shall allow for the collection of or collect refuse or recycling materials with a refuse or recycling collection vehicle or operate the compacting mechanism of any motor vehicle that compacts refuse or recycling between the hours of 8:00 p.m. and 7:00 a.m. the following day in a residential property area or within 500 feet of such an area.

(2) No person shall allow for the collection of or collect refuse or recycling materials with a refuse or recycling collection vehicle or operate the compacting mechanism of any motor vehicle that compacts refuse or recycling between the hours of 12:00 a.m. and 5:00 a.m. in a Commercial property area or within 500 feet of such an area.

(3) Any person found in violation of this sub-section (i) is subject to an administrative citation as outlined in section 46-39 Code of Ordinances and/or the suspension or revocation of the building's certificate of occupancy as outlined in section 18-23, Code of Ordinances.

(4) Evidence to determine violations shall include, among other things, photos, videos, and screenshots with a time stamp submitted to the regulatory authority, and/ or the recorded observations of an official of the designated regulatory authority.

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| <p>Sec. 46-36 Administration of Noise Control Program</p> | <p>The noise control program established by this chapter shall be administered by the director of health, who may be referred to in this chapter as "the director."</p> | <p>The noise control program established by this chapter shall be administered by the director of health.</p> | | | | | | | | | | | | |
| <p>Sec. 46-39 Administrative Citation fine for violation of chapter</p> | <p>Penalty for violation of chapter (a) Any person convicted of a violation of any provision of this chapter shall be punished for that violation by a fine of not less than \$50.00 but not more than \$1,000.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. (b) Each day of violation of any provision of this chapter shall constitute a separate offense.</p> | <p>Sec. 46-39. Administration citation fine for violation of chapter. (a) The Director of Health may issue an administrative citation for violations of any provision of this Chapter. (b) The administrative citation fine amount for a first violation under the provisions of this Chapter shall be \$100.00 and each day that a violation continues shall constitute a separate offense for which the violator may be fined. (c) The administrative citation fine for repeat violations of the same City Code provision by the same person within 12 months from the date of the first administrative citation shall be as set forth in the following schedule and each day that a violation continues shall constitute a separate offense for which the violator may be fined.</p> <table border="1" data-bbox="1129 883 1915 1159"> <tr> <td>(1)</td> <td>First violation</td> <td>\$100.00</td> </tr> <tr> <td>(2)</td> <td>Second violation</td> <td>Not less than \$100.00 but not more than \$300.00</td> </tr> <tr> <td>(3)</td> <td>Third violation</td> <td>Not less than \$300.00 but not more than \$500.00</td> </tr> <tr> <td>(4)</td> <td>Fourth and subsequent violations</td> <td>Not less than \$500.00 but not more than \$1,000.00</td> </tr> </table> <p>(d) Any administrative citation fine which is not paid on or before its due date shall accrue a one-time penalty in an amount equal to the original administrative citation fine. Said penalty shall be collected in the same manner as the underlying fine.</p> | (1) | First violation | \$100.00 | (2) | Second violation | Not less than \$100.00 but not more than \$300.00 | (3) | Third violation | Not less than \$300.00 but not more than \$500.00 | (4) | Fourth and subsequent violations | Not less than \$500.00 but not more than \$1,000.00 |
| (1) | First violation | \$100.00 | | | | | | | | | | | | |
| (2) | Second violation | Not less than \$100.00 but not more than \$300.00 | | | | | | | | | | | | |
| (3) | Third violation | Not less than \$300.00 but not more than \$500.00 | | | | | | | | | | | | |
| (4) | Fourth and subsequent violations | Not less than \$500.00 but not more than \$1,000.00 | | | | | | | | | | | | |

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| | | <p>(e) The director may waive a portion of the amount of administrative citation fines that have accumulated as a result of non-compliance with City Code provided that the owner has achieved compliance in a timely manner and there are no other violations of chapter 46.</p> |
| Sec. 46-40 | <p>Appeals. Appeals of an adverse decision of the director under this chapter shall be made to the director, who may hear the appeal or designate a hearing officer.</p> | <p>Sec. 46-40. Payment of Administrative Fine</p> <p>(a) The alleged violator must either pay the scheduled administrative citation fine by the due date indicated on the administrative citation or request a hearing within 20 days from the date of the administrative citation as outlined in Sec. 46-42.</p> <p>(b) Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the City Code violation that is the subject of the administrative citation.</p> <p>(c) If an administrative citation fine is not paid within the time specified and no request for a hearing is timely received, the nonpayment of the fine will constitute a personal obligation of the violator. A personal obligation may be collected by the city by any appropriate legal means including assessing the applicable property pursuant to section 46-47 of the City Code.</p> |
| Sec. 46-41 | <p>Filing fees.</p> <p>(a) The filing fee for application to the director of health for a special permit under this chapter shall be \$50.00 per application.</p> <p>(b) The filing fee for appeals shall be \$50.00.</p> | <p>Sec. 46-41. Administrative citation.</p> <p>Each administrative citation shall contain the following information:</p> <p>(a) The date the violation is identified;</p> <p>(b) The address or a definite description of where the violation occurred, such as the receiving property line or location of the sound source;</p> |

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| | | <ul style="list-style-type: none"> (c) The section of the City Code violated and a description of the violation; (d) The amount of the fine for the City Code violation; (e) A description of the fine payment process, including a description of the time within which and the place from which a request for a hearing form to contest the administrative citation may be obtained; and (f) The name and signature of the citing code enforcement officer. |
| <p>Sec. 46-42</p> | <p>Other remedies.</p> <p>No provision of this chapter shall be construed to impair the city's right to pursue any other legal remedy, relief, or cause of action, including injunctive relief, related to any violation of this chapter or from any other law.</p> | <p>Sec. 46-42. Request for an administrative hearing.</p> <ul style="list-style-type: none"> (a) Any recipient of an administrative citation may contest that there was a violation of the City Code or that the recipient is the responsible party by completing a request for administrative hearing petition and returning it to the director of within 20 days from the date of the administrative citation. (b) A request for administrative hearing petition may be obtained from the environmental health services division. (c) The person requesting the hearing shall be notified of the time and place set for the hearing at least 10 days prior to the date of the hearing. (d) If the code enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report shall also be served on the person requesting the hearing at least five days prior to the date of the hearing. |

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| Sec. 46-43 | | <p>Sec. 46-43. Hearing officer designated</p> <p>The Director of Health shall designate the hearing officer for the administrative hearing.</p> |
| Sec. 46-44 | | <p>Sec. 46-44. Hearing.</p> <p>(a) A hearing before the hearing officer shall be set for a date that is not less than ten days and not more than 60 days from the date that the request for hearing is filed in accordance with the provisions of this chapter.</p> <p>(b) With the agreement of all parties, the hearing officer may attempt to mediate the dispute. If the dispute is settled as the result of mediation, the hearing will be canceled. Any mediated settlement must be commemorated by the hearing officer in writing and signed by the person filing the appeal and the city.</p> |
| Sec. 46-45 | | <p>Sec. 46-45. Administrative hearing procedures.</p> <p>(a) At the hearing on the record, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.</p> <p>(b) The administrative citation, property record, and related documentation shall be prima facie evidence of the municipal code violation. A city employee or agent shall present the city's case although the code enforcement officer who issued the notice of violation need not be present.</p> <p>(c) The hearing officer may continue the hearing to a later date to request additional information from the code enforcement officer or the recipient of the administrative citation be presented by the appropriate parties prior to issuing a written decision.</p> |

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| Sec. 46-46 | | <p>Sec. 46-46. Written decision.</p> <p>(a) After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall list the reasons for that decision. The hearing officer shall also have the authority to reduce or waive a scheduled fine upon compliance with certain conditions.</p> <p>(b) If the hearing officer determines that the administrative citation should be upheld, the hearing officer shall set forth in the decision a payment schedule for the fine if it has not already been paid. If the hearing officer determines that the administrative citation should be overturned, the citation shall be voided.</p> <p>(c) The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.</p> <p>(d) The decision of the hearing officer shall be final without any further right of administrative appeal other than as provided in Chapter 536, RSMo.</p> |
| Sec. 46-47 | | <p>Sec. 46-47. Final decision by hearing officer.</p> <p>(a) The hearing officer may not impose incarceration or any fines in the excess amount allowed by the schedule of fines. Any fine or costs, or part of any fine or costs, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under Chapter 563, RSMo, shall be a debt due and owing the city, and may be collected in accordance with applicable law.</p> <p>(b) Any decision or judgment by the hearing officer will be enforced pursuant to the provisions of Chapter 479, RSMo.</p> |

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| | | <p>(c) Any final decision or disposition of a City Code violation by a hearing officer shall constitute a final determination for purposes of judicial review. Such determination is subject to review under Chapter 536, RSMo, or, at the request of the defendant made within ten days, a trial de novo in the circuit court. After expiration of the judicial review period under Chapter 536, RSMo, unless stayed by a court of competent jurisdiction, the hearing officer's decisions, findings, rules, and orders may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. Upon being recorded in the manner required by state law or the uniform commercial code, a lien may be imposed on the real or personal property of any defendant pleading guilty to or found guilty in violation of a municipal code violation in the amount of any debt due to the city under this chapter and enforced in the same manner as a judgment lien under a judgment of a court competent jurisdiction.</p> |
| <p>Sec. 46-48</p> | | <p>Sec. 46-48. Filing fees.</p> <p>The filing fee for application to the director of health for a special permit under this chapter shall be \$50.00 per application.</p> |
| <p>Sec. 46-49</p> | | <p>Sec. 46-49. Other remedies.</p> <p>No provision of this chapter shall be construed to impair the city's right to pursue any other legal remedy, relief, or cause of action, including injunctive relief, related to any violation of this chapter or from any other law.</p> |