

ORDINANCE NO. 2018-3133

AN ORDINANCE CREATING A NOISE PROVISION FOR THE CITY OF CONCORDIA, KANSAS; AND AMENDING THE CONCORDIA CODE BY ADDING A NEW ARTICLE IN OFFENSES AND MISCELLANEOUS PROVISIONS.

BE IT ORDAINED by the governing body of the City of Concordia, Kansas:

SECTION 1. The Code of Ordinances of the City of Concordia is hereby amended, by adding a new Article which shall read as follows:

ARTICLE 2. NOISES

14-201. Noises generally.

(a) 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 such noises are detrimental to the use, enjoyment and value of property within the City; therefore, the governing body finds that the establishment of a Noise Ordinance 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.

14-202. Definitions.

The following words or phrases when used in this article shall have the following meanings:

“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.

“Commercial district” means any property located within a commercial zoning district, as defined by the Concordia Zoning Regulations,

“Construction” means any site preparation, excavation, assembly, erection, repair, alteration or demolition of any building, structure or property.

“Industrial district” means any property located within an industrial zoning district, as defined by the Concordia Zoning Regulations,

“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.

“Plainly audible” means capable of being heard, whether or not the words or melodies can be distinguished, and includes the sound of bass alone.

“Residential district” means any property located within a residential zoning district, as defined by the Concordia Zoning Regulations.

“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.

“Sanctioned event” means any event conducted with prior approval from the body or organization that approves events for the prescribed venue.

14-203. 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:

- (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. Amplified sound that originates in any zoning district 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 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.
- (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; including any and all recognized sports leagues, and all sanctioned activities at the Concordia Broadway plaza or,
- (4) Sound from activities, vehicles or equipment of the city, state, county, federal government, school or other government agency or public utility provider.

14-204. Noise enforcement and penalties.

(a) Declared a nuisance. A violation of any provision of Section 14-203 is hereby declared to be and constitute a nuisance. The city may pursue abatement of the nuisance condition pursuant to Chapter XIII 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 14-203, 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 14-203 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 \$45, and a mandatory appearance before municipal court.
- (2) For a second conviction within the preceding 12-month period, the person shall be punished by a fine of \$100 plus court costs, and a mandatory appearance

before municipal court.

- (3) For a third or subsequent conviction within the preceding 12-month period, the person shall be punished by a fine of \$250 plus court costs, and a mandatory appearance before municipal court.

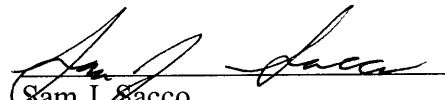
SECTION 2. This ordinance shall be summarized for publication as follows:

On February 21, 2018, the City of Concordia adopted Ordinance No. 2018-3133, amending the Concordia Code by adding a new Article in Chapter XIV defining noise disturbances, enforcement, and penalties. A reproduction of this ordinance will be available for not less than one week following the publication of this summary of the ordinance at the website address of the City of Concordia, <http://www.concordiaks.org>. This summary is certified by the city attorney to be legally accurate and sufficient.


SECTION 3. This ordinance shall be in full force and effect from and after its passage and publication of the above ordinance summary in the official city newspaper. The provisions hereof are severable, and in the event of invalidity, for any reason, of any portion of this ordinance, the remaining provisions of the ordinance shall remain in full force and effect, with the invalid provisions deemed excised.

PASSED by the governing body and signed by the mayor this 21st day of February, 2018.

(Seal)


Sam J. Sacco
Mayor


ATTEST:



Stacey Smith
City Clerk

ORDINANCE CERTIFICATE

I hereby certify that the foregoing is an original ordinance; that said ordinance was passed on the 21st day of February, 2018; that the record of the final vote on its passage is found on page ____ of the minutes journal; that the ordinance summary was published in the Concordia Blade-Empire on the 23rd day of February, 2018.


_____, City Clerk