

(First Published in the Butler County Times-Gazette on the 22nd day of August 2024.)

THE CITY OF ROSE HILL, KANSAS

ORDINANCE NO. 724

AN ORDINANCE ADDING ARTICLE 9. NOISE CONTROL TO CHAPTER VIII. HEALTH AND WELFARE, OF THE ROSE HILL CODE TO REGULATE NOISE LEVELS WITHIN THE CITY OF ROSE HILL, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS:

Section 1. The code of the City of Rose Hill is hereby amended to add ARTICLE 9. NOISE CONTROL to Chapter VIII HEALTH AND WELFARE, to read as follows:

8-901. Scope. In order to enhance the public health and prevent the entrance of noise pollution and excessive vibrations into the atmosphere and environment of the City of Rose Hill, Kansas which will tend to interfere with the health and welfare of the citizens of Rose Hill, Kansas, the provisions of this Code shall be in effect in the City of Rose Hill, Kansas.

8-902. Definitions. The following words and phrases when used in this ordinance shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in this section unless otherwise defined in the text of the section.

- (a) **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, municipal, or school district law enforcement agency, provided such vehicle is being used as an emergency vehicle by one authorized to use such vehicle for that purpose.
- (b) **Plainly Audible** – capable of being heard. It is not necessary to distinguish words or melodies. A plainly audible sound may consist of bass alone.
- (c) **Property Owner** – the named property owner as indicated by the records of the Register of Deeds or Appraiser’s Office in Butler County, Kansas.
- (d) **Sound Amplification or Producing Device or Similar Equipment** – shall mean radio, radio receiving set, television, phonograph, stereo, tape player, cassette player, compact disc player, “boom box,” loudspeaker, drum, juke box, musical instrument, sound amplifier or other device which produces, reproduces, or amplifies sound.

- (e) **Tenant**— any person who has an interest in real property either by oral or written lease or covenant.

8-903. Unlawful to Cause Noise Disturbance. It shall be unlawful to make or cause to be made a Noise Disturbance within the City of Rose Hill, Kansas. A Noise Disturbance shall include any or all of the following:

- (a) A sound resulting from the erecting, constructing, excavating, demolishing, altering or repairing of any structure, or operating, or permitting the operation of any tools or equipment used in construction, drilling, or demolition work in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 9:00 p.m. and 6:00 a.m.
- (b) The repairing, rebuilding, modifying or stationary testing of any motor vehicle, motorcycle, or motorboat or other motor vehicle in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 9:00 p.m. and 6:00 a.m.
- (c) The operating or occupancy of a vehicle, which is moving or stationary, standing or parked, whether persons are seated in the vehicle or not, from which any Sound Amplification or Producing Device or Similar Equipment is creating a sound that is Plainly Audible at least fifty (50) feet from the source of the sound.
- (d) The operation of any power tool, garden tool, lawnmower, weed eater, trimmer, edger, leaf blower, chainsaw, woodchipper, snow blower or other similar equipment or device in such a manner as to cause a sound Plainly Audible across any property boundary line between the hours of 9:00 p.m. and 6:00 a.m.
- (e) 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 Plainly Audible across any property boundary line between the hours of 9:00 p.m. and 6:00 a.m.
- (f) 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 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 location of where the sound can be heard.

8-904. 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 residential property, to allow or permit a person or group of persons to create a Noise Disturbance as defined in § 8-903 of the city code.

- (b) The Property Owner, Tenant or other such person with control, occupancy, or possession of property, shall be responsible for abatement of Noise Disturbances occurring on that property and failure to do so shall be a violation of this section

8-905. Exemptions. The following shall not be considered Noise Disturbances for purposes of this ordinance:

- (a) Sound from law enforcement motor vehicles and other Emergency Motor Vehicles including, but not limited to, snow-clearing equipment.
- (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.
- (c) Sound that a person is making or causing to be made when said person has received and maintains a valid license or permit which specifically allows sound levels in excess of those set forth in this ordinance from any department, board or commission of the City authorized to issue such license or permit.
- (d) 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.
- (e) Sound from loading, unloading or collecting refuse by a solid waste refuse hauler.

8-906. Penalty.

- (a) Upon a first conviction for a violation of this chapter, the Court shall assess a fine of fifty dollars (\$50.00) plus court costs. Upon a second conviction, the Court shall assess a fine of one hundred fifty dollars (\$150.00) plus court costs. Upon a third or subsequent conviction, the Court shall assess a fine of two hundred fifty dollars (\$250.00) plus court costs. No prior conviction shall be considered in determining the penalty to be assessed if twenty-four (24) months have elapsed between the date of the violation and the date of the conviction next immediately preceding the sentencing date.
- (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) If a City of Rose Hill law enforcement officer determines that a violation of any provision of this ordinance exists, they shall order that the person or persons desist forthwith. Failure to comply with such order shall be deemed a separate and distinct violation of this ordinance.

Section 2. Any prior ordinances conflicting with this ordinance of the City of Rose Hill are hereby repealed.

Section 3. This Ordinance shall take effect and be in force from and after publication in the official city newspaper.

PASSED AND APPROVED this 19th day of August, 2024.

Gary Weaver
GARY WEAVER, Mayor

ATTEST:

Kelly Mendoza
KELLY MENDOZA, City Clerk

[SEALS]



I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL ORDINANCE; THAT SAID ORDINANCE WAS PASSED ON THE 19th DAY OF August, 2024; THAT THE RECORD OF THE FINAL VOTE ON ITS PASSAGE IS FOUND ON PAGE 2 OF THE MINUTES; A CERTIFIED SUMMARY OF THE ORDINANCE WAS PUBLISHED IN THE Rose Hill Reporter ON THE 22ND DAY OF August, 2024.

Kelly Mendoza
CITY CLERK