

ORDINANCE No. 252

AN ORDINANCE PROHIBITING EXCESSIVE NOISE IN THE CITY OF McFARLAND:

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

Section 1. Loud, disturbing noises—Prohibited.

It is unlawful to intentionally, knowingly or recklessly make, permit or assist another to make unreasonable noise in a public place or near a private residence that a person has no right to occupy, which, under all of the circumstances presented, would cause an objective reasonable person of ordinary sensitivities significant annoyance and irritation within the limits of the city. The following noises and circumstances shall be deemed as prima facie unreasonable in the context, however, of the standards listed in this ordinance:

Section 2. Same—Unnecessary noise standard.

The following acts, among others, are declared to violate section 1 and are deemed as prima facie unreasonable, but said enumeration shall not be deemed to be exclusive, to-wit:

(1) *Radios, phonographs, cassette/CD/DVD players etc.* The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at anytime with louder volume than is necessary for convenient hearing by the person or persons who are in the room, vehicle, or on the property upon which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, vehicle or property upon which it is located shall violate this ordinance.

(2) *Loudspeakers, amplifiers for advertising.* The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for

the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(3) *Animals, birds, etc.* Owning, possessing or harboring any animal, reptile or bird which frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a real property boundary.

Section 3. Same—Factors to be considered.

The factors which shall be considered in determining whether a violation of section 1 exists shall include, but shall not be limited to, the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature and zoning of the area within which the noise emanates, as well as where the noise can be heard.
- (8) The density of inhabitation of the area within which the noise emanates.
- (9) The time of the day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent or consistent.
- (12) Whether the noise is produced by a commercial or noncommercial activity.

Section 4. Same – Penalties. A violation of any provision of this ordinance is a misdemeanor offense to which the general penalty section (1-112) of the McFarland Municipal Code applies.

Section 5. REPEAL. Any Ordinance or Resolution in conflict herewith is hereby repealed.

Section 6. EFFECTIVE DATE. This ordinance shall be published once in the official city newspaper and shall be in effect after its publication.

PASSED AND ADOPTED THIS 13th DAY OF FEBRUARY, 2014 BY THE GOVERNING BODY OF THE CITY OF McFARLAND, KANSAS.

(SEAL)

Tom Dillingham, Mayor

Larry Senne, City Clerk