

**ORDINANCE NO. 1452**

**AN ORDINANCE AMENDING CHAPTER XI PUBLIC OFFENSES OF THE CITY CODE PERTAINING TO UNNECESSARY LOUD NOISES WITHIN THE CORPORATE CITY LIMITS.**

WHEREAS, the Governing Body of the City of Marion, Kansas finds it in the best interest of the City to add & amend the adopted City Code as recommended by the City Attorney, Chief of Police and City Administrator;

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MARION, KANSAS:**

**SECTION 1:**

**CHAPTER XI PUBLIC OFFENSES OF THE MARION CITY CODE BE AMENDED TO READ AND INCLUDE:**

**11-201. Public defecation.**

(a) Public defecation is the act of discharging waste matter from the human body, either fecal matter or urine, done in a public place other than in an area, structure, or facility specifically provided for such purpose.

(b) Public defecation is hereby declared to be unlawful, and any person convicted of public defecation as defined by subsection (a) shall be guilty of a misdemeanor and punished by a fine not to exceed One Hundred Dollars (\$100.00) or by imprisonment for a period of not more than thirty (30) days or by both such fine and imprisonment.

(Ord. 975; Ord:1452: Code 2014)

**11-202. Loud sound amplification systems prohibited.**

(a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle.

(b) Sound amplification system means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

(c) Plainly audible means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight, words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot, or driveway.

(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system and that any of the following apply:

- (1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
- (2) The vehicle was an emergency or public safety vehicle;

- (3) The vehicle was owned and operated by the City of Marion or a gas, electric, communications or refuse company;
- (4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances of the City of Marion;
- (5) The vehicle was used in authorized public activities, such as parades, fireworks, sport events, musical productions and other activities which have the approval of the department of the City authorize to grant such approval.

(Ord. 1171; Ord. 1452: Code 2014)

### **11-203. Unnecessary loud noises within the city limits**

(a) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this code, but said enumeration shall not be deemed to be exclusive, namely:

- (1) Horns, Signaling Devices, Etc.: The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonable loud or harsh sound; and the sounding of any device for an unnecessary and unreasonable period of time.
- (2) Stereos, Etc.: The using, operating, or permitting to be played, used or operated any stereo receiving set, musical instrument, 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 any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machines or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, machine or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- (3) Loud Speakers, Amplifiers for Advertising: The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loud speaker, 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.
- (4) Exhausts: The discharge into the open air of the exhaust of any, stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (5) Defect in Vehicle or Load: The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(b) Any person convicted of Unnecessary Loud Noises Within the City as defined by subsection (a) shall be guilty of a misdemeanor and punished by a fine not to exceed Five hundred dollars (\$500.00) or by imprisonment for a period of not more than thirty (30) days or by both such fine and imprisonment.

(Ord; 1452: Code 2019)

**SECTION 2:** This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the City and after its summary publication in the official City newspaper.

**ADOPTED AND PASSED** by the governing body of the City of Marion, Kansas on August 12, 2019 and **APPROVED AND SIGNED** by the Mayor.

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Todd Heitschmidt, Mayor

ATTEST:

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Tiffany Jeffrey, City Clerk