

any such accumulations from the premises within a reasonable time not less than ten days but not to exceed 30 days. In the event the accumulation has not been removed within the period designated by the Chief of Police, the Department of Streets and Sanitation is authorized to enter upon the premises and remove the unlawful accumulations. The cost of removal of the unlawful accumulations shall be a lien upon the real estate from which those accumulations are removed, and the Streets and Sanitation Commissioner shall certify the costs of the removal to the City Clerk-Treasurer, who shall in turn certify the costs to the Treasurer of the county in question for collection in the same manner as real estate taxes are collected upon the premises.

(C) Any person, firm, or corporation violating the provisions of division (A) hereof or failing to comply with the order of the Chief of Police for the removal of any unlawful accumulation as provided in division (B) hereof shall, upon being found guilty, be fined, which fine shall be in addition to the imposition of any liens in the manner provided by this section.

(¹83 Code, § 6-56) Penalty, see § 10.99

NOISE CONTROL

§ 93.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL AREA. Any parcel of land zoned as B-1, B-2, or PD-B under the Zoning Ordinance.

dB(A). The intensity of a sound expressed in decibels read from a calibrated sound level meter using the A-level weighting scale and the slow meter response, as specified by the American National Standard Institute.

DECIBEL. A unit measure of sound level. The symbol is *dB*.

DOMESTIC POWER EQUIPMENT. Any equipment or device rated at 20 horsepower or less and used for home or building repairs and grounds maintenance.

EMERGENCY WORK. Any activities performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by existing or imminent peril.

INDUSTRIAL AREA. Any parcel of land zoned as I-1 or PD-I under the Zoning Ordinance.

PERSON. Any individual, association, partnership, or corporation.

PROPERTY LINE. The real or imaginary line and its vertical extension, which separates the real property owned, leased, or occupied by any person from contiguous real property owned, leased, or occupied by any other person.

PUBLIC PROPERTY. All real property which is owned or controlled by a governmental entity, and shall include any public rights-of-way, public buildings, parks, and waterways.

PUBLIC RIGHT-OF-WAY. Any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley, or any other property, which is owned or controlled by a governmental entity.

RESIDENTIAL AREA. Any parcel of land zoned as R-1, R-2, R-3, R-4, or PD-R under the Zoning Ordinance.

SOUND AMPLIFICATION SYSTEM. Any apparatus used for the amplification of sounds from any radio, tape player, cassette player, compact disk player, loudspeaker, sound amplifier, alarm, or other sound-generating device, including any apparatus for the amplification of the human voice. (Ord. 1317, passed 9-6-01)

§ 93.21 COMMUNITY NOISE LEVEL STANDARDS; MEASUREMENT.

(A) Sound levels by receiving land use.

(1) No person shall create, cause to be created, permit to be created, or otherwise generate any source of sound in a manner that creates a sound level which exceeds the following limits for the receiving land use category when measured at or within the property line of the receiving land use.

<i>Sound Level Limits by Receiving Land Use</i>		
<i>Receiving Land Use Category</i>	<i>Time</i>	<i>Sound Level Limit</i>
Residential area	7 a.m. to 10 p.m.	65 dB(A)
Residential area	10 p.m. to 7 a.m.	55 dB(A)
Commercial area	7 a.m. to 10 p.m.	75 dB(A)
Commercial area	10 p.m. to 7 a.m.	65 dB(A)
Industrial area	All times	75 dB(A)

(2) When a noise source can be identified and its sound measured in more than one land use category, the sound level limit of the most restrictive land use category shall apply.

(B) *Measurement procedure.* The sound level meter shall be operated according to the instrument manufacturer's instructions and as follows.

(1) *Microphone orientation.* The microphone shall be pointed toward the allegedly offensive noise source, unless the instrument manufacturer's instructions specifically indicate otherwise.

(2) *Meter setting.* The meter shall be set for the A-weighted network and slow response mode.

(3) *Calibration.* An external calibration check and battery check shall be made before and after each use.

(4) *Meter readings.* The recorded reading shall be the highest sound level obtained with the allegedly offensive noise source in operation, disregarding unrelated peaks due to extraneous ambient noises.

(5) *Ambient conditions.* Measurements shall be made only when the A-weighted ambient sound level, including wind effects and all sources other than the noise source being measured, is at least 10 dB(A) lower than the sound level of the noise source being measured; provided, however, that no source shall emit noise in excess of 86 dB(A) when measured 25 feet or more from the source.

(6) *Location.* Sound levels shall be measured at the approximate location of the property line or the boundary of the public property, at a height at least four feet above the immediate surrounding surface.

(7) *Operator location.* In no case shall the operator or observer be closer than two feet from the system's microphone, nor shall he or she locate himself or herself between the microphone and the noise source being measured.

(C) *Specifically excluded.* This section does not apply to motor vehicles or sound amplification systems operated on public property.

(Ord. 1317, passed 9-6-01) Penalty, see § 10.99

§ 93.22 NOISE LEVEL STANDARDS; MOTOR VEHICLES AND SOUND AMPLIFICATION SYSTEMS.

(A) *Sound levels by sound amplification system.* No person shall play, use, operate, or permit to be played, used, or operated any sound amplification system if it is located in or on any of the following, and if the sound generated is plainly audible to any other person measured at a distance at least 100 feet from the sound amplification system:

(1) Any public property, including but not limited to any street, alley, highway, sidewalk, park, or other public property; or

(2) Any motor vehicle on a public street, alley, highway, park, or other public property.

(B) *Sound levels by motor vehicles.*

(1) No person shall operate any motor vehicle on a public street, alley, highway, park, or other public property in which the engine, muffler, exhaust, and/or other noise control equipment has been altered, removed, or maintained in disrepair so as to generate a sound plainly audible to any other person measured at a distance at least 100 feet from the motor vehicle.

(2) No person operating a motor vehicle containing a jake brake shall apply the jake brake within the city limits.

(C) *Measurement procedures.* Measurement of the audible sound shall be by the auditory senses and based upon direct line of sight.

(Ord. 1317, passed 9-6-01) Penalty, see § 10.99

§ 93.23 EXEMPTIONS.

The sound levels in §§ 93.21 and 93.22 shall not apply to sounds emitted from:

(A) Authorized emergency vehicles, public safety vehicles, or from public safety officials acting in the scope of their authority;

(B) Vehicle horns, sirens, or other devices used as a warning of danger or an emergency;

(C) Passing trains;

(D) Properly operating building alarms or vehicle alarms;

(E) Stationary emergency signaling devices, such as severe weather sirens;

(F) Any emergency work;

(G) Communication of any message in any public forum between the hours of 8 a.m. and 8 p.m.;

(H) Any activity authorized by the Board of Public Works and Safety, Board of Parks and Recreation, or any other governmental body having jurisdiction and control over the property, including parades, festivals, sporting events, concerts, or fireworks displays;

(I) Any recreational and educational activity including, but not limited to, school bands and neighborhood ball games. Any recreational and educational activity taking place between the hours of 11 p.m. and 6 a.m. shall not exceed the maximum sound levels specified in §§ 93.21 and 93.22;

(J) Any construction equipment operated during the time period between 6:30 a.m. and 8 p.m., provided that this equipment shall be equipped with a properly installed muffler in good working order. Construction equipment operated between the hours of 6:30 a.m. and 8 a.m. to the extent allowed by federal, state, or local ordinance shall not exceed the maximum sound levels specified in §§ 93.21 and 93.22;

(K) Any detonation of explosives used to fragment rock for mining, quarrying, excavation, and construction;

(L) Any domestic power equipment operated during the time period between 6 a.m. and 10 p.m., provided that this equipment does not exceed a sound level of 80 dB(A) when measured at a minimum of 25 feet from the noise source. Domestic power equipment operated between the hours of 10 p.m. and 6 a.m. shall not exceed the maximum sound levels specified in §§ 93.21 and 93.22;

(M) Licensed refuse collection vehicles operated during the time period between 7 a.m. and 10 p.m. Sounds emitted from licensed refuse collection vehicles operated between the hours of 10 p.m. and 7 a.m. shall not exceed the maximum sound levels specified in §§ 93.21 and 93.22;

(N) Aircraft; and

(O) Noise sources with multi-family dwellings, offices, apartment complexes, condominiums, and similar structures occupied by more than one tenant, which impact only those persons within the same dwelling, office, complex, or building.
(Ord. 1317, passed 9-6-01)

§ 93.24 UNDUE HARDSHIP; TEMPORARY PERMIT.

(A) Applications for a permit for relief from the sound level limits designated in this subchapter may, on the basis of undue hardship, be made to the Board of Public Works and Safety. Any permit granted by the Board of Public Works and Safety hereunder shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective.

(B) The Board of Public Works and Safety may grant the relief as applied for only if it is found that:

(1) Additional time is reasonably necessary for the applicant to alter or modify his or her activity or operation to comply with this subchapter;

(2) The activity, operation, or noise source will be of a temporary duration, and cannot be done in a manner that would comply with this subchapter;

(3) No other reasonable alternative is available to the applicant; and

(4) The applicant represents and the Board of Public Works and Safety finds that the noise source as permitted will not violate recognized safety standards. The Board of Public Works and Safety may prescribe any reasonable conditions or requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(5) The above provisions contained in this division (B) shall be separate from and shall not limit in any way those specific provisions for relief referenced at § 93.26(H) below.
(Ord. 1317, passed 9-6-01)

§ 93.25 VIOLATIONS.

(A) A citation may be issued for a violation under this subchapter, subjecting the violator to a fine. The citation shall be filed with the City Court or with any other court of competent jurisdiction in the counties.

(B) For the purposes of this subchapter, the violator shall be the person or persons who created, caused to be created, permitted to be created, or otherwise generated any source of sound in a manner that creates a sound level exceeding the limits for the receiving land use category as established by this subchapter; the person or persons in possession of a sound amplification system played, used, or operated in violation of this subchapter; or the person in control of a motor vehicle operating in violation of this subchapter.

(Ord. 1317, passed 9-6-01) Penalty, see § 10.99

§ 93.26 SPECIFIC PROHIBITED NOISES.

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

(A) 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 a vehicle signaling device of any unreasonably loud or harsh sound, and the sounding of such a device for an unnecessary and unreasonable period of time; or the use of any signaling device except one operated by hand or electricity, the use of any horn, whistle, or other device operated by engine exhaust, and the use of any such signaling device when traffic for any reason is held up;

(B) The 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 a manner so as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing of the person or persons who are in the room, vehicle, or chamber in which the device is operated and who are voluntary listeners thereto. The

operation of this type of set, instrument, phonograph, machine, or device between the hours of 11 p.m. and 7 a.m. in a manner so 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;

(C) The 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; provided, however, that any person or organization upon petition to the Chief of Police or Acting Chief of Police of the city may secure a permit to operate a loudspeaker for a temporary time and under conditions as approved by the Police Department, provided the proposed use is determined by the police to be in the public interest of the citizens of the city;

(D) The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity;

(E) The blowing of any locomotive steam whistle or air horn or steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon the request of the proper city authorities;

(F) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud, vibrating, or explosive noises therefrom;

(G) The erection, including excavation, demolition, alteration, or repair of any building other than between the hours of 6:30 a.m. and 8 p.m. Monday through and including Saturday, and 10 a.m. and 8 p.m. on Sunday, except in cases urgently necessary in the interest of public health and safety, and then only with a permit to be issued by the Building Commissioner of the city;

(H) The operation between the hours of 10 p.m. and 7 a.m. of any pile driven steam shovel, pneumatic hammer, derrick steam or electric hoist, power lawn mower, or other appliances, the use of which is attended by loud or unusual noises, unless any specific use is specifically found by the city's Board of Public Works and Safety after petition thereto by any requesting party:

(1) To be in the public interest;

(2) To be in the best interests of the public benefit or welfare; or

(3) To be otherwise necessary for economic or other business interest or by reason that the prohibition of the use during that time period would provide an undue or unreasonable hardship on the party requesting the use, so long as that use shall not provide an undue and unreasonable hardship on any other party.

(I) The creation of any excessive noise on any street adjacent to any school, church, hospital, or nursing home while same are in use, which unreasonably interferes with the working of those institutions or which disturbs or unduly annoys patients in the hospital or nursing home, provided signs are displayed in those streets;

(J) The operation of any automobile, truck, or truck-tractor over the streets of the city so as to create unreasonable, loud, explosive, or vibrating noises which unreasonably prohibit the enjoyment of private property abutting the streets; or

(K) The running of any motor or permitting the running of any motor in an automobile, truck, tractor, or refrigerated trailer while the same is parked in any street, public way, or private parking lot within 100 feet of any residence within the city.

(` 83 Code, § 6-35) (Am. Ord. 1106, passed 9-11-89; Am. Ord. 1226, passed 11-18-96) Penalty, see § 10.99