

ARTICLE III. NOISE

Sec. 391-301. Public policy.

It is hereby declared, as a matter of public policy of this city:

(1) That the making of sound of a volume, frequency, pattern, or duration that prohibits, disrupts, injures, or endangers the health, safety, welfare, prosperity, comfort, or repose of persons of ordinary sensitivities within the city has so increased as to constitute a public nuisance; and

(2) That the sole intent of the provisions of this chapter is declared to be, as a matter of legislative determination for this declaration of public policy, to secure and promote the health, safety, welfare, prosperity, comfort, and repose of persons in this city by reducing unreasonable noise, and a determination of violation of this chapter may not be based on the content of any message conveyed during the creation of any noise or the identity of any person responsible for or associated with the creation of any noise.

(Code 1975, § 18-1; G.O. 30, 2006, § 1)

Sec. 391-302. Unlawful noises.

(a) For purposes of this chapter, unreasonable noise shall mean sound that is of a volume, frequency, or pattern that prohibits, disrupts, injures, or endangers the health, safety, welfare, prosperity, comfort, or repose of reasonable persons of ordinary sensitivities within the city, given the time of day and environment in which the sound is made.

(b) Except as otherwise provided in this section, it shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonable noise.

(c) In addition to the foregoing, any person who performs any of the acts enumerated in this subsection, or who causes or allows the performance of any of such acts in or upon any property owned, occupied, or controlled by him, shall be in violation of this section.

(1) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle in any public street or public place of the city, in a manner that makes unreasonable noise and continuing to do so after being asked to stop.

(2) *Machines and devices for producing sound.* Playing, using, or operating, or permitting to be played, used, or operated, any radio, television, digital media player, loudspeaker, sound amplifier, musical instrument, or any machine or device for producing or reproducing sound in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect. The operation of any such machine or device in a manner that produces sound plainly audible to a person with normal hearing:

- From any place other than the property on which the sound source is located when the machine or device is being operated between the hours of 10:00 p.m. and 7:00 a.m.;
- From a distance greater than seventy-five (75) feet from the sound source of the machine or device when it is located in any public street or public place of the city; or
- In any public conveyance other than a taxicab or jitney, except for a person who is voluntarily listening to the machine or device through earplugs; shall be prima facie

evidence of a violation of this subsection, except when a permit granted therefor for some special occasion is in effect.

(3) *Yelling or shouting.* Yelling, shouting, hooting, whistling, or singing in any public street or public place of the city in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect.

(4) *Animals or birds.* The keeping of any animal or bird that makes unreasonable noise and the failure to prevent the continuation of the unreasonable noise after being asked to do so.

(5) *Steam whistles.* The blowing of any locomotive steam whistle, or steam whistle attached to any stationary boiler, or one (1) operated by any other means, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of the proper city authorities, in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefore for some special occasion is in effect. The blowing of any such whistle between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the sound source is located shall be prima facie evidence of a violation of this subsection, except when a permit granted therefor for some special occasion is in effect.

(6) *Exhausts blowers, engines, and motors.* The operation or use of any engine, motor, power unit on a motorboat, motor vehicle, motorcycle, or other vehicle or craft of any kind, blower or power fan in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect; or operation or possession in any public street or public place of the city of any motor vehicle, motorcycle, or other machine powered by an engine or motor equipped with straight pipes, baffles, muffler cutouts, bypasses, an expansion chamber, or any exhaust system constructed or capable of being operated so that the exhaust bypasses the muffler or noise-reducing device, except when a permit granted therefor for some special occasion is in effect. Operation or possession of any engine, motor, power unit, blower, or power fan not equipped with a muffler or other noise-reducing device that complies with applicable federal, state, and local standards:

a. In any public street or public place of the city between the hours of 10:00 p.m. and 7:00 a.m.; or

b. Between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the sound source is located, shall be prima facie evidence of a violation of this subsection. This subsection shall not apply to persons who are entrants or participants in a scheduled race or sporting event that involves the use of racing motor vehicles or equipment while involved in such activities, nor to owners or operators of equipment or devices used in the construction, demolition, or similar labor or maintenance trades.

(7) *Defect in vehicle or load.* The use of any automobile, motorcycle, or other vehicle so out of repair, or so loaded, or in such manner as to create unreasonable grating, grinding, rattling, or other **noise** and continuing to do so after being asked to stop.

(8) *Loading, unloading, opening boxes.* The loading or unloading of any vehicle, or the opening or destruction of bales, boxes, crates, or containers in a manner that makes unreasonable **noise** and continuing to do so after being asked to stop. The emptying, pickup, or delivery of any trash container exceeding six (6) cubic feet between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the trash container is located, shall be prima facie evidence of a violation of this subsection.

(9) *Construction or repairing of buildings.* The erection, demolition, alteration, or repair of any building, or the excavation therefor between the hours of 7:00 p.m. and 7:00 a.m., except:

a. In the case of urgent necessity in the interest of public health and safety, and then only with a permit from the division of compliance of the department of metropolitan development, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days while the emergency continues; or

b. If the division of compliance determines that the public health and safety will not be impaired by sound made by such work between the hours of 7:00 p.m. and 7:00 a.m., and that loss or inconvenience would result to any party in interest, and the division grants permission for such work to be done between the hours of 7:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is issued or during the progress of the work.

(10) *Schools, courts, churches, hospitals.* The making of **noise** that is plainly audible to a person with normal hearing above normal ambient **noise** levels at a distance of fifty (50) feet from the source of the **noise** on any street adjacent to any school, institution of learning, church, court, or hospital while it is in use, provided that conspicuous signs are displayed in such streets indicating that the area is a school, hospital, or other such quiet zone, shall be prima facie evidence of a violation of this section, except when a permit granted therefor for some special occasion is in effect.

(11) *Transporting metal rails, pillars, and columns.* The transportation of rails, pillars, or columns of iron, steel, or other material over and along any public street or other public place of the city, upon carts, drays, cars, or trucks in any manner that makes unreasonable **noise** and continuing to do so after being asked to stop.

(12) *Railway cars, buses.* Causing or permitting unreasonable **noise** in the operation of a bus or railway car by reason of defective conditions therein or of its tracks and continuing to do so after being asked to stop.

(13) *Pile drivers, hammers.* The operation between the hours of 7:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, except:

- a. When being operated by a public utility in connection with emergency repairs of such utility; or
- b. If the division of compliance of the department of metropolitan development determines that the public health and safety will not be impaired by sound made by such operation between the hours of 7:00 p.m. and 7:00 a.m., and that loss or inconvenience would result to any party in interest, and the division grants permission for such operation between the hours of 7:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is issued or during the progress of the work.

(14) *Vendor's vehicle.* Using, operating or playing, or permitting to be used, operated, or played, any bell, radio, musical instrument, loudspeaker, sound amplifier, or other machine or device for producing or reproducing sound in or upon any vehicle used for the transportation and sale of any goods, wares or merchandise in any public street or public place of the city, which equipment is set to produce any noise, music, or sound in excess of one hundred fifteen (115) decibels, measured at six (6) inches from the sound-producing amplifier of the speaker; the use or operation of any vehicle so equipped, with such sound-producing equipment in operation, between the hours of 10:00 p.m. and 10:00 a.m., in any public street or public place; or the operation of such sound-producing equipment on any vehicle moving along or upon any public street or public place.

(d) The first violation in any twelve (12) month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with chapter 103 of this Code. All second and subsequent violations in any twelve (12) month period are subject to the enforcement procedures and penalties provided in section 103-3 of this Code, and the fine imposed for a second violation in any twelve (12) month period shall not be less than two hundred fifty dollars (\$250.00), and the fine for any subsequent violation in any twelve (12) month period shall not be less than five hundred dollars (\$500.00).

(Code 1975, § 18-2; G.O. 3, 2002, § 5; G.O. 30, 2006, § 1)

Sec. 391-303. Reserved.

Editor's note: General Ord. No. 30, 2006, § 2, adopted Feb. 13, 2006, repealed § 391-303 in its entirety. Formerly, said section pertained to noisy houses disturbing the peace as enacted by Code 1975, § 20-46.