

§ 93.09 PUBLIC NUISANCES CAUSED BY SOUND.

(A) *Hours.* Between the hours of 10:00 p.m. and 6:00 a.m., no person shall make or assist in making any loud, disturbing or unnecessary noises which would unreasonably annoy or disturb the peace, quiet, comfort, repose, health or safety of others in the city.

(B) *Unlawful acts.* The following acts are hereby declared to be loud, disturbing and unnecessary noises and are public nuisances in violation of this ordinance but said enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn, whistle, siren or signaling device except as a danger warning;

(2) The play, use or operation of any radio, stereo, tape player, disc player, musical instrument, phonograph, loud speaker, sound amplifier or any other machine or device used for the production or amplification of sound in such a manner as to be audible at a distance of 50 feet from said machine or device;

(3) The operation of any noise-creating vehicle, machinery or equipment powered by an electric or internal combustion engine unless such engine is equipped with a muffler device sufficient to deaden such noise;

(4) The operation of any other vehicle in such manner as to create through the use of any mechanical component of said vehicle, noise which is audible at a distance of 50 feet from said vehicle. This section shall include the use of “jake brakes” by motor vehicles unless such use is required as a result of an emergency situation;

(5) Excavation activities or erection, demolition, alteration or repair of any structure in such a manner as to create noise which is available at a distance of 50 feet from the site thereof.

(C) *Permitted acts.* This section shall not apply to sound produced by the following:

(1) Amplifying equipment used in connection with an activity sponsored by Benson Public Schools or by the city or for which a permit has been granted by the city provided that such use is consistent with the provisions of such permit;

(2) Anti-theft devices and security alarms;

(3) Machines or devices for the production of sound or in authorized emergency vehicles;

(4) Horns, sirens, whistles or other signaling devices when used as a danger

warning;

(5) Excavation, construction, demolition, alteration or repair activities when authorized by the City Building Inspector in an emergency situation or when required to protect health and/or safety;

(6) Snow removal operations on commercial property or public rights-of-way;

(7) Church bells, chimes, carillons or school bells.

(D) *Scope of applicability.* The terms of this section shall apply to any loud, disturbing or unnecessary sound whether produced on public or private property and whether indoors or outdoors or in a motor vehicle.

(E) *Responsible person for violations involving motor vehicles.* When sound violating this section is produced by a machine or device that is located in or on a motor vehicle, the vehicle's owner shall be guilty of the violation of this section unless the owner is not present, in which case, the person in charge of the vehicle at the time of the violation shall be guilty of the violation of this section.

(F) *Non-exclusivity.* This section is supplemental to and does not supercede any other provision of this city code or state law.

(Ord. 1106.01, passed 6-11-01) Penalty, see § 10.99