

CHAPTER 100. NOISE*

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Sec. 100.01. Conduct prohibited; examples.

(A) *Conduct prohibited.* It shall be a violation of this chapter for a person to make any loud, raucous, improper, unreasonable, offensive, or unusual noise which disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the city, and continues to do so after being asked to stop by a law enforcement officer of the city.

(B) *Examples.* The following acts, among others are declared to be loud, raucous or disturbing noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive:

- (1) 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 any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, or chamber in which such machine or device is operated and who is a voluntary listener. The operation of any such set, instrument, phonograph, machine, or device in such a manner on property, and in an apartment, office, structure, sidewalk, or vehicle, shall be prima facie evidence of a violation of this chapter.
- (2) 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

*Cross reference—Barking, howling, and yelping dogs, see § 90.12

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

- (3) Yelling, shouting, hooting, whistling, or singing on the public streets or other public right-of-way at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence or of any person in the vicinity.
- (4) 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 through external speakers on any public transportation vehicle.
- (5) The creation of any loud and raucous noise on any street adjacent to any school, institution of higher learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which unduly disturbs the patients in the hospital; provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (6) The creation or emission from any person, or from any other noise source, any noise which annoys or disturbs the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence or of any person in the vicinity.
- (7) The participation in, or permitting of, any parties or gatherings which create loud or raucous noise.

(Ord. No. 85-88, 1-2-89)

Sec. 100.02. Procedure of proper city authority.

Except when authorized or directed under state law to immediately take a person before a city judge for a nuisance violation, the proper city authority who halts a person for such violations other than for the purpose of giving him a warn-

ing or warning notice and does not take such person into custody, shall take the name, address and social security number of such person and such other pertinent information as may be necessary, and shall issue to him, in writing on a form provided by the city, a citation containing a notice to answer to the charge against him in the city court. The proper city authority, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody.
(Ord. No. 85-88, 1-2-89)

Sec. 100.03. Failure to obey citation.

It shall be unlawful for any person to violate his written promise to appear that has been given to the proper city authority upon the issuance of a citation regarding an alleged nuisance violation, regardless of the disposition of the charge for which such citation originally issued.
(Ord. No. 85-88, 1-2-89)

Sec. 100.04. When warrant to be issued.

In the event any person fails to comply with a citation or fails to make an appearance pursuant to a notice directing any appearance in the city court, or if any person fails or refuses to deposit the amount of the fine as required and within the time permitted by this section, the city court clerk shall secure and issue a warrant for his arrest.
(Ord. No. 85-88, 1-2-89)

Sec. 100.05. Disposition of fines.

All fines collected upon conviction of any person charged with a violation of any of the provisions of this chapter shall be paid into the city treasury, as required by law.
(Ord. No. 85-88, 1-2-89)

Sec. 100.06. Exemptions.

Any event licensed, permitted, or sponsored by the city shall be exempt from the terms of this chapter.
(Ord. No. 85-88, 1-2-89)

Sec. 100.99. Penalty.

Anyone violating this chapter may be given a warning for each violation. The minimum fine for any violation shall be \$53.00. The maximum fine for any violation shall be \$300.00. Any person charged with such nuisance violation shall be cited to appear in the city court.
(Ord. No. 85-88, 1-2-89)

Editor's note—The penalty provisions of section 100.99 refers to sections 100.01 through 100.06

Sec. 100.100. Regulations governing the generation of sound.

(A) No person shall play, use or operate any machine or device for the producing or reproducing of sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs, cassette players or any other machine designed or intended to produce or reproduce sound, if such machine, device or vehicle is located in or on any of the following:

- (1) Any public property, including any public right-of-way, highway, building, sidewalk, public space, park or thoroughfare and the sound generated therefrom is (i) clearly audible 40 feet or more from its source, or (ii) is at a level of 90 decibels (90 dB) or more when measured from a distance of not less than six feet from it's source; or
- (2) Any private property and the sound generated therefrom is (i) clearly audible 40 feet or more outside of said private property line, or (ii) is at a level of 90 decibels (90 dB) or more when measured from a distance of not less than six feet from said private property line.

(B) The following are exempted from the provisions of this Ordinance:

- (1) Sounds emitted from authorized emergency vehicles.
- (2) Lawn mowers, garden tractors, construction equipment, and power tools, when properly muffled, between the hours of 7:00 a.m. and 10:00 p.m. only.
- (3) Burglar alarms and other warning devices when properly installed, providing

the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.

- (4) Parades, festivals, carnivals, fairs, celebrations, concerts, artistic performances or other events authorized by the board of public works and safety or another appropriate governmental entity.
- (5) Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.
- (6) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency work.
- (7) Sounds associated with the use of legal fireworks.
- (8) Sounds associated with the normal conduct of legally established non-transient businesses when such sounds are customary, incidental and within the normal range appropriate for such use.

(F) Nothing in this section shall be construed to limit any other rights or actions that may exist in law or in equity.
 (Ord. No. 27-00, §§ 1—6, 8-7-00; Ord. No. 56-00, §§ 1, 2, 11-13-00)

(C) Any person who violates the provisions of this section shall be guilty of an infraction, punishable by a fine of not more than:

First offense.....	Up to \$250.00
Second offense within two years	Up to \$500.00
Third offense within two years	Up to \$1,000.00
Fourth and subse- quent offenses within two years	Up to \$2,500.00

(D) The Muncie city court shall be the court of proper venue and jurisdiction for the enforcement of this section.

(E) Citations for violations of this section may be issued by any sworn police officer, constable or sheriff of the State of Indiana upon property operated by the Muncie schools by a sworn special police officers appointed under Indiana Code Section 36-8-3-7 to serve the Muncie schools.