

DIVISION 2. - NOISE

Sec. 19-121. - Prohibited.

- (1) It shall be unlawful for any person to make, continue or cause to be made any loud or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.
- (2) It shall be prima facie evidence of a violation of this division if any loud or unusual noise is audible by any person or police officer at a distance of 30 or more feet from the source or causes a person or police officer to be aware of the vibration accompanying the sound at a distance of 30 or more feet from the source.

(Code 1988, § 21-76; Ord. No. 1722, § I, 2-1-99)

Sec. 19-122. - Illustrative enumeration.

The following sections of this division shall be an illustrative enumeration of noises prohibited by this division, but shall not limit the enforcement of this division.

(Code 1988, § 21-77)

Sec. 19-123. - Horns and signaling devices.

The sounding of any horn or signaling device of any automobile, motorcycle, truck or other vehicle on any street or public place except as a danger warning; the creation by means of any such signaling devices of any unreasonable, loud or harsh sound; the sounding of such devices for any unnecessary and unreasonable period of time other than by accident or mechanical, electrical or other difficulty or failure; and the use of any such signaling device where traffic is held up shall be deemed a violation of this division.

(Code 1988, § 21-78)

Sec. 19-124. - Radios and phonographs.

The use or operation of any radio, phonograph or other sound-producing machine in such a manner as to disturb the peace and quiet of neighbors shall be deemed a violation of this division.

(Code 1988, § 21-79)

Sec. 19-125. - Loudspeakers and amplifiers.

The use or operation or permitting to be played, used, or operated any radio, receiver set, musical instrument, phonograph, tape recorder, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public in any residential area, except with the proper permit elsewhere prescribed in this Code, shall be deemed a violation of this division.

(Code 1988, § 21-80)

Sec. 19-126. - Yelling or shouting.

Yelling, shouting or creating other loud noises which annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or residence or of any persons in the vicinity shall be deemed a violation of this division.

(Code 1988, § 21-81)

Sec. 19-127. - Animals.

The keeping of any animals which, by causing frequent or long continuous noise, shall disturb the comfort or repose of any persons in the vicinity shall be deemed a violation of this division.

(Code 1988, § 21-82)

Cross reference— Animals generally, ch. 7.

Sec. 19-128. - Schools, courts, churches, hospitals.

The creating of any excessive noise on any street adjacent to any hospital, school, institution of learning, church or court which interferes with the workings of such institution or which disturbs or annoys patients in a hospital shall be deemed a violation of this division.

(Code 1988, § 21-83)

Sec. 19-129. - Pounding.

The pounding or hammering on any metal object or thing, except inside a building or in connection with the construction or erection of a building, shall be deemed a violation of this division.

(Code 1988, § 21-84)

Sec. 19-130. - Mufflers and exhaust devices.

The use of defective mufflers and other exhaust devices designed to permit the creating and maintaining of loud and disturbing noises while any automobile, truck or motorcycle engine is in operation, which disturbs the peace and quiet of a neighborhood, shall be deemed a violation of this division

(Code 1988, § 21-85)

Cross reference— Traffic, ch. 27.

Sec. 19-131. - Construction, repair or demolition work.

Construction, repair or demolition work to commercial or residential buildings, roadways, utility facilities or infrastructure other than between the hours of 7:00 a.m. and 6:00 p.m., which work disturbs the comfort or repose of others, shall be deemed a violation of this division except in case of urgent public necessity as determined by the city council.

(Code 1988, § 21-86; Ord. No. 1814, § I, 7-17-00)

Cross reference— Buildings and building regulations, ch. 30.

Sec. 19-132. - Limitations on the volume of sound emanating from vehicular sound amplification systems.

- (1) It is unlawful for any person operating or controlling a motor vehicle in either a public or private place within the city to operate any sound amplifier which is part of or connected to any radio, stereo receiver, compact disc player, cassette tape player, or other similar device in the motor vehicle, in such a manner that, when operated, it is audible by any person or police officer other than the occupants of the motor vehicle at a distance of 30 or more feet from the source or when operated,

causes a person or police to be aware of the vibration accompanying the sound at a distance of 30 or more feet from the source.

- (2) The provisions of this section do not apply to:
- a. An authorized emergency vehicle as defined in NMSA 1978, §§ 66-1-4.1(D) and 66-7-6;
 - b. Motor vehicles used for businesses or political purposes, properly permitted, which in the normal course of business use sound making devices;
 - c. Horns or warning devices required under NMSA 1978, § 66-7-6; or
 - d. Amplified sound activities permitted under section 19-134

(Ord. No. 1722, § II, 2-1-99)

Sec. 19-133. - Penalties.

- (1) A violation of any of the provisions of this division shall be a petty misdemeanor. When an offender commits a violation of this division, the offender shall be sentenced to a fine of not less than \$100.00 nor more than \$500.00. In addition, the offender may be sentenced up to 90 days in jail. The minimum fine of \$100.00 may not be suspended, deferred or taken under advisement. The court may, in its discretion, suspend the remainder of the fine as well as any jail time.
- (2) Where the complaint alleges a violation of this division, any plea of guilty or nolo contendere thereafter entered in satisfaction of the charges shall include at least a plea of guilty or nolo contendere to a violation of this division and no other disposition by plea of guilty or nolo contendere to any other charge shall be authorized.

(Ord. No. 1722, § III, 2-1-99; Ord. No. 2485, § I, 11-17-08)

Sec. 19-134. - Temporary permits.

- (1) The chief of police may grant a temporary permit which allows noncompliance with the limitations prescribed in this article for the purpose of amplified sound activities of short duration. The issuance of such permits will be only for a time period between 7:00 a.m. and 12:00 midnight and shall not exceed three consecutive days.
- (2) Permits shall be granted upon application, at no cost to applicant, provided an initial investigation assures that the permit will not result in a condition unreasonably injurious to the comfort, repose, health, peace or safety of others.
- (3) The following factors shall be considered, in the initial investigation, in order to determine whether granting the permit will result in a condition unreasonably injurious to the comfort, repose, health, peace or safety of others.
 - a. Distance of proposed activities from a residential zone.
 - b. Number of amplification devices to be used in the proposed activities.
 - c. Anticipated direction of amplification devices.
 - d. Anticipated length of proposed activities.
 - e. Whether the activity will be held within or without a structure.
 - f. Approval or disapproval of adjacent property owners.
 - g. Any other factors reasonably related to the comfort, repose, health, peace or safety of others.
- (4) Upon a determination that the granting of a permit will not result in a condition unreasonably injurious to the comfort, repose, health, peace or safety of others, the permit shall be issued specifying place, duration, and any restrictions appropriate to the proposed site of the activities.

- (5) Issued permits will be surrendered to any city police officer upon request when it is determined that the restriction of the permit specifying duration has been violated.
- (6) Reapplication for a permit may be denied upon evidence of a complaint(s) by a resident(s) in the locality of the permitted activity or if an applicant has in the past been required to surrender a permit as described in subsection (5) above.
- (7) No more than four permits shall be issued to an applicant within a calendar year.
- (8) Any person aggrieved by the disposition of an application for a temporary permit may appeal to the city manager such disposition by filing a written petition with the city manager or designee within 30 days of the disposition. The decision by the city manager shall be final.

(Ord. No. 1722, § IV, 2-1-99)

Sec. 19-135. - Violations; additional remedies; injunctions.

As an additional remedy (to the penalty set forth in section 19-133), the violation of any provision of this division may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 1722, § V, 2-1-99)

Secs. 19-136—19-160. - Reserved.