

NOISE

§ 100.02

CHAPTER 100. NOISE*

- Sec. 100.01. Conduct prohibited; examples.
 Sec. 100.02. Procedure of proper city authority.
 Sec. 100.03. Failure to obey citation.
 Sec. 100.04. When warrant to be issued.
 Sec. 100.05. Disposition of fines.
 Sec. 100.06. Exemptions.
 Sec. 100.99. Penalty.
 Sec. 100.100. Regulations governing the generation of sound.

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-

§ 100.02

MUNCIE CODE

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 \$59.00. 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 its 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

NOISE

§ 100.100

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 subsequent 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.

MUNCIE AREA PARTY PLAN

§ 101.05

CHAPTER 101. MUNCIE AREA PARTY PLAN

Sec. 101.01.	Definitions.
Sec. 101.02.	Recordkeeping.
Sec. 101.03.	Certification procedure.
Sec. 101.04.	Notification of owners and occupants.
Sec. 101.05.	Violation.
Sec. 101.06.	Appeal.
Sec. 101.07.	Penalty.
Sec. 101.08.	Venue.

Sec. 101.01. Definitions.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively:

Disturbance complaint means a complaint that is based upon a violation of chapter 100, or other unlawful activity that may take place at a party or social gathering, including, but not limited to, disorderly conduct, possession of alcohol by minors, or the use or possession of illegal substances.

Disturbance problem means that a dwelling has generated at least two enforcement actions where citations were issued or arrests made within a one-year period. In the event that a citation issued or arrest made pursuant to a particular enforcement action does not result in an infraction or other judgment, that enforcement action shall not be utilized as a basis to determine that a property is a disturbance problem.

Dwelling shall have the same meaning as provided in section 150.240 of the Zoning Code.

Enforcement action means that the police, upon responding to a disturbance complaint and substantiating that unlawful activity is occurring, take action to shut down the unlawful activity and issue any citation(s) or make any arrest(s), as appropriate.

No party property means a dwelling that has been identified and certified by the Muncie Police Department as being a disturbance problem.
(Ord. No. 70-05, § 2, 10-3-05)

Sec. 101.02. Recordkeeping.

The police department shall keep accurate and sufficient records such that it is able to readily

ascertain the number of disturbance complaints associated with any dwelling located within the city, any action taken by police, and the final disposition of such action.

(Ord. No. 70-05, § 3, 10-3-05)

Sec. 101.03. Certification procedure.

Upon determining that a dwelling is a disturbance problem, the police department shall immediately certify that property as a "No Party Property." A "No Party Property" certification shall be in effect for a period of one year from the date of the initial certification. If, during this one-year period, another disturbance complaint is received by the police and police take enforcement resulting in an infraction or other judgment, the certification shall automatically be extended to run for a period of one-year from the date of the latest disturbance complaint.

(Ord. No. 70-05, § 4, 10-3-05)

Sec. 101.04. Notification of owners and occupants.

Upon certifying a dwelling as a "No Party Property," the police department shall notify the property owner and occupant(s) by:

- (1) Providing a notice of such certification, along with a copy of the provisions of this chapter, via personal service or by certified or registered mail, to the street address listed for said property; and
- (2) In the event that the property is not owner-occupied, also providing a notice of such certification, along with a copy of the provisions of this chapter, via personal service or by certified or registered mail to the address of the owner of the property as it appears on the current tax assessment rolls.

(Ord. No. 70-05, § 5, 10-3-05)

Sec. 101.05. Violation.

(A) Any occupant of a dwelling that has been certified as a "No Party Property" by the police department who allows unlawful activity at that property which results in a disturbance complaint leading to enforcement action shall be in violation of this section.

§ 101.06

MUNCIE CODE

(B) In the event that a disturbance complaint is received by the police during the period of time that a dwelling is certified as a "No Party Property," the police department shall, upon substantiating that a violation is occurring, take immediate enforcement action, including the issuance of any and all appropriate citations for violation of this chapter.

(Ord. No. 70-05, § 6, 10-3-05)

Sec. 101.06. Appeal.

The property owner or occupant of a dwelling certified as a "No Party Property" may petition the board of public works and safety at any time to have the certification removed. Upon a sufficient showing that the basis for the problem has been adequately addressed and that the property is not likely to be location of a disturbance problem in the future, the board of public works and safety shall remove the "No Party Property" certification.

(Ord. No. 70-05, § 7, 10-3-05)

Sec. 101.07. Penalty.

Any person who violates section 101.05 shall be guilty of an infraction, punishable by a fine of not more than \$250.00. Any person found guilty of a second offense of this chapter which occurred within 12 months of the first offense shall be subject to a fine of not less than \$100.00 nor more than \$500.00. Any person found guilty of a third offense of this chapter which occurred within 12 months of the first and second offenses shall be subject to a fine of not less than \$250.00 nor more than \$750.00.

(Ord. No. 70-05, § 8, 10-3-05)

Sec. 101.08. Venue.

The Muncie City Court shall be the court of proper venue and jurisdiction for the enforcement of this chapter.

(Ord. No. 70-05, § 9, 10-3-05)