

Sec. 42-36. - Defenses.

The following defenses shall apply to any offense established in this article:

- (1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger or attempted crime.
- (2) The sound was produced by an authorized emergency vehicle.
- (3) The sound was produced by emergency work necessary to restore public utilities, or to restore property, to a safe condition, or to protect persons or property from imminent danger, following a fire, accident or natural disaster.
- (4) The sound was generated:
 - a. At a lawfully scheduled stadium event;
 - b. By a parade and spectators and participants on the parade route during a permitted parade;
 - c. By spectators and participants at lawfully scheduled amphitheater event;
 - d. By patrons and participants using cannons and gunfire during historical battle reenactment for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;
 - e. By a pyrotechnic display that was inspected and approved by the fire marshal;
 - f. By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert which was sponsored, cosponsored, or permitted by the city; or
 - g. Any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution.
- (5) The sound was produced by the erection, excavation, construction, demolition, alteration, or repair work, or the permitting or causing thereof, of any street, building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in any such activity conducted between the hours of 7:00 a.m. and 7:00 p.m. (unless otherwise approved by the Director of Planning & Development) and which activity did not produce a sound exceeding 75 dB(A) when measured from the nearest residential property where the sound is being received.
- (6) The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.
- (7) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 7:00 p.m. and which device did not produce a sound nuisance.
- (8) The sound was generated as authorized under the terms of a permit issued under section 42-38 of this article.
- (9) The sound was produced by church bells or church chimes when used as part of a religious observance or service during daytime hours and which did not exceed five continuous minutes in duration in any one-hour period.
- (10) The sound was produced by a sound amplification system on the property of a commercial business and the sound does not extend beyond the property under control of the commercial business from which the sound is being produced.

(Ord. No. 98-28, § 2, 8-11-1998; Ord. No. 2010-07, § 2(Exh. A), 2-23-2010)