AN ORDINANCE of the City of Kent, Washington, relating to noise control; amending the Noise Control Code (Ordinance 2113) by adding new sections prohibiting loud and raucous noise from portable or motor vehicle audio equipment, authorizing the enforcement of certain sections of the Code by the Chief of Police, providing for civil penalties for certain violations and repealing Ordinance 2673 on the same subject.

WHEREAS, excessive noise is a form of pollution which has direct and harmful effects upon the health and welfare of persons exposed to such sound, lowers the value of impacted properties and generally adversely affects the livability, peace and comfort of the impacted neighborhoods and the City as a whole; and

WHEREAS, due primarily to the sound characteristics and manner of use, excessive noise from portable and motor vehicle audio equipment such as tape players, radios and compact disc players is a particularly disruptive form of noise pollution involving said harmful effects and impacts upon persons, property, neighborhoods and, when occurring in or near vehicular traffic, such noise presents a danger to traffic safety; and

WHEREAS, excessive noise from said audio equipment occurring within the City’s park system has a harmful impact upon the use and enjoyment of park areas by other park users, has the effect of discouraging many from utilizing certain park areas and has caused said noise pollution harmful effects upon adjacent private properties, persons and neighborhoods; and
WHEREAS, noise from said audio equipment which can be clearly heard seventy-five (75) feet or more from the source of the sound is in excess of the maximum permissible sound levels allowed to be generated or received in either residential or commercial areas of the City, creating noise pollution within such areas; and, when occurring in or near vehicular traffic, presents a danger to traffic safety; and

WHEREAS, technology has allowed the proliferation of commercially accessible types of audio equipment, both portable and installed in motor vehicles, which can be amplified so as to produce excessive noise which can be clearly heard seventy-five (75) feet or more from the source of the sound; and

WHEREAS, the current noise control code provisions are ineffective to control the problem of excessive noise from audio equipment because they require actual noise meter measurement of sound, and enforcement by Building Department personnel in all instances, rather than by police officers who can immediately respond to reports of public disturbance noise complaints; and

WHEREAS, the City Council finds that excessive noise being generated from such equipment is a public nuisance and constitutes a public disturbance noise; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 1.2 of Ordinance 2113 is hereby amended as follows:

9.20.08 SCOPE. This Ordinance shall apply to the control of all sound ((and vibration)) originating from -2-
sources located within the limits of the City of Kent.

Section 2. Section 1.3 of Ordinance 2113 is hereby amended as follows:

9.20.12. DEFINITIONS.

A. Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.

B. "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter.

C. "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

D. "Emergency machinery and work" means machinery and work necessary to restore property to a safe condition following a public calamity, or machinery and work required to protect persons or property from an imminent exposure to danger.

E. "Impulsive sound" means either a single pressure peak or a single burst of multiple pressure peaks which occur for a duration of less than one second, as measured on a peak unweighted sound level meter.
F. "Noise" means the intensity, duration and character of sounds, from any and all sources.

((G----"Noise-disturbance"-means-any-sound-which-annoys, disturbs-or-perturbs-persons-with-normal-sensitivities, or-any sound-which-injures-or-endangers-their-comfort, health, hearing, peace-or-safety))

G. "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

H. "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented or leased by one or more other persons, and its vertical extension.

I. "Public nuisance noise" means any unreasonable sound which either annoys, injures, interferes with or endangers the comfort, repose, health or safety of an entire neighborhood or community, although the extent of damage may be unequal.

J. "Receiving property" means real property at the boundaries of which the maximum permissible noise levels specified in this Chapter shall not be exceeded from sources outside such property.

K. "Sound level meter" means a device which measures sound pressure levels and conforms to type 1 or type 2 as specified in the American National Standards Institute publication S 1.4-1971. An impulse sound level meter shall be a peak or impulse, unweighted sound level meter which is capable of
measuring impulse sound in conformance with the Type 1 or Type 2 specifications of ANSI 1.4-1971.

((Lr---"Sound-level"-means-a-weighted-sound-pressure-level measured-by-use-of-a-sound-level-meter-using-an-"A"-weighted network-and-reported-as-BBA-or-DB(t)\(r\)))

Section 3. Section 1.4 of Ordinance 2113 is hereby amended as follows:

9.20.1((6))8. STATE ENABLING LEGISLATION. This Chapter is in conformance with RCW 70.107, Noise Control, and Chapter 173-58 WAC, Sound Level Measurement Procedures.

Section 4. Section 1.5 of Ordinance 2113 is hereby deleted.

Section 5. Section 1.6 of Ordinance 2113 is hereby amended as follows:

9.20.2((4))2. NOISE CONTROL OFFICE (NCO)--PROGRAM DEVELOPMENT. The Building Department shall be designated the Noise Control Office (NCO) for coordination of the sound level measurement aspects and enforcement of all sections this Chapter with the exception of Sections 9.20.106 and 9.20.110, and for the general purpose of sound and vibration abatement and control. ((The-Noise-Control-Office-{NCO}-shall-have\(r\)-in-addition-to-any other-authority-vested-in-it\(r\)-the-power-to\(r\)

A\(r\)-Conduct\(r\)-or-cause-to-be-conducted\(r\)-research monitoring\(r\)-and-other-studies-related-to-sound-and-vibration\(r\)

-5-
B—Conduct programs of public education regarding the noise control and abatement activities of all municipal departments.

B—Prepare and present recommendations to the City Council on the designation of certain areas as quiet zones. These noise-sensitive areas may include, but are not limited to, operations of schools, libraries, open-to-the-public churches, hospitals, and nursing homes.

B—Study the existing system of truck routes within the community; determine areas with a recognizable sensitivity to sound and vibration which are impacted by trucks; recommend changes or modifications to the truck routes to minimize the sound and vibration on residential areas and quiet zones.

B—Develop a generalized sound exposure map of the City; a long-term plan for achieving a desired level of quiet in the City; and coordinate with the Planning Department the integration of this plan into the comprehensive planning process of the City.

Section 6. Section 1.7 of Ordinance 2113 is hereby amended as follows:

9.20.2((8)) 6. NOISE CONTROL OFFICE (NCO)—RESPONSIBILITIES AND POWERS. The responsibilities and powers of the Noise Control Office shall be as follows:

A. The issuance of warnings, abatement notices, and citations of violation on the abatement and control of noise;
B. The granting of time extensions according to procedures specified in Section 9.20.((89))98;

C. The reviewing of any permit, license, variance, zone change, or proposed land use which may be subject to review by City personnel, wherein noise disturbances may be a factor, to insure compliance with the intent and provisions of this Chapter;

D. Coordinate the noise control activities of all municipal departments and work with appropriate municipal, county, state, and federal agencies to implement the purposes of this chapter and, where appropriate, enter into contracts with the approval of the City Council for the procurement of technical and enforcement services.

Section 7. Section 2.1 of Ordinance 2113 is hereby deleted.

Section 8. Section 2.2 of Ordinance 2113, as last amended by Ordinance 2673, is hereby deleted.

Section 9. Section 3.1 of Ordinance 2113 is hereby amended as follows:

9.20.((40))30. ENVIRONMENTAL DESIGNATIONS FOR NOISE ABATEMENT. Environmental Designations for Noise Abatement (EDNA) are declared. They are based primarily on the Zoning Code, but also take into consideration the past, present, and future usage, as well as the usage of adjacent and other lands in the vicinity. Designation of such EDNA’s are based on the following typical uses:
A. Class "A" EDNA are lands where human beings reside and sleep. Typically, Class A EDNA will be the following types of property used for human habitation:

1. Residential;

2. Multi-family living accommodations;

3. Recreation and entertainment (e.g., camps, parks, camping facilities, and resorts);

4. Community service (e.g., orphanages, homes for the aged, hospitals, health and correctional facilities);

B. Class "B" EDNA are lands involving uses requiring protection against noise interference with speech. Typically, Class B EDNA will be the following types of property:

1. Commercial living accommodations;

2. Commercial dining establishments;

3. Motor vehicle services;

4. Retail services;

5. Banks and office buildings;

6. Miscellaneous commercial services, property not used for human habitation;
7. Recreation and entertainment, property not used for human habitation (e.g., theaters, stadiums, fairgrounds and amusement parks);

8. Community services (e.g., education, religious, governmental, cultural and recreational facilities).

C. Class "C" EDNA are lands involving economic activities of such a nature that higher noise levels than experienced in other areas is normally to be anticipated. Typically Class C EDNA will be the following types of property:

1. Storage, warehouse, and distribution facilities;

2. Industrial property used for the production and fabrication of durable and nondurable man-made goods;

3. Agricultural and silvicultural property used for the production of crops, wood products or livestock.

Section 10. Section 3.2 of Ordinance 2113 is hereby amended as follows:

9.20. ((44)))34. ZONING CLASSIFICATION FOR EDNA's. The following land use zoning classifications as found in the Kent Zoning Code are assigned the EDNA classification below:

<table>
<thead>
<tr>
<th>Zone</th>
<th>EDNA</th>
</tr>
</thead>
<tbody>
<tr>
<td>RA, R-1, MR-D, MR-M</td>
<td>Class A</td>
</tr>
<tr>
<td>MR-H, MR-G, MHP, PUD</td>
<td></td>
</tr>
<tr>
<td>O, NCC, CC, DC, HC</td>
<td></td>
</tr>
<tr>
<td>GC, CM</td>
<td>Class B</td>
</tr>
</tbody>
</table>

-9-
MA, M-1, M-2, M-3, SU
(Extractive industries) Class C

Section 11. Section 4.1 of Ordinance 2113 is hereby amended as follows:

9.20.((48))38. **MAXIMUM PERMISSIBLE ENVIRONMENTAL NOISE LEVELS.** No person shall cause or permit noise to intrude into the property of another person, which noise exceeds the maximum permissible noise levels set forth below in this Section, with the point of measurement being at any point within the receiving property. The noise limitations established are as set forth in the following table after any applicable adjustments provided for in this Chapter are applied.

<table>
<thead>
<tr>
<th>EDNA OF NOISE SOURCE</th>
<th>EDNA OF RECEIVING PROPERTY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Class A</td>
</tr>
<tr>
<td>Class A</td>
<td>55 dB A</td>
</tr>
<tr>
<td>Class B</td>
<td>57 dB A</td>
</tr>
<tr>
<td>Class C</td>
<td>60 dB A</td>
</tr>
</tbody>
</table>

Section 12. Section 4.2 of Ordinance 2113 is hereby amended as follows:

9.20.((58))42. **DEVIATIONS.** The following deviations from the maximum permissible noise levels are permitted:

A. Between the hours of ten p.m. and seven a.m. the noise limitations of Table I shall be reduced by ten dB A for receiving property within Class "A" EDNA's.
B. At any hour of the day or night the applicable noise limitations in Table I and in subsection (1) above may be exceeded for any receiving property by no more than:

1. Five dBA for a total of fifteen minutes in any one-hour period; or

2. Ten dBA for a total of five minutes in any one-hour period; or

3. Fifteen dBA for a total of 1.5 minutes in any one-hour period.

Section 13. Section 4.3 of Ordinance 2113 is hereby amended as follows:

9.20.((56))46. DAYTIME EXEMPTION. The following shall be exempt from the provisions of KCC Section 9.20.54 between the hours of seven a.m. and ten p.m.:

A. Sound originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances;

B. Sounds created by the discharge of firearms on authorized shooting ranges;

C. Sounds created by aircraft engine testing and maintenance not related to flight operations; provided, that aircraft testing and maintenance shall be conducted at remote sites whenever possible;
D. Sounds created by the installation or repair of essential utility services;

E. Sounds created by blasting.

Section 14. Section 4.4 of Ordinance 2113 is hereby amended as follows:

9.20.((69))50. NIGHTTIME EXEMPTION. The following shall be exempt from the provision of Section 9.20.((58))38:

A. Noise from electrical substations and existing, stationary equipment used in the conveyance of water by a utility;

B. Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of fifteen hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours, which would affect exemptions under this provision, require approval of the NCO.

Section 15. Section 4.5 of Ordinance 2113 is hereby amended as follows:

9.20.((64))54. EXEMPTIONS OTHER THAN RESIDENTIAL. The following shall be exempt from the provisions of Section 9.20.((48))38, except insofar as such provisions related to the reception of noise within Class "A" EDNA's between the hours of ten p.m. and seven a.m.: Sounds originating from forest harvesting and silvicultural activity.
Section 16. Section 4.6 of Ordinance 2113 is hereby amended as follows:

9.20.(68)58. OTHER EXEMPTIONS. The following shall be exempt from all provisions of Section 9.20.(48)38:

A. Sound created by the normal operation of motor vehicles upon a public right-of-way;

B. Sound originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations;

C. Sounds created by surface carriers engaged in interstate commerce by railroad;

D. Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, and carillons;

E. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible;

F. Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health, safety, or welfare of the community;

G. Sounds originating from motor vehicles racing events at existing, authorized facilities;

H. Sounds originating from officially sanctioned parades and other public events.
I. Sounds emitted from petroleum refinery boilers during startup of said boilers; provided, that the startup operation is performed during daytime hours whenever possible;

J. Sounds caused by natural phenomena and unamplified human voices;

K. Sounds created by watercraft;

L. Sounds caused by motor vehicles, licensed or unlicensed, when operated off public highways, except when such sounds are received in Class "A" EDNA's;

M. Sounds originating from natural gas transmission and distribution facilities installed prior to September 1, 1975 shall be exempt from all provisions of this Chapter until the Department of Ecology amends WAC 173-60. The NCO shall make recommendations to the City Council concerning this exemption after the Department of Ecology completes its action.

Section 17. Section 5.1 of Ordinance 2113 is hereby amended as follows:

9.20.((72)) 62. EMERGENCY EXEMPTION. Noise caused in the performance of emergency work for the immediate safety, health, or welfare of the community or individuals of the community, or to restore property to a safe condition following a public calamity, shall not be subject to the provisions of this Chapter.

((Nothing-in-this-Section-shall-be-construed-to-permit-law enforcement,-ambulance,-fire,-or-other-emergency-personnel-to-make excessive-noise-in-the-performance-of-their-duties-when-such-noise is-clearly-unnecessary)))
Section 18. Ordinance 2113 is hereby amended to add a new section as follows:

9.20.42. EXEMPTED SOURCES. No sound source specifically exempted from a maximum permissible sound level or permitted under this Chapter shall be a public nuisance noise or public disturbance noise, as provided in Section 96.20.106 herein, insofar as the particular source is exempted.

Section 19. Section 5.2 of Ordinance 2113 is hereby amended as follows:

9.20.4((76))70. ((PERMIT-ISSUANCE---The-NCO-is-authorized to-grant-permits-as-required-by-any-provision-of-this-Chapter-as subject-to-such-limitations-as-to-area, noise-levels, time-limits and-other-terms-and-conditions-as-it-determines-are-appropriate-to protect-public-health,-safety,-and-welfare-from-the-noise emanating-therefrom---This-Section-shall-in-no-way-affect-the-duty to-obtain-any-other-permit-or-license-required-by-law-for-such activities))

VARIANCES. The NCO shall have the authority to grant a variance where practical difficulties, unnecessary hardships and results inconsistent with the general purposes of this noise control code might result from the strict application of its provisions.

A. Application. The property owner or his/her agent may make application to the NCO for a variance on forms provided by that office.

B. Public Hearing. The NCO shall hold a public hearing on any proposed variance and shall give notice thereof by one
publication in the City's official newspaper at least ten days prior to the hearing.

Notice shall be given to all property owners within a radius of at least two hundred (200) feet of the subject property's boundaries, and, when determined by the NCO, a greater distance of the exterior boundaries of the subject property.

C. Conditions for Granting Variances. Before any variance may be granted, it shall be shown and the NCO shall find:

1. The variance shall not constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity and zone in which the subject property is located; and

2. That such variance is necessary, because of special circumstances relative to size, topography, location or surroundings of the subject property to provide it with the rights and privileges enjoyed by other property owners in the vicinity and in the zone in which the property is located; and

3. That the granting of the variance will not be materially detrimental to the comfort, repose, health or safety of the public.

D. NCO Action and Validity. The decision of the NCO shall be final and conclusive. Any variance authorized by the NCO shall expire by limitation if the use necessitating the variance is not begun within one year of authorization or if the use is discontinued, suspended or abandoned for any one-year period.
Section 20. Ordinance 2113 is hereby amended to add a new section as follows:

9.20.74. PUBLIC NUISANCE NOISES PROHIBITED. Pursuant to the complaint notice and letter of violation procedure set forth in Sections 9.20.78 through 9.20.102, the NCO may determine that a sound constitutes a public nuisance noise as defined in this Chapter. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, any sound which has been determined a public nuisance noise.

Section 21. Ordinance 2113 is hereby amended to add a new section as follows:

9.20.76. ENFORCEMENT. Unless provided otherwise by this Chapter, the Chief of Police shall be responsible for enforcing KCC Sections 9.20.106 and 9.20.110 and the Building Department (NCO) shall have the responsibility for enforcing the remainder. The specific provisions of this Chapter which describe the NCO’s methods for obtaining compliance with the noise standards set forth herein, such as sections 9.20.70, .74, .78, .82, .90, .94, .98 and .102, are related to the civil enforcement process and shall not be applicable to any criminal enforcement action initiated by the Chief of Police.

Where appropriate and necessary for the enforcement of this Chapter, the NCO or the Chief of Police may request the assistance of the Noise Control Office of the Seattle-King County Health Department and the Kent City Attorney.
Section 22. Section 6.1 of Ordinance 2113 is hereby amended as follows:

9.20.((84))78. COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Building Department (NCO). The NCO shall properly record such complaint, immediately investigate, and take any necessary action thereon as provided by this Chapter.

Section 23. Ordinance 2113 is hereby amended to add a new section as follows:

9.20.82. RIGHT OF ENTRY. Upon presentation of the proper credentials, the NCO with the consent of the occupant, or with the consent of the owner of any unoccupied building, structure property or portion thereof, or pursuant to a lawfully issued warrant, may enter at all reasonable times, any building, structure, property or portion thereof to inspect the same whenever necessary to make an inspection to enforce or determine compliance with the provisions of this Chapter over which he/she has enforcement responsibility or whenever he/she has cause to believe that a violation of any provision of this Chapter other than 9.20.34 or 9.20.38 has been or is being committed; PROVIDED, if the building structure, property or portion thereof is unoccupied, the NCO shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and demand entry. If the NCO is unable to locate the owner or such other persons and he has reason to believe that conditions therein...
create an immediate and irreparable health hazard, then he shall make entry.

Section 24. Ordinance 2113 is hereby amended to add a new section as follows:

9.20.90. NOTICE AND ORDER.

A. Unless provided otherwise by this Chapter, whenever the NCO has reason to believe that a maximum permissible sound level of Section 9.20.38 is being exceeded, that a public nuisance noise is being emitted, or when a complaint as described in Section 9.20.78 has been filed and investigated, he may serve a written notice and order directed to the owner of the property; person responsible for the property or operator of the source in the manner directed in Section 9.20.94, Method of Service.

B. The notice shall contain a brief and concise description of the conditions alleged to be in violation or to be a public nuisance noise, the provision(s) of this Chapter alleged to have been violated, the sound level readings, if taken, including the time and place of their recording.

C. The order shall contain a statement of the corrective action required and shall specify a reasonable time within which the action must be accomplished.

Section 25. Ordinance 2113 is hereby amended to add a new section as follows:

9.20.94. METHOD OF SERVICE. Service of the notice and order shall be made upon the persons named in the notice and
order, either personally or by mailing a copy of the notice and
order by certified mail, postage prepaid, return receipt
requested, to each person at his/her last known address. If the
whereabouts of the persons is unknown and cannot be ascertained by
the NCO in the exercise of reasonable diligence, the NCO shall
make affidavit to that effect, and then the service of the notice
and order upon the persons may be made by publication once each
week for two (2) consecutive weeks in the City's official
newspaper. The failure of any such person to receive the notice
and order shall not affect the validity of any proceedings taken
under this Chapter. Service by certified mail in the manner
provided in this Section shall be effective on the date of mailing.

Section 26. Section 5.3 of Ordinance 2113 is hereby
amended as follows:

9.20.((98))98. EXTENSIONS FOR COMPLIANCE.

A. Upon good cause shown by the owner or operator
of any noise source reviewed and measured under Section
9.20.((48))38, the Building Department (NCO) shall have the power
to grant an extension from the operation of this Chapter in order
to allow sufficient time for installation of needed control
equipment, facilities, or modifications to achieve compliance not
to exceed thirty days; provided, that such extension may be
renewed for an additional like period, but only if satisfactory
progress toward compliance is shown.

B. Any person seeking an extension shall file a
petition with the NCO. ((The-NCO-shall-promptly-give-written
notice-of-such-petition-to-any-person-who-has-requested-notice
within-five-days-of-such-petition-in-the-newspaper-of-general

-20-
circulation-within-this-municipality—if-the-NCO—in-his/her
discretion—concludes-that-a-hearing-would-be-advisable—or-if-any
person-files-a-written-request-for-a-hearing-or-a-written
objection-to-a-grant-of-such-extension-within-fifteen-days-of-the
notice-provided-in-this-Section—a-public-hearing-before-the-City
Council—shall-be-held-on-the-petition.—A-written-transcript-shall
be-kept-of-any-such-hearing.—No-permit-shall-be-issued-for-any
extension-until-the-fifteen-day-review-period-has-ended.)

Any such request for an extension must be received in the NCO
office at least five (5) working days prior to the date set for
compliance in the Notice and Order.

C. In granting or denying an extension of the date
set for compliance, the NCO shall file ((and-publish)) a written
order, stating the facts and reasons leading to the decision.

Section 27. Section 6.3 of Ordinance 2113 is hereby
deleted.

Section 28. Ordinance 2113 is hereby amended to add a
new section as follows:

9.20.102. ABATEMENT NOTICE. After a notice and order
has been served as provided in Section 9.20.98 and no request for
an extension in the date set for compliance has been received by
the NCO within the time frames set in Section 9.20.98, the NCO
shall issue an abatement notice. The abatement notice shall be
served upon the same persons and in the same manner as provided in
the notice and order Section 9.20.90. An abatement notice shall
be final, and shall serve as the NCO's notice to the violator that
the matter has been referred to the City Attorney's office to seek abatement and penalties through legal process.

Section 29. Ordinance 2113 is hereby amended to add a new section as follows:

9.20.106. PUBLIC DISTURBANCE NOISES. It is unlawful for any person to cause or make, or for any person in possession of property to allow to originate from the property, unreasonable noise which disturbs another, and to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a police officer. "Unreasonable noise" shall include the following sounds or combination of sounds:

A. Loud and raucous, and frequent, repetitive, or continuous sounds made by the amplified or unamplified human voice. Exempt from this prohibition are licensed vendors whose sole method of selling is from a moving vehicle, such as ice cream vendors and vegetable vendors. The content of speech shall not be considered against any person in determining a violation of this section;

B. Loud and raucous, and frequent, repetitive or continuous sounds made by any animal, except that such sounds made in animal shelters, commercial kennels, veterinary hospitals, pet shops or pet kennels licensed under and in compliance with Chapter 9.16 of the Kent City Code shall be exempt from this subsection; provided that notwithstanding any other provision of this Chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by the investigating officer or if the animal is a repeated violator of this subsection, the animal shall be impounded by the pound master.
or animal control officer, in the manner provided in Section 9.16.88, subject to the redemption procedures therein.

C. Loud and raucous, and frequent, repetitive or continuous sounds made in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine;

D. Loud and raucous, frequent, repetitive or continuous sounds made within the vicinity of any school or other institution of learning, hospital, nursing home, court or other designated area where exceptional quiet is necessary, while the same are in use, provided conspicuous signs are displayed in adjacent or contiguous streets, including that the same is a quiet zone.

E. Loud and raucous, frequent, repetitive or continuous sounds created by use of a musical instrument, or other device capable of producing sound when struck by an object; a whistle; or a sound amplifier or other device capable of producing, amplifying, or reproducing sound; except such noise emitted from officially sanctioned public events;

F. Loud and raucous, and frequent, repetitive, or continuous sounds made by any horn or siren attached to a motor vehicle or water craft, except such sounds that are made to warn of danger or that are specifically permitted or required by law.

6. Loud and raucous and frequent, repetitive or continuous sounds made in connection with outdoor construction or building of structures, including noise made by devices capable of producing sound by either striking or cutting objects, such as
hammers, saws or other equipment with internal combustion engines; PROVIDED HOWEVER, such sounds shall be exempt from the provisions of this Ordinance during the hours of 7:00 a.m. through 8:00 p.m.; Monday through Sunday.

Section 30. Ordinance 2113 is hereby amended to add a new section as follows:

9.20.110. PUBLIC DISTURBANCE NOISE FROM PORTABLE, OR MOTOR VEHICLE AUDIO EQUIPMENT.

A. While in Class A or Class B EDNA areas or park areas, residential or commercial zones, or any area where residences, schools, human service facilities or commercial establishments are in obvious proximity to the source of the sound, it is unlawful for any person to cause, make or allow to be made from audio equipment under such person’s control or ownership the following:

1. Sound from a motor vehicle audio system, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five feet (75’) or more from the vehicle itself; or

2. Sound from portable audio equipment, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five feet (75’) or more from the source of the sound.
B. This section shall not apply to persons operating portable audio equipment upon their own premises, such as an owner or tenant, or to persons operating such equipment within a public park pursuant to an event under a permit issued under Kent City Code Section 5.24.010, in which event other provisions of the Noise Code shall apply.

C. The content of the sound will not be considered in determining a violation of this section.

Section 31. Section 6.2 of Ordinance 2113, as last amended by Ordinance 2673, is hereby amended as follows:

9.20.((96)114. ((VIOLATION OF MISDEMEANOR)) PUNISHMENT.
((Any person who violates any of the provisions of this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be punished by a criminal fine or forfeiture not to exceed more than five hundred dollars or by imprisonment for not more than 180 days; or both. Each day such violation continues shall be considered a separate offense.))

A. Conduct made unlawful under Sections 9.20.106 through 9.20.110 of the Noise Control Code shall constitute a misdemeanor as defined in Kent City Code Section 1.02.080.

B. Conduct made unlawful under Sections 9.20.38 through 9.20.102 of the Noise Control Code shall subject the violator to a civil fine of two-hundred fifty dollars ($250.00). This fine shall be cumulative, and each day such offense continues shall constitute a separate violation.
C. Five separate subsequent offenses by the same violator of the provisions contained in Section 9.20.38 through 9.20.102 within a five-year period of time shall also constitute a misdemeanor, and may be punished by the criminal penalties described in Kent City Code Section 1.02.080 and/or a penalty in addition to the civil fine of two-hundred fifty dollars ($250.00) for the initial act of violation, and two-hundred fifty dollars ($250.00) per day thereafter until the violation is discontinued.

D. Nothing contained in this Noise Control Code shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 32. Ordinance 2673 entitled:

An Ordinance of the City of Kent, Washington, adding two new subsections to 9.20.36 and also amending 9.20.88 KCC, referring specifically to public disturbance noises to the Kent City Code is hereby repealed.

Section 33. Pursuant to WAC 173-60-110(2), the City Attorney is hereby authorized to submit a copy of this Ordinance to the Director of the Washington State Department of Ecology for review and approval.

Section 34. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and confirmed.
Section 35. Severability. If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 36. Effective Date. This Ordinance shall take effect and be in force thirty (30) days from the time of its final passage, publication and approval by the Director of the Washington State Department of Ecology.

DAN KELLEHER, MAYOR

ATTEST:

Brenda Jawer
MARIE JENSEN, CITY CLERK
Brenda Jawer, Deputy City Clerk

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the ___ day of_____, 1990.
APPROVED the ___ day of_____, 1990.
PUBLISHED the ___ day of_____, 1990.
I hereby certify that this is a true copy of Ordinance No. 2954, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

Brenda Jacobs (SEAL)
MARIE JENSEN, CITY CLERK
Brenda Jacobs, Deputy City Clerk