

DIVISION 2. - NOISE CONTROL ORDINANCE^[8]

Footnotes:

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Editor's note—Ord. No. 2000-11, §§ I—VII, IX, adopted Nov. 22, 2000, did not specify manner of codification, hence; inclusion of these provisions as §§ 9-112—9-119 was at the discretion of the editor. In the event of conflict it is presumed that the more recent provisions will prevail.

Sec. 9-112. - Noise prohibition.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others within the limits of the city.

(Ord. No. 2000-11, 11-22-2000)

Sec. 9-113. - Noise control ordinance purpose.

- (a) *Findings.* Excessive sound and vibration are serious hazards to the public health, welfare, safety, and quality of life. The people have a right to, and should be ensured, an environment free from excessive sound and vibration that may jeopardize their health, welfare, safety, or quality of life.
- (b) *Intent and purpose.* It is the intent and purpose of this section to prevent excessive noise and excessive vibration and to limit, control, and eliminate excessive noise and excessive vibration in general from whatever source.
- (c) *Construction.* This section is intended to prohibit preventable and unnecessary noise and is not intended, nor shall it be construed, to regulate the usual and customary noise incidental to urban life. Due consideration shall be given to the zone in which the establishment is located and the customary and natural noise incident to the operation of businesses or industries permitted in the area zoned shall be considered so as not to work an undue hardship upon lawful business establishments.
- (d) *Scope.* This section shall apply to the control of all sound and vibration originating within the city, unless otherwise exempted by law.

(Ord. No. 2000-11, 11-22-2000)

Sec. 9-114. - Noise control standard.

The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:

- (1) The level of noise;
- (2) The time of day or night of noise;
- (3) Duration of noise;
- (4) Whether the noise is recurrent, intermittent, or constant;
- (5) Whether the nature of the noise is usual or unusual;
- (6) Whether the origin of the noise is natural or unnatural;
- (7) The level and intensity of the background noise, if any;
- (8) The proximity of noise to residential sleeping facilities;
- (9) The density of the inhabitation of the area within which the noise emanates; and
- (10) The nature of the zoning area within which the noise emanates.

(Ord. No. 2000-11, 11-22-2000)

Sec. 9-115. - Definitions.

Ambient noise shall mean the all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single, predominant source.

Authorized emergency vehicle shall mean any of the following vehicles when equipped and identified according to law:

- (1) A vehicle of a fire department;
- (2) A publicly owned police vehicle or a privately owned vehicle used by a police officer for police work under agreement, express or implied, with the authority to which he or she is responsible;
- (3) An ambulance, whether publicly or privately owned;
- (4) An emergency vehicle of a city department or a public service corporation.

Commercial area shall mean any area defined as an office or business district by the zoning ordinance.

Construction shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition.

Decibel, db or db(A) shall mean the weighted sound level measured by the use of metering characteristics and the prescribed A-weighting frequency response specified in American National Standards SL.4. 1971 as established by the American National Standards Institute, Inc.

Demolition shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage, which demands immediate action.

Emergency work shall mean any work performed for the purpose of preventing or alleviating the trauma or property damage threatened or caused by an emergency.

Industrial zone shall mean any area defined as an industrial district by the Somerville Zoning Ordinance.

Motor vehicle shall mean any vehicle so defined in G. L. c. 90, § 1.

Motorboat shall mean any vehicle so defined in G. L. c. 90B, § 1.

Motorcycle shall mean any vehicle so defined in G. L. c. 90, § 1.

Noise disturbance shall mean any sound which (a) causes temporary or permanent hearing loss in persons exposed; or (b) is injurious to the public health; or (c) causes a nuisance; or (d) is defined as a noise disturbance pursuant to the provisions of this chapter; (e) which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others within the limits of the city.

Official traffic-control device shall mean any traffic light, stop or yield sign, official or police officer.

Person shall mean any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

Public right-of-way shall mean any street, avenue, boulevard, highway, sidewalk, alley, or similar place, which is owned or controlled by a governmental entity.

Public space shall mean any property or structures thereon which are owned or controlled by a governmental entity.

Residential area means any area defined as a residence district by the zoning ordinance.

Sound for the purposes of the "duration of sound" column in the table of section 9-117, includes continuous, continual and intermittent sounds transmitted by any means, the interval of silence between which does not exceed ten seconds.

Vibration perception threshold shall mean the minimum ground, or structure, borne vibration motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

Violation shall mean a determination by an enforcing agent, officer or employee that a noise disturbance has occurred.

(Ord. No. 2000-11, 11-22-2000)

Sec. 9-116. - Noise disturbances.

Noise disturbances prohibited. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive.

- (1) *Air conditioners.* It shall be unlawful for any person to maintain any refrigeration machinery or air conditioning, consisting of air compressors or rotating or reciprocating machinery, in such manner as to create a noise disturbance.
- (2) *Animals and birds.* Owing, possessing or harboring any animal or bird which creates a noise disturbance.
- (3) *Construction.* It shall be unlawful to operate or permit the operation of any tools, piledrivers, hammers, or equipment used in construction, drilling, or demolition work between the hours of 7:00 p.m. and 7:00 a.m., Monday through Saturday, and anytime on Sunday, such that the sound therefrom creates a noise disturbance.
- (4) *Domestic power tools.* Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 9:00 p.m. and 7:00 a.m. on weekdays, or between 9:00 p.m. and 9:00 a.m. on Saturdays, Sundays, and state and federal holidays so as to cause a noise disturbance.
- (5) *Alarms.*
 - a. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within minutes of activation and does not sound again at all within the hour.
 - b. Each ten minute interval of sounding, or part thereof, within an hour after the initial ten minute sounding shall constitute a separate violation.
 - c. Fines for the sounding of burglar or fire alarms in violation of this section may be assessed against the owner or the occupant of the building in which the alarm is located.
 - d. Any motor vehicle, located on either public or private property, whose alarm has been sounding in excess of ten minutes in an hour, is hereby deemed to be a public nuisance subject to immediate abatement. To effect abatement, police must have reasonable evidence that the sounding has lasted in excess of ten minutes, and then make reasonable efforts to contact the owner of such vehicle to either have the owner shut off the alarm or to authorize police to arrange for the shut-off of the alarm. If such efforts are unsuccessful, police are hereby authorized to abate the nuisance by arranging for tow company employees to shut off the alarm and/or to tow the motor vehicle to a

storage area or other place of safety. In addition to any fines for violating this section, the registered owner of the motor vehicle shall be responsible for all reasonable expenses, costs and charges incurred by the deactivation of the alarm, and by the removal and storage of such vehicle.

- (6) *Stationary nonemergency signaling devices.*
 - a. Sounding or permitting the sounding of any single from any bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place, for more than ten minutes in any hourly period.
 - b. Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.
- (7) *Engine exhausts.* The discharge into the open air within the city of the exhaust of any steam engine, gasoline engine, stationary internal combustion engine, or other kind or type of engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, provided that fines for such noise disturbance shall be provided for in G. L. c. 90, § 16.
- (8) *Explosives, firearms, and similar devices.* The use or firing of explosives, firearms, firecrackers, or similar devices which create impulsive sound so as to cause a noise disturbance.
- (9) *Defect in vehicle or load.* The use within the city of any wagon, cart, motor vehicle, truck, motorcycle, or other vehicle, so out of repair or loaded in such manner or with material of such nature as to create loud and unnecessary grating, grinding, rattling or other noises.
- (10) *Horns and other signaling devices.* The sounding of any horn or signaling device on any motor vehicle, motorcycle, or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up. The use of sirens, except by authorized emergency vehicles, is prohibited.
- (11) *Loading and unloading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, dumpsters or similar objects between the hours of 7:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance.
- (12) *Loudspeakers and public address system.* Unless otherwise permitted by a duly authorized agent of the city, using or operating for any purpose any loudspeaker, public address system, or similar device (1) such that the sound therefrom creates a noise disturbance; or (2) between the hours of 10:00 p.m. and 7:00 a.m.
- (13) *Radios, television sets, musical instruments, and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to create a noise disturbance.
- (14) *Shouting.* Shouting, yelling, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to create a noise disturbance.
- (15) *Street sales.* Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the city, except in a stadium or sports arena. Ice cream trucks shall be exempt from this section.
- (16) *Vehicle repairs and testing.* Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance.
- (17) *Vibration.* Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at 50 feet from the source if on a public space or public right-of-way.

(Ord. No. 2000-11, 11-22-2000)

Sec. 9-117. - Noise levels.

It shall be unlawful to make, continue, or cause to be made or continued, any noise in excess of the noise levels set forth in subsection (1) unless such noise is reasonably necessary to the preservation of life, health, safety or property.

- (1) Measurement of noise. Any activity, not expressly exempted by this section, which creates or produces sound, regardless of frequency, exceeding the ambient noise levels at the property line of any property, or if a condominium or apartment house, within any adjoining apartment, above the ambient noise levels as designated in the following table, at the time and place and for the duration then mentioned, shall be deemed to be a violation of this article, but the following enumeration shall not be deemed to be exclusive:

Duration of Sound	I	II	III
	7 AM 6 PM (all districts)	6 PM 10 PM (residential districts) 6PM 7AM (all other districts)	10 PM 7 AM (residential districts)
Less than 10 minutes	75 db	70 db	60 db
Between 10 minutes and 2 hours	70 db	60 db	<u>50</u> db
In excess of 2 hours	60 db	<u>50</u> db	<u>40</u> db

- (2) In determining whether a particular sound exceeds the maximum permissible sound level in the table set out in subsection (1):
- Sounds in excess of the residential district limitations as measured in a residential district are violations of this section whether the sound originates in a residential district or any other district.
 - During all hours of Sundays and state and federal holidays, the maximum allowable decibel levels for residential districts are as set forth in column III of the table.
- (3) Noise emanating from the operation of the following are exempt from the application of this section:
- Motor vehicles on a public highway;
 - Outdoor implements such as power lawn mowers, power hedge clippers and power saws;
 - Pile drivers, jackhammers and other construction equipment.
- (4) A guide to noise. The intensity of noise is measured in decibels (db). Its measurement is logarithmic, which means that each decibel increase of ten, is a ten times increase in the level of noise:
- 130 is 10 times greater than 120
- 130 is 100 times greater than 110
- A guide to the noise intensity:
- 30 decibels is considered
very quiet

50 decibels is considered moderately quiet

80 decibels is considered annoying

100 decibels is considered intolerable

140 decibels is considered threshold of pain

180 decibels is considered lethal

Applying the decibel scale to everyday, we find:

LEVEL	DECIBELS
Lethal Level	180 Rocket engine
	150 Jet plane at takeoff
Pain Threshold	120 Machine gun at close range
	120 Pneumatic chipper
	115 House party, 4 piece rock band
	115 Jet airliner (500 ft. overhead)
	111 Motorcycle
	108 Pneumatic hammer, 6ft. away
	107 Power mower
	104 Walking near a helicopter
Discomfort and Danger Area	102 Outboard motor
	102 Outside, jet taking off at airport
	100 Heavy automobile traffic or jet, aircraft passing overhead
	100 Train stopping in station
	100 150 cubic foot air compressor
	98 Farm tractor

	96 Pushing a power lawn mower
	95 Subway train
	95 At a seat in subway, windows open
	94 Inside a jet airplane on take off
	93 Food blender
	92 Screaming child
Hearing Damage (8 hours)	90 Bus idling, heavy city noises
	90 Niagara Falls at base, garbage disposal
	88 Propeller aircraft flyover at 1,000 ft.
	86 Sports car running in street
	85 Garbage truck, 200 ft. away
	82 Traffic at a residential intersection
Recommended Maximum Noise Level	75 Average traffic
	75 Vacuum cleaner, dishwasher
	70 Automobile, home air conditioner
	60 Conversational speech
	60 Large office
	<u>55</u> Window air conditioner
	<u>50</u> Quiet restaurant
	<u>45</u> Homes
	<u>40</u> Quiet office
	<u>35</u> Library
	30-40 Refrigerator
	<u>30</u> Whispering
	20 Leaves rustling in breeze

	20 Broadcasting studio
	10 Normal breathing
	0 Audibility Threshold (level of weakest sound that can be heard by young person with excellent hearing)

(Ord. No. 2000-11, 11-22-2000)

Sec. 9-118. - Enforcement.

The provisions of this section shall be enforced by the chief of police, the superintendent of inspectional services, and their duly authorized agents, officers and employees, by a noncriminal disposition pursuant to Massachusetts General Laws Chapter 40 Section 21D. Each violation shall be deemed a separate offense. Unless otherwise provided, any person, firm, corporation, association or other entity violating any provision of this section shall be punished by a fine in accordance with the provisions of section 1-11. Nothing in this provision shall be deemed to limit the use of other lawful methods of abating violations of this section, including but not limited to application for equitable relief from a court of law.

(Ord. No. 2000-11, 11-22-2000; Ord. No. 2006-09, § K, 4-11-2006)

Sec. 9-119. - Additional noise policies.

The chief of police and superintendent of inspectional services are hereby authorized and empowered to make and adopt such policies as they deem proper and necessary for the implementation of this division for the better protection of the health, welfare and safety of the city.

(Ord. No. 2000-11, 11-22-2000)