

## Chapter 75. Noise

[HISTORY: Adopted by the Rochester City Council 10-23-1973 by Ord. No. 73-564. This ordinance also repealed former Chapter 75, Noise, adopted 11-25-1941, as amended. Amendments noted where applicable.]

### GENERAL REFERENCES

Amusements — See Ch. 29.

Animals — See Ch. 30.

Dog control — Ch. 31.

Dance halls — See Ch. 46.

Commercial travelers and solicitors — See Ch. 62.

Parks — See Ch. 79.

Transient merchants — See Ch. 109.

Zoning — See Ch. 120.

### § 75-1. Legislative determination.

- A. The Council determines that the making and creating of excessive noise within the limits of the City of Rochester is a condition which has existed for some time and the extent and volume of such noise is increasing.
- B. The Council further determines that noise on streets, sidewalks, public parks or places is most likely to interfere with the peace and quiet of the inhabitants of the City and to injure human, plant and animal life, property and business.
- C. The Council further determines that schools, churches, courts, hospitals, nursing home and homes for the aged are places where special precaution must be taken in order to ensure their proper functioning.
- D. The Council further determines that construction activities, sound reproduction devices for miscellaneous purposes, loading and unloading of boxes and containers, and animals and birds are among the most frequent causes of annoying and disturbing noise.

### § 75-2. Legislative intent.

- A. The City of Rochester hereby intends to prohibit all excessive noise from all sources subject to its police power in order to preserve, protect and promote the public health, safety and welfare and the peace, quiet, comfort and repose of the inhabitants of the City and visitors thereto and to prevent injury to human, plant and animal life, property and business, to foster the convenience and comfort of its inhabitants and facilitate the enjoyment of the natural attractions of the City.
- B. (Reserved)<sup>[1]</sup>

[1] *Editor's Note: Former Subsection B, which stated that this chapter was to be supplementary to and a part of the noise control program being considered at the time, was repealed 2-8-1983 by Ord. No. 83-36.*

C. This chapter shall be liberally construed to provide an effective noise control program.

## § 75-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

### A SCALE

The measurement of sound approximating the auditory sensitivity of the human ear as measured with a sound-level meter using the A-weighting network. The unit of measurement is the dB(A).

### CONSTRUCTION

Any or all activity, except tunneling, necessary or incidental to the erection, demolition, assembling, altering, installing or equipment of buildings, public or private highways, roads, premises, parks, utility lines (including such lines in already constructed tunnels) or other property, including land clearing, grading, excavating and filling.

### DECIBEL

The unit of sound measurement, on a logarithmic scale, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure which for the purpose of this chapter shall be 0.0002 microbar.

### EMERGENCY

A public calamity or an exposure of any person or property to imminent danger.

### EMERGENCY SIGNAL DEVICE

Any gong, siren, whistle, air horn or similar device, the use of which on emergency vehicles is permitted by Subdivision 26 of § 375 of the Vehicle and Traffic Law.

### EXCESSIVE NOISE

Any sound which endangers or injures the safety or health of humans or animals or annoys or disturbs a reasonable person of normal sensitivity or endangers or injures personal or real property. [Amended 2-8-1983 by Ord. No. 83-36]

### MOTOR VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn, which is propelled by any power other than muscular power, except vehicles which run only upon rails or tracks. This definition shall include but not be limited to trucks, buses, automobiles, vans, motorcycles, motor-driven cycles, motor scooters, dune buggies, snowmobiles, all-terrain vehicles, go-carts, minibikes, trail bikes and all other types of motorized recreational vehicles. [Added 2-8-1983 by Ord. No. 83-36]

### NOISE

Any erratic, intermittent, statistically random oscillation or unwanted sound.

### PERSON

Any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department or any other group of individuals, or any officer or employee thereof.<sup>[1]</sup>

### SOUND REPRODUCTION DEVICE

A device intended primarily for the production or reproduction of sound, including but not limited to any radio receiver, television receiver, tape recorder, musical instrument, phonograph or sound amplifying system.

[1] *Editor's Note: The former definition of "sound level meter," which immediately followed this definition, was*

## § 75-4. Excessive noise prohibited.

[Amended 9-6-2005 by Ord. No. 2005-278]

- A. No person shall make, continue, cause, or suffer or permit to be made or continued, and the owner and the person in control of a motor vehicle and the person in control of a premises shall not suffer nor permit to be made or continued, any excessive noise. It shall be prima facie evidence of a violation of this section if noise emanating from any source, including, but not limited to, voices or other sounds caused or emitted by humans, is:
- (1) Audible beyond the property line of the premises from which it emanates between the hours of 10:00 p.m. and 8:00 a.m.
  - (2) Audible at a distance of 50 feet beyond the property line of the premises from which it emanates between the hours of 8:00 a.m. and 10:00 p.m.
  - (3) Audible at a distance of 50 feet from the source if emanating from a public street, public park or other public place.
- B. The provisions of this section shall not apply to noise emanating from the following:
- (1) Sources or activities regulated by §§ 75-7, 75-8, 75-9, 75-10, 75-12, 75-13 and 75-15 of this chapter, and §§ 27-9A and 31-5 of the Municipal Code.
  - (2) Festivals, parades, block parties and other special events where a permit has been obtained from the Office of Special Events for such purpose.
  - (3) Political or religious activities or the operation or use of any organ, bell, chimes or other similar instrument from on or within any church, synagogue, temple, mosque or other house of worship.
  - (4) Any permitted athletic competition or recreational event held on athletic fields, stadiums or public places in the City.
  - (5) Lawn mowers, hedge trimmers, leaf blowers, chain saws, tillers, mulchers, chippers and other devices used for the care and maintenance of lawns, yards and vegetation, between the hours of 8:00 a.m. and sunset.
  - (6) Air conditioners.
  - (7) Snowblowers, snowthrowers or snowplows.
  - (8) Emergency generators.
  - (9) Manufacturing operations.
- C. Any motor vehicle used in connection with the commission of a violation of this section shall be towed in accordance with § 111-75 of the Municipal Code.

## § 75-5. Sound reproduction devices for commercial or advertising purposes.

No person shall operate or use or cause to be operated or used any sound reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any performance,

show or sale or display of merchandise in connection with any commercial or business enterprise, including those engaged in the sale of radios, television sets, phonographs, tape recorders, phonograph records or tapes in front or outside of any building, place or premises or in or through any aperture of such building, place or premises abutting on or adjacent to a public street, park or place or in or upon any vehicle operated, standing or being in or on any public street, park or place where the sound therefrom may be heard upon any public street, park or place or from any stand, platform or other structure or from any airplane or other device used for flying, flying over the City or on a boat or on the waters within the jurisdiction of the City or anywhere on the public streets, parks or places; provided, however, that nothing in this section shall prohibit vehicles from which ice cream products and similar products are sold from being equipped with a bell not exceeding three inches in diameter, or a set of up to four such bells, nor prohibit the use thereof by the driver of such vehicle, provided that no such bell or set of bells shall be capable of being heard from a distance greater than 400 feet and provided further that no such bells shall be used for any purpose between the hours of 9:00 p.m. and 9:00 a.m. nor be used as an ordinary warning signal at any time.

## § 75-6. Sound reproduction devices on public conveyances.

No person shall operate or use any radio, musical instrument, television, phonograph or other machine or device in or on any bus or public means of conveyance, other than taxicabs, in such manner that the sound emanating from such sound reproduction device is audible to another person.

## § 75-7. Use of signaling devices.

No person shall cause the sounding of any horn or signaling device on any automobile, motorcycle, bicycle or other vehicle, except as a danger warning.

## § 75-8. Emergency signal devices.

[Amended 2-8-1983 by Ord. No. 83-36]

No person shall operate or use or cause to be operated or used any emergency signal device, except:

- A. On an emergency vehicle when such vehicle is in the immediate act of responding to an emergency;
- B. To give notice as a warning of an emergency; or
- C. In order to reasonably test such device.

## § 75-9. Motor vehicles.

[Amended 2-8-1983 by Ord. No. 83-36]

A. Sound level.

(1) No person shall operate or cause to be operated any motor vehicle in such a manner that the sound level emitted therefrom exceeds 80 dB(A) either:

(a) At a distance of 25 feet or more from the path of the vehicle when operated on a public street or sidewalk or in a public park or other public place; or

(b) At or beyond the property line when operated on private property.

(2) This subsection shall not apply to those motor vehicles being operated upon a public street to

which § 386 of the New York State Vehicle and Traffic Law applies.

- B. This section shall apply to all motor vehicles, whether or not duly licensed or registered.
- C. Any motor vehicle used in connection with the commission of a violation of this section shall be towed in accordance with § 111-75 of the Municipal Code.  
[Added 7-14-1998 by Ord. No. 98-300]

## § 75-10. Construction activities.

- A. No person shall engage in or permit any person to be engaged in construction activities which create excessive noise at the property limits of the construction site between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day on any day of the week, except as is permitted in Subsections B and C hereof.
- B. Following the receipt of a written application for a variance from the requirements of Subsection A, the Commissioner of Neighborhood and Business Development may, within a reasonable time, grant a variance authorizing such construction activities upon the applicant's demonstration of hardship and/or practical difficulty in meeting said requirements or upon a determination that the public interest will be served by the granting of the requested variance. The Commissioner shall set any stipulations deemed necessary in the interest of the public health, safety and/or welfare at the time of granting such a variance.  
[Amended 2-10-1981 by Ord. No. 81-45; 6-16-1987 by Ord. No. 87-173; 6-16-2009 by Ord. No. 2009-179]
- C. In the case of an emergency, construction activities directly connected with the abatement of such emergency may be undertaken without obtaining a variance, for a period not to exceed 72 hours from the commencement of such activities, during which time application for a variance hereunder shall be made. In such an emergency, construction activities shall not continue after the seventy-two-hour period unless prior to the expiration of that period at least verbal approval is issued by the Commissioner or his or her authorized subordinates to continue such activities and unless written confirmation of such verbal approval is issued within four hours following the start of the next normal business day of the Department of Neighborhood and Business Development. Approval or confirmation shall not be withheld unreasonably.  
[Amended 2-10-1981 by Ord. No. 81-45; 2-14-2006 by Ord. No. 2006-22; 6-16-2009 by Ord. No. 2009-179]

## § 75-11. Noise-sensitive zones.

[Amended 2-8-1983 by Ord. No. 83-36]

No person shall create or permit to be created any noise on any street, sidewalk or public place, or on private property adjacent to any school, institution of learning, church or court while the same is in use, or adjacent to any hospital, nursing home or home for the aged, which noise unreasonably interferes with the working of such school, institution of learning, church or court or which disturbs or annoys patients in a hospital, nursing home or home for the aged.

## § 75-12. Sound reproduction devices used for miscellaneous purposes.

[Amended 2-8-1983 by Ord. No. 83-36]

- A. No person shall use or operate or suffer or permit to be used or operated, and the owner and the

person in control of a motor vehicle and the person in control of a premises shall not suffer nor permit to be used or operated, any radio, television, stereo, compact disc player, musical instrument or other machine or device for the producing, reproducing or amplification of sound with louder volume than is necessary for convenient hearing for the person or persons who are voluntary listeners thereto. It shall be prima facie evidence of a violation of this section if sound emanating from such machine or device is:

[Amended 9-6-2005 by Ord. No. 2005-278]

- (1) Audible beyond the property line of the premises upon which it is being used between the hours of 10:00 p.m. and 8:00 a.m.
- (2) Audible at a distance of 50 feet beyond the property line of the premises upon which it is being used between the hours of 8:00 a.m. and 10:00 p.m.
- (3) Audible at a distance of 50 feet from such machine or device if operated from within a motor vehicle on a public street.
- (4) Audible at a distance of 50 feet from such machine or device when operated in a public park or other public place.

B. The provisions of this section shall not apply to the following:

- (1) Funeral processions or use of such devices by a church.
- (2) The production of music in connection with any parade authorized under any provision of law.
- (3) Festivals, musical performances, block parties and other special events where a permit has been obtained from the Office of Special Events for such purpose.  
[Amended 4-15-2008 by Ord. No. 2008-118]
- (4) The use of amplifiers or other sound producing instruments or equipment in connection with any religious or political activity or any permitted athletic competition or recreational event held on athletic fields, stadiums or public places in the City.

C. Any motor vehicle used in connection with the commission of a violation of this section shall be towed in accordance with § 111-75 of the Municipal Code.

[Added 7-14-1998 by Ord. No. 98-300]

## § 75-13. Loading and unloading of boxes and containers.

No person shall make or permit to be made excessive noise in connection with loading or unloading of any vehicle or the opening, unloading or destruction of bales, boxes, crates and containers.

## § 75-14. Animals.

No person shall keep or permit the keeping of any animal or bird which makes excessive noise.

## § 75-15. Noise abatement compliance with City contractors.

A. Contracts with City.

- (1) Contract. As used in this section, the term "contract" means any written agreement, purchase order or instrument whereby the City is committed to expend or does expend funds authorized

by the capital or annual budget of the City, in return for work, labor, services, supplies, equipment, materials or any combination of the foregoing; however, the term "contract" shall not include:

- (a) Contracts for financial or other assistance made with a government.
  - (b) Contracts, resolutions, indentures, declarations of trust or other instruments authorizing or relating to the authorization, issuance, award and sale of bonds, certificates of indebtedness, notes or other fiscal obligations of the City, or consisting thereof.
  - (c) Employment by the City of officers and employees of the City.
- (2) Contracting agency. As used in this section, the term "contracting agency" means any board, bureau, department, commission or other agency of the government of the City, or any official thereof, who or which is authorized to and does, on behalf of the City, provide for, enter into, award or administer contracts or any other public agency which enters into, awards or administers contracts pursuant to which funds authorized by the capital budget of the City of Rochester are expended.
- B. Contract provisions. No contract shall be awarded or entered into by a contracting agency unless such contract contains provisions requiring that:
- (1) Devices and activities which will be operated, conducted, constructed or manufactured pursuant to the contract will be operated, conducted, constructed or manufactured in compliance with all of the laws, rules and regulations in effect on the date of the execution of the contract, of all federal, state and local governmental bodies and agencies.
  - (2) Such devices and activities incorporate advances in the art of noise control developed for the kind and level of noise emitted or produced by such devices and activities.  
[Amended 2-8-1983 by Ord. No. 83-36]

## § 75-16. Penalties for offenses.

[Amended 9-28-1982 by Ord. No. 82-443]

A person violating any provision of this chapter shall be subject to the penalties set forth in § 13A-11 of the Municipal Code.

## § 75-17. Provisions to be cumulative.

The provisions of any section of this chapter shall not be deemed to modify or otherwise affect or be in substitution for any provision of any other section of this chapter or other chapter of the Municipal Code of the City of Rochester, but shall be cumulative thereto.

## § 75-18. Inconsistent provisions.

If the provisions of this chapter are inconsistent with any other provision in the Municipal Code of the City of Rochester, or with any rule or regulation of any department, bureau or governmental agency of the City of Rochester, the provisions of this chapter shall be controlling.

## § 75-19. Severability.

Should any section, paragraph, sentence, clause or phrase in this chapter be declared unconstitutional or

invalid for any reason, the remainder of this chapter shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this chapter are declared to be severable.

## § 75-20. Administration and enforcement.

[Added 2-8-1983 by Ord. No. 83-36]

A. This chapter shall be administered and enforced by the Chief of Police and the Neighborhood Service Centers Administrators.

[Amended 9-6-2005 by Ord. No. 2005-278; 7-15-2008 by Ord. No. 2008-254]

B. The Chief of Police shall develop and promulgate measurement standards, testing methods and procedures to provide for the effective implementation and enforcement of this chapter.

## § 75-21. Filing of depositions by citizens.

[Added 11-19-2002 by Ord. No. 2002-373<sup>[1]</sup>]

Any person who observes or has knowledge of a violation of this chapter may file a signed deposition, under oath, with a police officer, specifying the objectionable conduct, the date thereof, and the name and address, if known, of the alleged violator. A police officer shall investigate each complaint and, if the complaint is supported by probable cause, issue a notice of violation therefor.

[1] *Editor's Note: This ordinance also provided that after a period of one year the Mayor would provide a report to the City Council on the usage and effectiveness of citizens' depositions in noise cases.*