

## City of Worcester

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### An Ordinance Relative to Excessive and Unreasonable Noise

#### Chapter 9 § 1A

(a) Findings and Declaration of Policy

- (1) *Findings.* The city council hereby finds that excessive and unnecessary noise is a significant threat to the health, welfare, safety, and the quality of life of the public; that excessive and unnecessary noise over an extended period of time leads to hearing loss; that excessive and unnecessary noise may interfere with personal communication, cause sleep disturbances, create anxiety and distress and aggressive behavior. The city council further finds that a substantial body of science and technology exists by which excessive and unnecessary noise may be substantially abated.
- (2) *Declaration of Policy.* In consideration of the above findings, and recognizing that Amendment Article 97 to the Constitution of the commonwealth of Massachusetts establishes that the people have a right to be free from excessive and unnecessary noise, it is hereby declared to be the public policy of the city to reduce the ambient noise level in the city to safe and reasonable levels and to eliminate the episodic creation of excessive and unnecessary noise so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the inhabitants of the city, to prevent injury to human, plant and animal life and property, to foster the convenience and comfort of its inhabitants, and to facilitate the enjoyment of the natural attractions of the city.

(b) Definitions - For purposes of this section 1A, the following words shall have the meanings respectively set forth below:

*“A” level* - means the total sound level of all noise as measured with a sound level meter using the “A” weighting network. The unit of measurement is the dB(a).

*Ambient* - means the background level of sound immediately preceding the sound produced by the object or person under scrutiny and, when measured mechanically or electronically, is the A-weighted sound level that is exceeded 90% of the time measured during equipment operating hours.

*Device* - means any mechanism which actually produces sound when operated or handled.

*Motorcycle* - means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including any bicycle with a motor or driving wheel attached, except a tractor or a motor vehicle designed for carrying golf clubs and not

more than four persons, an industrial three-wheel truck, or a motor vehicle on which the operator and passengers ride within an enclosed cab.

*Motor Vehicle* - means any device which is propelled by an engine, other than a motorcycle, in or upon which a person or material may be transported on the ground and which is intended to be operated upon a public highway.

*Person* - means 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.

*Plainly Audible* - means any sound that can be detected by a person using his or her unaided hearing faculties. (As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound).

*Public Place* - shall include any public way, any private way open to public use and on the official map of the city or any way for vehicular travel in any city park, playground, public school property or land under the control of any city department.

*Sound Level Meter* - means any instrument including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner.

*Sound Reproduction Device* - means any device, electronic or otherwise, which is capable of producing, reproducing or amplifying sound, including but not limited to any musical instrument, radio, television, tape recorder, compact disc or DVD player, public address ("P.A.") or other sound amplifying system.

*Sound Signal* - means any sound produced by an electronic sound signal device designed to transmit information.

(c) Sound Levels for Motor Vehicles

- (1) No person shall operate any motor vehicle or any sound reproduction device within any motor vehicle in such a manner that the vehicle or sound reproduction device is plainly audible in a public place at a distance of 50 feet or more in any direction from the vehicle.
- (2) Except where necessary to avoid a collision with another motor vehicle or with a pedestrian, no person shall operate a horn or warning device from any motor vehicle or motorcycle such that the sound emanating from such act is plainly audible in a public place at a distance of 125 feet or more from said vehicle or motorcycle.
- (3) No person shall operate any siren in any public place except authorized employees of public entities providing law enforcement, fire suppression,

first responder or advanced life support services in the immediate act of responding to an emergency or engaged in a training exercise.

(d) Sound Levels for Motorcycles

- (1) No person shall accelerate a motorcycle in such a manner as to cause any sound which is plainly audible over the ambient noise level in a public place at a distance of 50 feet or more in any direction from the vehicle.
- (2) No person shall operate a motorcycle in such a manner as to exceed 82 dB(A) when operated at a speed of 45 mph or less, or in such a manner as to exceed 86 dB(A) when operated within a speed zone of over 45 mph. The sound level shall be measured by a sound level meter at a distance of fifty-five feet or more from the center lane of travel, as provided in G.L. c. 90, § 7U.
- (3) No person shall operate a motorcycle whose exhaust system, muffler or any other equipment or element of design incorporated into the motorcycle in compliance with federal or state laws or regulations pertaining to motorcycle noise or air pollution emissions has been removed or rendered inoperative by any person.

(e) Sound Levels Generally

- (1) No person shall operate any electronic sound reproduction device so as to create sound which is plainly audible in a public place at a distance of 25 feet or more in any direction from the device or the premises containing the device, whichever is greater.
- (2) No person shall operate any self-contained, portable, hand-held sound reproduction device in such a manner as to be plainly audible in a public place at a distance of 25 feet or more in any direction from the operator.
- (3) No person shall create any sound on any street adjacent to a hospital or medical treatment facility at any time which is plainly audible at any place within 25 feet of the property of such hospital or facility or which unreasonably disturbs the comfort or repose of any person of normal sensitivities in such hospital provided a plainly visible sign has been displayed on such street indicating the presence of such hospital or medical treatment facility.
- (4) No person shall create any sound on any street adjacent to any public or private school, institution of higher learning or court whenever the same is in session which is plainly audible at any place within 25 feet of the property of such hospital or facility or which disturbs the operation of any such school or the proceedings in any such court provided a plainly visible sign has been displayed on such street indicating the presence of such school or court.
- (5) No person shall engage in persistent or repeated yelling, shouting, hooting, whistling, singing, or the making of other loud noises between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible in any public place at a distance of 25 feet or more in any direction or so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of

residence, or in any office, or of any persons in the vicinity of any such person in or on the public sidewalks, ways or other public places.

- (6) No person shall operate 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 in front or outside of any building, place or premises abutting on or adjacent to a public street, park or place where the sound therefrom is plainly audible on any public street, park or place, or from any stand, platform or other structure or anywhere on the public streets, parks or places.
  - (7) No person shall make or cause or permit to be made or caused any music or sound originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound increases the broad band sound level, when measured at the property line of the establishment, by more than 10 dB(A) above ambient, or produces a pure tone condition (a condition is created when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more).
  - (8) No person shall operate any power saw, drill, grinder, lawn mower, lawn or garden tool, or similar tool at any time between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturday or between the hours of 9:00 p.m. and 9:00 a.m. on Sunday and legal holidays, such that the sound emanating from any such activity is plainly audible in a public place at a distance of 50 feet or more.
  - (9) No person shall operate any powered construction equipment or build, erect construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project, except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday, and between the hours 9:00 a.m. and 7:00 p.m. on Sundays except for work performed by a public service or municipal utility department or "emergency work" performed with the express written permission of the commissioner of inspectional services or the commissioner of public works and parks. Emergency work shall be limited to such work that is clearly essential to response to a sudden and unexpected threat to public health or public safety. Emergency work permission may be granted to a general or sub-contractor on a blanket basis governing all persons working on a specified portion of a particular job. Emergency work permission may be granted for not more than one week at a time, and may be renewed for additional one week periods at the discretion of the commissioner who granted the initial permission.
- (f) City Contracts
- (1) On any project for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or public work, to be funded in whole or in part by city funds, or funds which, in accordance

with a federal or state grant, program, or otherwise, the city expends or administers, or any such project to which the city is a signatory to the contract therefor, the provisions of this section shall apply and the same shall be referenced in every invitation to bid for such project and, the following paragraphs shall be contained in every resulting contract therefrom:

“It shall be a material breach of this contract if the contractor and each subcontractor shall not at all times adhere to the provisions of § 1A(e)(9) of chapter nine of the Revised Ordinances of the city by limiting their on-site, noise producing construction and related work to the hours specified by said ordinance.”

- (2) The director of purchasing, commissioner of inspectional services and the head of any department shall have the authority to adopt any rules and regulations they deem necessary to implement this subsection with respect to contracts generally and the head of the department awarding any such contract shall have the authority to adopt any rules and regulations he or she deems necessary to implement this subsection with respect to any particular project.

(g) Exemptions

This ordinance shall not apply to:

- (1) Sound from activities in the public parks, playgrounds, playing fields, or public property or buildings of the city used under the written permission of the municipal official or body charged with the care, custody and control of said facility; provided that, any amplified sound generated by such activities shall not be plainly audible at a distance of 50 feet or more from said public park, playground, playing field, or public property or building.
- (2) Sound from parades, rallies, public assemblies, demonstrations, special events, sporting events or sound trucks may for brief periods reasonably exceed the sound level limits contained herein; provided, however, that no person shall increase the amplification level of the sound generated by such activities to the point where it is consistently and plainly audible in a public place at a distance of more than 50 feet from the perimeter of the property containing such activity.
- (3) Sound from bells, chimes, or carillons from a structure operated for non-commercial purposes between the hours of 8:00 a.m. and 9:05 p.m., and during special events.
- (4) Sound from snow blowers, snowplows, and other snow removal equipment during or immediately after a snowfall, and the use of power equipment necessary for emergency repairs or debris removal due to severe weather.
- (5) Sound from trains, boats and personal watercraft operated in compliance with state law.

- (6) Sound from aircraft landing, taking-off, or taxiing at Worcester Regional Airport.
- (7) Sound from lawfully permitted fireworks displays.

(h) Enforcement and Penalties

The penalty for each violation of this section 1A shall be fifty (\$50.00) dollars. The provisions of this section 1A shall be enforced using the noncriminal disposition process as provided in General Laws, chapter 40, § 21D by the chief of police and every city police officer and official and any other individual listed as an “enforcing person” under the relevant provision of chapter 15 of the Revised Ordinances.