

Chapter 66. Noise

[HISTORY: Adopted by the City Council of the City of Yonkers 9-24-1991 by G.O. No. 18-1991. Amendments noted where applicable.]

o66a Table I 

Article I. General Provisions

§ 66-1. Findings and declarations.

[Amended 3-22-2005 by G.O. No. 4-2005]

It is hereby found and declared that:

- A. The making, creation or maintenance of loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Yonkers.
- B. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, prosperity and the peace and quiet of the City of Yonkers and its inhabitants.

§ 66-2. Definitions.

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

BOOM BOX

Self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this chapter.

[Added 3-22-2005 by Ord. No. 4-2005]

COMMERCIAL AREA

A group of commercial facilities and the abutting public rights-of-way and public spaces.

COMMERCIAL FACILITY

Any premises, property or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

[Amended 3-22-2005 by G.O. No. 4-2005]

- A. Banking and other financial institutions.
- B. Dining establishments.
- C. Establishments for providing retail services.
- D. Establishments for providing wholesale services.
- E. Establishments for recreation and entertainment.

- F. Office buildings.
- G. Transportation.
- H. Warehouses.
- I. Establishments providing commercial living accommodations and commercial property used for human habitation, when such is the source of the sound under investigation.

COMMERCIAL SCHOOL

An educational or training establishment operated for a business, including the instruction of language, dance, fine or applied arts, martial arts, business, computers, trades, vocations, or the like.

[Added 3-22-2005 by G.O. No. 4-2005]

CONSTRUCTION

Any site preparation, assembly, erection, repair, alteration or similar action, but excluding demolition of buildings or structures.

DECIBEL

The practical unit of measurement for sound pressure level. The number of "decibels" of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

DEMOLITION

Any dismantling, intentional destruction or removal of buildings or structures.

EMERGENCY WORK

Any work or action necessary to deliver essential services, including but not limited to repairing water, gas, electricity, telephone or sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way or abating life-threatening conditions.

INDUSTRIAL FACILITY

Any activity and its related premises, property, facilities or equipment involving the fabrication, manufacture or production of durable or nondurable goods.

MOTORIZED EQUIPMENT

Any power equipment utilizing an electric or internal combustion engine, for the purposes of this code.

[Added 3-22-2005 by G.O. No. 4-2005]

MOTOR VEHICLE

Any vehicle that is propelled or drawn on land by an engine or motor.

MUFFLER

A sound-dissipative device or system for abating the sound of escaping gasses of an internal combustion engine.

MULTI-DWELLING-UNIT BUILDING

Any building wherein there are two or more dwelling units.

MULTI-USE PROPERTY

Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

[Added 3-22-2005 by G.O. No. 4-2005]

- A. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- B. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

MUSIC AMPLIFIED CARS

Otherwise known as a "boom car," a personal or commercial vehicle with music amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this chapter.

[Added 3-22-2005 by G.O. No. 4-2005]

NOISE CONTROL OFFICER

An officer, building inspector or housing inspector of the City of Yonkers, trained in the measurement of sound or a City of Yonkers police officer. Said official is empowered to issue an appearance ticket for violation of this chapter.

[Amended 3-22-2005 by G.O. No. 4-2005]

NOISE DISTURBANCE

Any sound that:

- A. Endangers the safety or health of any person;
- B. Disturbs a reasonable person of normal sensitivities; or
- C. Endangers personal or real property.

PERSON

Any individual, corporation, company, association, society, firm, partnership or joint-stock company.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, road, highway, sidewalk, alley or parking lot used by members of the general public.

PUBLIC SPACE

Any real property or structures thereon that are either owned, leased or controlled by a governmental entity or used by members of the general public. "Public space" includes but is not limited to parks, sports fields, lots, etc.

REAL PROPERTY LINE

Either the imaginary line, including its vertical extension, that separates one parcel of real property from another or the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.

RESIDENTIAL AREA

A group of residential properties and the abutting public rights-of-way and public spaces.

RESIDENTIAL PROPERTY

Property used for human habitation, including but not limited to:

[Added 3-22-2005 by G.O. No. 4-2005]

- A. Private property used for human habitation.
- B. Commercial living accommodations and commercial property used for human habitation.
- C. Recreational and entertainment property used for human habitation.
- D. Community service property used for human habitation.
- E. Hospitals, long-term medical or residential care facilities.

SCHOOL

Any place of education or instruction, other than a commercial school, college, university, theological seminary, convent, monastery, day-care center, children's day camp and religious retreat.

[Added 3-22-2005 by G.O. No. 4-2005]

SOUND LEVEL

The sound pressure level measured in decibels with a sound-level meter set for A-weighting; "sound level" is expressed in "dBA."

SOUND-LEVEL METER

An instrument used to measure sound level which conforms to Type 1 or Type 2 standards as specified by ANSI Specification S1.4-1971.

WEEKDAY

Any day that is not a legal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

[Amended 3-22-2005 by G.O. No. 4-2005]

WEEKEND

Begins on Friday at 6:00 p.m. and ends on the following Monday at 7:00 a.m.

[Amended 3-22-2005 by G.O. No. 4-2005]

§ 66-3. Noise disturbance prohibited.

It shall be unlawful for any person to make, continue, cause, permit or allow, verbally or mechanically, any noise disturbance.

§ 66-4. Enumeration of prohibited noises.

The following acts are declared to be a violation of § 66-3. Said enumeration shall not be deemed to be exclusive.

- A. Sound-reproduction systems: operating, playing or permitting the operation or playing of any radio, phonograph, tape player, compact disc player, television, receiver or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance for any person other than the operator of the device.
- B. Loudspeakers and public-address systems: using or operating any loudspeaker, public-address system or similar device between the hours of 10:00 p.m. and 9:00 a.m. of the following day such that the sound therefrom creates a noise disturbance across a residential real property line.
- C. Animals and birds: owning, possessing or harboring any animal or bird that frequently or for continued duration makes or creates a noise disturbance across a residential real property line. A noise disturbance is created by a dog barking continually for 10 minutes or intermittently for 30 minutes.
- D. Loading and unloading: loading, unloading, opening, closing or other handling of boxes, crates, containers, bales, cans, drums, refuse or similar objects or the pumped loading or unloading of materials in liquid, gaseous, powder or pellet form between the hours of 10:00 p.m. and 7:00 a.m. the following day when the sound therefrom creates a noise disturbance across a residential real property line.
- E. Motor vehicles: operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle for a period of longer than five minutes in any sixty-minute period while the vehicle is stationary for reasons other than traffic congestion or emergency work on a public right-of-way or public space within 150 feet of a residential area or operating or permitting the operation of any motor vehicle so out of repair or in such a condition as to create a noise disturbance. No motor vehicle may be operated without a properly functioning muffler on a public right-of-way. The operation of a vehicle which is unmuffled or is equipped with straight pipes is a violation of this code. It shall be unlawful to operate a car radio or car stereo so that the sound produced is plainly audible at a distance of 25 or more feet from the vehicle. The registered owner of the vehicle, if present when the violation occurs, is in violation of this section. If the owner of the vehicle is not present, the violation will be served upon the person in charge or control of the vehicle, or anyone who assists in the production of the sound that is found to be in violation. The horn or signaling device on any motor vehicle may not be operated, except when used as a danger or traffic warning signal, and such operation must terminate when the danger has passed. It shall be unlawful for a motor vehicle to audibly sound a false alarm. It shall be unlawful for a vehicle to be equipped with a shaker switch or any other vibration or movement detecting device which contributes to or causes the vehicle to sound false alarms. An exterior alarm of a motor vehicle must not audibly sound for more than five minutes continuously or 10 minutes intermittently.

[Amended 3-22-2005 by G.O. No. 4-2005]

- F. Construction, repair and demolition: operating or permitting the operation of any tool or equipment used in construction, repair, demolition or excavation between the hours of 6:00 p.m. and 7:00 a.m. the following day or at any time on weekends or legal holidays. Such operation does not constitute a violation if the tool or equipment is used in an emergency situation. This provision shall not apply to the following activities so long as they are operating within the time and volume parameters set forth by the regulating department(s): road maintenance/improvement on preexisting roads, on which daytime construction would prove disruptive of traffic flow; and home construction projects by the homeowner. All motorized equipment used in construction and demolition activity shall be operated with a muffler. At all other times, the limits set forth in **Table I**^[1] do not apply to construction and demolition activities.

[Amended 3-22-2005 by G.O. No. 4-2005]

[1] *Editor's Note: Table I is included at the end of this chapter.*

- G. Noncommercial or nonindustrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 9:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 9:00 p.m. and 9:00 a.m. on weekends or legal holidays, unless such activities can meet the applicable limits set forth in **Table I**.^[2] All motorized equipment used in these activities shall be operated with a muffler. Notwithstanding the limits set forth in **Table I**, between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, or between the hours of 9:00 a.m. and 9:00 p.m. on weekends or legal holidays, the sound levels from these power tools may not exceed 70 dBA when measured at or within the property line of an affected person, for a duration exceeding 15 minutes continuously or thirty minutes intermittently in any single day.

[Added 3-22-2005 by G.O. No. 4-2005]

[2] *Editor's Note: Table I is included at the end of this chapter.*

- H. Commercial or industrial power tools used for landscaping and yard maintenance, excluding emergency work, shall not be operated within 200 feet of a residential property line between the hours of 7:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 7:00 p.m. and 9:00 a.m. on weekends or legal holidays, unless such activities can meet the limits set forth in **Table I**.^[3] All motorized equipment used in these activities shall be operated with a muffler. The limits set forth in **Table I** notwithstanding, the sound levels from these power tools may not exceed 70 dBA when measured at or within the property line of an affected person, for a duration exceeding 15 minutes continuously or thirty minutes intermittently in any single day, between the hours of 8:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 9:00 p.m. on weekends or legal holidays.

[Added 3-22-2005 by G.O. No. 4-2005]

[3] *Editor's Note: Table I is included at the end of this chapter.*

- I. Sound devices on public transportation: operating, playing or permitting the operation or playing of any radio, phonograph, tape player, compact disc player, television receiver or similar device on or in any method of public transportation in such a manner that the sound from such device is audible to any other person.

[Amended 3-22-2005 by G.O. No. 4-2005]

- J. Miscellaneous sound producers: creating or emitting a noise which constitutes a noise disturbance by any manner, including but not limited to a horn, siren, whistle, yell, shout, bell, musical instrument, tool, engine, etc.

[Amended 3-22-2005 by G.O. No. 4-2005]

§ 66-5. Prima facie evidence of noise disturbance.

[Amended 3-22-2005 by G.O. No. 4-2005]

The following shall be considered prima facie evidence of noise disturbance:^[1]

- A. A sound-level reading taken at a dwelling within a multi-dwelling-unit building, arising from any location within a multi-dwelling-unit building, above 50 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.
- B. A sound-level reading taken at a dwelling within a multi-dwelling-unit building, arising from any location within a multi-dwelling-unit building, above 45 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.
- C. A sound-level reading taken at a residential property, arising from another residential property, above 55 dBA

during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.

- D. A sound-level reading taken at a residential property, arising from another residential property, above 50 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.
- E. A sound-level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 70 dBA during the time period commencing at 7:00 am. and ending at 10:00 p.m.
- F. A sound-level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 50 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.
- G. A sound-level reading taken at a commercial property at any time, arising from any property source, above 70 dBA.
- H. A sound-level reading taken at an industrial property at any time, arising from any property source, above 70 dBA.
- I. A sound plainly audible at a distance of 50 feet from its source.

[1] *Editor's Note: See also Table I, which is included at the end of this chapter.*

§ 66-6. Exemptions.

The following sounds are exempt from the restrictions of this chapter:

- A. Sounds from motorized equipment such as domestic power tools, lawn mowers and garden equipment when operated between the hours of 9:00 a.m. and 8:00 p.m., provided that they produce less than 85 dBA at or near any real property line of a residential property.
[Amended 3-22-2005 by G.O. No. 4-2005]
- B. Sound for the bells or chimes of a church, synagogue or other house of worship.
- C. Sound from a snow blower, snow thrower, electric snow shovel or snowplow used for the purpose of snow removal.
- D. Sound from an exterior burglar alarm of any building or motor vehicle, provided that such alarm shall terminate within 15 minutes after it has been activated.
- E. Sound used for the purposes of alerting a person of an emergency.
- F. Sound from the performance of emergency work.
- G. Sound from a municipally sponsored or approved celebration or event.
- H. National warning system (NAWAS): systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane.
[Added 3-22-2005 by G.O. No. 4-2005]
- I. Sounds from municipally sponsored construction projects, or repairs as ordered by the City Engineer or Commissioner of Department of Public Works.
[Added 3-22-2005 by G.O. No. 4-2005]
- J. Emergency generators which may be used during a power failure.
[Added 3-22-2005 by G.O. No. 4-2005]
- K. The sounds in excess of 50 dBA as measured at a residential property, where such sounds are generated from an industrial or commercial facility described in Subsection **K(1)**, provided further that the sound level from such facility does not increase beyond the sound level from the facility's normal overall operations as of the effective date of this amendment.
[Added 12-8-2009 by G.O. No. 9-2009]

- (1) An industrial or commercial facility that does not meet the noise standards of § 66-5E or F of Chapter 66 of the Code due to the introduction of a residential use on an adjacent or nearby property due to a rezoning, a new land use, or a new occupancy in an otherwise existing building, where such new residential use begins on or after the effective date of this amendment, provided that this exemption applies solely with respect to such new residential use.

§ 66-7. through § 66-9. (Reserved)

Article II. Conditions for Variances

§ 66-10. Application.

- A. Any person who owns or operates any stationary sound source may apply to the Commissioner of the Department of Housing and Buildings for a variance from one or more of the provisions of this chapter. [Amended 3-22-2005 by G.O. No. 4-2005]
- B. Applications for a permit of variance shall supply information including but not limited to:
 - (1) The name and address of the applicant.
 - (2) The nature and location of the noise source for which such application is made.
 - (3) The reason for which the permit of variance is requested, including the hardship that will result to the applicant or the public if the permit of variance is not granted.
 - (4) The nature and intensity of noise that will occur during the period of the variance.
 - (5) The section or sections of this chapter for which the permit of variance shall apply.
 - (6) A description of interim noise control measures to be taken by the applicant to minimize noise and the impact occurring therefrom.
 - (7) A specific schedule of noise control measures.
 - (8) A presentation of adequate proof that noise levels occurring during the period of the variance will not constitute a danger to public health.
 - (9) A presentation of adequate proof that compliance with this chapter would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefit to the public.
- C. The applicant's failure to supply the required information required by this article shall be cause for rejection of the application.

§ 66-11. Permit fee; duration of variance.

[Amended 3-22-2005 by G.O. No. 4-2005; 6-20-2009 by L.L. No. 3-2009]

- A. The Commissioner of the Department of Housing and Buildings shall charge the applicant a fee of \$400. [Amended 6-26-2012 by G.O. No. 13-2012]
- B. The duration of the permit of variance shall not exceed one month but may be extended by the Commissioner to any period of time up to one year.
- C. The permit of variance may be extended for additional times upon filing a written request with an associated fee of \$400 for each extension. [Amended 6-26-2012 by G.O. No. 13-2012]
- D. A copy of the permit shall be on file with the City of Yonkers Department of Housing and Buildings.

§ 66-12. Approval of variance.

[Amended 3-22-2005 by G.O. No. 4-2005]

In granting the application for permit of variance, the Commissioner of the Department of Housing and Buildings shall consider:

- A. The character and degree of injury to or interference with the health and welfare or use of the property which is affected.
- B. The social and economic value of the activity for which the variance is sought.
- C. The ability of the applicant to apply the best practical noise control measures.

§ 66-13. Revocation of variance.

[Amended 3-22-2005 by G.O. No. 4-2005]

The permit of variance may be revoked by the Commissioner of the Department of Housing and Buildings if:

- A. There is a violation of one or more conditions of the variance;
- B. There is a material misrepresentation of fact in the permit application; or
- C. There is a material change in any of the circumstances relied upon by the Commissioner in granting the variance.

§ 66-14. through § 66-16. (Reserved)

Article III. Permit for Use of Sound-Producing Devices

§ 66-17. Permit required.

No person shall operate, use or permit operation of any sound-producing device on or in front of any public right-of-way or public space without a permit from the Police Commissioner of the City of Yonkers Police Department. Such permit shall be issued at the discretion of the Commissioner and in accordance with such rules and conditions as he may describe.

§ 66-18. Revocation of permit.

A permit issued pursuant to § 66-17 of this chapter may be revoked by the Police Commissioner of the City of Yonkers Police Department at his discretion.

§ 66-19. through § 66-21. (Reserved)

Article IV. Enforcement; Penalties

§ 66-22. Abatement orders.

A noise control officer or a police officer of the City of Yonkers may issue an order requiring abatement of any source of sound alleged to be in violation of this chapter. Such abatement must be made within a reasonable time period and according to the conditions prescribed by the officer.

§ 66-23. Issuance of summons.

Violation of any provision of this chapter or of an abatement order shall be cause for an appearance ticket to be issued by the noise control officer or a police officer of the City of Yonkers.

§ 66-24. Penalties for offenses.

Any violation of any provision of this chapter or violation of a lawful abatement order shall constitute a Class II offense.

[1] *Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.*