

## Chapter 293. Noise

### § 293-1. Findings; intent.

The Common Council determines that the creation of excessive and unreasonable noise within the City limits of Buffalo is a detriment to the comfort, convenience, safety, health and welfare of the citizens of the City and that persons within the City are entitled to have maintained noise levels which are not a detriment to life, health, welfare and enjoyment of property. Therefore, it intends hereby to prohibit all excessive and unreasonable noise from all sources subject to its police power in order to preserve, protect and promote health, safety and welfare and the peace, quiet, comfort and repose of persons within the City.

### § 293-2. Definitions.

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

#### AMBIENT NOISE

The all-encompassing noise associated with a given environment, being usually a composite of sounds from near and far.

#### DAY

The hours between 7:00 a.m. and 9:00 p.m., except Fridays and Saturdays, when the evening hours shall be 11:00 p.m.

#### DECIBEL

A standard unit of acoustic measurement having a zero-reference of 0.0002 microbar.

#### IMPULSIVE NOISE

A noise of short duration.

#### NOISE-RATING NUMBER

The criteria established in the noise-rating curves of the International Standards Organization.

#### OCTAVE BAND

The range of sound frequencies divided into octaves in order to classify sound according to pitch.

#### PERSON

Any individual, firm, corporation, association, club, partnership, society or any other form of association or organization.

#### PUBLIC RIGHT-OF-WAY

Any street, sidewalk or alley or similar place which is owned or controlled by the City of Buffalo, including not limited to walks, regardless of designation.

#### PUBLIC SPACE

Any real property or structure thereon which is owned, controlled or leased by the City of Buffalo.

## PURE TONE

A sound having a single pitch.

## REAL PROPERTY BOUNDARY

An imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person or from any public right-of-way or from any public space.

## SOUND

An oscillation in pressure, partial velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of the medium.

## SOUND-LEVEL METER

An instrument, including a microphone, an amplifier, an output meter and frequency-weighting networks, used for the measurement of sound in a specified manner and calibrated in decibels.

## SOUND-REPRODUCTION DEVICE

Any device, instrument, mechanism, equipment or apparatus for the amplification of any sounds from any radio, phonograph, stereo, tape player, musical instrument, television, loudspeaker or other sound-making or sound-producing device or any device or apparatus for the reproduction or amplification of the human voice or other sound.

## UNREASONABLE NOISES

Any noise which is defined in § 293-4 or 293-5.

## VEHICLE

Any land conveyance, self-propelled or propelled by an internal source.

## VESSEL

Includes every description of watercraft used or capable of being used as a means of transportation in, on or upon water, including but not limited to nondisplacement craft and seaplanes.

## WITHIN THE COMMERCIAL AREA

Sound emanating from a source within the commercial area. Sound shall not be considered "within the commercial area" if it is projected into, heard or felt in a residential area, and such sound shall be considered to be within the residential area and governed by the rules relating thereto.

## ZONING DISTRICT

A district established in accordance with Chapter 511, Zoning, of this Code.

## § 293-3. Unreasonable noise prohibited.

It shall be unlawful for any person to make, continue, cause to be made or permit to be made any unreasonable noise within the geographical boundaries of the City of Buffalo or within those areas over which the City has jurisdiction. The determination as to the existence of unreasonable noise may be established either by the specific acts considered to be unreasonable noise enumerated within § 293-4 or by the measurements exceeding the limitations set forth in § 293-5.

## § 293-4. Specific acts constituting unreasonable noise.

The following acts and the causes thereof are declared to be in violation of this chapter and to constitute unreasonable noise:

- A. The use of any sound-reproduction device outside a structure either on private property or on a public right-of-way or public space at any time within the residential areas or within the commercial areas which, by causing noise, annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities. This provision shall not be construed to prohibit public performances being conducted in accordance with the provisions of a special permit granted by the City.
- B. The use of any sound-reproduction device inside a structure in such a manner as to result in the sound or any part thereof from such apparatus to be projected therefrom outside of the structure or out of doors at any time within the residential areas or during night hours in the commercial areas whereby the sound can be audibly heard more than 100 feet from the real property boundary line from which the noise emanates. Sound which crosses any real property boundary shall be deemed to be projected within the meaning of this chapter. Nothing within Subsections A and B herein shall be construed to prevent the operation of any such apparatus by any person within any building or structure, provided that the sound therefrom or any part thereof is not projected outside of any building or out of doors, or to prohibit the use of any apparatus with a personal earphone so that the sound therefrom or any part thereof is not audible to persons other than the user of the earphone.
- C. The operation of any sound-reproduction device on a vessel so that the sound therefrom is audible on land, which annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.
- D. The use and operation of any sound-reproduction device in a vehicle which would constitute a threat to the safety of pedestrians or vehicle operators or where conditions of overcrowding or street repair or other physical conditions are such that the use of a sound reproduction device would deprive the public of the right to the safe, comfortable, convenient and peaceful enjoyment of a public street, park or place for public purpose and would constitute a threat to the safety and welfare of the public.
- E. The operation of any sound-reproduction device within 500 feet of any school, church, health-care facility, clinic or courthouse while the same is in session or conducting business therein so as to interfere with the functions of such activities.
- F. The operation of any sound-reproduction device within 500 feet of any hospital, nursing home or similar facility whereby the sound emanating from the device can be audibly heard within the building or structure therein and so as to interfere with the functions of such activities or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.
- G. Yelling, shouting or hooting at any time or place so as to annoy or disturb the quiet, comfort and repose of a reasonable person of normal sensitivities.
- H. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any business, which annoys or disturbs the quiet, comfort and repose of a reasonable person of normal sensitivities.
- I. Construction activity.
- (1) The performance or engagement in construction work, building, excavating, hoisting, grading, demolishing, dredging or pneumatic hammering within the limits of the City between the hours of 9:00 p.m. and 7:00 a.m. that causes sound which annoys or disturbs a reasonable person of normal sensitivities in a residential real property zone, except for emergency work of public service utilities or as otherwise provided in Subsection I(b) herein.
  - (2) Any person desiring to engage in the aforesaid activity beyond the stated hours of limitation, based upon cases of urgent necessity or upon the interests of public health, safety and convenience, may apply to the Commissioner of Public Works for a special permit allowing such activity. The permits, if granted, shall be limited to a period of up to three days' duration but may

be renewed for additional periods of up to three days each if the emergency or need continues. In the issuance of these permits, the Commissioner of Public Works shall weigh all facts and circumstances and shall determine whether the reasons given for the urgent necessity are valid and reasonable, whether the public health, safety and ultimate convenience will be protected or better served by granting the permit requested and whether the manner and amount of loss or inconvenience to the party in interest imposes a significant hardship.

- J. The sounding of any horn, security alarm or other auditory signaling device in any vehicle, vessel, engine, machine or stationary boiler for period of time longer than five minutes, except as required by law or to provide a warning signal during use thereof. This provision shall not be construed to prohibit the use and operation of a signal device in an emergency vehicle.
- K. The operation of a vehicle without an adequate muffler or exhaust system to prevent any unreasonable noise in violation of the Vehicle and Traffic Law § 375, Subdivision 31.
- L. The use and operation of any lawn maintenance device, including mowers, edgers, trimmers and power-driven hedge shears, between the hours of 9:00 p.m. and 7:00 a.m. that causes sound that annoys or disturbs a reasonable person of normal sensitivities in a residential real property zone. This provision does not apply to the operation such equipment on golf courses.
- M. The use and operation of air conditioners, snowblowers, solid waste collection vehicles and equipment or other mechanical devices which cause noise that annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities, except upon cases of urgent necessity or upon the interests of public health, safety and convenience. This provision shall not be construed to prohibit the use and operation of City, county, state or other governmental equipment otherwise in compliance with the provisions of this chapter. [Amended 11-26-2002, effective 12-6-2002]
- N. The keeping of any animal or bird which causes noise that annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities. This provision shall not apply to public zoos.
- O. Any other excessive or unreasonable noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities, except that the enumerated provisions of Subsections A through N of this section shall govern and regulate the actions and activities therein prohibited, and nothing contained in this Subsection O shall apply to those actions and activities set forth in Subsections A through N of this section.

## § 293-5. Additional guidelines to determine unreasonable noise.

[Amended 10-2-1990, effective 10-11-1990]

- A. The subject noise must exceed ambient noise by five decibels or more in any octave band to be declared excessive or unreasonable.
- B. Sound projecting from one use district into another use district having a lower noise-level limit shall not exceed the limits of the district into which it is projected.

## § 293-6. Methods of measurement.

- A. Noise measurements shall be made with a sound-level meter and compatible octave band analyzer manufactured according to the specification of the American National Standards Institute, USA Standard Specification for General Purpose Sound Level Meters (S1.4-1971) and Preferred Center

Frequencies for Acoustical Measurements (S1.6-1960) or any subsequent nationally adopted standard superseding the above standards.

- B. Except where impractical, sound measurements shall be made from the specific position of the complainant at the premises from which noise complaints are received and shall be made at a height of at least three feet above the ground and three feet away from walls, barriers, obstructions or other sound-reflective surfaces. **Where the nature of the noise permits, the slow response setting shall be used to obtain the noise level on the sound-level meter.** The sound analysis curve shall be plotted in decibels upon the noise-rating numbers chart, and the highest portion of the curve in any octave band above a noise-rating curve shall be the noise-rating number for the measurement. The average curve of several noise measurements may be used to plot the sound analysis curve.
- C. When detailed sound analysis measurement cannot be made, a measurement of the noise using the A scale of a standard sound-level meter may be made, and the noise-rating number shall be determined by this measurement minus eight decibels.**

## § 293-7. Penalty for offenses.

[Added 11-12-1996, effective 11-25-1996; amended 12-12-2006, effective 12-26-2006]

- A. Any person violating the provisions of this chapter may be liable for penalties as prescribed in Chapter 137, Article I, of this Code and § 1-15 of the City Charter and Code which states: "Every violation of any of the Code of the City of Buffalo shall be punishable by a fine or penalty of not more than \$1,500 or by imprisonment for not more than 15 days, or by both such fine and imprisonment, for each offense, in every case wherein no punishment or fine for a violation thereof is provided. Each day that a violation continues shall be deemed a separate violation. In addition to the aforesaid fines and penalties, a licensee who violates any provision of the Code shall be subject to a suspension or revocation of his license. Any payment returned by the Director of Treasury for insufficient funds will be subject to an additional charge as outlined in Chapter 175, Fees."
- B. A Buffalo police officer who in the course of his/her duties and with firsthand knowledge observes a person in violation of the City's noise ordinance may make and arrest without a warrant as authorized and provided by Criminal Procedure Law § 140.10. In the event a police officer makes an arrest without a warrant pursuant to this chapter, he/she must without unnecessary delay bring the arrested person before a local criminal court and file an appropriate accusatory instrument charging the individual with the appropriate offense as required by Criminal Procedure Law § 140.20.
- (1) Alternatively, the arresting officer may issue and serve an appearance ticket upon the arrested person and release him/her from custody, provided that the police officer who has issued and served the appearance ticket, at or before the time the appearance ticket is returnable files with the local criminal court in which the ticket is returnable an accusatory instrument charging the named person with the appropriate offense pursuant to this chapter and in accordance with Criminal Procedure Law §§ 140 and 150.
  - (2) If the defendant does not appear in the designated local criminal court on the return date of the appearance ticket, the court may issue a summons or a warrant of arrest based on the accusatory instrument filed as authorized by all applicable provisions of the Criminal Procedure Law.