

## **Boston, Massachusetts Noise Ordinance**

### **16-26 UNREASONABLE NOISE**

#### **16-26.1 General Prohibition and Definitions.**

No person shall make or cause to be made any unreasonable or excessive noise in the city, by whatever means or from whatever means or from whatever source. As used herein, the following terms shall have the following meanings:

- a. dBa shall mean A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standard Institute, "Specifications for Sound Level Meter (ANSI S1.7-1971)", properly calibrated, and operated on the "A" weighting network
- b. Loud amplification device or similar equipment shall mean a radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loud speaker, or sound amplifier which is operated in such a manner that it creates unreasonable or excessive noise.
- c. Unreasonable or excessive noise shall mean
  1. Noise measured in excess of 50 dBa between the hours of 11:00 p.m. and 7:00 a.m., or in excess of 70 dBa at all other hours; or
  2. In the absence of an applicable noise level standard or regulation of the Air Pollution control commission, any noise plainly audible at a distance of three hundred (300) feet or, in the case of loud amplification devices of similar equipment, noise plainly audible at a distance of one hundred (100) feet from its source by a person of normal hearing. Ord. T14 § 354; Ord, 1991 c. 4 § ii

#### **16-26.2 Unreasonable Noise-Making Automobile Safety Devices.**

The use, maintenance, installation or keeping of any device whose purpose it is to protect an owner's vehicle from damage and/or then through the mechanical creation of a noise of sufficient magnitude to be plainly audible at a distance of two hundred (200') feet from such device which does not automatically terminate any such noise within five (5) minutes shall be unlawful. Penalty for violation of this section shall be a fine of fifty (\$50,00) dollars. This section shall be deemed a Part of the Environment Protection Ordinances, so called, and shall be enforced pursuant to the provisions of Chapter 40, Section 21D of the General Laws.

(Ord. 1984 c. 4; [354a])

#### **16-26.3 Unreasonable Noise From Automobile Safety Devices.**

The use of any device whose purpose it is to protect an owner's vehicle from damage and/or then through the mechanical creation of a noise of sufficient magnitude to be plainly audible at a distance of two hundred (200') feet from such device which does not automatically terminate any such noise within five (5) minutes shall be declared an unlawful use of a noise making instrument. The penalty for violation of this ordinance shall be fifty (\$50,00) dollars and shall be in compliance with the Provisions of chapter 40, Section 21D of the General Laws. This section shall be deemed a part of the Environment Protection Ordinances, so called.

(Ord, 1984 c. 5 § 1 [354b])

#### **16-26.4 Regulation of Construction Hours.**

No erection, demolition, alteration, or repair of any building and excavation in regard thereto, except between the hours of 7:00 am. and 6:00 p.m., on weekdays or except in the interest of public safety or welfare, upon the issuance of and pursuant to a permit from the commissioner, Inspectional Services Department, which permit may be renewed for one or more periods of not exceeding one week each.

(Ord. 1984 c. 10 §1 (354c); Ord. 1991 c. 5 § 38)

**16-26.5 Noise Levels at Residential Lot Lines.**

It Shall be unlawful for any person except in emergencies by Public Utility Companies to operate any construction device(s), including but not limited to impact devices, on any construction site if the operation of such device(s) emits noise, measured at the lot line of a residential lot in excess of 50 dBA between the hours of 6:00 p.m. and 7:00 a.m.

(Ord. 1985 c. 3 §1 (354d)

**16-26.6 Disturbing the Peace.**

It shall be unlawful for any person or persons in a residential area within the city of Boston to disturb the Peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any radio, phonograph or sound related producing device or instrument, or from the Playing of any band or orchestra, or from the use of any device to amplify the aforesaid noise, or from the making of excessive outcries, exclamations, or loud singing or any. other excessive noise by a person or group of Persons, or from the use of any device to amplify such noise provided, however, that any performance, concert, establishment, band, group or person who has received and maintains a valid license or permit from any department, board or commission of the city of Boston authorized to issue such license or permit shall be exempt from the provisions of this section.

Unreasonable or excessive noise shall be defined as noise measured in excess of 50 dBA between the hours of 11:00 p.m. and 7:00 a.m. or in excess of 70 dBA at all other hours when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit. The term dBA shall mean the A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute, "Specifications for Sound Level Meters (ANSI SIR 19711" properly calibrated, and operated an the "A" weighting network. Any person aggrieved by such disturbance of the peace may complain to the Police about such unreasonable or excessive noise. The police, in response to each complaint, shall verify by use of the sound level meter described herein that the noise complained of does exceed the limit described herein and if so, may thereupon arrest and/or make application in the appropriate court for issuance of a criminal complaint for violation of M.G.L. c. 272, S. 53, which sets forth the penalties for disturbing the peace.

(Ord. 1986 c. 19 § 1, 2 (354e) Ord. 1991c, 4 § 2)

**16-26.7 Prohibition Against Loud Amplification Devices in Motor Vehicles.**

It shall be unlawful for any person in any area of the city to operate a loud amplification device or similar equipment, as defined in subsection 16-26.1, in or on a motor vehicle which is either moving or standing in a public way.

(Ord. 1991 c. 4 § 3)

**16-26.8 Prohibition Against Loud Amplification Devices in Public Ways or Places.**

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in subsection 16.26.1, in a public way or in any other public place. (Ord. 1991 c. 4 § 3)

**16-26.9 Prohibition Against Loud Amplification Devices in or on Residential Premises.**

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in subsection 16-26.1, in a dwelling house or on the land or other premises of such dwelling house. (Ord. 1991 c. 4 § 3)

**16-26.10 Enforcement.**

Subsections 16-26.7, 16.26.8, or 16-26.9 may be enforced by any police officer, any special police officer designated by the Commissioner to do so, by any designee of the Air Pollution Control Commission or of the Board of Health

and Hospitals or of the Commissioner of Inspectional Services. The Housing Court may enjoin violation of these subsections.

(Ord. 1991 c. 4 § 3; Ord. 1995c. 5)

#### **16-26.10 Penalties.**

a. Any person who violates subsections 16-26.7, 16-26.8, or 16-26.9 shall for the first offense be fined thirty (\$30.00) dollars. The enforcing person shall make a record of the complaint, such record to include the following information (to the extent that it is available), name and address of person violating; name and address of landlord, if applicable; date; time; motor vehicle registration number, if applicable; and location of the violation. If the violator refuses to give the above-noted information or if any information proves false, said person shall be punished by a fine of an additional fifty (\$50.00) dollars. The enforcing person shall give the violator a notice of the violation and fine, and the violation and fine may be disposed of pursuant to G.L. c. 40, Section 21D. A copy of each violation notice shall be sent to the landlord and to the school or university at which the violator is enrolled, when applicable.

b. The Air Pollution Control Commission shall keep and make available to the public and all persons authorized to enforce these provisions, and the certification or the information there appearing by an enforcing official to a court shall establish a rebuttable presumption of the accuracy thereof.

No person, being the landlord or person in charge of a residential structure shall permit, or suffer, the repeated violations of these ordinances, after notice thereof. Such person shall be punished at the time of the third such violation, and every violation thereafter within twelve (12) months of the first violation by a fine of one hundred (\$100.00) dollars in the case of the third, and two hundred (\$200.00) dollars for each thereafter. It shall be a defense that the landlord or person in charge of a residential structure shall have made good faith effort including the seeking of a court order, to prevent violations.

Any person who subsequently violates these subsections 16-26.7, 16-26.8, 16-26.9, shall be punished by a fine of one hundred (\$100.00) dollars for the second offense, two hundred (\$200.00) dollars for the third offense; and three hundred (\$300.00) dollars for the fourth and subsequent offenses committed within a twelve (12) month period. All fines hereunder may be recovered by the non-criminal disposition procedures stated in G-L- c. 40, Section 21D, which procedures are incorporated herein by reference; provided, however, that if a violator fails to follow the procedures and requirement of said Section 21D, the fine or fines shall be recovered by indictment or an complaint pursuant to G.L. c. 40, Section 41.

(Ord. 1991c. 4, § 3; Ord. 1995 c. 5)

#### **16-36.12 Arrest and Seizure of Property.**

Notwithstanding the provisions of any other ordinance of the City of Boston, if a person is arrested by a Boston police officer under the authority of the Massachusetts General Laws, inducing without limitation the provisions of G.L.

c. 272, sec. 54 for disturbing the peace under G.L. c. 272, s. 53, or any applicable Massachusetts General Law, the arresting officer may, pursuant to said General Laws, seize any loud amplification device or similar equipment, as defined in subsection 16-26.1, as evidence. In the event of such seizure for evidence by a Boston police officer incident to such arrest, such amplification device or similar equipment shall be inventoried and held by the Boston Police Department or its agents, and shall be returned to its owner according to the terms of this section, unless a court of competent jurisdiction orders otherwise.

The arresting officer, in addition to any other reports or procedures required of him, shall give the person claiming to be the owner of said loud amplification device or similar equipment a receipt indicating where, when, and for what reason said device or equipment was seized, and for what purpose it is being held. Copies of said receipt shall be filed in the Boston Police Department and shall be made available to the court. No receipt shall be redeemed and no such device or equipment shall be returned to any person unless and until all judicial proceedings that may be held regarding the criminal allegations shall have been finally completed; provided, however, that if a motor vehicle shall be seized incident to an arrest, such motor vehicle may be returned to its registered owner if said loud amplification

device or equipment has been duly removed therefrom with the written permission of the registered owner of said motor vehicle. In such cases, the Police Department shall provide said owner with a receipt for the removed device or equipment as herein provided.

(Ord. 1991 c. 4 § 3)

### **16-26.13 Exemptions.**

The following are exempted from the provisions of Section 16-26 and shall not be considered unreasonable or excessive noise for purposes of this section:

- a. Noise from law enforcement motor vehicles.
- b. Noise from emergency vehicles which is emitted during an actual emergency.
- c. Noise which a person is making or causing to be made where such person has received and maintains a valid license or permit therefor from any department, board or commission of the City authorized to issue such license or permit; provided, however, that such noise shall be permitted only to the extent allowed by the license or permit.

(Ord. 1991c. 4 § 3)

### **16-26.14 Severability.**

If any person or subsection of this section shall be held to be invalid by a court of competent jurisdiction, then such person or subsection shall be considered separately and apart from the remaining provisions or subsections of this section, which shall remain in full force and effect.

(Ord. 1991 c. 4 § 4)

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