

Chapter 259. NOISE

[HISTORY: Adopted by the City Council of the City of Springfield 7-19-2001; amended in its entirety 5-24-2007 (Title 7, Ch. 7.20, of the 1986 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Alarms — See Ch. 100.
Amusements — See Ch. 105.
Curfew — See Ch. 157.
Gang activity — See Ch. 190.
Peace and good order — See Ch. 275.
Peddling and soliciting — See Ch. 279.
Vehicles and traffic — See Ch. 385.

§ 259-1. Definitions.

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this chapter:

AMPLIFICATION DEVICE

The words "loud amplification device" shall mean a radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loudspeaker, sound amplifier or similar device which is operated in such a manner that it creates an unreasonable noise.

EMERGENCY SITUATION

A situation wherein immediate work is necessary to restore property to a safe condition following a public calamity, natural disaster, snow emergency, or where immediate work is required to protect persons or property from imminent exposure to danger.

UNREASONABLE NOISE

Any noise plainly audible at a distance of 100 feet; and in the case of an amplification device, the words "unreasonable noise" shall mean any noise plainly audible at a distance of 50 feet.

§ 259-2. Scope.

- A. This chapter shall apply to the control of all sound originating within the limits of the City of Springfield, including, but not limited to, power lawn mowers, engine-powered equipment, air conditioners, animals, birds, loud amplification devices, firecrackers, firearms, pile drivers, shovels, graters, scrapers, tractors, jackhammers, and other construction equipment. This chapter is intended to prohibit preventable and unnecessary noise and is not intended nor shall it be construed to regulate the usual and customary noise incidental to urban life.
- B. In all applications of this chapter, due consideration shall be given to the character of the zoning, and the customary and natural noise incident to the operation of businesses or industries permitted by zoning so as not to work an undue hardship upon lawful business and industrial establishments.

- C. The provisions of this chapter shall be in addition to and shall not disturb either the right of the City, if such, or the right of individuals affected by the violation of this chapter to pursue any other remedy for the abatement of a nuisance or any other remedy which might or could be available under the law.

§ 259-3. Exemptions.

This chapter shall not be construed so as to apply to the following:

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work or in training exercises related to emergency activities.
- B. Any lawful program or activity supervised, licensed or permitted by the appropriate authority within the City of Springfield or the state or federal government. Any person or entity licensed or permitted by the City of Springfield, who is alleged to have caused unreasonable noise, as defined above, in violation of this chapter shall be subject to the violation procedures and penalties as established by the relevant license or permit granting authority within the City of Springfield.
- C. Emergency situations, as defined above.
- D. The use of any device the purpose of which is to protect an owner's vehicle from damage and/or theft through the mechanical creation of a noise, provided such device shall deactivate or be deactivated after sounding for five minutes.

§ 259-4. Amplification devices.

It shall be unlawful for any person to operate an amplification device, as defined above, so as to be plainly audible at 50 feet, in or on a:

- A. Motor vehicle on a public or private way, or in a public place;
- B. Public way, in a private way open to public use, or in any other public place; and
- C. Residential premises or on the land of such residential premises.

§ 259-5. Outdoor domestic power tools.

Any power lawn mower, power hedge clipper, power saw or such other implement designed primarily for outdoor use, except snow blowers, shall be operated within the City only 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 9:30 p.m. on Saturdays, Sundays and state and federal holidays; however, such equipment may be operated during the hours otherwise prohibited by this section if the noise is not plainly audible at a distance of 50 feet. Snow blowers may be operated between the hours of 5:00 a.m. and 12:01 a.m. on the day of the snow storm or snow emergency.

§ 259-6. Construction hours.

No erection, demolition, alteration, or repair of any building and excavation in regard thereto shall take place except between the hours of 7:00 a.m. and 7:00 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 Code Enforcement Commissioner, which permit may be renewed for one or more periods not exceeding one week each and so as not to be plainly audible at a distance of 100 feet from the lot line of the lot on which said construction

activity is located, except for emergency work of public service utilities or general public works repairs of an emergency nature. Other special exceptions may be only authorized by the Code Enforcement Commissioner in a written format.

§ 259-7. Creation of noise at night.

It shall be unlawful for any person in charge of any store, garage, filling station, apartment house, theater, restaurant, bar, or other premises where persons gather or enter for purposes of amusement or trade within the City, either by his/her own actions or by permitting or allowing any persons who may resort to his/her premises, to disturb the neighbors or public peace by loud noises, boisterous voices, operation of musical equipment, machines, instruments or other musical devices, the use of which produces noise plainly audible at a distance of 200 feet, interrupting the peace or quiet of the City after the hour of 10:00 p.m. and before the hour of 8:00 a.m.

§ 259-8. Disturbing residential areas.

Unless otherwise authorized, it shall be unlawful for any person or persons within the City of Springfield to cause or allow to be made any unreasonable noise, as defined above, within areas zoned residential within the City.

§ 259-9. Complaints.

Any person aggrieved by such disturbance of the peace may complain to the Springfield Police Department about such unreasonable or excessive noise. The Police Department shall verify the complaint and may thereupon arrest and/or make application in the appropriate court for issuance of a criminal complaint for violation of MGL c. 272, § 53, which sets forth the penalties for disturbing the peace.

§ 259-10. Arrests and seizure of property.

- A. Notwithstanding the provisions of any other ordinance of the City, if a person is arrested by a Springfield police officer under the authority of the General Laws, including without limitation the provisions of MGL c. 272, § 54, for disturbing the peace or under MGL c. 272, § 53, or any applicable Massachusetts General Law, the arresting officer may, pursuant to said General Laws, seize any such loud amplification device or similar equipment, as defined above, as evidence. In the event of such seizure for evidence by a Springfield police officer incident to such arrest, such loud amplification device or similar equipment shall be inventoried and held by the Springfield 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.
- B. 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 Springfield 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 incidental 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.

§ 259-11. Enforcement.

The provisions of this chapter may be enforced by any police officer, any special police officer designated by the Board of Police Commissioners to do so, Code Enforcement Commissioners and the Director of Health and Human Services.

§ 259-12. Violations and penalties.

- A. Any person who violates the provisions of this chapter shall for the first offense be fined \$100. 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 \$100. 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 MGL c. 40, § 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 Code Enforcement Commissioner 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.
- C. No person, being the landlord or person in charge of a residential structure, shall permit or suffer the repeated violations of this chapter, after notice thereof. Such person shall be punished at the time of the third such violation, and every violation thereafter within 12 months of the first violation, by a fine of \$200 in the case of the third, and \$300 for each thereafter. It shall be a defense that the landlord or person in charge of a residential structure shall have made a good faith effort, including the seeking of a court order, to prevent violations.
- D. Any person who subsequently violates the provisions of this chapter shall be punished by a fine of \$200 for the second offense and \$300 for the third offense and all subsequent offenses committed within a twelve-month period. All fines hereunder may be recovered by the noncriminal disposition procedures stated in Chapter 1, General Provisions, § 1-25, of this Code and MGL c. 40, § 21D, which procedures are incorporated herein by reference; provided, however, that if a violator fails to follow the procedures and requirement of said MGL c. 40, § 21D, the fine or fines shall be recovered by indictment or on complaint pursuant to MGL c. 40, § 21.