

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 Standards Institute, "Specifications for Sound Level Meters (ANSI S1.4 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 or similar equipment, noise plainly audible at a distance of one hundred (100') feet from its source by a person of normal hearing.

(Ord. 714 § 354; Ord. 1991 c. 4 § 1) Penalty, see subsection 16-32.6

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 theft 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]) Penalty, see subsection 16-32.6

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 theft 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]) Penalty, see subsection 16-32.6

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 a.m. 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) Penalty, see subsection 16-32.6

Editor's Note:

The Building Department and the Housing Inspection Department were abolished and all powers and duties transferred to the Inspectional Services Department by Ch. 19 of the Ordinances of 1981 (Section 9-9 of this Code).

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]) Penalty, see subsection 16-32.6

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 S1.4 1971)", properly calibrated, and operated on 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. 1991 c. 4 § 2) Penalty, see subsection 16-32.6

16-26.7 Prohibition Against Certain Sound Devices in Motor Vehicles.

a. 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.

b. No person shall operate or use on any public right-of-way any electronically operated or electronic sound signal device attached to, on or in a motor vehicle from which food or any other items are sold or offered for sale when the vehicle is stopped, standing, or parked. This subsection shall not apply to sound signal devices used as a safety device, such as but not limited to a car horn or back-up signal that is actually used for its intended purpose. For the purposes of this subdivision the term "stopped" means the halting of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with a police officer or other authorized enforcement officer or a traffic control sign or signal. For purposes of this subdivision, the terms "standing" and "parked" shall be as defined in the City of Boston Traffic Rules and Regulations.

(Ord. 1991 c. 4 § 3; Ord. 2008 c. 7) Penalty, see subsection 16-26.11, 16-32.6

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) Penalty, see subsection 16-26.11, 16-32.6

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) Penalty, see subsection 16-26.11, 16-32.6

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. 1995 c. 5)

16-26.11 Penalties.

a. Any person who violates subsections 16-26.7, 16-26.8, or 16-26.9 shall be fined fifty dollars and no cents (\$50.00) for the first violation in any twelve (12) month period, one hundred dollars and no cents (\$100.00) and for the second violation in any twelve (12) month period, and two hundred dollars and no cents (\$200.00) for the third violation and each subsequent violation in any twelve (12) month period. The enforcing person shall make a record of the complaint, such record to include the following information, to the extent that it is available: (i) name and address of person in violation, (ii) name and address of landlord of person in violation, if applicable, (iii) date of violation, (iv) time of violation, (v) location of violation, (vi) source of violation, and (vii) motor vehicle registration number, if applicable. If the person in violation refuses to provide the above-required information or if any information provided proves to be false, then said person shall be punished by a fine of an additional one hundred dollars and no cents (\$100.00).

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, allow, or suffer repeated violations of these ordinances after notice thereof and shall be fined at the time of the third such violation and at the time of every violation thereafter within twelve (12) months of the first violation by a fine of one hundred fifty dollars and no cents (\$150.00) and by a fine of three hundred dollars and no cents (\$300.00) for each violation thereafter. It shall be a defense that the landlord or person in charge of a residential structure has made and documented good faith efforts, including but not limited to the seeking of a court order, to prevent violations.

c. For all other violations of these sections, the penalties for such violations are: (i) for the first violation in any twelve (12) month period, one hundred dollars and no cents (\$100.00), (ii) for the second violation in any twelve (12) month period, two hundred dollars and no cents (\$200.00), and (iii) for the third violation and each subsequent violation in any twelve (12) month period, three hundred dollars and no cents (\$300.00).

d. The enforcing person shall provide a person in violation with a written notice of the violation and fine. If applicable, a copy of each notice of violation shall be sent to the person in violation's landlord and to the school, college, or university at which the person in violation is enrolled.

All fines issued under these sections may be recovered by the noncriminal disposition procedures promulgated in G.L. c. 40, s. 21D, which procedures are incorporated herein by reference; provided, however, that if a person in violation fails to follow the procedures and requirements of G.L. c. 40, s. 21D, then the fine or fines shall be recovered by indictment or by complaint pursuant to G.L. c. 40, s. 41.

(Ord. 1991 c. 4, § 3; Ord. 1995 c. 5; Ord. 2003 c. 19 §§ 1, 2, 3)

16-26.12 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, including without limitation the provisions of G.L. c. 272, sec. 54 for disturbing the peace under G.L. c. 272, sec. 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. 1991 c. 4 § 3)

16-26.14 Severability.

If any provision or subsection of this section shall be held to be invalid by a court of competent jurisdiction, then such provision 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)

16-47 PROHIBITING THE SALE AND/OR INSTALLATION OF A MUFFLER CUT-OUT OR BY-PASS AND PROHIBITING CERTAIN MODIFICATIONS TO EXHAUST SYSTEMS.

No person shall sell, offer for sale, or install on or in any motor vehicle or trailer: (a) a muffler from which the baffle plates, screens, or other original internal parts have been removed and not replaced; (b) an exhaust system which has been modified in a manner which will result in an amplification or an increase in the noise emitted by the exhaust system; or (c) a muffler cut-out or by-pass. A first violation of this section shall be punishable by a fine of not less than one hundred dollars and no cents (\$100.00) and not more than two hundred fifty dollars and no cents (\$250.00). A second violation of this section shall be punishable by a fine of not less than two hundred fifty dollars and no cents (\$250.00) and not more than five hundred dollars and no cents (\$500.00). A third and all subsequent violations shall be punishable by a fine of not less than five hundred dollars and no cents (\$500.00) and not more than one thousand dollars and no cents (\$1,000.00).

a. *Motorcycle exhaust system labeling.*

1. No person shall park, use or operate a motorcycle, within the City of Boston, manufactured subsequent to December 31, 1982 that does not bear the required applicable Federal EPA exhaust system label pursuant to the Code of Federal Regulations Title 40, Volume 24, Part 205, Subparts D and Subpart E.

2. All violations of subsection a.1. shall be punishable by a fine of three hundred dollars and no cents (\$300.00).

3. Commissioner of the Boston Police Department, or his or her designee, shall have the authority to enforce subsection a. of this section.

(Ord. 2003 c. 18 § 1; Ord. 2009 c. 4)