

City of Lowell, MA
Thursday, March 5, 2015

Chapter 204. NOISE

[HISTORY: Adopted by the City Council of the City of Lowell 12-10-1996 (§§ 10-83 to 10-90 of the 1988 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems — See Ch. **96**.

Animals — See Ch. **104**.

Hawkers and peddlers — See Ch. **167**.

Peace and good order — See Ch. **222**.

§ 204-1. Findings and purpose.

- A. It is hereby found and declared that:
- (1) The making, creation, or maintenance of excessive, unnecessary, unnatural or unusually loud noise, which is prolonged, unusual, and unnatural in its time, place and use and constitutes an annoyance to a person of ordinary sensibility to sound, is an unlawful noise.
 - (2) The making and creation of such unlawful noise within the limits of the City is a condition which has existed for some time, and the extent and volume of such noise are increasing.
 - (3) The making, creation, or maintenance of such unlawful noise affects the City to a degree which:
 - (a) Is harmful and detrimental to the public health, comfort, safety, welfare and prosperity of its citizens;
 - (b) Materially interferes with the ordinary comfort of life, the reasonable enjoyment of property, and the ordinary conduct and operation of business and industry; and
 - (c) Causes a nuisance, as an annoyance to a person of ordinary sensibility.
 - (4) A busy city creates sufficient noise by its own activity which cannot be eliminated; therefore, it is in the public interest that unlawful noise be eliminated within the City limits.
 - (5) No one has any right to create unlawful noise.
 - (6) Effective control and elimination of unlawful noise is essential to the furtherance and health and welfare of the City's citizens and to the conduct of the normal pursuits of life, recreation, commerce and industrial activity.
- B. In accordance with MGL c. 40, § 21(22), as a matter of legislative determination and public policy, 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 and prosperity and the peace and quiet of the City and its inhabitants.

§ 204-2. Definitions.

For the purposes of this chapter, certain words and phrases used herein are defined as follows:

AMBIENT NOISE LEVEL

An existing level of all-encompassing noise associated with a given environment, usually a composite of sounds from many sources near and far, without inclusion of intruding noises from isolated identifiable sources.

AMPLIFICATION

The use of any input of voltage, current, power or other means so as to obtain an output of greater magnitude of sound.

[Added 3-28-2006]

A-WEIGHTED SOUND LEVEL

The sound-pressure level in decibels as measured on a sound-level meter using the A-weighting network. The level so read is designated db(A) or dBA.

DECIBEL (dB)

A unit for measuring the volume of a sound equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

EMERGENCY WORK

Work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

EQUIVALENT A-WEIGHTED SOUND LEVEL (LEG)

The constant sound level that in a given situation and time period conveys the same sound energy as the actual time varying A-weighted sound for a give period of time. For the purpose of this chapter, "given period of time" is defined as any continuous eight-hour period.

FIXED NOISE SOURCE

A stationary device which creates sounds, including but not limited to agricultural, commercial, industrial, and residential machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

IMPULSIVE SOUND

A short-duration sound of one second or less with an abrupt onset and rapid decay, including explosion, drop forge impact, or firearm discharge. Sources generating impulsive noise for an average of more than five seconds per hour over any eight-hour period shall be deemed and subject to the same maximum noise level limits as a fixed noise source.

MOBILE NOISE SOURCE

Any noise source other than a fixed source.

NOISE-SENSITIVE AREAS

Areas within 300 feet of a school, church, hospital, nursing home or funeral home.

PERSON

Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or entity, public or private.

PRIVATE PERSON

Any individual, association, partnership or corporation, but excluding municipal or quasi-municipal entities.

PROPERTY OWNER

The person holding title to the real property as evidenced by the records in the County Registry of Deeds.

PUBLIC RIGHT-OF WAY

Any street, avenue, boulevard, highway, sidewalk, or alley that is maintained by the City.

REAL PROPERTY BOUNDARY

The property line along the ground surface, and its vertical extension, that separates the real property owned by one person from that owned by another person or separates real property from the public right-of-way. For the purpose of enforcing this chapter, boundary lines as shown on the City's tax maps shall be prima facie evidence of those boundaries.

RENTER-OCCUPIED DWELLING UNIT

A residential dwelling unit leased by a person from the owner or lessee for monetary consideration.

RESPONSIBLE PARTY

If the person or persons responsible for any activity which violates this chapter cannot be determined, the person in lawful custody and/or control of the premises, including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation. The responsible person may be prosecuted under this chapter and shall be subjected to the penalties set forth in § 204-6. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

SOUND-LEVEL METER

An instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks, for the measurement of sound levels which meets or exceeds the requirements pertinent for Type SEA meters in the American National Standards Institute specifications for sound-level meters, S1.4-1971, or the most recent revision thereof.

§ 204-3. Sound-level limits.

- A. The measurement of sound or noise shall be made with a sound-level meter and octave band analyzer meeting the standards prescribed by the American Standards Association. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise source measurement. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- B. Limits established.

[Added 3-28-2006]

- (1) It shall be unlawful for any person to operate or cause to be operated any single or combination of fixed source or nonstationary source equipment or machinery or to conduct any other activity or process that individually or collectively constitutes an identifiable sound source in such a manner as to cause the sound level at any point on the real property boundary of any property to exceed by five decibels or more the sound-level limits set forth below:

District	Time	Sound Level db(A)
Single-Family	7:00 a.m. to 6:00 p.m.	50
Two-Family	6:00 p.m. to 10:00 p.m.	45
SSF, TSF, TTF, USF*	10:00 p.m. to 7:00 a.m.	40
Multifamily	7:00 a.m. to 6:00 p.m.	60
Neighborhood Business	6:00 p.m. to 10:00 p.m.	55
SMF, TMF, NB, UMF*	10:00 p.m. to 7:00 a.m.	50
Regional Retail	7:00 a.m. to 6:00 p.m.	60
RR*	6:00 p.m. to 10:00 p.m.	55
	10:00 p.m. to 7:00 a.m.	55
Mixed Use and Downtown	7:00 a.m. to 6:00 p.m.	60
SMU, TMU, UMU, DMU*	6:00 p.m. to 10:00 p.m.	55
	10:00 p.m. to 7:00 a.m.	50

District	Time	Sound Level db(A)
Light Industry LI*	7:00 a.m. to 6:00 p.m.	60
	6:00 p.m. to 10:00 p.m.	55
	10:00 p.m. to 7:00 a.m.	55
Heavy Industry GI*	7:00 a.m. to 6:00 p.m.	70
	6:00 p.m. to 10:00 p.m.	55
	10:00 p.m. to 7:00 a.m.	55
Office Park and Institutional OP, HRC, INST*	7:00 a.m. to 6:00 p.m.	70
	6:00 p.m. to 10:00 p.m.	55
	10:00 p.m. to 7:00 a.m.	55
Public Parks and Recreation	7:00 a.m. to 6:00 p.m.	60
	6:00 p.m. to 10:00 p.m.	55
	10:00 p.m. to 7:00 a.m.	40

*Refers to zoning districts.

- (2) Where the ambient noise from other than identifiable sound sources is determined to be higher than the maximums listed above, the maximum permissible sound level shall be five decibels higher than the ambient noise level.
- (3) Where properties in two or more districts join at a common boundary, the maximum noise level shall be the arithmetic mean of the maximum levels for each of the properties affected.

C. Residential.

- (1) For residential dwelling units contained in a single structure, it shall be unlawful for any person to operate or cause to be operated within a dwelling unit any source of sound or allow the creation of any sound which causes the sound level when measured inside another dwelling unit located in the same structure to exceed the sound level limits set forth below:

Time	Sound Level db(A)
10:00 p.m. to 7:00 a.m.	35
7:00 a.m. to 10:00 p.m.	45

- (2) Where the ambient noise from other than identifiable sound sources is determined to be higher than the sound-level limits listed above, the maximum permissible interior sound level shall be five decibels higher than the ambient noise level.

D. Enclosed places of public entertainment.

- (1) It shall be unlawful to sustain in any enclosed place of public entertainment, including but not limited to a restaurant, bar, cafe, discotheque, or dance hall, any amplitude equal to or in excess of 95 dB(A) sustained for more than 30 seconds.
- (2) Such noise is to be measured by a sound-level meter approved by the American Standards Association from any area to which the public is invited within any enclosed place of public entertainment.

E. Outdoor places of public entertainment.

[Added 3-28-2006]

- (1) Except by a special events permit obtained through the License Commission, there shall be no amplification allowed in places of outdoor public entertainment. In the event that an applicant wishes to provide amplified outdoor public entertainment, the applicant must first obtain a special events permit.
- (2) All outdoor public entertainment shall be subject to the following hours:
 - (a) Sunday through Wednesday: 10:00 a.m. to 10:00 p.m.

(b) Thursday through Saturday: 10:00 a.m. to 12:00 midnight.

- (3) All outdoor public entertainment not requiring a special events permit shall annually apply for and obtain a license from the License Commission to provide outdoor public entertainment. Such license shall, at all times, be subject to review and revocation by the License Commission. Applications for an outdoor public entertainment license and/or special events permit shall be subject to any rules and regulations promulgated by the License Commission on this subject.
- (4) The provisions of Subsection **B** of this section shall not apply to any outdoor public entertainment for which an applicant has obtained a license or special permit.

F. Zones of quiet.

- (1) All of the territory within 300 feet of the premises of each hospital, school, or church in this City is hereby created and established as a zone of quiet. The Commissioner of Public Works is hereby authorized to erect and maintain in a conspicuous manner within this area such signs bearing the words "Quiet Zone" and other markings as are necessary to designate it as a zone of quiet.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (2) The Commissioner of Public Works may temporarily establish a zone of quiet upon any street where a person is seriously ill. Such temporary zone of quiet shall embrace all territory within a radius of 300 feet of the building occupied by the sick person. The temporary zones of quiet shall be designated by the Commissioner of Public Works by placing at a conspicuous place in the street a sign or a marker bearing the words "Illness Quiet Zone."
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (3) No person operating a vehicle within any designated and posted zone of quiet shall sound a horn or other warning device on the vehicle or make any loud or unusual noise in such a zone except in an emergency.

§ 204-4. General regulations.

- A. Notwithstanding the provisions of §§ **204-3** and **204-5**, no person within the City shall make, continue, or cause to be made or continued any unlawful noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivity residing in the area.
- B. The characteristics, standards, and conditions to be considered in determining whether a violation of the provisions of this chapter exists shall include but shall not be limited to the following:
 - (1) The volume of the noise.
 - (2) The intensity of the noise.
 - (3) Whether the nature of the noise is usual or unusual.
 - (4) Whether the origin of the noise is natural or unnatural.
 - (5) The volume and intensity of the background noise, if any.
 - (6) The proximity of the noise to residential sleeping facilities.
 - (7) The nature and zoning of the area within which the noise emanates.
 - (8) The density of inhabitation of the area within which the noise emanates.
 - (9) The time of the day or night the noise occurs.
 - (10) The duration of the noise.
 - (11) Whether the noise is recurrent, intermittent or constant.

- (12) Whether the noise is produced by a commercial or noncommercial activity.
- C. The following acts, among others, are declared to be unlawful noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:
- (1) Motor noises. Any noise made by the motor of any automobile, truck, tractor, or motorcycle not reasonably required in the operation thereof under the circumstances, including but not limited to backfiring, motor racing, and screeching of tires because of rapid acceleration or excessive speed.
 - (2) Horns; signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
 - (3) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. No person while on a public or private highway, street or road shall operate a motor vehicle with the muffler cut out or removed.
 - (4) Defect in vehicle or load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
 - (5) Power tools and equipment. The use and operation between the hours of 10:00 p.m. and 7:00 a.m. of any power tool, power saw, power planer, or other power tool or appliance, such as a lawn mower, as well as nonpower tools, such as a saw or hammer, so as to disturb the quiet, comfort, or repose of persons in any dwelling, hotel, motel, apartment, or other type of residence, or of any person in the vicinity.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (6) Pile drivers; hammers. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
 - (7) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
 - (8) Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.
 - (9) Hawkers and peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
 - (10) Yelling and shouting. Yelling, shouting, hooting, or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

- (11) Animals and birds. The keeping, or the permitting to be kept, of any animal or bird which by any frequent or long-continued noise shall cause annoyance or discomfort to a reasonable person of normal sensitivity in the vicinity. The noise of any such animal or bird that disturbs two or more residents who are in general agreement as to the times and durations of the noise and who reside in separate dwelling units located on property adjacent at any point to the property on which the subject animal or bird is kept shall be prima facie evidence of a violation of this chapter. The subject of barking dogs is covered elsewhere in this Code, specifically in Chapter **104**, § **104-29**.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- (12) Radios and other such devices. The use, operation, or permitting to be played, used, or operated of any sound production or reproduction device, radio receiving set, musical instrument, drums, stereo, television set, loudspeakers, sound amplifiers or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of any reasonable person of normal sensitivity in any dwelling, hotel, hospital or other type of residence, or of any person in the vicinity thereof. The operation of any such sound producing device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle from which the sound emanates shall be prima facie evidence of a violation of this chapter.
- (13) Loudspeakers; amplifiers for advertising. The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (14) Instruments. The use of any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise. This chapter shall not apply to any person who is a participant in a school band or duly licensed parade or who has been otherwise authorized to engage in such activity.

§ 204-5. Exemptions.

The following uses and activities shall be exempt from the noise prohibitions described in §§ **204-3** and **204-4** of this chapter:

- A. Noises of safety signals, warning devices, and emergency pressure-relief valves.
- B. Warning devices. Any alarm, siren, bell, or whistle required by OSHA or other state or federal safety regulations.
- C. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency, or in connection with official police or fire business.
- D. Noises resulting from emergency work as defined in § **204-2** of this chapter.
- E. Cries for emergency assistance and warning calls.
- F. Ambient traffic noise generated by vehicles traveling on federal interstate highways or state-defined primary or major secondary highways.
- G. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations; moreover, any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations.
- H. All noises resulting from normal operations of railroad trains are exempt; provided, however, that excessive use of railroad train signaling devices is declared to be loud, disturbing, and unnecessary noise.

- I. Any sound, such as tire screeching, resulting from emergency braking.
- J. Noises made by places of worship using bells, chimes or carillons as part of their religious observance and by persons having obtained a permit to use the streets.
- K. Any commercial or industrial use which is in existence and exceeds the applicable sound-level limits from customary operations as of the effective date of this chapter. Any such use shall have its sound levels measured at its real property boundary by the City within three months from the effective date of this chapter to establish a baseline sound level for its normal and customary operations. For the purposes of this chapter, that sound-level determination shall be substituted for the applicable sound-level limits set forth in § 204-3.
- L. Highway and utility maintenance and construction of, or repairs to, bridges, streets or highways or any public utility installation by or on behalf of the City or any public utility or any agency of the state.
- M. Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of the government, provided that such equipment is operated with the manufacturing mufflers and noise-reducing equipment in use and in proper operating condition.
- N. Farming equipment or farming activity performed during the hours of 6:00 a.m. to 11:00 p.m.
- O. The operation of refuse collection machinery and equipment, provided that such machinery and equipment is in compliance with all laws and regulations applicable thereto.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- P. The reasonable use of amplifiers or loudspeakers for public addresses which are noncommercial in nature.
- Q. Any nonamplified crowd noises resulting from legal activities, such as scheduled sporting events at publicly owned arenas, stadiums, or similar facilities, as well as public concerts, parades, fairs, shows, and celebrations which have been properly permitted and licensed.
- R. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the City.

§ 204-6. Enforcement; violations and penalties.

- A. The Police Department and the Health Department, or an authorized agent thereof, shall be responsible for the administration and enforcement of this chapter, including but not limited to the following duties and responsibilities:
 - (1) Investigation of complaints of unlawful noise.
 - (2) Documentation of violations of this chapter.
 - (3) Measurement of the offending noise by an approved sound-level meter or other measuring device, if appropriate.
 - (4) Issuance of written warnings for the first violation of this chapter requiring cessation of violation within 10 minutes of written issuance thereof.
- B. Second or subsequent written violation shall be subject to a fine of \$100 for each offense and may be penalized by a noncriminal disposition as provided for under §§ 1-5 and 1-6 of the Code and MGL c. 40, § 21D. Each day's failure to comply with an order shall constitute a separate violation.
- C. Nothing in this chapter shall preclude other methods of enforcement by means of restraining order and/or injunctive relief.