

Title

This ordinance shall be known and shall be cited as the "Noise Control Ordinance of the City of Lockport."

Policy

It is hereby declared to be the policy of the City of Lockport to prevent excessive, unnecessary or unusually loud noise. It is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of preserving, protecting and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City of Lockport and its inhabitants.

Definitions

Unless otherwise indicated by context, the following terms and phrases shall mean:

AMBIENT NOISE LEVEL — The sound pressure level of the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, and/or the A-weighted sound pressure level exceeded 90% of the time based on a minimum period of 10 minutes.

AUTHORIZED EMERGENCY VEHICLE — Every ambulance, police vehicle, fire vehicle and civil defense emergency vehicle.

A-WEIGHTED SOUND LEVEL — The sound pressure level measured by the use of an instrument with the metering characteristics and the A-weighting frequency response prescribed for sound level meters. The level so read is designated "dBA."

CONSTRUCTION — Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lines or other property, including but not limited to the

related activity such as line clearing, grading, earth moving, excavating, blasting, filling and landscaping, but not including agriculture.

DAYTIME — The time from 7:00 a.m. to 10:00 p.m.

DECIBEL (dB) — The practical unit of measurement for sound pressure level; the number of "decibels" of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound [20 micropascals]; abbreviated "dB."

EMERGENCY — A public calamity, utility services failure or an exposure of any person or property to actual or imminent danger.

IMPULSIVE SOUND — A sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay.

MOTOR VEHICLE — Every vehicle operated or driven upon the public highway which is propelled by any power other than muscular power, except electrically driven invalid chairs being operated or driven by an invalid, vehicles which run only upon rails or tracks and snowmobiles.

MUFFLER — A device consisting of a series of chambers or baffle plates or other mechanical design for the purpose of receiving exhaust gas from a sound source and effective in reducing noise.

NIGHTTIME — That part of a twenty-four-hour time interval which is not otherwise defined as daytime.

NOISE DISTURBANCE — Any sound which endangers or injures the safety or health of humans or animals or annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.

PERSON — Includes the singular and plural and shall also mean and include an individual, association, partnership, business, corporation, club, society, union, lessor, lessee, landlord, tenant or any other form of association or organization.

PUBLIC HIGHWAY — Any highway, road, street, avenue, alley, public place, public driveway or any other public way.

REAL PROPERTY BOUNDARY — An imaginary line exterior to any structure along the ground surface which separates the real property owned by one person from that owned by another person and the vertical extension of such line.

SOUND LEVEL — The quantity in decibels measured by a sound-level meter satisfying the requirements of American National Standards specification for sound-level meters. "Sound level" is the frequency-weighted sound pressure level obtained with the standardized dynamic characteristic "fast" or "slow" and weighting (a), (b) or (c); unless indicated otherwise, the A-weighting is understood.

SOUND-LEVEL METER — An instrument, including a microphone, an amplifier, an output meter and frequency weighting networks, for the measurement of sound levels.

UNREASONABLE NOISE — Any excessive or unusually loud sound or any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities or which causes injury to animal life or damage to property or business. Standards to be considered in determining whether "unreasonable noise" exists in a given situation include, but are not limited to, the following:

- A. The volume of the noise.
- B. The intensity of the noise.

- C. Whether the nature of the noise is usual or unusual.
- D. Whether the origin of the noise is usual or unusual.
- E. The volume and intensity of the background noise, if any.
- F. The proximity of the noise to residential sleeping facilities.
- G. The nature and zoning district of the areas within which the noise emanates.
- H. The time of the day or night the noise occurs.
- I. The time duration of the noise.
- J. Whether the sound source is temporary.
- K. Whether the noise is continuous or impulsive.

Prohibitions.

- A. General prohibitions. No person shall make, continue or cause or permit to be made, verbally or mechanically, any unreasonable noise. Noncommercial public speaking and public assembly activities conducted on any public space or public highway shall be exempt from the operation of this section.
- B. Animals. No person shall own, possess or harbor any animal or bird which frequently or for continued duration, makes sounds which create a noise disturbance across a residential real property boundary. For the purpose of this ordinance, a "barking dog" may be defined as a dog that barks continuously for 10 minutes or intermittently for 30 minutes.

- C. Burglar alarms. No owner of a building or of a motor vehicle shall have in operation an audible burglar alarm thereon unless such burglar alarm shall be capable of and shall automatically terminate its operation within 15 minutes of its being activated.
- D. Sound reproduction. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:
- . (1) Between the hours of 10:00 p.m. and 7:00 a.m. of the following day in such a manner as to create unreasonable noise across a real property boundary.
 - . (2) In such a manner as to create unreasonable noise at 50 feet from such a device, when operated in or on a motor vehicle on a public highway or in a boat in public waters.
 - . (3) In such a manner as to create unreasonable noise to any person other than the operator of the device, when operated by any passenger on a common carrier.
- E. Air-conditioning and air-handling devices.
- . (1) No person shall operate or permit to be operated an air-conditioning or air-handling device, including a heat pump, that exceeds the maximum sound level limitations provided in this section: in residential areas, continuous sound levels measured at the property line of 55 dBA.
 - . (2) The provisions of this section shall not apply if the sound from the air conditioner or air-handling device

produces less than an increase of five dBA in the sound level that exists in the absence of such sound.

- F. Emergency warning devices. No person shall operate or cause to be operated by emergency warning device, except:
- . (1) To give notice of a warning of an emergency.
 - . (2) On an authorized emergency vehicle when such vehicle is engaged in emergency operation, provided that such device shall not be operated so as to create unreasonable noise or for a period of time longer than is necessary to respond to such emergency.
 - . (3) When such device is under test.
- G. Loading and unloading. No person shall load, unload, open, close or handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. of the following day in such a manner as to cause an unreasonable noise across a residentially real property boundary, except as permitted by (Exceptions subsection G).
- H. Domestic power tools. No person shall operate or permit to be operated any power tool or equipment, including but not limited to saws, sanders, drills, grinders, lawn or garden tools, mowers, tractors, leaf blowers or gatherers, or similar devices, when used outdoors in a residentially zoned district during the hours of 10:00 p.m. to 7:00 a.m., so as to create unreasonable noise.
- I. Modification of noise control devices. No person shall operate or permit to be operated any device that has been modified so as to cause the sound emitted from such device

- to be greater than that emitted by such device as originally manufactured.
- J. Squealing tires. No person shall operate a vehicle in such a manner as to cause unreasonable noise by spinning or squealing the tires of such vehicle.
- K. Sound signal devices. No person shall operate or cause to be operated any sound signal device so as to create unreasonable noise, except:
- . (1) As required by the Vehicle and Traffic Law of the State of New York.
 - . (2) To give notice of the time to start and stop work.
 - . (3) As attendant to religious activities.
- L. Construction. No person shall conduct or permit to be conducted construction, alone or in combination with other construction conducted or permitted by such person, in a manner as to cause unreasonable noise during nighttime on weekdays or at anytime on Sundays or holidays. The provisions of this section shall not apply to the following:
- (1) Emergency work and safety and protective devices.
 - (2) Domestic power tools subject to (Prohibitions subsection H).
- M. Places of public entertainment. No person shall operate or permit to be operated a place of public entertainment, including but not limited to a restaurant, bar, cafe, discotheque or dance hall, in which the sound level is equal to or exceeds 95 dBA for more than 30 seconds at the location of the spectators.

- N. Churches, courts, hospitals and schools. No person shall create or permit the creation of any unreasonable noise through the use of any device on any street, sidewalk or public place adjacent to any church, court or school while such church, court or school is in use, or adjacent to any hospital at any time, provided that signs are displayed so as to identify such church, court, hospital or school.

Maximum sound levels by receiving land use categories.

- A. It shall be unlawful for any person to operate or permit to be operated any stationary noise source in such a manner as to create a sound pressure level measured in dBA's which exceed the limits set forth for the receiving land use category in Table 1 when measured receiving land use.

(Insert Table 1)

- B. The restrictions set forth in this section shall not apply to alarms as defined in (Prohibitions Subsection C and E) of this chapter.

Motor vehicles on public rights-of-way.

No person shall operate a motor vehicle or combination of vehicles on a public right-of-way at any time in such a manner that the sound pressure level emitted by said vehicle exceeds the levels set forth in the New York State Vehicle and Traffic Law.

Exceptions.

The requirements, prohibitions and terms of this ordinance shall not apply to:

- A. Any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

- B. The operation of any vehicles or equipment when responding to an emergency or a declared state of emergency (i.e., civil defense, storm).
- C. Those activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city, including but not limited to parades, fireworks displays and public cosponsored boat races and events.
- D. The production of music in connection with a military or civic parade, funeral procession or religious ceremony; any musical performance conducted under consent of municipal authority.
- E. Sounds emanating from any publicly sponsored and/or authorized sporting, entertainment or other public event.
- F. Snow removal equipment.
- G. Businesses that must conduct loading and unloading operations between the hours of 10:00 p.m. and 7:00 a.m. of the following day.

Authority to grant exceptions and variances.

The Common Council or its duly authorized representative shall have the authority to grant special variances, issue temporary permits and suspend any of the provisions of this ordinance upon such conditions and for such time as it shall deem fit to best serve the public health and welfare and the quality of life in the City of Lockport.

Enforcement; standards.

- A. The provisions of this ordinance shall be enforced by the Police Department of the City of Lockport and/or the

Department of Building Inspections of the City of Lockport and it shall have the power to:

- (1) Order any person to cease and desist from any activity which causes or is conducted so as to cause a violation of any provision of this ordinance.
- (2) Seal any device, after obtaining the proper judicial order, which causes or is maintained or operated so as to cause a violation of any provision of this ordinance.
- (3) Issue appearance tickets for violation of any provision of this ordinance.

B. A sound-level meter conforming to the American National Standards Institute (ANSI) Type II standards shall be used and shall be calibrated prior to use. The calibrator shall be calibrated at least annually.

Penalties for offenses.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a violation and subject to a fine of not more than \$250 or imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

Severability.

If any provision of this ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

Repealer.

This ordinance shall repeal former Chapter 125, adopted May 2, 1984, and any amendments thereto, of the Code of the City of Lockport.

When effective.

This ordinance shall become effective immediately upon passage thereof.