

**CHAPTER 2014-6**

No. 128     **AN ORDINANCE IN AMENDMENT OF CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES, ENTITLED: "NOISE CONTROL, AS AMENDED."**

Approved March 28, 2014

*Be it ordained by the City of Providence:*

SECTION 1. Chapter 16, Article III is hereby amended as follows:

Sec. 16-91. - Declaration of policy and scope.

- (1) It is hereby declared to be the policy of the city to prohibit unnecessary, excessive, and offensive noise from all sources subject to its police power for the sole purpose of securing and promoting the public health, comfort, safety, and welfare of the citizenry. While recognizing that the use of sound is protected by the constitutional rights of freedom of speech and assembly, unnecessary, excessive, and offensive noises threatens the correlative constitutional rights of the citizens of the community to privacy and freedom from public nuisance and is detrimental to the health, comfort, safety, and welfare of the citizenry. It is with all due consideration of these competing interests that the city council herein regulates the time, place, and manner of the use of sound.
- (2) This article shall apply to the control of all noise originating within the limits of the city or originating from properties lying outside of the limits of the city, owned or controlled by the city, except where either:
  - a. A state or federal agency has adopted a different standard or rule than that prescribed in this article which standard or rule preempts the regulation of noise from a particular source as to render this article inapplicable thereto; or
  - b. The city council has determined, by reason of public acceptance of the activity producing a particular noise, such noise is deemed acceptable to the residents of the city.

Sec. 16-92. - Definitions.

Unless the context clearly indicates otherwise, the words and phrases used in this article shall have the following meanings:

- (1) *Ambient noise*: The all-encompassing noise associated with a given environment, being a composite of sounds from many sources, near and far. For the purpose of this article, ambient noise level is the average decibel level over five (5) minutes excluding random or intermittent noises and the alleged offensive noise at the location and time of day at which a comparison with an alleged offensive noise is to be made.
- (2) *Decibels (dBA)*: The decibel is a unit of measure of sound (noise) level relative to a standard reference sound on a logarithmic scale. The decibel level of a given sound is determined as twenty (20) times the logarithm to the base 10 of the ratio of the pressure in micronewtons per square meter of the sound being measured to the standard reference sound pressure of twenty (20) micronewtons per square meter (0.0002 microbar). Decibels shall be measured on the A-weighted scale of a sound level meter properly calibrated to comply with the provisions of the American National Standards Institute, "Specifications for Sound Level Meters (ANSI S1.4 1971)."
- (3) *Motor vehicles*: Shall include, but not be limited to, automobiles, trucks, SUVs, vans, buses, motorcycles, mini-bikes, scooters, and go-carts.

- (4) *Person*: A person means any individual, including the owner of premises or tenant of premises, operator of a vehicle, firm, association, partnership, joint venture, corporation, or any entity, public or private in nature.
- (5) *Receiving land use*: The use or occupancy of the property, or the actual real property, which receives the transmission of sound.
- (6) *Sound amplifying equipment*: Any machine or device for the amplification of the human voice, music, or any other sound. "Sound amplifying equipment" shall not include standard motor vehicle radios when used and heard only by the occupants of the vehicle in which the motor vehicle radio is installed. "Sound amplifying equipment" shall not include warning devices on any motor vehicle used only for traffic safety purposes.
- (7) *Unnecessary, excessive, or offensive noise*: Any sound or noise conflicting with the criteria, standards, or levels set forth in this article for permissible noises. In the absence of specific maximum noise levels, a noise level which exceeds the ambient noise level by ten (10) dBA or more, when measured at or within the real property boundary of a receiving land use or, in the case of multiple-family residential buildings, when measured anywhere in one dwelling unit with respect to a noise emanating from another dwelling unit or from common space in the same building, or noise audible to a person of reasonably sensitive hearing at a distance of two hundred (200) feet from its source, shall be deemed a prima facie violation of this article.

Sec. 16-93. - Unnecessary, excessive or offensive noise prohibited.

- (1) Except as permitted, it shall be unlawful for any person to make, continue, permit or cause to be made or continued any unnecessary, excessive, or offensive noise as defined in this article. Unnecessary, excessive, or offensive noise shall include but not be limited to sound that exceeds the permissible standards provided in sub-section (3) of this provision when measured at or within the real property boundary of a receiving land use or noise audible to a person of reasonably sensitive hearing at a distance of two hundred (200) feet from its source.
- (2) For any violation of this provision, the receiving land use involved may include real property contiguous to, or bounding the real property containing the source of the sound.
- (3) With the exception of sound levels or standards specifically authorized or prohibited in this article, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use or two hundred (200) feet from its source:

**Sounds Levels by Receiving Land Use**

<b><u>Zoning District</u></b>	<b><u>Time</u></b>	<b><u>Sound Limit dBA</u></b>
Residential	7:00 a.m. to 9:59 p.m. 10:00 p.m. to 6:59 a.m.	65 dBA 55 dBA
Downtown	2:00 a.m. to 7:00a.m. All other times	55 dBA 75 dBA
Commercial/Industrial	2:00 a.m. to 7:00 a.m. All other times	55 dBA 75 dBA
Open Spaces	2:00 a.m. to 7:00 a.m. All other times	55 dBA 75 dBA
Waterfront	2:00 a.m. to 7:00 a.m.	55 dBA

Sec. 16-94. - Hawkers and peddlers, shouting.

- (1) It shall be unlawful for any person within the city to sell anything by outcry within any area of the city zoned for residential uses. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, or other similar licensed public entertainment events.
- (2) No person shall yell, laugh, hoot, holler, scream, sing, or otherwise amplify their vocals in a residential zone of the city between the hours of 10:00 p.m. and 7:00 a.m. at such a volume that it is plainly audible at a distance of one hundred (100) feet from its source for a duration of longer than ten (10) seconds. However, nothing in this provision or this article shall apply to vocalization or the emission of sound for the purpose of alerting persons to the existence of an emergency.

Sec. 16-95. - Disorderly house.

- (1) No person shall keep a disorderly house or place of public resort whereby the peace, comfort, or decency of a neighbor is habitually disturbed, or being the owner of, or in control of such premises, intentionally permit them to be so used.
- (2) For purposes of this provision, a disorderly house is defined as a residence or dwelling in which two or more noise violations resulting in a conviction or convictions in the municipal court have occurred within a three (3) year period.
- (3) Notice of noise violation convictions shall be mailed to any property owner on the city property tax assessment records to advise the property owner(s) that any subsequent such violation(s) within three (3) years on the same premises shall result in liability of the property owner for any and all penalties associated with such intervention.
- (4) The owner of such residence or dwelling may assert as a defense reasonable efforts to take action against the perpetrators of the violation of this article, including the initiation of eviction proceedings pursuant to Rhode Island General Laws.

Sec. 16-96. - Schools, hospitals and churches.

It shall be unlawful for any person to create any unnecessary, excessive or offensive noise, as defined herein, on any street, sidewalk, or public place adjacent to any school, institution of learning, hospital or church while the same is in use, provided conspicuous signs are displayed in such street, sidewalk, or public places indicating the presence of a school, hospital or church. For purposes of this provision, unnecessary, excessive or offensive noise shall include but not be limited to sound that exceeds sixty-five (65) decibels (dBA) measured at the property boundary of the school, institution of learning, hospital or church or when the same is audible to a person of reasonably sensitive hearing at a distance of two hundred (200) feet from its source.

Sec. 16-97. - Machinery, equipment, fans, air conditioning, leaf-blowers.

It shall be unlawful for any person to operate any machinery, equipment, pump, fan, air conditioning apparatus, leaf-blowing equipment, or similar mechanical device in any residential zone of the city so as to exceed fifty-five (55) dBA between the hours of 8:00 p.m. and 7:00 a.m. or so as to exceed sixty-five (65) dBA between the hours of 7:00 a.m. and 8:00 p.m. measured at or within the real property boundary of a receiving land use, or at any hour when the same is audible to a person of reasonably sensitive hearing at a distance of two hundred (200) feet from its source.

Sec. 16-98. - Construction and repairs.

It shall be unlawful for any person to operate equipment or perform any construction or repair work on buildings, structures, or projects or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device between the hours of 8:00 p.m. and 7:00 a.m. so as to create unnecessary, excessive or offensive noise as defined herein, unless beforehand a special permit therefor has been duly obtained from the director of public works. For purposes of this provision, unnecessary, excessive or offensive noise shall include but not be limited to sound that exceeds sixty-five (65) decibels (dBA) or when the same is audible to a person of reasonably sensitive hearing at a distance of two hundred (200) feet from its source. No special permit shall be required to perform emergency work, defined as work 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 or work by private or public utilities when restoring utility service.

Sec. 16-99. - Motor vehicles.

No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on any motor vehicle.

It shall be unlawful for any person to repair, rebuild, or test any motor vehicle in any residential zone of the city between the hours of 8:00 p.m. and 7:00 a.m. so as to create unnecessary, excessive or offensive noise, which shall include but is not limited to sound that exceeds fifty-five (55) decibels (dBA) measured at or within the real property boundary of a receiving land use or when the same is audible to a person of reasonably sensitive hearing at a distance of two hundred (200) feet from its source.

Sec. 16-105. - Amplified sound-Regulations.

The commercial and noncommercial use of sound amplifying equipment shall conform to the regulations set forth in Sec. 16-93(3), and be subject to the following regulations:

- (1) The volume of sound shall be controlled so that it will not be audible for a distance in excess of two hundred (200) feet from its source, except as provided herein.
- (2) No sound amplifying equipment shall be operated so as to exceed seventy-five (75) decibels, except as provided herein.
- (3) In order to use sound amplifying equipment outside of the regulations provided herein, the prospective user of sound amplifying equipment shall file a registration statement with the police department not less than five (5) days prior to the date on which the sound amplifying equipment is intended to be used. Each registration statement shall contain: (1) the name, address, and telephone number of the user of the sound amplifying equipment; (2) the date, time, and place of the intended use of the sound amplifying equipment; (3) a general description of the sound amplifying equipment which is to be used; (4) the maximum sound producing power of the sound amplifying equipment, including the wattage to be used, the volume in decibels of sound which will be produced, and the approximate distance for which sound will be audible from the sound amplifying equipment; (5) the license plate number and registration of a sound truck if one is to be used; and (6) whether the sound amplifying equipment will be used for commercial purposes. If the use of the sound amplifying equipment is for commercial purposes, a fee in the amount of ten dollars (\$10.00) per day of use shall be paid to the city at the time of filing the registration statement. The police department shall, within forty-eight (48) hours of the filing of the registration statement, return to the applicant an approved certified copy of the registration statement unless it finds that, in the opinion of the chief of police, the use of the sound amplifying equipment would constitute a detriment to public safety and welfare. In the event of disapproval, the chief of police shall endorse the registration statement with the specific reasons for disapproval. Any person aggrieved by disapproval of a registration statement may appeal within five (5) days to the commissioner of public safety.

Sec. 16-106. - Violations-Penalty.

Any person found guilty of violating, disobeying, neglecting, or refusing to comply with the provisions of this article, shall upon conviction be punished by a fine of not more than five hundred dollars (\$500.00), for any one offense, except that any person electing to appear before the clerk of municipal court and admitting the violation charged, or in lieu of personally appearing before the clerk of the court, electing to admit the violation by mail to the clerk of court, shall be punished by a fine of two hundred dollars (\$200.00). Provided, however, that for a second violation and any subsequent violation a person electing to appear before the clerk of the municipal court and admitting the violation charged or, in lieu of personally appearing before the clerk of the court, electing to admit the violation by mail to the clerk of court shall be punished by a fine of three hundred dollars (\$300.00).

Sec. 16-107. - Violations-Public nuisance; injunctions.

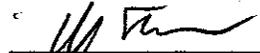
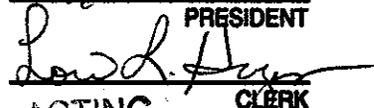
Any violation of any provision of this shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

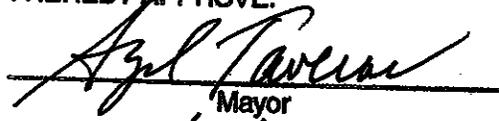
Sec. 16-109. - Complaints.

Any person, including a police officer, may be a complainant for the purpose of instituting action for any violation of this article.

SECTION 2. This ordinance shall take effect upon passage.

IN CITY COUNCIL  
MAR 06 2014  
FIRST READING  
READ AND PASSED  
  
CLERK  
ACTING

IN CITY COUNCIL  
COUNCIL  
MAR 20 2014  
FINAL READING  
READ AND PASSED  
  
PRESIDENT  
  
ACTING CLERK

I HEREBY APPROVE.  
  
Mayor  
Date: 3/28/14