



CITY OF CAMBRIDGE

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November 13, 1997

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Report on New York City response to car alarms;
Council Order #072 dated 10/27/97

Dear Mr. Healy:

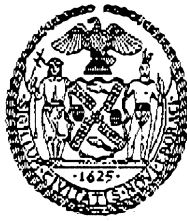
By the above-referenced Council Order, the City Council requested a brief report on the New York City response to car alarms. In response to a request from my office, the Mayor's Press Office in New York transmitted the enclosed material. In brief, the information provided indicates that on October 31, 1997, Mayor Giuliani signed into law an increase in the fines for violation of New York's car alarm regulations up to a maximum of \$2,100.00 for third and subsequent violations. First violations carry fines from \$175.00 to \$700.00; second violations carry fines from \$350.00 to \$1,400.00; third violations carry fines from \$525.00 to \$2,100.00. In Massachusetts, state law limits to a maximum of \$300.00 the penalty that a municipality may impose for ordinance violations.

The existing New York ordinance (see attached §24-221) requires that car alarms automatically terminate within three minutes of activation and that they only be activated by direct physical contact or the use of an individual remote activation device.

The Council asked that this report be referred to the Ordinance Committee meeting of November 19, 1997.

Very truly yours,

Russell B. Higley
Russell B. Higley



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

FOR IMMEDIATE RELEASE
Friday, October 31, 1997

Release # 654-97
www.ci.nyc.ny.us

Contact: Colleen Roche/Jennifer Chait (212) 788-2958

MAYOR GIULIANI SIGNS COUNCIL BILL NO. 837-A, INCREASING CIVIL PENALTIES FOR REPEAT VIOLATORS OF THE CITY'S NOISE CONTROL CODE

REMARKS BY MAYOR RUDOLPH W. GIULIANI AT PUBLIC HEARING ON LOCAL LAWS

The first bill before me this morning is Introductory Number 837-A, a bill sponsored jointly by my Administration, and Council Members Gifford Miller, Stanley Michels and 10 of their colleagues. This legislation would amend the Administrative Code in relation to increased civil penalties for second and subsequent violations of the noise control code.

The purpose of this legislation is to improve compliance with the noise control code by increasing the penalties for repeat offenders of the code for such violations including, but not limited to, air circulation devices, commercial music establishments, car alarms and construction activities. The noise control code currently provides one range of minimum and maximum penalties for violations of its provisions. The Department of Environmental Protection has found that persistent violators of the noise code often conclude that the cost of paying noise code fines are considered a cost of doing business. Intro. 837-A was drafted to establish a civil penalty structure for second, third and subsequent violations within a two-year period to deter such chronic offenders.

The New York City Noise Control Code, which was enacted 25 years ago, declared that excessive and unreasonable noises within the City affects the comfort, safety and welfare of the people of the City. The reduction of the noise level allows the City's residents, workers and visitors to secure freedom from noise that is critical to the quality of life and enjoyment of their homes, workplaces, and recreational facilities.

Clearly this legislation will have a distinct impact on the quality of life within residential and mixed use zones throughout the City. Both the Administration and the Council agree that Intro. 837-A will provide a disincentive to egregious violators of the noise control code and foster overall compliance.

For the reasons previously stated I will now sign this bill.

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THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

JAKE MENGES
DIRECTOR
CITY LEGISLATIVE AFFAIRS

MEMORANDUM IN SUPPORT

LEGISLATIVE REFERENCE: Intro. 837-A

TITLE: A LOCAL LAW to amend the administrative code of the City of New York, in relation to civil penalties for second and subsequent violations of the noise control code.

SUMMARY OF PROVISIONS:

The purpose of this law is to improve compliance with §24-257 of the noise code of the administrative code of the City of New York by increasing the penalties for second and subsequent violations.

REASONS FOR SUPPORT:

The noise control code currently provides one range of minimum and maximum penalties for violations of its provisions. Generally, this range of fines is appropriate only for an initial violation. The maximum penalties listed in Table V of paragraph 5 of section 24-257 of the administrative code are the same for the first violation as for all subsequent violations. To discourage noisy behavior from persistently non-compliant individuals, the range of penalties for second and subsequent violations should be increased. Increasing noise code penalties will compel compliance by egregious respondents who repeatedly violate the same provision of the code. The revised penalty tables contained in this legislation do not require any other standard, other than prior findings of violation, to make a respondent subject to higher penalties. In addition, this bill will ensure that second and third violation penalties for all noise code violations are consistent.

This legislation was drafted by the Department of Environmental Protection and the City Council to further improve quality of life issues. Clearly, this legislation will have a distinct impact in residential and mixed use zones throughout the City. Passage of this law

Nov 6 '97 12:05 P.03
Oct 31 '97 12:28 P.02

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C L R Fax: 212-788-7866

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will provide a disincentive to egregious violators of the noise control code and foster overall compliance with code.

Accordingly, the Mayor urges the earliest possible favorable consideration of this legislation.

Respectfully submitted,

Jake Menges

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Council OKs tripling fines against noise

By MAUREEN FAN

Daily News Staff Writer

The City Council yesterday passed a bill that would slap repeat violators of the city's noise code with steep new fines.

By a vote of 44 to 4, City Council members voted to triple the penalties for third-time offenders whose noisy clubs, bars, pets, car alarms and jackhammers break the city's rules on peace and quiet.

"It's a step in the right direction in making the city a little quieter," said Gifford Miller (D-Manhattan), the bill's sponsor. "It says to people who violate the law, 'Shape up or we're going to hit you where it hurts.'"

Details of the bill were first reported in Monday's Daily News.

Miller worked with mayoral aides to expand the bill and Mayor Giuliani is expected to sign the proposal, which would take effect within 90 days. The bill ups maximum penalties for noisy nightclubs from \$8,000 to \$24,000.

It would increase fines for malfunctioning car alarms from \$700, tops, to a new high of \$2,100. Even out-of-control pets would cost their masters up to \$525 for a third offense, up from a maximum of \$175 now.

Critics have blasted the steep fines as unfair, and some Council members questioned the enforcement of the bill.

"I believe the bill had applications when dealing with boom boxes or bars where it's human noise and deliberate," said Herbert Berman (D-Brooklyn). "But when you're talking about car alarms, in many cases, you could have fines that exceed the cost of the car. It doesn't make sense. Even with dog barking, a lot of people keep them because they want watchdogs."

City Will Try to Quiet Ruth with wads of bills & fines

Car alarms, clubs and pets targeted

By MAUREEN FAN

N.Y. Daily News Staff Writer

The city is set to declare war on eardrum-splitting car alarms, pounding nightclub stereos, throbbing construction jackhammers and yapping pets.

A tough new anti-noise crusade will begin tomorrow when the City Council is expected to pass a bill slapping steep fines on noisemaking.

Even owners of barking dogs, meowing cats and chirping birds are targeted by the measure, which would triple penalties for people who repeatedly violate city noise codes.

A car alarm that doesn't stop blaring after three minutes could cost the driver as much as \$2,100. Music-blasting clubs and bars could get socked with \$24,000 fines. And noisy pets could expose their owners to \$525 bites from the city.

Mayor Giuliani is expected to sign the quality-of-life legislation.

The hefty fines, which would take effect within 90 days, have some businesses crying foul — even as the bill's backers concede enforcement

will be tough, and that no law can ever guarantee total peace and quiet.

"New York is never going to be a quiet, sleepy town. We're never going to listen to the

crickets at night," said Councilman Gifford Miller (R-Manhattan), the bill's sponsor.

"But that doesn't mean we should just throw up our hands and give up. I think we can make this city a little quieter, a little saner," Miller added.

Miller said the legislation was sparked by his view that clubs and other businesses find it cheaper and easier to shell out modest fines instead of solving their noise problems permanently by paying for costly renovations.

First-time violators of the city's noise code wouldn't see much of a change in punishment. But second and third-time abusers who commit the same offense within two years would be socked with heavy fines by cops or inspectors from the city's Department of Environmental Protection:

■ Car alarms that don't shut off after three minutes would cost owners up to \$2,100 on a third offense, up from \$700, the maximum penalty now.

■ Clubs and bars blasting unreasonably loud music could face fines as high as \$24,000, up from a maximum \$8,000.

■ Out-of-control pets would cost their masters up to \$525 for a third offense, up from a high of \$175 now.

■ Nonemergency construction before 7 a.m. and after 6 p.m. on weekdays could trigger fines as high as \$10,500, up from a

Opponents branded the penalties excessive — and some said New Yorkers should expect to live with a certain measure of noise.

Andrew Rasiej, president of the New York Nightlife Association, a coalition of some 50

music and dance clubs, says he has no problem with noise limits in residential districts. But he argues that people who move into manufacturing or commercial areas ought to expect

certain amount of rumbling.

"It's the new urban battle ground," says Robert Bookman, the group's attorney. "Especially in neighborhoods like Tribeca and SoHo and the Flatiron. . . . These people now have their cabin in the woods, and they want to pretend they're in quiet residential areas when they're not."

But Deputy Mayor Rudolph W. W. Washington said that when he inspected nightclubs, he could often hear the sounds of music blaring half a block away.

Citizens who want to report noisy neighbors, such as a restaurant with a loud ventilation fan, can call either the Police Department or the DEP's noise complaint number — (718) DEP-HELP — and the agency will dispatch inspectors.

But with car alarms, aggrieved parties are better off calling the police, experts say.

Car alarm owners are required to register with their local precincts and post the precinct's phone number in the car window, a rule seldom followed, according to John Corlett at the Automobile Club of New York, which opposes the bill.

**It'll never be a
sleepy town, but
I think we can
make this city a
little quieter, a
little saner'**

COUNCILMAN GIFFORD MILLER

NOISY NUMBERS

	CURRENT MAXIMUM PENALTY	MAXIMUM PENALTY UNDER NEW BILL
Nightclubs, cabarets, bars with music	\$8,000	\$24,000
Animals, including birds	\$175	\$525
Burglar alarm, car alarm	\$700	\$2,100
Car horn	\$700	\$2,100
Nonemergency construction activity before 7 a.m. and after 6 p.m.	\$3,500	\$10,500
Bulldozers, pile drivers, steam shovels -	\$1,400	\$4,200
Power tools for cutting, drilling, sawing, stapling	\$875	\$2,625
Fans, air conditioning over 50,000 BTUs	\$1,400	\$4,200
Garbage compacting trucks	\$1,400	\$4,200
Jackhammers	\$1,400	\$4,200

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NY City Ordinance

records or tapes, in front or outside of any building, place or premises, abutting on or adjacent to a public street, park or place, or in or upon any vehicle operated, standing or being in or on any public street, park or place, or from any stand and, platform or other structure, or from any airplane or other device used for flying, flying over the city, or on a boat on New York City waters.

<u>1st violation</u>		<u>2nd violation</u>		<u>3rd and subsequent violations</u>	
<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>
\$1750	\$440	\$3500	\$880	\$5250	\$1320

§24-220 (c) No person shall use any radio or similar device on rapid transit railroad, buses, or ferry if the sound emanating from device is audible to other passengers.

<u>1st violation</u>		<u>2nd violation</u>		<u>3rd and subsequent violations</u>	
<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>
\$175	\$45	\$350	\$90	\$525	\$135

§24-220(d) is not a subdivision that exists in the Noise Control Code of the NYC Administrative Code.

§24-221 Sound Signal Devices

(a) No person shall operate or use or cause to be operated any claxon (horn, but not limited to a motor vehicle horn) installed on a motor vehicle, except as a sound signal of imminent danger.

<u>1st violation</u>		<u>2nd violation</u>		<u>3rd and subsequent violations</u>	
<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>
\$875	\$220	\$1750	\$440	\$2625	\$660

§24-221 Sound Signal Devices

(b) No person shall operate or use or cause to be operated or used an air horn installed on any motor vehicle other than as provided in §24-223.

(c) No person shall operate or use or cause to be operated or used any steam whistle attached to a stationary boiler, except to give notice of the time to start or stop work or as a sound of imminent danger.

(d) No owner of a building or motor vehicle shall operate an audible burglar alarm thereon unless such alarm shall automatically terminate its audible response within fifteen minutes of its being activated in the case of a building, and three minutes of being activated in the case of a motor vehicle. The

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correct

alarms shall only be activated by direct physical contact or the use of an individual remote activation device.

(e) No owner of a motor vehicle shall have in operation an audible status indicator on such a motor vehicle.

(j) No owner shall operate or use or cause to be operated or used any sound signal device attached to a motor vehicle, wagon or manually propelled cart from which food or any other items are sold, which emits a sound signal more frequently than once every ten minutes in any one city block and with a duration of more than ten seconds for any single emission.



<u>1st violation</u>		<u>2nd violation</u>		<u>3rd and subsequent violations</u>	
<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>
\$700	\$175	\$1400	\$350	\$2100	\$525

§24-221

Sound Signal Devices

(g) The operator of any motor vehicle on which an audible burglar alarm has been installed shall, when parked on a public highway or parking lot open to the public, prominently display the number and telephone number of the owner's local police precinct where information shall be on file to permit communication with the owner of such motor vehicle.

<u>1st violation</u>		<u>2nd violation</u>		<u>3rd and subsequent violations</u>	
<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>
\$250	\$100	\$500	\$200	\$750	\$300

§24-222

Animals

No person shall permit an animal, including a bird, under his or her control to cause unreasonable noise.

<u>1st violation</u>		<u>2nd violation</u>		<u>3rd and subsequent violations</u>	
<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>
\$175	\$45	\$350	\$90	\$525	\$135

§24-223

Emergency Signal Devices

No person shall operate or use or cause to be operated or used any emergency signal device, except on an authorized emergency vehicle when such vehicle is in the immediate act of responding to an emergency; provided that such device shall not be operated so as to create an unreasonable noise nor for a period of time longer than is strictly necessary to respond to such emergency.

<u>1st violation</u>		<u>2nd violation</u>		<u>3rd and subsequent violations</u>	
<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

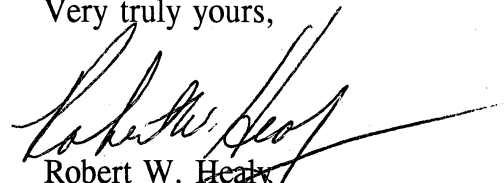
RICHARD C. ROSSI
Deputy City Manager

November 17, 1997

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 32, regarding a report on the New York City response to car alarms, received from City Solicitor Russell B. Higley.

Very truly yours,



Robert W. Healy
City Manager

RWH/mec
attachment

Consent Agenda #20

**Relative to Awaiting Report Item Number
Thirty-two, regarding a report on the New
York City response to car alarms.**

In City Council November 17, 1997

*Referred to
Ordinance Committee
on motion of
Councillor Davis*



CITY OF CAMBRIDGE
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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

October 6, 1997

To The Honorable, The City Council:

Please find attached a response to Calendar Item No. 1A of April 28, 1997, regarding noise control ordinance amendments, received from City Solicitor Russell B. Higley.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
attachment



CITY OF CAMBRIDGE

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October 1, 1997

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Noise control ordinance amendments;
Council Committee Report Order #1A of 4/28/97

Dear Mr. Healy:

The Noise Sub-Committee of the Environment Committee of the City Council requested an ordinance amendment to allow for disabling car alarms and towing cars when car alarms do not automatically shut off within ten minutes. See attached. The ten minute shut-off is required by the Noise Ordinance, Cambridge City Code, §8.16.080(J)(3).

On April 9, 1997, you sent to the City Council proposed amendments to the Noise Ordinance which would penalize private parking facility owners for not disabling car alarms from sounding in excess of ten minutes. See attached. I am informed that those proposed amendments remain in committee.

As it stands, the Noise Ordinance enforcement section (§8.16.040) provides that violators may be fined \$300.00, that the violator may be ordered to take "reasonable remedial actions", and an injunction against the violator may be sought in court for the abatement of the noise violation.

Attached is an ordinance amendment that would authorize police to have tow companies disable and/or tow vehicles, from private or public property, whose alarms are sounding in violation of the ten minute shut-off requirement. The ordinance could be justified as an exercise of the City's broad authority to enact legislation for the public's health and welfare pursuant to its general police powers. An attorney for the City of Boston informs me that Boston police tow cars whose car alarms do not automatically shut off. The City Council has explicit authority to control and abate

excessive noise from cars (see G.L.c.40, s.21(22)).

Under its police powers, the Council could act here to in effect abate the nuisance caused by a car alarm. Generally, nuisances may be summarily abated by a city out of urgent or extreme necessity, if attempted prior notice to the owner of the nuisance is not effective, at the city's own risk as to whether it will later be adjudged that the situation at issue constituted a nuisance. The abatement should occur with minimal intrusion against the property. 58 Am.Jur.2d §§411-435.

There are several legal and practical concerns with authorizing police or other city employees to disable car alarms that sound in violation of the ordinance. As stated in the April 9, 1997 communication from you to the City Council, it would be possible for a legal challenge to such authorization on the basis that opening a person's car in itself constitutes a seizure of the car that may be unconstitutional (under the Fourth Amendment of the federal Constitution and Part 1, Article 14 of the state Constitution) absent adequate justification. Commonwealth v. Sumerlin, 393 Mass. 127 (1984); Commonwealth v. Podgurski, 386 Mass. 385 (1982). It is possible, but not foregone, that a court would reject such a challenge on the basis that any invasion of privacy by entering a car to disable an alarm is justified as reasonable in the circumstances. Commonwealth v. Leonard, 422 Mass. 504 (1996) (officer justified in entering a vehicle when he reasonably believed that the operator might have been ill and needed assistance).

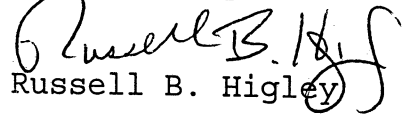
Other difficulties are that if a City employee disables an alarm and in the process damages the vehicle, the City might be responsible to pay any costs of repair; if a City employee disables a car alarm and the car is then stolen or vandalized, the owner might seek to hold the City responsible; if by ordinance City employees are authorized to disable car alarms, or to arrange for such disabling by a private contractor, some training of employees and contractors as to how to disable common types of car alarms would be advisable.

The Committee Report also requests Noise Ordinance amendments to require that all audible alarms be stopped automatically within a reasonable time and that violators be fined at a level that would prevent repeat offenses. See attached page of Committee Report. It would seem that §8.16.080(J)(3) already addresses this concern. That section requires automatic shut-off within ten minutes of activation of "any exterior burglar (or fire) alarm or any motor vehicle burglar alarm...." The enforcement provisions of the Noise Ordinance, §8.16.040(C), already provide the maximum fine the City may impose by ordinance, \$300.00 per violation.

§8.16.080(J)(3) overlaps with §§8.32.040(C) (which requires all alarms with an audible bell to have automatic shut-off devices set

within ten minutes). The penalty provisions in Chapter 8.32 provide for a penalty of up to \$50.00 for a violation of that provision. The City could implement the higher \$300.00 penalty in the Noise Ordinance for such violations.

Very truly yours,


Russell B. Higley



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

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*distribution
by D Lopez at
4/9 mtg
+ discussed*

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

April 9, 1997

RICHARD C. ROSSI
Deputy City Manager

To the Honorable, the City Council:

In response to City Council Order #2 of March 31, 1997, I am attaching proposed amendments to the Noise Ordinance.

The proposed amendment to the Noise Ordinance would create a new penalty in the form of potential fines against the owner or operator of a private parking facility, as well as a new fine against the owner of a vehicle, in the event that a car alarm sounds and is not disarmed within ten minutes. For each ten minute period that an alarm continues to sound a new offense would occur and be subject to a separate fine. A comparable fine for each ten minute period would be assessed to the owner or occupant of a building in which a burglar or fire alarm is located.

The Law Department continues to explore the complex issues raised by the proposal that the ordinance authorize the police to disarm the alarm. Difficulties are presented with regard to a warrantless entry upon private property. I will advise the Council further of the advisability of such an approach. In the meanwhile, I recommend that the Council consider the as yet untried approach of holding the owner and operator of a parking facility responsible, and subject to fines, for the extended nuisance caused to surrounding residents when alarms are allowed to continue longer than ten minutes. With each ten minute interval constituting a separate violation a fine of, for example, \$100 per violation, would quickly mount to a substantial monetary incentive for owners and operators of parking facilities to make arrangements with customers to provide a means to disarm an alarm system. The same analysis applies to the burglar and fire alarms.

These new fines would augment existing enforcement options.

Very truly yours,

Robert W. Healy
City Manager

Cambridge City Code §8.16.080(J)(3) of the Noise Control Ordinance shall be amended as follows:

- a. Insert the letter "a." before the first sentence of said section.
- b. Add a new subsection as follows:
"b. The owner and/or operator of any private parking facility in which a motor vehicle burglar alarm has been sounding for more than ten minutes shall be in violation of this ordinance."
- c. Add a new subsection as follows:
"c. In addition to the enforcement provisions of §8.16.040, violators of sections a and b above shall be subject to a fine of \$100.00 for each violation. Each 10 minute interval of sounding, or part thereof, after the initial 10 minute sounding shall constitute a separate violation."
- d. Add a new subsection as follows:
"d. Fines for the sounding of burglar or fire alarms in violation of this ordinance may be assessed against the owner or occupant of the building in which the alarm is located."

Cambridge City Code §8.16.080(J)(3) of the Noise Control Ordinance shall be amended as follows (assuming enactment of the April 9, 1997 proposed amendments):

A new subsection shall be added as follows:

e. Any motor vehicle, located on either public or private property, whose alarm has been sounding in excess of ten minutes is hereby deemed to be a public nuisance subject to immediate abatement. To effect abatement police must first make reasonable efforts to contact the owner of such vehicle to either have the owner shut-off the alarm or to authorize police to arrange for the shut-off of the alarm. If such efforts are unsuccessful, police are hereby authorized to abate the nuisance by arranging for tow company employees to shut off the alarm and/or to tow the motor vehicle to a storage area or other place of safety. In addition to any fines for violating this Chapter, the registered owner of the motor vehicle shall be responsible for all reasonable expenses, costs, and charges incurred by the deactivation of the alarm, and by the removal and storage of such vehicle.

City of Cambridge

-6-

The motion - Carried.

The committee heard from Star Poole Verry, 17 William Street, who asked if the police followed the 50 foot rule. Commissioner Watson responded in the affirmative.

Councillor Davis inquired what was the penalty for an offense to the Noise Ordinance. Mr. Goldberg responded that the penalty can be up to \$300.00. He stated that the ordinance gives the Inspectional Services, the Police Department and the License Commission the authority to impose fines, injunctive provision to stop the noise, revocation of license or permit including a building or demolition permit. Councillor Davis stated that the city needs more refinements about fines and other methods of enforcement.

Commissioner Watson stated that the Police Department is looking for teeth in the ordinance regarding burglar alarms so they can enforce it.

Mr. Desportes suggested licensing burglar alarms. Mr. Goldberg stated that Chapter 8.32 on security alarms provides for graduated fines, but they top off at \$300.00 and disconnection for up to three months. Mr. Fosque stated that under Chapter 8.32 fines are incurred for subsequent offenses but there is no fine for a ten minute shut off. Commissioner Watson stated that pursuant to Chapter 8.32 alarms connected to the Police Department are supposed to provide a list of two other people to be contacted if the alarms go off. He noted that those people are not always available.

Councillor Davis requested Mr. Goldberg to draft an amendment to provide remedies for all audible alarms. Councillor Davis submitted the following motion:

That the Law Department draft amendments to the noise ordinances to address issues raised with regard to audible alarms including stopping the noise within a reasonable period of time and fining the violator at a level that prevents repeat offenses; and further that the City Manager provide for joint training of all departments related to the noise enforcement.

Councillor Davis brought up the issue of mechanical devices such as air conditioning units.

Mr. Bersani stated that when a contractor applies for a building permit for HVAC, his department supplies the contractors with copies of the Noise Ordinance.

Ms. Johnson asked if contractors were required to notify abutters of the installation of a HVAC unit. Mr. Bersani responded in the negative. Councillor Davis noted that even when HVAC units comply with the noise ordinance, citizens are still complaining. Mr. Scali suggested contacting Ms. Boyer who can help to resolve some of these issues. Councillor Davis asked, should we examine the ordinance and determine if appropriate levels are described.

Consent Agenda #8

Relative to Calendar Item No. 1A of
April 28, 1997, regarding noise control
ordinance amendments.

In City Council October 6, 1997

Referred to the
Ordinance Committee
and the Noise
Sub-Committee of
the Environment
Committee

10-8-97

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CITY OF CAMBRIDGE
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J.

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

October 6, 1997

To The Honorable, The City Council:

Please find attached a response to Calendar Item No. 1A of April 28, 1997, regarding noise control ordinance amendments, received from City Solicitor Russell B. Higley.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
attachment

Consent Agenda #8

**Relative to Calendar Item No. 1A of
April 28, 1997, regarding noise control
ordinance amendments.**

In City Council October 6, 1997

Referred to the
Ordinance Committee
and the Noise
Sub-Committee of
the Environment
Committee

10-8-97
Copies
sent mc

City of Cambridge

The Ordinance Committee held a public meeting on November 19, 1997, beginning at 5:00 pm in the Sullivan Chamber for the purpose of considering a proposed amendment to the Noise Control Ordinance.

Present at the hearing were Councillor Francis H. Duehay, Chair of the Committee, Vice Mayor Kathleen L. Born, Councillor Henrietta Davis, Councillor Kenneth E. Reeves, Councillor Michael A. Sullivan, Councillor Katherine Triantafillou, and City Clerk D. Margaret Drury. Also present was Attorney Arthur Goldberg, Law Department, Police Captain Henry Breen, License Commissioner, Benjamin Barnes, Chairman, License Commission.

Councillor Duehay convened the hearing and explained the purpose. Arthur Goldberg summarized the legal opinion of the City Solicitor regarding the proposed ordinance. There are some risk particularly with the provision which allows towing of a car with an alarm sounding more than 10 minutes in violation of the ordinance, but it can be done.

Councillor Davis noted that she had requested that information regarding a New York City ordinance which requires that alarms terminate within three minutes and provides for fines up to \$300 for repeat violations, be referred to this hearing.

Councillor Davis asked whether the proposed Cambridge ordinance would be violated if the alarm was turned off after being on for ten minutes and then went on again.

Attorney Goldberg stated that this is an issue which could use clarification.

Vice Mayor Born asked whether Mr. Goldberg had looked at related ordinances in other cities in addition to New York City. She asked whether there are more and more municipalities that have these ordinances.

Attorney Goldberg stated that in New York City, the noise from car alarms was perceived as a growing problem.

Councillor Davis stated that the impetus for this change is that while the police can deal with the problem on public ways, there has been no legal authority for the police to take action when the car with the alarm going off is on private property.

Captain Breen stated that there is authority if the car is on the public way and the peace is being disturbed by the alarm.

Attorney Goldberg stated that the proposed ordinance is based on nuisance law. In the case of an extreme necessity, the City can abate a nuisance.

Councillor Duehay asked why the time limit is as long as ten minutes. Attorney Goldberg stated that it is historical; this is the time that already is stated in the ordinance.

Councillor Reeves stated that he is not sure that a much shorter time period is the best way to achieve the desired result. Many people visit Cambridge from other places, and will be caught unaware. A lot of people are towed already.

Councillor Duehay then invited public testimony. There was none.

Councillor Triantafillou requested further discussion of the objections raised by Councillor Reeves.

Councillor Reeves stated that when he was Mayor he received lots of complaints from people, often parents of students, about their cars being towed when they had no idea that they were illegally parked. He has never, or perhaps only once, had a complaint about a car alarm.

Councillor Duehay stated that he has had three or four complaints.

Councillor Sullivan stated that he tends to agree with Councillor Reeves's concern. Perhaps there should be some element of being an habitual offender before there is a penalty. He also has reservations about authorizing the car to be towed away.

Councillor Sullivan added that there is a fair amount of discretion. Asked about the "western" solution of disabling the alarm.

Attorney Goldberg stated that if damage was done to the vehicle, there probably would be liability.

Councillor Davis suggested adding a provision to clarify that the ordinance is violated if the alarm sounds for more than ten minutes in an hour.

Vice Mayor Born stated that in view of the possibility of a substantial fine and the possibility of damage to a car, there really should be a police officer measuring the time that the alarm is sounding.

Mr. Barnes agreed that a police officer would be preferable to a civilian witness.

Councillor Duehay summarized the suggested changes of providing that a violation occurs if the alarm sounds for more than ten minutes in a hour, and providing that the penalty will be incurred if there are repeated violations. He requested that Attorney Goldberg draft amendments to reflect these changes. Councillor Duehay stated that when he receives the revisions, he will circulate them to the committee. If the committee members have no objections to the additional changes, he will forward the proposed amendment with the new changes to the full City Council.

Councillor Duehay thanked those present for their attendance. The meeting was adjourned at 5:25 p.m.

For the Committee,

Francis H. Duehay

Councillor Francis H. Duehay
Chair

Committee Report #2 ^{S-767}
A report from Councillor Francis H. Duehay,
Chair of the Ordinance Committee, for a meeting
held on November 19, 1997 for the purpose
of considering a proposed amendment to the
Noise Control Ordinance.

In City Council December 15, 1997

Report accepted

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