



City of Cambridge

43.

IN CITY COUNCIL

September 11, 1995

COUNCILLOR TOOMEY
COUNCILLOR BORN
COUNCILLOR DUEHAY
COUNCILLOR GALLUCCIO
VICE MAYOR RUSSELL
COUNCILLOR SULLIVAN
COUNCILLOR TRIANTAFILLOU

ORDERED: That the City Manager be and hereby is requested to confer with the City Solicitor with the view in mind of drafting an amendment to the Municipal Code of Cambridge in Chapter 8.16 (Noise Control) regarding the "Prohibition Against Loud Amplification Devices in Motor Vehicles"; and be it further

ORDERED: That the City Manager report back to this City Council by September 25, 1995.

In City Council September 11, 1995

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy; *D. Margaret Drury*

ATTEST:-

D. Margaret Drury
City Clerk

43

September 11, 1995

Councillor Toomey

ORDERED: That the City Manager be and hereby is requested to confer with the City Solicitor with the view in mind of drafting an amendment to the Municipal Code of Cambridge in Chapter 8.16 (Noise Control) regarding the "Prohibition Against Loud Amplification Devices in Motor Vehicles" and be it further

ORDERED: That the City Manager report back to this City Council by September 25, 1995

RECEIVED BY
OFFICE OF CITY CLERK
MAY 23 AM 10:01
CAMBRIDGE MA.

16-25 OBSCENE AND PORNOGRAPHIC MATERIAL.

16-25.1 Fine for Selling.

Whoever sells, or distributes, or imports, or loans, or possesses with the intent to sell, or exhibits, prints, or publishes for the purpose of selling or distributing a book, pamphlet, ballad, printed paper, phonographic record, print, picture, figure, image, or description which depicts or describes:

- a. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, or
- b. Patently offensive representations or descriptions of masturbation, excretory functions, lewd exhibition of the genitals, shall be subject to a fine of fifty (\$50.00) dollars for each day on which such violation occurs or during which such violation continues.

[This ordinance was passed in 1973, under the guidelines established in *Miller v. California*, 441 U.S. 925, 37 L. Ed 2d 419, (June 21, 1973).]
(CBC 1975 Ord. T14 § 353)

16-26 UNREASONABLE NOISE.

16-26.1 General Prohibition and Definitions.

No person shall make or cause to be made any unreasonable or excessive noise in the City, by whatever means or from whatever means or from whatever source.

As used herein, the following terms shall have the following meanings:

a. *dBa* shall mean A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute, "Specifications for Sound Level Meters (ANSI S1.4 1971)", properly calibrated, and operated on the "A" weighting network.

b. *Loud amplification device or similar equipment* shall mean a radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loud speaker, or sound amplifier which is operated in such a manner that it creates unreasonable or excessive noise.

c. *Unreasonable or excessive noise* shall mean

1. Noise measured in excess of 50 dBa between the hours of 11:00 p.m. and 7:00 a.m., or in excess of 70 dBa at all other hours; or

2. In the absence of an applicable noise level standard or regulation of the Air Pollution Control Commission, any noise plainly audible at a distance of three hundred (300') feet or, in the case of loud amplification devices or similar

equipment, noise plainly audible at a distance of one hundred (100') feet from its source by a person of normal hearing.

(Ord. T14 § 354; Ord. 1991 c. 4 § 1)

16-26.2 Unreasonable Noise-Making Automobile Safety Devices.

The use, maintenance, installation or keeping of any device whose purpose it is to protect an owner's vehicle from damage and/or theft through the mechanical creation of a noise of sufficient magnitude to be plainly audible at a distance of two hundred (200') feet from such device which does not automatically terminate any such noise within five (5) minutes shall be unlawful. Penalty for violation of this section shall be a fine of fifty (\$50.00) dollars. This section shall be deemed a part of the Environment Protection Ordinances, so called, and shall be enforced pursuant to the provisions of Chapter 40, Section 21D of the General Laws.

(Ord. 1984 c. 4; [354a])

16-26.3 Unreasonable Noise From Automobile Safety Devices.

The use of any device whose purpose it is to protect an owner's vehicle from damage and/or theft through the mechanical creation of a noise of sufficient magnitude to be plainly audible at a distance of two hundred (200') feet from such device which does not automatically terminate any such noise within five (5) minutes shall be declared an unlawful use of a noise making instrument. The penalty for violation of this ordinance shall be fifty (\$50.00) dollars and shall be in compliance with the provisions of Chapter 40, Section 21D of the General Laws. This section shall be deemed a part of the Environment Protection Ordinances, so called.

(Ord. 1984 c. 5 § 1 [354b])

16-26.4 Regulation of Construction Hours.*

No erection, demolition, alteration, or repair of any building and excavation in regard thereto, except between the hours of 7:00 a.m. and 6:00 p.m., on weekdays or except in the interest of public safety or welfare, upon the issuance of and pursuant to a permit from the Commissioner, Inspectional Services Department, which permit may be renewed for one or more periods of not exceeding one week each.

(Ord. 1984 c. 10 § 1 [354c]; Ord. 1991 c. 5 § 38)

16-26.5 Noise Levels at Residential Lot Lines.

It shall be unlawful for any person except in emergencies by Public Utility Companies to operate any construction device(s), including but not limited to impact devices, on any construction site if the operation of such device(s) emits

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

noise, measured at the lot line of a residential lot in excess of 50 dBa between the hours of 6:00 p.m. and 7:00 a.m.
(Ord. 1985 c. 3 §1 [354d])

16-26.6 Disturbing the Peace.

It shall be unlawful for any person or persons in a residential area within the City of Boston to disturb the peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any radio, phonograph or sound related producing device or instrument, or from the playing of any band or orchestra, or from the use of any device to amplify the aforesaid noise, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, or from the use of any device to amplify such noise provided, however, that any performance, concert, establishment, band, group or person who has received and maintains a valid license or permit from any department, board or commission of the City of Boston authorized to issue such license or permit shall be exempt from the provisions of this section. Unreasonable or excessive noise shall be defined as noise measured in excess of 50dBa between the hours of 11:00 p.m and 7:00 a.m. or in excess of 70dBa at all other hours when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit. The term dBa shall mean the A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute, "Specifications for Sound Level Meters (ANSI S1.4 1971)", properly calibrated, and operated on the "A" weighting network.

Any person aggrieved by such disturbance of the peace may complain to the police about such unreasonable or excessive noise. The police, in response to each complaint, shall verify by use of the sound level meter described herein that the noise complained of does exceed the limit described herein and if so, may thereupon arrest and/or make application in the appropriate court for issuance of a criminal complaint for violation of M.G.L. c. 272, S. 53, which sets forth the penalties for disturbing the peace.

(Ord. 1986 c. 19 §§ 1, 2 [354e]; Ord. 1991 c. 4 § 2)

16-26.7 Prohibition Against Loud Amplification Devices in Motor Vehicles.

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in subsection 16-26.1, in or on a motor vehicle which is either moving or standing in a public way.

(Ord. 1991 c. 4 § 3)

16-26.8 Prohibition Against Loud Amplification Devices in Public Ways or Places.

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in subsection 16-26.1, in a public way or in any other public place.

(Ord. 1991 c. 4 § 3)

16-26.9 Prohibition Against Loud Amplification Devices in or on Residential Premises.

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in subsection 16-26.1, in a dwelling house or on the land or other premises of such dwelling house.(Ord. 1991 c. 4 § 3)

16-26.10 Enforcement.

Any person aggrieved by such operation of a loud amplification device or similar equipment in violation of subsections 16-26.7, 16-26.8, or 16-26.9 may complain to the police, who shall enforce this section.

Notwithstanding the provisions of subsection 16-26.6, the police are also hereby authorized to enforce said subsections without any such complaint; nor shall the police be required to verify the decibel level by use of a sound level meter.

(Ord. 1991 c. 4 § 3)

16-26.11 Penalties.

Any person who violates subsections 16-26.7, 16-26.8, or 16-26.9 shall, for the first offense, be given an oral or written warning. The police officer who gives the warning shall make a record of having served the warning, such record to include the following information to the extent that it is available to him: name and address of person warned; name and address of landlord, if applicable; date; time; motor vehicle registration number, if applicable; and location of where the warning was given. If the person warned refuses to give the above-noted information to the police officer, said person shall be punished by a fine of fifty (\$50.00) dollars. The police officer shall give such person a notice of the violation and fine, and the violation and fine shall be disposed of pursuant to G.L. c. 40, sec. 21D.

Any person who subsequently violates this section after having received a warning shall be punished by a fine of fifty (\$50.00) dollars for the second offense; one hundred (\$100.00) dollars for the third offense; and two hundred (\$200.00) dollars for the fourth and subsequent offenses committed within a thirty-six (36)-month period. All fines hereunder shall be recovered by the non-criminal disposition procedures stated in G.L. c. 40, sec. 21D, which procedures are

incorporated herein by reference; provided, however, that if a violator fails to follow the procedures and requirements of said sec. 21D, the fine or fines shall be recovered by indictment or on complaint pursuant to G.L. c. 40, sec. 21.
(Ord. 1991 c. 4, § 3)

16-26.12 Arrest and Seizure of Property.

Notwithstanding the provisions of any other ordinance of the City of Boston, if a person is arrested by a Boston police officer under the authority of the Massachusetts General Laws, including without limitation the provisions of G.L. c. 272, sec. 54 for disturbing the peace under G.L. c. 272, sec. 53, or any applicable Massachusetts General Law, the arresting officer may, pursuant to said General Laws, seize any loud amplification device or similar equipment, as defined in subsection 16-26.1, as evidence. In the event of such seizure for evidence by a Boston police officer incident to such arrest, such amplification device or similar equipment shall be inventoried and held by the Boston Police Department or its agents, and shall be returned to its owner according to the terms of this section, unless a court of competent jurisdiction orders otherwise.

The arresting officer, in addition to any other reports or procedures required of him, shall give the person claiming to be the owner of said loud amplification device or similar equipment a receipt indicating where, when, and for what reason said device or equipment was seized, and for what purpose it is being held. Copies of said receipt shall be filed in the Boston Police Department and shall be made available to the court. No receipt shall be redeemed and no such device or equipment shall be returned to any person unless and until all judicial proceedings that may be held regarding the criminal allegations shall have been finally completed; provided, however, that if a motor vehicle shall be seized incident to an arrest, such motor vehicle may be returned to its registered owner if said loud amplification device or equipment has been duly removed therefrom with the written permission of the registered owner of said motor vehicle. In such cases, the Police Department shall provide said owner with a receipt for the removed device or equipment as herein provided.

(Ord. 1991 c. 4 § 3)

16-26.13 Exemptions.

The following are exempted from the provisions of Section 16-26 and shall not be considered unreasonable or excessive noise for purposes of this section:

- a. Noise from law enforcement motor vehicles.
- b. Noise from emergency vehicles which is emitted during an actual emergency.

c. Noise which a person is making or causing to be made where such person has received and maintains a valid license or permit therefor from any department, board or commission of the City authorized to issue such license or permit; provided, however, that such noise shall be permitted only to the extent allowed by the license or permit.

(Ord. 1991 c. 4 § 3)

16-26.14 Severability.

If any provision or subsection of this section shall be held to be invalid by a court of competent jurisdiction, then such provision or subsection shall be considered separately and apart from the remaining provisions or subsections of this section, which shall remain in full force and effect.

(Ord. 1991 c. 4 § 4)

16-27 RESERVED.

(CBC 1975 Ord. T14 § 355; Repealed by Ord. 1991 c. 5 § 25)

16-28 JITNEY LICENSES.

16-28.1 Requirement.

No person, firm or corporation shall, in the City of Boston, operate any motor vehicle upon any public way, for the carriage of passengers for hire, in such a manner as to afford a means of transportation similar to that afforded by a railway company, by indiscriminately receiving and discharging passengers along the route on which the vehicle is operated or may be running, or for transporting passengers for hire as a business between fixed and regular termini, without first obtaining a license therefor from the City Council, and unless such license is in force according to the provisions of and subject to this and the following subsections. Such license shall be subject to revocation at any time by order of the City Council. Whenever the word "licensee" is used in this and the following subsections, it shall mean the person, firm or corporation licensed under this subsection.

(CBC 1975 Ord. T14 § 356)

16-28.2 Publication and Notice.

No person shall prosecute a petition to the City Council for a license under Section 1 of Chapter 159A of the General Laws unless at his own expense he has caused to be published, in a newspaper of general circulation published in the City, at least seven (7) days before the public hearing to be held by the proper committee of



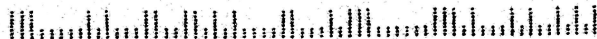
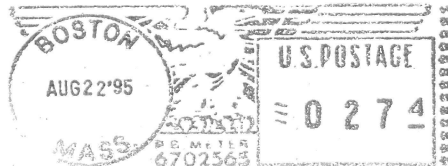
Office of the Clerk

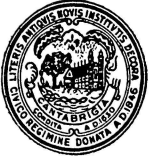
Room 601
Boston City Hall
Boston, Massachusetts 02201



John Flynn, Assistant City Clerk
795 Massachusetts Avenue
Cambridge, MA 02139

PRESORTED
FIRST CLASS





City of Cambridge

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COUNCILLOR TOOMEY

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BORN, Sweeney, Hallyuce io, Russell,
Consent Order #43
Sullivan, Trantafillo
Councillor Toomey re: Drafting
an amendment to the Municipal
Code of Cambridge in Chapter 8.16
regarding Prohibition Against
Loud Amplification Devices in
Motor Vehicles.

0-22

In City Council September 11, 1995

Order Adopted