

BURLINGTON NOISE CONTROL ORDINANCE

Sec. 21-13. Noise control ordinance.

(a) *Purpose.* The purpose of this section is to preserve the public health, safety, and welfare by prohibiting excessive and disturbing noise and to prevent noise which is prolonged or unsuitable for the time and place and which is detrimental to the peace and good order of the community. It is the goal of this section to allow all residents of our city to peacefully coexist in a manner which is mutually respectful of the interests and rights of others.

(b) *Prohibited noise offenses:*

(1) *General prohibition.* It shall be unlawful for any person to make or cause to be made any loud or unreasonable noise. Noise shall be deemed to be unreasonable when it disturbs, injures or endangers the peace or health of another or when it endangers the health, safety or welfare of the community. Any such noise shall be considered to be a noise disturbance and a public nuisance.

(2) *Express prohibitions.* The following acts, which enumeration shall not be deemed to be exclusive, are declared to be noise disturbances:

a. *Radios, television sets, musical instruments, phonographs and similar devices.* The operation or permitting the use or operation of any musical instrument, radio, television, phonograph, or other device for the production or reproduction of sound in such a manner as to be plainly audible through walls between units within the same building, from another property or from the street between the hours of 10:00 p.m. and 7:00 a.m. or in such a manner as to unreasonably disturb the peace, quiet or comfort of the public.

b. *Motor vehicle sound equipment.* The operation or permitting the operation of any radio, stereo or other sound amplification equipment from a motor vehicle that is audible at twenty-five (25) feet from such vehicle. The term "motor vehicle" shall mean any car, truck or motorcycle.

c. *Parties and other social events.* Notwithstanding section (b)(1), it shall be unlawful for any person who is participating in a party or other social event to actively make unreasonably loud noise. A party or other social event is defined as a gathering upon the premises of one or more persons not residing at the premises. Unreasonably loud noise is noise that unreasonably interferes with the peace or health of members of the public or is plainly audible between the hours of 10:00 p.m. and 7:00 a.m. through the walls between units within the same building, from another property or from the street. It shall also be unlawful for any resident of a premises to allow a party or other social event occurring in or about the premises to produce unreasonably loud noise. There is a rebuttable presumption that all residents of the premises have allowed such party or other social event to occur in or about the premises. All residents of the premises are responsible for such unreasonable noise made, each having joint and several liability.

d. *Machinery.* The operation or permitting or directing the operation of any power equipment or machinery outdoors between the hours of 9:00 p.m. and 7:00 a.m. except in emergency situations.

e. *Construction noise.* The excavation, demolition, erection, construction, alteration or repair of any premises or structure between the hours of 9:00 p.m. and 7:00 a.m. except in emergency situations.

f. *Loudspeakers.* The use of loudspeakers or other sound amplification equipment upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or site.

(c) *Exemptions.* Noise from the following sources shall be exempt from the prohibitions specified herein:

(1) All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work, including, but not limited to, police, fire and rescue vehicle sirens.

(2) The repair and maintenance of municipal facilities, services or public utilities when such work must be accomplished outside daytime hours.

(3) Snow removal equipment operated within the manufacturer's specifications and in proper operating condition.

(4) Musical, recreational and athletic events conducted by and on the site of a school or educational institution.

(5) Events and activities conducted by or permitted by the city. Persons operating an event or activity under authority of an entertainment permit, parade/street event permit, solid waste license, or parks special use permit shall comply with all conditions of such permits or licenses with respect to noise control issues.

(6) Construction or repair work which must be done to address an emergency health or safety concern and that cannot be accomplished during daytime hours and which is not work which includes normal maintenance and repair.

(d) *Notification by property owners of rental housing.* Owners of rental housing shall be required to provide a copy of this section to a tenant at the start of the tenancy. However, the failure of an owner to provide a copy of the ordinance shall not be a defense to a violation of this section.

(e) *Enforcement:*

(1) First offense. A first offense of any provision of this section, except subsection (b)(2)(c.) (Parties and social events) by a person during any twenty-four-month period shall be deemed a civil ordinance violation and shall be punishable by a penalty of a minimum fine of two hundred dollars (\$200.00) to a maximum fine of five hundred dollars (\$500.00), which may, at the discretion of the prosecuting official, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the Community Justice Center. The waiver penalty for a first offense of any provision of this section except subsection (b)(2)(c.) (Parties and social events) by a person during any twenty-four (24) month period shall be a fine of two hundred dollars (\$200.00).

(2) A first offense of subsection (b)(2)(c.) (Parties and social events) by a person during any twenty-four-month period shall be deemed a civil ordinance violation and shall be punishable by a penalty of a minimum fine of three hundred dollars (\$300.00) to a maximum fine of five hundred dollars (\$500.00) which may, at the discretion of the prosecuting official, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the Community Justice Center. The waiver penalty for a first violation of subsection (b)(2)(c.) (Parties and social events) shall be a fine of three hundred dollars (\$300.00).

(3) Second offenses. Except for violations of subsection (b)(2)(c.) (Parties and social events), a second offense during a twenty-four (24) month period shall be deemed to be a civil offense and shall be punishable by a minimum fine of three hundred dollars (\$300.00) to a maximum fine of five hundred dollars (\$500.00) which may, at the discretion of the prosecuting official, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the Community Justice Center. The waiver penalty shall be a fine of three hundred dollars (\$300.00).

(4) A second offense under subsection (b)(2)(c.) (Parties and social events) during a twenty-four-month period shall be deemed to be a civil offense and shall be punishable by a penalty of a minimum fine of four hundred dollars (\$400.00) to a maximum fine of five hundred dollars (\$500.00) which may, at the discretion of the prosecuting official, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the Community Justice Center. The waiver penalty for a second violation of subsection (b)(2)(c.) shall be a fine of four hundred dollars (\$400.00).

(5) The third and any subsequent offense within a twenty-four (24) month period shall be deemed a criminal offense and shall be punishable by a fine of five hundred dollars (\$500.00).

(6) The city shall notify the owner of any property upon which a noise control ordinance violation has occurred and a person has been given a civil Vermont Municipal Complaint or criminal citation pursuant thereto that such complaint or citation has been issued.

(7) Any law enforcement officer may issue a municipal complaint ticket or criminal citation for offenses of the noise control ordinance.

(Ord. of 5-6-96; Ord. of 6-22-98; Ord. of 8-14-00; Ord. of 5-21-01; Ord. of 2-18-03; Ord. of 1-12-10)

Charter references: Power of city to prevent noise, § 48(V).

Cross references: Street musicians and entertainers licensed, § 4-4; boisterous conduct in city cemeteries prohibited, § 9-9; disorderly conduct at fires, § 13-7.

State law references: Disturbing religious meetings, 13 V.S.A. § 971; breach of peace by disorderly acts, 13 V.S.A. § 1021(b); noise at night, 13 V.S.A. § 1022; disturbing meetings, 13 V.S.A. § 1023.

Secs. 21-14--21-16. Reserved.

Note: See the editor's note to § 21-13.