

Chapter 292, NOISE

[HISTORY: Adopted by the City Council of the City of Binghamton 3-7-2005 by Ord. No. 05-11 (§ 14-14 of the 1970 Code). Amended 3-17-10 by Local Law 1-2010]

GENERAL REFERENCES

Alarm systems -- See Ch. 167.

Amusements -- See Ch. 173.

Control of dogs -- See Ch. 178, Art. II.

Curfew -- See Ch. 211.

Public assembly -- See Ch. 318.

Vehicles and traffic -- See Ch. 400.

Zoning -- See Ch. 410.

§ 292-1. Title.

This chapter shall be known and may be cited as the "City of Binghamton Noise Control Ordinance."

§ 292-2. Declaration of policy.

It is hereby declared to be the public policy of the City to reduce the ambient noise level in the City, so as to preserve, protect and promote the public health, safety and welfare and the peace and quiet of the inhabitants of the City, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants and facilitate the enjoyment of the natural attractions of the City. It is the public policy of the City that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the City affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the City. The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned purpose.

§ 292-3. Interpretation.

This chapter shall be liberally construed so as to effectuate the purposes described in this chapter. Nothing herein shall abridge the powers and responsibilities of any police department, law enforcement agency or code enforcement department to enforce the provisions of this chapter. Nothing herein shall be construed to abridge the emergency powers of any health department, code enforcement department or the right of such department to engage in any necessary or proper activities.

§ 292-4. Definitions and word usage [Amended 09-23-2015 by Ord. No 15-59]

All terminology defined herein which relates to the nature of sound and the mechanical detection and recording of sound is in conformance with the terminology of the American National Standards Institute (ANSI) or its successor body. As used in this chapter, the following terms shall have the meanings indicated:

AMBIENT NOISE -- The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

A-WEIGHTED SOUND LEVEL -- The sound pressure level, in decibels, as measured on a sound level meter using the A-weighted network. The level so read is designated "dBA."

COMMERCIAL AREA -- A group of commercial facilities and the abutting public right-of-way and public spaces.

COMMERCIAL FACILITY -- Any premises, property or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- (1) Dining and/or drinking establishments.
- (2) Banking and other financial institutions.
- (3) Establishments for providing retail services.
- (4) Establishments for providing wholesale services.
- (5) Establishments for recreation and entertainment.
- (6) Office buildings.
- (7) Transportation.

(8) Warehouses.

(9) Hotels and/or motels.

COMMUNITY SERVICES FACILITY -- Any nonresidential facility used to provide services to the public, including but not limited to:

(1) Club meeting halls, offices and facilities.

(2) Organization offices and facilities.

(3) Facilities for the support and practice of religion.

(4) Private and parochial schools.

CONSTRUCTION -- Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, parks, utility lanes or other property, including but not limited to related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture.

CONTINUOUS SOUND -- Any sound that is not impulse sound.

DBA -- The abbreviation designating the unit of sound level as measured by a sound level meter using A-weighting, also known as "DBA."

DECIBEL -- 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 the standard sound (20 micropascals); abbreviated "dB."

DEMOLITION -- Any dismantling, intentional destruction or removal of buildings or structures.

ELECTRIC GENERATION FACILITY -- Any facility which services an industrial load, the community at large or the New York State Independent System Operator (NYISO) market.

EMERGENCY -- Any occurrence or circumstance involving actual or imminent physical or property damage which demands immediate action.

EMERGENCY WARNING DEVICE -- Any sound signal device that is to warn of an emergency.

EMERGENCY WORK -- Any work or action necessary to deliver essential services, including, but not limited to, repairing water, gas, electricity, telephone or sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way, dredging of waterways or abating life-threatening conditions.

EXTRANEIOUS SOUND -- A sound which is neither part of the neighborhood residual sound nor comes from the source under investigation.

FREQUENCY -- The number of sound pressure oscillations per second, expressed in hertz; abbreviated "Hz."

IMPULSE SOUND -- Sound characterized by either a single pressure peak or a single burst (multiple pressure peaks) having a duration of less than one second.

INDUSTRIAL FACILITY -- Any activity and its related premises, property, facilities or equipment involving the fabrication, manufacture or production of durable or nondurable goods.

MOTOR VEHICLE -- Any vehicle that is propelled other than by human or animal power.

MUFFLER -- A properly functioning sound dissipation device or system for abating the sound of escaping gases on equipment where such a device is part of the normal configuration of the equipment.

NOISE -- Any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the City of Binghamton.

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.

PEAK SOUND PRESSURE LEVEL -- The maximum absolute value of the instantaneous sound pressure level during a specified time interval.

PERSON -- Any individual, association, partnership, corporation or other entity and includes any officer, employee, department or agency of the above.

PLAINLY AUDIBLE -- Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient

to verify a plainly audible sound. The noise control officer need not determine the title, specific words or the artist performing the song.

PUBLIC RIGHT-OF-WAY -- Any street, avenue, boulevard, road, highway, sidewalk or alley that is leased, owned, controlled or maintained by a governmental entity, no matter how designated.

PUBLIC SERVICE FACILITY -- Any facility and its related premises, property or equipment used to provide governmental services to the public, including but not limited to:

- (1) Maintenance centers.
- (2) Offices and buildings of agencies or instrumentalities of government.
- (3) Schools.

PUBLIC SERVICE INDUSTRIAL FACILITY -- Any facility and its related premises, property or equipment used to provide industrial governmental services to the public, including but not limited to:

- (1) Waste collection centers.
- (2) Waste recycling centers.
- (3) Water and sewage facilities.
- (4) Electric generation facility.

PUBLIC SPACE -- Any real property or structures thereof that are owned, leased or controlled by a governmental entity.

REAL PROPERTY LINE -- Either the imaginary line, including its vertical extension, that separates one parcel of real property from another, or the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.

RESIDENTIAL AREA -- A group of residential properties and the abutting public rights-of-way and public spaces.

RESIDENTIAL PROPERTY -- Property used for human habitation.

SOUND -- An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL -- The weighed sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER -- Any instrument, including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner and which complies with standards established by the American National Standards Institute (ANSI) specifications for sound level meters.

SOUND PRESSURE LEVEL -- The level of a sound measured in dB units with a sound level which has a uniform ("flat") response over the band of frequencies measured.

SOUND REPRODUCTION DEVICE -- Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any amplified musical instrument, radio, televisions, tape recorder, phonograph, loudspeaker, public-address system or any other sound-amplifying device.

SOUND SOURCE -- Any persons, animal, device, operation, process, activity or phenomenon which emits or causes sound.

UNREASONABLE NOISE -- Any sound which is defined in § 292-5B as unreasonable.

VIBRATION -- An oscillatory motion of solid bodies of deterministic or random natures described by displacement, velocity or acceleration with respect to a given reference point.

§ 292-5. Prohibited acts.

- A. Unreasonable noise prohibited. No person shall make, cause, allow or permit to be made any unreasonable noise within the geographical boundaries or the City or within those areas over which the City has jurisdiction, including the waters, rivers and riverbanks adjacent to, abutting or bordering the City.

- B. Specific acts considered to be unreasonable noise. Any of the following acts or causes thereof which either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities are declared to be in violation of this chapter and to constitute unreasonable noise:
- (1) No person shall operate or use or cause to be operated any loudspeaker, public-address system or similar amplification device between the hours of 11:00 p.m. and 8:00 a.m., except when used in connection with a public emergency by officers of the Police Department, Fire Department or of any municipal entity.
 - (2) Using or operating any sound reproduction device for commercial or business advertising purposes or for the purposes of attracting attention to any performance, show or sale or display of merchandise in connection with any commercial operation in front or outside any building, place or premises, or through any aperture of such building, place or premises, abutting on or adjacent to any public right-of-way, or in or upon any vehicle operated, standing or being in or on any public right-of-way, or from any stand, platform or other structure or anywhere on any public right-of-way. Nothing in this subsection is intended to prohibit sound emanating from sporting, entertainment or other public events where such devices are used.
 - (3) No animal or bird owner shall permit any animal to cause annoyance, alarm or noise disturbance for more than 15 minutes at any time of the day or night by repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.
 - (4) The shouting, yelling, calling or hooting at any time or place so as to annoy or disturb the quiet, comfort and repose of a reasonable person of normal sensibilities.
 - (5) The shouting, yelling, crying or hooting of peddlers, hawkers and vendors.
 - (6) No person shall cause or permit the creation of any noise by means of any device or otherwise on any sidewalk, street or public place adjacent to any school, court, house of worship or public library while such facility is in use or adjacent to any hospital or nursing home at any time, so that such sound disrupts the normal activities conducted at such facilities or disturbs or annoys persons making use of such facilities.
 - (7) No person shall engage in, cause or permit the loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 8:00 p.m. and 6:00 a.m. the following day in such a manner as to cause unreasonable noise across a residential real property boundary.
 - (8) No person shall cause or permit to be caused the sounding of any horn or other auditory signaling device on or in any motor vehicle except to serve as a warning of danger.
 - (9) No person shall operate or permit to be operated any tools or equipment used in construction, drilling, excavation or demolition work, between the hours of 8:00 p.m. and 8:00 a.m. the following day or any time on Sunday, except that the provisions of this subsection shall not apply to emergency work.
 - (10) No person shall cause or permit the operation of any device, vehicle, construction equipment or lawn maintenance equipment, including but not limited to any diesel engine, internal combustion engine or turbine engine, without a properly functioning muffler, in good working order and in constant operation regardless of sound level produced.
 - (11) Any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities.
 - (12) No person shall cause a vehicular sound reproduction system to be plainly audible at a residential property line between the hours of 8:00 p.m. and 8:00 a.m. the following day.
 - (13) No person shall cause a vehicular sound reproduction system to be plainly audible at a distance of 50 feet between the hours of 8:00 a.m. to 8:00 p.m.
 - (14) No person shall cause a portable sound system to be plainly audible at a distance of 50 feet between the hours of 8:00 a.m. and 8:00 p.m., nor may they be plainly audible to anyone

other than the operator of the sound system between the hours of 8:00 p.m. and 8:00 a.m. the following day.

C. Maximum permissible continuous sound levels. In addition to those specific prohibitions set forth in Subsection B above, the following general prohibitions regarding continuous sound levels shall apply in determining unreasonable noise:

- (1) No person shall make, cause, allow or permit the operation of any source of sound on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the particular continuous sound level limits set forth in Table 1 when measured at or within real property line of the receiving property, except as provided in § 292-6.
- (2) When measuring noise within a dwelling unit of a multi-dwelling-unit building, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room.
- (3) When measuring noise within the boundaries of a park located within the City of Binghamton, the source noise shall be measured at a distance of 50 feet and the source noise shall violate this section if the rhythmic tones of the source noise are plainly audible to the enforcement officer standing at a distance of 50 feet from the source noise.

D. Maximum permissible impulsive sound levels. In addition to those specific prohibitions set forth in Subsection B hereof, the following general prohibitions shall apply regarding impulsive sound levels in determining unreasonable noise:

- (1) No person shall make, cause, allow or permit the operation of any impulsive source of sound within any and all property in the City which has a peak sound pressure level in excess of 80 DBA. If an impulsive sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently in any hour, the levels set forth in Table 1 shall apply.

E. Motor vehicles.

- (1) Motor vehicle sound levels and equipment shall be in compliance with provisions of any state law, including but not limited to §§ 386 and 375 of the New York State Vehicle and Traffic Law.
- (2) No person shall operate a vehicle in such a manner as to cause unreasonable noise by spinning or squealing the tires of such vehicle.
- (3) No person shall allow noise from an automobile alarm in excess of five minutes after it has been activated.
- (4) Taxicabs shall not use their horns to alert passengers at the address of fare location more than once and must be stopped in front of that address before doing so.
- (5) See also Subsection B(12), (13) and (14) for further motor vehicle violations.

F. Vessels and boats.

- (1) Vessel and boat sound level limits and equipment shall be in compliance with provisions of any state law, including but not limited to § 44 of the New York State Navigation Law.
- (2) No person shall operate or permit to be operated any vessel, boat, jet ski or similar machinery in any canal, channel or river at any time, at any speed and at any manner whatsoever, as to exceed a sound level of 65 DBA at the nearest shoreline or at 50 feet, whichever distance is less.

§ 292-6. Exceptions.

Regardless of the decibel limits, the provisions of this chapter shall not apply to:

- A. Sound and vibration emitted for the purpose of alerting people in an emergency.
- B. Sound and vibration emitted in the performance of correcting an emergency.
- C. Sounds created by church bells or chimes, when part of a religious observance or service.
- D. Sounds created by any government agency by the use of public warning devices.
- E. Noise from domestic power tools, lawn mowers and agriculture equipment when operated with a muffler between the hours of 8:00 a.m. and 9:00 p.m. on weekdays and 9:00 a.m. and 9:00 p.m. on weekends, provided that they produce less than 85 dBA at or within any real property line of a residential property.
- F. Noise from snow blowers, snow throwers and snow plows when operated with a muffler for the purpose of snow removal.
- G. Noise from an exterior burglar alarm of any building or motor vehicle, provided that such burglar alarm shall terminate its operation within five minutes after it has been activated. EN
- H. Noise from construction activity, provided that all motorized equipment used in such activity is equipped, where applicable, with functioning mufflers, except as provided in Subsection B.
- I. Noise generated by municipality-sponsored concerts and special events designed to promote the health, safety or welfare of the citizens of Binghamton, as well as noise generated by events held at or within the confines of stadiums, arenas or fields designed specifically and primarily for sporting events and which are open to the public.

§ 292-7. Enforcement and administration [Amended 09-23-2015 by Ord. No 15-59]

- A. The noise control requirements established by this chapter shall be administered and enforced severally, separately and jointly by the City of Binghamton Police Department, City of Binghamton Code Enforcement Department and the City of Binghamton Public Works Department and such other employees and/or officials authorized by the Mayor. Violation of any provision of this chapter shall be cause for an appearance ticket to be issued. This chapter is complaint driven and as such requires that a violation hereunder be complained of to either the Binghamton Police Department or the Binghamton Code Enforcement Office before enforcement hereunder may occur. The complaint must describe the violation, and the complaint must provide the enforcement authority with the address of the aggrieved property. The complainant must have some legally recognized interest in the aggrieved property, i.e., including but not limited to ownership or tenancy.
- B. Qualifications. A person shall be considered qualified to take noise measurements and to enforce all portions of this chapter, who has satisfactorily completed the Community Noise Enforcement Course offered by the Department of Environmental Sciences of Cook College, Rutgers, the State University, and the required recertification course every two years, or any other accredited course selected by the City Mayor.
- C. The City will keep at least five (5) people certified at all times.

§ 292-8. Penalties for offenses.

Any person who violates any provision of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be subject to penalties in the following manner:

- A. Upon a first conviction: by a fine not less than \$50 and not more than \$250 or by imprisonment for a period not to exceed seven days, or by both such fine and imprisonment.
- B. Upon a second conviction: by a fine not less than \$100 and not more than \$1,000 or by imprisonment for a period not to exceed 10 days, or by both such fine and imprisonment.
- C. Upon a third or subsequent conviction: by a fine not less than \$250 and not more than \$3,000 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment.
- D. If the violation is of a continuing nature, each eight-hour period during which it occurs shall constitute an additional, separate and distinct offense.

§ 292-9. Permits and variances [Amended 09-23-2015 by Ord. No 15-59]

- A. Application for special permit. The City Clerk shall have the authority to grant special permits for limited times and purposes of this chapter. Any person seeking a special permit pursuant to this section shall file an application with the City Clerk. The application shall consist of a letter signed by the applicant and shall contain a legal form of verification. Such letter shall contain information which demonstrates that bringing the source of sound or activity for which the permit is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. Noise Permit applications need to be submitted at least 14 days prior to the date of the event. In addition, the following information shall be provided:
 - (1) The plans, specifications and any other information pertinent to the source of sound and vibration.
 - (2) The characteristics of the sound and vibration entitled by the source, including but not limited to the sound levels, the presence of impulse sounds or discrete (pure) tones, the day(s) and hours during which such vibration and sound is generated.
 - (3) The noise abatement and control methods used to restrict the emissions of the sound and vibration.
 - (4) A time schedule for the installation of noise abatement and control devices, technology and procedures or process modifications that will be followed to restrict the emissions of sounds and vibrations.
 - (5) The name and address of the applicant and the applicant's agent, if any, and whether the applicant is the owner, lessee, licensee, etc., of the premises. If the applicant is not the owner, the application must contain the written consent of the owner.
 - (6) A filing fee as set from time to time, which does not apply to City-authorized neighborhood block parties.
 - (7) The requested duration of the permit.
- B. Decision.
 - (1) Upon receipt by the City Clerk of all information required for the granting of the special permit, and upon receipt of the appropriate filing fee, the Clerk shall issue the permit.
 - (2) The Clerk shall not issue the permit if the requested duration of the permit is in excess of three days.
 - (3) The Clerk shall not issue the permit if a special permit was granted for the same location, for a similar event, and in favor of the same sponsor within the four weeks prior to the application under consideration.
 - (4) The Clerk shall not issue the permit if the operation of the proposed source of sound will operate in such a manner as to cause a continuous noise level in excess of 70 dB(A) across any real property boundary.

- (5) If the Clerk denies the application for a special permit for any reason, the applicant may apply to the City Council for a special variance, following the procedure established in Subsection C.
 - (6) If the City Clerk issues a permit pursuant to this provision, the permit shall be valid for the time requested, but shall be rendered invalid if the actual source of sound authorized under the issued permit, as measured by an enforcement officer, causes a continuous noise level in excess of 70 dB(A) across any real property boundary.
 - (7) Notwithstanding the foregoing, if the City Council grants a special variance for a particular event or series of events, as provided in Subsection C below, then such special variance will continue from year to year. Based on the special variance, the City Clerk may renew the permit on an annual basis upon receipt of a renewal fee as set from time to time by the City Council (See Exhibit J). The City Council may revoke the permit and special variance at any time if the permit holder fails to comply with any section of this chapter or condition of the special variance or permit. In addition, upon tender of the renewal fee, the City Clerk may, in his or her discretion, deny renewal of the permit and refer the application back to the City Council for reconsideration of the special variance.
- C. Application for special variance. The City Council shall have the authority to grant special variances for limited times and purposes of this chapter. Any person seeking a special variance pursuant to this section shall file an application with the Council. The application shall consist of a letter signed by the applicant and shall contain a legal form of verification. Such letter shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship of the applicant, on the community or on other persons. In addition, the following information shall be provided:
- (1) The plans, specifications and any other information pertinent to the source of sound and vibration.
 - (2) The characteristics of the sound and vibration emitted by the source, including but not limited to the sound levels, the presence of impulse sounds or discrete (pure) tones, the day(s) and hours during which such vibration and sound is generated.
 - (3) The name and address of the applicant and the applicant's agent, if any, and whether the applicant is the owner, lessee, licensee, etc., of the premises. If the applicant is not the owner, the application must contain the written consent of the owner.
 - (4) The names and addresses of all owners of contiguous land within 500 feet of the premises. The applicant in like manner shall give notice of the application by certified mail, return receipt requested, to all property owners surrounding the sound source site within a radius 500 feet from the borders of said site.
 - (5) A filing fee as set from time to time (See Exhibit J).
 - (6) The requested duration of the permit.
- D. Public hearing and decision. Upon prior reasonable public notice published in the official newspaper of the City of Binghamton and upon a public notice board designated for that purpose by the City Clerk for a minimum of 10 days, the City Council shall hold a public hearing on the special variance application. The Council, upon reviewing all input from the public hearing and obtaining any additional data or information as deemed necessary, shall then pass upon the application by resolution. The decision shall be transmitted to the City Clerk, who will advise the applicant of such decision by transmitting a copy of the special variance application to the applicant, with the decision and conditions, if any, imposed by the City Council attached.
- E. Applicant to obtain other necessary permits. This chapter does not preclude the necessity of the applicant to obtain the approval or permit required by any other agency before proceeding with the action approved under the approved special variance. No action may be initiated by the applicant until such time that other permits, as may be required, are issued.

- F. Variance to be available for inspection. The applicant or his agent shall have readily available the approved special variance at the location or site for which the variance has been issued and shall show same to any agent of the City of Binghamton whenever requested.
- G. Activity open to inspection. Activity conducted under the special variance shall be open to inspection at any time by any agent of the City of Binghamton.
- (1) In determining whether to grant or deny the application, the Council shall balance the hardship to the applicant, the community and other persons if the variance is not granted against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on the property affected and any other adverse impacts if the variance is granted.
 - (2) In connection with this section, the Council shall cause the taking of sound level readings in the event that there shall be any dispute as to the sound levels prevailing or to prevail at the sound source site.
 - (3) The Council shall have the power to impose restrictions, conditions and the recording of covenants upon any sound source site, including time limits on permitted activity in the event that it shall grant any variance hereunder.

Table 1
Maximum Permissible Continuous Sound Levels by Receiving Property Category
(dBA)

Sound Source Property Category	Another Dwelling within a Multi- Dwelling-Unit Building		Residential		Commercial or Public Service Community Facility	Industrial or Public Service Community Facility	City Park
	7:00am -10:00pm	10:00pm -7:00am	7:00am -10:00pm	10:00pm -7:00am	All times	All times	8:00am -9:00pm
• Any location within a multi-dwelling -unit building	50	45	55	50	65	70	65
• Residential (or public spaces or rights-of-way)	55	50	55	50	65	70	65
• Commercial, public service, or community service facility	55	50	55	50	65	70	65
• Industrial or public service industrial facility	55	50	55	50	65	70	65