



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

May 13, 2010

The Honorable Board of Aldermen
City Hall
Somerville, MA 02143

Re: Board Order #189278
The use and licensing of public address systems as well as the noise ordinance

Dear Honorable Board Members:

You have asked our office to provide a report on the use and licensing of public address systems as well as the noise ordinance.

The Noise Control Ordinance, Somerville Code of Ordinances, Chapter 9, Division 2, addresses noise disturbances in a very comprehensive manner. A noise disturbance is defined therein as “any sound which (a) causes temporary or permanent hearing loss in persons exposed; or (b) is injurious to the public health; or (c) causes a nuisance; or (d) is defined as a noise disturbance pursuant to the provisions of this chapter; (e) which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others within the limits of the city.” SCO Section 9-115 Definitions.

Within the Noise Control Ordinance a list of items are specifically declared to be noise disturbances. Among these is *Loudspeakers and public address systems*, which states: “Unless otherwise permitted by a duly authorized agent of the City, using or operating for any purpose any loudspeaker, public address system, or similar device (1) such that the sound therefrom creates a noise disturbance; or (2) between the hours of 10:00 p.m. and 7:00 a.m.” SCO Section 9-116 Noise Disturbances.

It is clear that no permit is required for a loudspeaker between the hours of 7:00 a.m. and 10:00 p.m. provided it does not fall within the definition of noise disturbance. However,

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it is clear that any operation of a loudspeaker between the hours of 10:00 p.m. and 7:00 a.m. requires a permit. The requirement of a permit must be uniformly enforced.

The responsibility of enforcement of the ordinance is left with the Chief of Police while both the Chief of Police and Superintendent of Inspectional Services are empowered to make and adopt policies for the "better protection of the health, welfare and safety of the City." SCO Sections 9-118, 9-119.

You should note that the Noise Control Ordinance also sets forth specific noise level limitations and makes a distinction between the levels that are allowable in residential and all other districts. The range is 75 decibels (db) (vacuum cleaner level) or less between 7 AM and 6 PM in all districts to as low as 40 db (about the level of a quiet office) in residential areas if the noise is in excess of two hours in duration. The noise level is to be measured from the property line of an adjoining property and must exceed the ambient noise level at that property. Decibel levels may be measured with a decibel meter.

There are some obvious difficulties that may arise with respect to enforcement of the order, such as instances with multiple sources of noise, or instances where the origin of the noise is outside the City. However, with respect to a single violator within the City, the Chief of Police, or his designee, i.e., any police officer, may enforce the ordinance. The officer may order that the violator cease and desist from continuing the noise, and may issue a ticket for violation. See, G.L. c. 41 § 21D. While the ordinance does not authorize arrest even for continued violation, it does allow a fine for each instance of violation pursuant to Section 1-11, which sets forth a one hundred dollar fine for a first offense up to a three hundred dollar fine for a third and subsequent offense.

The City is free to establish enforcement and fines within the limits set forth above for noise violations. A permit must be obtained for the use of a public address system between 10 PM and 7 AM.

If I may be of any further assistance please do not hesitate to contact me.

Sincerely,

Matthew J. Buckley
Assistant City Solicitor

cc: Matthew Dias, Mayor's Aid
Francis X. Wright, Jr., City Solicitor