

P.G. 214-23 Unnecessary Noise Violations - General Prohibitions

Date Effective: 08-01-13

PURPOSE

To enforce provisions of the New York City Administrative Code prohibiting unreasonable noise.

DEFINITIONS

UNREASONABLE NOISE - any excessive or unusually loud sound that disturbs the peace, comfort or repose of a reasonable person of normal sensitivities, or injures or endangers the health or safety of a reasonable person of normal sensitivities, or which causes injury to plant or animal life, or damage to property or business.

SOUND REPRODUCTION DEVICE - A device intended primarily for the production or reproduction of sound, including, but not limited to, any musical instrument, radio receiver, television receiver, tape recorder, phonograph or sound amplifying system.

PROCEDURE

When a uniformed member of the service hears, observes or receives a complaint of unreasonable noise:

UNREASONABLE NOISE NOT INVOLVING SOUND REPRODUCTION DEVICES

UNIFORMED MEMBER OF THE SERVICE

1. Interview complainants/violators about noise complaint e.g., people yelling, dogs barking, etc.
2. Determine if the noise is unreasonable.

NOTE: The best guideline to follow in determining whether the noise is unreasonable is to determine whether the ordinary person in the community is actually disturbed by the noise. In addition, the following factors should be considered:

- a. The character of the neighborhood or area, i.e., residential, commercial;
- b. The ordinary noise level of the area, i.e., busy Manhattan streets will likely always have high ordinary sound levels;
- c. The time of day;
- d. The number of persons complaining about the noise; and,
- e. Whether the person responsible for the noise has been asked by others to cease or lower the sound level and has refused to do so.

3. Attempt to correct the condition by warning violator.

4. Serve Environmental Control Board Notice of Violation for violation of

Administrative Code Section 24-218 if unable to correct condition and violator is eligible, (see P.G. 214-24, "Service Of Environmental Control Board (E.C.B.) Notice Of Violation And Hearing For Vehicle Alarms").

- a. Report facts to desk officer.

DESK OFFICER

5. Report facts to commanding officer.

UNREASONABLE NOISE INVOLVING SOUND REPRODUCTION DEVICES

UNIFORMED MEMBER OF THE SERVICE

6. Repeat steps one through three above.

7. Serve a summons for violation of Administrative Code Section 24-244(a) returnable to Criminal Court if unable to correct condition and violator is sixteen years of age or older and otherwise eligible.

- a. Enter in information section of the summons:

"Respondent did operate sound reproduction device at a level unreasonable under the circumstances thereby causing annoyance to persons in the vicinity."

- b. Enter a description of the sound reproduction device, e.g., radio, bullhorn, etc., the distance at which it could be heard and the number of people complaining.

- c. When appropriate, draw a line through the words above signature line reading, "I personally observed the commission of the offense charged here."

8. Seize the sound reproduction device.

9. Check "EVIDENCE" box on PROPERTY CLERK INVOICE (PD521-141) prepared for sound reproduction device seized.

- a. Give appropriate copy of INVOICE to person from whom the device was seized as a receipt.

10. Inform violator that seized property may be reclaimed at precinct of occurrence or at Property Clerk's Office by presenting a District Attorney's Release or Court Disposition Form.

ADDITIONAL DATA

Sound reproduction devices are seized as evidence that the violator possessed the device, that the device was operable and to demonstrate the volume at which it was being operated at the time of the offense. The volume control shall be marked, without damaging the property, to indicate the volume at which the device was being operated. Members of the service shall produce these devices at all court appearances. Sound reproduction devices will not be seized from motor vehicles.

If violator is a juvenile - at least seven but less than sixteen years of age - a JUVENILE REPORT SYSTEM WORKSHEET (PD377-159A) shall be issued instead of a summons and the sound reproduction device will not be seized.

A uniformed member of the service may legally seize a sound reproduction device from a semi-private premises, i.e., social club, bar, etc., where the general public is invited, or a private home, if the uniformed member is invited inside and sees the device responsible for the noise, after issuing a summons to the operator/owner of the device.

The decision to forcibly enter into private or semi-private premises to correct noise complaints will ONLY be made by a precinct commander/duty captain and ONLY as a last resort, after requests to stop the noise have been ignored. Some of the factors going into the decision to forcibly enter such premises are:

- a. Time of day
- b. Type of neighborhood (commercial/residential)
- c. Number of complaints
- d. The ambient noise level of the area generally.

While sound reproduction devices may be seized as evidence, there is also authority to allow for the seizure of such equipment to "abate a nuisance," i.e., the loud noise. This may be done without seizing the entire sound device system for evidence. Careful seizure of parts of the system in order to abate the noise is permissible and steps 8 through 10 of the procedure will be complied with."

RELATED PROCEDURE

Service of Environmental Control Board (E.C.B.) Notice of Violation and Hearing for Vehicle Alarms ([P.G. 214-24](#))

FORMS AND REPORTS

JUVENILE REPORT SYSTEM WORKSHEET (PD377-159A)
[Rev. 04-09] PROPERTY CLERK INVOICE (PD521-141)