



# City of Cambridge Police Department

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**Robert C. Haas**  
*Police Commissioner*

**Robert W. Healy**  
*City Manager*

June 10, 2009

Robert W. Healy  
City Manager

Re: City Council Order No. 4, dated April 13, 2009

Dear Sir:

As requested, I am responding to City Council Order No. 4, dated April 13, 2009 regarding the enforcement of relevant laws that prohibit loud exhaust noise from motorcycles and motor vehicles. The Council cites noise from loud motorcycles and vehicle mufflers and loud car radios as disruptive to residents in the warmer weather.

Massachusetts law provides the enforcement tools necessary for police officers to address motor vehicles and motorcycles that have altered or modified muffler or exhaust systems and are emitting excessive and unnecessary noise in violation of M.G.L. c. 90, § 16. It prohibits the operation of any motor vehicle, including motorcycles, on a public way with a muffler that has been modified, or an exhaust system which has been modified in a manner which will amplify or increase the noise emitted by the exhaust. The statute also prohibits any device which makes harsh, objectionable or unreasonable noise. M.G.L. c. 90, § 16 provides in part:

No person shall operate a motor vehicle, nor shall any owner of such vehicle permit it to be operated upon any way...unless such vehicle is equipped with a muffler to prevent excessive or unnecessary noise, which muffler is in good working order and in constant operation, and complies with such minimum standards for construction and performance as the registrar may prescribe and, No person shall use a muffler cut-out or by pass: No person shall operate a motor vehicle on any way with a muffler from which the baffle plates, screen or other original parts have been removed and not replaced and, No person shall modify any exhaust system "in a manner which will amplify or increase the noise emitted by the exhaust".

## **ENFORCEMENT ACTION UNDER M.G.L. c. 90, § 16**

Though there are several regulations that officers may apply to the enforcement of harsh and objectionable noises emitted from motor vehicles with an altered exhaust or muffler, enforcement under M.G.L. c. 90, § 16 does not require mandated equipment and procedures to precisely measure sound

levels. According to *Newburyport Police Department v. Godin*, 05-MV-16 Mass. App. Div. (2005), “police do not need to use sound meters in order to determine that a motorcycle violates §16; the harsh and objectionable standard can be proven by the testimony of an officer or citizen with special expertise. The penalty for violating this section is a CMVI of \$50.00.

M.G.L. c.90, § 7U provides that no person may operate a motorcycle so as to exceed a set measurable standard of 82 decibels when operated within a speed zone of 45 mph or less. Allowable noise levels for motorcycles are also specifically set out in state regulations 540 C.M.R 3.02. Enforcement of this section requires the use of specific mandate equipment by a certified police officer. The penalty for violating this section is a CMVI of \$35.00.

**ENFORCEMENT ACTION UNDER M.G.L. c. 90, § 7U:**

Officers would be justified in stopping a motorcycle if they had reason to believe that it was in violation of these established sound levels. But, in proving the violation, the officer will need to have the motorcycle tested in accordance with the extremely detailed and complex procedures set forth in 540 C.M.R.3.03. The Code of Massachusetts Regulations is very complex and, it does mandate specific equipment and procedures to be used in testing motorcycle sound levels. If the rider refuses to submit to the set test procedure, officers may pursue under M.G.L. c. 90, § 9, an RMV revocation of the motorcycle registration for improper equipment.

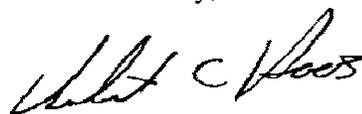
**Under Article 8, Section 8.16.080 of the city’s Ordinance. (Non-measured noise disturbances).**

Radios, phonographs, etc., the using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker or public address system, unless used by the City of Cambridge, or other machine or device for the producing or reproducing of sound in such a manner as to be plainly audible at a distance of fifty (50) from the building, structure VEHICLE or dwelling unit in which it is located. The penalty for violating this section is a \$300.00 fine to issued to the violator on a City of Cambridge Ordinance Violation Form.

The Department will initiate Roll Call Training to all officers relative to their authority to address all complaints relative to loud and objectionable noises emitting from car radios and vehicles with loud exhaust systems.

If you need additional information please let me know.

Sincerely,



Robert C. Haas  
Police Commissioner

RCH/bk