

ACOUSTILOG

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I have added my comments in red.

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Yours Truly,



Alan Fierstein
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Int. No. 1300

By Council Members Garodnick, Palma, Richards, Rosenthal, Vacca, Gentile, Chin, Rodriguez
and Menchaca

A Local Law to amend the administrative code of the city of New York, in relation to public
access to noise mitigation plans

Be it enacted by the Council as follows:

1

Section 1. Section 24-219 of title 24 of the administrative code of the city of New York is

2 amended by adding a new subdivision (d) to read as follows:

3 (d) The commissioner shall ensure that all noise mitigation plans and approved
4 alternative noise mitigation plans submitted to the department after the effective date of this local
5 law in accordance with subdivision (e) of section 24-220 and section 24-221 of this code are
6 made publicly available on the website of the department.

7 § 2. Section 24-220 of title 24 of the administrative code of the city of New York, as
8 added by local law number 113 for the year 2005, is amended to read as follows:

9 § 24-220 Noise mitigation plan. (a) Each person, corporation or other business entity
10 performing construction work in the city shall adopt and implement a noise mitigation plan for
11 each construction site in accordance with the provisions of this subchapter and such rules
12 whenever any one or more of the construction devices or activities listed above or in the
13 department's rules are employed or performed at the site.

14 (b) Such plan shall **be reviewed for reasonable and, if approved by the department,** adopted
prior to the commencement of construction at the site or,

15 with respect to emergency work, as defined in the department's rules, within three days
16 thereafter, and shall apply to all work at the site throughout the construction process. The plan
17 shall provide in detail the noise mitigation strategies, methods, procedures and technology, as
18 prescribed in the rules of the department or specifically approved by the commissioner in
1 accordance with section 24-221 of this code, for each device or activity employed or performed
2 at the site. Each permit holder or other person in charge of such construction site will be
3 accountable for compliance with such rules and shall ensure that each person performing
4 construction work at the site shall be aware of the plan and shall be responsible for complying
5 with those provisions that affect his or her work.

6 (c) A copy of the plan shall be kept at the construction site and shall be [made available
7 for inspection upon the request of] displayed in a conspicuous manner on the exterior of the
8 construction site and made accessible for inspection by the public and persons authorized to
9 enforce the provisions of this code.

10 (d) The plan shall be amended whenever additional devices or activities unforeseen at the
11 commencement of construction are employed at the site or at the direction of the commissioner
12 in accordance with section 24-223 of this subchapter.

13 (e) [A] The plan [need not] shall be filed with [or approved by] **and approved by** the department

prior to

14 [within 30 days after] the commencement of construction if it conforms in all respects to the rules
15 of the department with respect to construction devices and activities employed or performed at
16 the construction site. A plan that deviates in any respect from such rules or an alternative noise
17 mitigation plan required to be certified in conjunction with [an] an undue hardship application
18 pursuant to paragraph (5) of subdivision (e) of section 24-223 shall be subject to the prior
19 approval of the commissioner in accordance with section 24-221 of this code.

20 (f) This section shall not apply to construction work in connection with the alteration or
21 repair of an existing one or two family owner-occupied dwelling classified in occupancy group J-
22 3 or a convent or rectory.

1 § 3. This local law takes effect 120 days after it becomes law, except that the
2 commissioner of environmental protection may take all actions necessary for its implementation,
3 including the promulgation of rules, prior to such effective date.

ARP

LS # 6994

8/4/16 4:00PM

Proposed Int. No. 1653-A

By Council Members Kallos, Constantinides, Dromm and Menchaca

A Local Law to amend the administrative code of the city of New York, in relation to responses to noise complaints

Be it enacted by the Council as follows:

1 Section 1. Section 24-207 of the administrative code of the city of New York is amended
2 by adding new subdivisions (e) and (f) to read as follows:

3 (e) The commissioner shall adopt rules prescribing specific time frames for inspections in
4 response to after hours noise complaints received by the department in order to ensure that such
5 inspections are most likely to occur at (i) a time that the alleged noise is continued from the time
6 of the complaint or (ii) at a time when the alleged noise is likely to be repeated. **(iii) The commissioner
shall set up a rapid response team for after hours noise complaints. (iv) Inspectors shall use mass
transportation if reasonably required to save time responding to noise complaints.**

7 (f) By no later than January 31 of each year, the department shall submit to the mayor and
8 the council, and publicly post on its website, a report on department inspections in response to
9 noise complaints, containing, at a minimum, for the previous calendar year:

10 (i) the number of investigators employed by the department;

11 (ii) the number of complaints regarding noise received by the department, disaggregated
12 by the type of noise;

13 (iii) the number of complaints responded to within the amount of time prescribed by rule
14 for each complaint type as well as the number of duplicative complaints;

15 (iv) non-violation resolutions to complaints

16 (v) the number of noise related violations issued **disaggregated**

by the specific Code section and the number of inspectors for each inspection

17 (vi) the number of such violations which were dismissed **and the reason for such dismissal**

18 (vii) the amount of civil penalties which were paid in response to such violations **disaggregated**

by the specific Code section and

(viii) the number of complaints **disaggregated by the time and day of the week of both the complaint and the inspection, and the time difference between complaint and the inspection;**

1 § 2. Subdivision (a) of section 24-219 of the administrative code of the city of New York,
2 as amended by local law number 10 for the year 1991, is amended to read as follows:

3 (a) The commissioner shall adopt rules prescribing noise mitigation strategies, methods,
4 procedures and technology that shall be used [at] where construction is occurring at any location
5 (sites) and [sites] whenever any one or more of the construction devices or activities listed below
6 are employed or performed:

7 (1) air compressors.

8 (2) pile drivers.

9 (3) sledgehammers.

10 (4) bulldozers.

11 (5) pneumatic hammers.

12 (6) steam shovels.

13 (7) derricks.

14 (8) cranes.

15 (9) steam or electric hoists.

16 (10) off-road construction vehicles other than trucks.

17 (11) pumps.

- 18 (12) pneumatic tools.
- 19 (13) blasting.
- 20 (14) power tools.
- 21 (15) tunneling machines.
- 22 (16) construction devices with internal combustion engines.
- 23 (17) construction devices that emit impulsive sound **including hammers.**
- 1 (18) construction devices that create vibration.
- 2 (19) metal plates used in street construction to temporarily cover excavations.
- 3 (20) interior renovation.

(21) containers and transport devices that can produce noise.

(22) Backup alarms and signal devices.

(23) trucks.

4 (24) any other construction devices or activities specified in such rules.

5 § 3. Section 24-220 of the administrative code of the city of New York, is amended by
6 relettering subdivision (f) as subdivision (g) and adding a new subdivision (f) to read as follows:

7 (f) All noise mitigation plans shall be filed electronically with the department.

8 [f] (g) This section shall not apply to construction work in connection with the alteration
9 or repair of an existing one or two family owner-occupied dwelling classified in occupancy
10 group J-3 or a convent or rectory.

11 § 4. Section 24-219 of the administrative code of the city of New York, as added by local
12 law number 113 for the year 2005, is amended to read as follows:

13 § 24-221. Alternative noise mitigation plan. (a) Upon application, the commissioner may
14 approve an alternative noise mitigation plan for a particular construction site that deviates from
15 strict compliance with the noise mitigation rules. Application for approval of such plan shall be
16 submitted to the department at least ten business days prior to the commencement of construction
17 or as soon as practicable but no later than 24 hours prior to the commencement of construction in
18 a form and manner and accompanied by such information and documentation as shall be set forth
19 in the rules of the department. The commissioner may approve such alternative noise mitigation
20 plan if he or she finds that:

21 (1) strict compliance with the noise mitigation rules would not be possible or would
22 create an undue hardship because of the location or unique characteristics of the site or of the
23 construction devices or activities to be employed or performed at the site; and

1 (2) the alternative noise mitigation strategies, methods, procedures or equipment

2 proposed are consistent with the purposes and policies of this code.

3 (b) [Notwithstanding the foregoing provisions, with respect to construction sites where
4 construction is performed pursuant to a permit issued prior to the effective date of this section or
5 in the case of construction by or on behalf of a city agency where construction is performed
6 under a contract bid out prior to the effective date of this section, application for approval of an
7 alternative noise mitigation plan may be submitted within 60 days after the effective date of this
8 section. The commissioner may approve such plan if he or she finds that:

9 (1) strict compliance with the noise mitigation rules would not be possible or would
10 create an undue hardship because of the location or unique characteristics of the site or of the
11 construction devices or activities employed or performed at the site, or

12 (2) strict compliance with such rules would be unreasonable or unduly burdensome with
13 respect to construction work that is imminent or ongoing on the effective date of this section, or

14 (3) with respect to city construction projects, the implementation of contract
15 modifications to achieve strict compliance with such rules would result in unreasonable delay
16 and/or increased expenditure for a necessary public improvement, and

17 (4) the alternative noise mitigation strategies, methods, procedures or equipment
18 proposed are consistent with the purposes and policies of this code.

19 (c) Where the commissioner rejects an alternative noise mitigation plan, an applicant
20 may appeal such rejection in accordance with the rules of the department. An alternative plan
21 shall not be in effect unless and until it has been approved by the commissioner except that
22 where a timely alternative plan has been filed with the commissioner for approval, a construction
23 site in compliance with such alternative plan shall be deemed to be in compliance with this
1 section unless and until such plan is rejected by the commissioner and for a reasonable time
2 thereafter as determined by the commissioner.

3 § 5. Subdivisions (b), (c) and (d) of section 24-223 of the administrative code of the city
4 of New York, as added by local law number 113 for the year 2005, are amended to read as
5 follows:

6 (b) The agency issuing such authorization must obtain a certification from its permittee
7 that the permittee has developed a **reasonably effective** noise mitigation plan for the site in accordance
with this
8 subchapter and that such plan is in compliance with the noise mitigation rules. In the case of
9 emergency work such certification shall be submitted **at least 48 hours prior to [within [3 days] 48**
hours after] the
10 commencement of the work.

11 (c) If after hours work at the site is not being performed in compliance with such plan or
12 where no plan is in effect, the department may issue violations and the department or the agency
13 issuing such authorization, at the request of the commissioner or on its own account, may take
14 appropriate action, including but not limited to the refusal to renew such after hours
15 authorization.

16 (d) (1) It shall be a violation of this code, [Where] where there is full compliance with the
17 noise mitigation plan yet nevertheless aggregate sound levels **attributable to the construction** from the
site where an after hours
18 authorization is in effect exceed:

19 (i) [8] [5dB(A)] **The allowable sound level** as measured in any [residential] receiving
20 property [dwelling unit] [(]with windows and doors that may affect the measurement closed[)], **as set**

forth in sections § 24-218 (b) or § 24-232 of this code, with the windows and doors being open or closed as appropriate to the direction of the noise

21 (ii) the noise levels specified in section 24-228 (a) of this code on a construction site that
22 is zoned exclusively for commercial or manufacturing uses, or

1 (iii) 75 dB(A) as measured at any point within a receiving property which is classified as a
2 sensitive receptor or a dwelling unit [the commissioner may request the person performing the
3 work to confer with representatives of the department regarding additional noise mitigation
4 measures that may be employed at the site to reduce aggregate sound levels. After such
5 conference the commissioner may direct amendment of the noise mitigation plan for the site.
6 Failure to respond to a request for a conference or to amend the noise mitigation plan within the
7 time prescribed in a notice issued by the department shall be a violation of this code].

8 (2) The agency issuing the after hours authorization shall revoke the after hours
9 authorization and shall not renew such after hours authorization until department certified
10 corrective measures have been taken to ensure that sound levels from such site do not exceed the
11 decibel levels set forth in this subdivision.

12 § 6. Subchapter 4 of chapter 2 of title 24 of the administrative code of the city of New
13 York is amended by adding a new section 24-223.1 to read as follows:

14 § 24-223.1 Stop work order.

15 a Whenever the department finds that any work is being performed in violation of section
16 24-222 or section 24-228 of this code, or any rules promulgated thereunder, the department may
17 issue a stop work order with respect to such work.

18 b. Such order may be given (i) verbally or (ii) posted at the site and served personally on
19 or mailed to the owner, lessee or occupant of the site, or to the person executing the work at the
20 site, or to the agent of any of them and shall include the reason for the issuance of the stop work
21 order. A verbal stop work order shall be followed promptly by a written order in accordance with
22 this subdivision.

1 c. Upon issuance of a stop work order, work specified in the order shall immediately
2 cease, except work authorized or required by the commissioner to ensure public safety or to
3 stabilize the site.

4 d. No person shall with knowledge or notice of a stop work order allow, authorize,
5 promote, continue or cause to be continued

6 e. A stop work order issued pursuant to subdivision a of this section may be appealed in
7 accordance with the rules of the department, and the commissioner shall provide notice and an
8 opportunity to be heard within 14 days of the filing of such appeal. A stop word order shall be
9 lifted if, upon appeal, the commissioner determines that the issuance of such order was not
10 proper, or upon the submission of proof satisfactory to the commissioner that the requirements of
11 such order have been satisfied. In the case of a verbal order, if the commissioner determines that
12 the condition that gave rise to the order has been immediately corrected, including but not
13 limited to which devices or activities may not be used or performed at the same time and which
14 activities may be prohibited during after hours authorization, such order shall be lifted at once
15 and shall not be followed by a written order.

16 § 7. Section 24-224 of the administrative code of the city of New York, as added by local
17 law number 113 for the year 2005, are amended to read as follows:

18 § 24-224. Construction work without noise mitigation plan unlawful. It shall be unlawful
19 to perform work at any construction site in the city that is not in compliance with a noise
20 mitigation plan where such plan is required pursuant to this subchapter and with the noise
21 mitigation rules adopted pursuant to this subchapter. [Notwithstanding any other provision of
22 this code, construction work performed in accordance with a noise mitigation plan that is in full
23 compliance with this subchapter and such rules shall be deemed to be in compliance with all
1 decibel level limits set forth in other subchapters of this code. The provisions of this subchapter
2 shall **supersede** all other provisions of this code relating to construction activities or devices that
3 are inconsistent with or in conflict therewith.]

4 § 8. Section 24-228 of the administrative code of the city of New York, as added by local
5 law number 113 for the year 2005, is amended to read as follows:

6 § 24-228. Construction[, exhausts and other] devices. (a) No person shall operate or use
7 or cause to be operated or used a construction device or combination of devices in such a way as
8 to create an unreasonable noise. For the purposes of this section unreasonable noise shall include
9 but shall not be limited to sound that exceeds the following prohibited noise levels:

10 (1) Sound, other than impulsive sound, attributable to the source or sources, that exceeds
11 [85] [80] **85** dB(A) as measured 50 or more feet from the source or sources at a point outside the
12 property line where the source or sources are located or as measured 50 or more feet from the
13 source or sources on a public right-of-way.

14 (2) Impulsive sound, attributable to the source, that is 15 dB(A) or more above the
15 ambient sound level as measured at any point within a receiving property or as measured at a
16 distance of 15 feet or more from the source on a public right-of-way. Impulsive sound levels
17 shall be measured in the A-weighting network with the sound level meter set to fast response.
18 The ambient sound level shall be taken in the A-weighting network with the sound level meter
19 set to slow response.

20 (3) Sound in violation of the decibel levels set for the in section 24-233 (d) of this code.
21 (b) Where a particular sound source or device is subject to decibel level limits and requirements
22 specifically prescribed for such source or device elsewhere in this code, such specific decibel
23 limits shall apply to such device or source. However, if aggregate sound levels from a
1 construction site exceed the limits set forth in this section, compliance with such specific decibel
2 limits shall not be a defense in any proceeding relating to a violation of this section.

3 § 9. This local law takes effect immediately except that section 3 of this local law takes
4 effect **180 days** after it becomes law.

[SS] LS #7788
9/7/17