

**LEGISTAR #47523 - Body**

DRAFTER'S ANALYSIS: Wis. Stat. § 346.94(16) prohibits amplified sound from a motor vehicle that is audible from a distance of 75 or more feet. However, Wis. Stat. § 349.135 gives municipalities explicit permission to create an ordinance to prohibit amplified sound from a motor vehicle audible from a distance of 50 or more feet. Currently, Sec. 24.09(6) uses 75 feet. This amendment would reduce the distance for audible amplification from a motor vehicle to 50 feet. While this 50-foot distance automatically applies to all motor vehicles including public passenger vehicles such as taxis and low-speed vehicles, this ordinance applies the amplification distance to all public passenger vehicles including pedal cabs and commercial quadricycles.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (a) of Subsection (6) entitled "Sound Producing or Amplification Devices" of Section 24.09 entitled "Light Motor Vehicle Noise Control" of the Madison General Ordinances is amended to read as follows:

"(a) Notwithstanding the noise limit expressed in Sec. 24.09(4) of these ordinances and except as provided in Wis. Stat. § 347.38(1), no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is audible under normal conditions from a distance of ~~seventy-five~~ fifty (50) or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition. This subsection does not apply to any of the following:"

2. Paragraph 6. of Subdivision (k) entitled "Special Rules for Operation of Pedal-cab and Low-Speed Vehicles" of Subsection (7) entitled "Operating Requirements" of Section 11.06 entitled "Licensing and Regulating Public Passenger Vehicles, For Hire" of the Madison General Ordinances is amended to read as follows:

"6. The driver of a pedal-cab or low-speed vehicle shall operate the vehicle at all times in compliance with applicable city and state traffic laws ~~as provided in Sec. 12.06(3) of the Madison General Ordinances and Wis. Stat. § 346.02(4).~~"

3. Paragraph 8. of Subdivision (k) entitled "Special Rules for Operation of Pedal-cab and Low-Speed Vehicles" of Subsection (7) entitled "Operating Requirements" of Section 11.06 entitled "Licensing and Regulating Public Passenger Vehicles, For Hire" of the Madison General Ordinances is created to read as follows:

"8. Unless excepted by Wis. Stat. § 349.135(2) or § 347.38(1), no person may operate or park, stop or leave standing a pedal-cab or low-speed vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is audible under normal conditions from a distance of fifty (50) or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition. Any owner, operator, or agent having control over the subject equipment violating any provision of this section shall, for the first violation, be subject to a forfeiture of not less than forty dollars (\$40) nor more than eighty dollars (\$80); for the second or subsequent violation within a year, be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200)."

4. Paragraph 8. of Subdivision (l) entitled "Special Rules for the Operation of Commercial Quadricycles" of Subsection (7) entitled "Operating Requirements" of Section 11.06 entitled "Licensing and Regulating Public Passenger Vehicles, For Hire" of the Madison General Ordinances is amended to read as follows:

"8. The operator of a commercial quadricycle shall operate the vehicle at all times in compliance with applicable city and state traffic laws ~~as provided in Sec. 12.06(3), MGO, and Wis. Stat. § 346.02(4).~~"

5. Paragraph 17. of Subdivision (l) entitled "Special Rules for the Operation of Commercial Quadricycles" of Subsection (7) entitled "Operating Requirements" of Section 11.06 entitled "Licensing and Regulating Public Passenger Vehicles, For Hire" of the Madison General Ordinances is created to read as follows:

“17. Unless excepted by Wis. Stat. § 349.135(2) or §347.38(1), no person may operate or park, stop or leave standing a commercial quadricycle while using a radio or other electric sound amplification device emitting sound from the vehicle that is audible under normal conditions from a distance of fifty (50) or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition. Any owner, operator, or agent having control over the subject equipment violating any provision of this section shall, for the first violation, be subject to a forfeiture of not less than forty dollars (\$40) nor more than eighty dollars (\$80); for the second or subsequent violation within a year, be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).”

6. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by creating and amending therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
<u>Radio or other electric sound amplification device plainly audible from pedal-cab or low-speed vehicle from a distance of 50 or more feet.</u>	<u>11.06(7)(k)8.</u>	<u>\$80, 1st</u> <u>\$200, 2<sup>nd</sup> &amp; sub.</u>
<u>Radio or other electric sound amplification device plainly audible from commercial quadricycle from a distance of 50 or more feet.</u>	<u>11.06(7)(l)17.</u>	<u>\$80, 1st</u> <u>\$200, 2<sup>nd</sup> &amp; sub.</u>
Radio or other electric sound amplification device plainly audible from vehicle from a distance of <del>75</del> <u>50</u> or more feet.	24.09(6)	<del>\$400</del> <u>80</u> , 1st \$200, 2nd <del>\$300, 3rd &amp; sub.”</del>

EDITOR’S NOTE: A new or revised forfeiture range must be approved by the Municipal Judge prior to adoption. These ranges have been so approved.

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Wisconsin Statutes Legal References for convenience:

**Wis. Stat. § 346.94(16)**

**(16) RADIOS OR OTHER ELECTRIC SOUND AMPLIFICATION DEVICES.**

- (a) Except as provided in s. 347.38 (1), no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is audible under normal conditions from a distance of 75 or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition.
- (b) This subsection does not apply to any of the following:
  - 1. The operator of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm.
  - 2. The operator of a vehicle of a public utility. In this paragraph, public utility means any corporation, company, individual, or association which furnishes products or services to the public, and which is regulated under ch. 195 or 196, including railroads, telecommunications, or telegraph companies and any company furnishing or producing heat, light, power, or water.
  - 3. The operator of a vehicle that is being used for advertising purposes.
  - 4. The operator of a vehicle that is being used in a community event or celebration, procession or assemblage.
  - 5. The activation of a theft alarm signal device.
  - 6. The operator of a motorcycle being operated outside of a business or residence district.
  - 7. A local authority that has enacted an ordinance in conformity with s. 349.135.

**Wis. Stat. § 349.135**

**349.135 Authority to Regulate Radios or Other Electric Sound Amplification Devices.**

- (1) Notwithstanding s. 346.94 (16), the governing body of any town, city, village or county may, by ordinance, provide that, except as provided in s. 347.38 (1), no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is clearly audible under normal conditions from a distance of 50 or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition. The ordinance may provide that any person violating the ordinance may be required to forfeit not less than \$40 nor more than \$80 for the first violation and not less than \$100 nor more than \$200 for the 2nd or subsequent violation within a year.
- (2) Any ordinance enacted under sub. (1) may not apply to any of the following:
  - (a) The operator of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm.
  - (b) The operator of a vehicle of a public utility. In this paragraph, public utility means any corporation, company, individual or association which furnishes products or services to the public, and which is regulated under ch. 195 or 196, including railroads, telecommunications, or telegraph companies and any company furnishing or producing heat, light, power, or water.
  - (c) The operator of a vehicle that is being used for advertising purposes.
  - (d) The operator of a vehicle that is being used in a community event or celebration, procession or assemblage.
  - (e) The activation of a theft alarm signal device.
  - (f) The operator of a motorcycle being operated outside of a business or residence district.

**Wis. Stat. § 347.38(1)**

**347.38 Horns and Warning Devices.**

- (1) No person shall operate a motor vehicle upon a highway unless such motor vehicle is equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no person shall at any time use a horn otherwise than as a reasonable warning or make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.