

Chapter 240, NOISE

[HISTORY: Adopted by the Common Council of the City of Ithaca 9-5-1990 by Ord. No. 90-12 (Ch. 68 of the 1975 Municipal Code); amended in its entirety 4-7-2004 by Ord. No. 2004-4. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Assemblies and parades -- See Ch. 132.
Building construction -- See Ch. 146.
Dogs and other animals -- See Ch. 164.
Peddling and soliciting -- See Ch. 232, Art. V.
Peace and good order -- See Ch. 250.

ARTICLE I, General Provisions

§ 240-1. Title.

This chapter shall be known and may be cited as the "City of Ithaca Noise Ordinance."

§ 240-2. Purpose.

The purpose of this chapter is to preserve the public health, peace, welfare and good order by suppressing the making, creation or maintenance of excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use and which are detrimental to the environment. It is also the purpose of this chapter to allow all residents of the City to coexist harmoniously in a manner which is mutually respectful of the interests, rights and obligations of all persons.

§ 240-3. Definitions. [Amended 9-1-2004 by Ord. No. 2004-14]

Unless the context otherwise clearly indicates, the words and phrases used in this chapter are defined as follows:

DAYTIME HOURS -- The hours between 7:30 a.m. and 10:00 p.m., local time, on any day.

EMERGENCY WORK -- Work made necessary to restore property to a safe condition following a public calamity or work necessary to protect persons or property from an imminent exposure to danger.

IMPULSIVE SOUND -- A sound of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.

MOTOR VEHICLES -- Includes but is not limited to automobiles, trucks, buses, mopeds, minibikes and any other vehicles as defined by the Vehicle and Traffic Law of the State of New York, as it may be amended from time to time.

NIGHTTIME HOURS -- The hours between 10:00 p.m., local time, on any day and 7:30 a.m. on the following day.

PERSON -- Includes the singular and plural and also any individual; any property owner and/or lessee; any firm; a corporation; a political subdivision; a government agency, including any agency of the City of Ithaca; an association or an organization, including but not limited to officers, directors, employees, agents and/or independent contractors thereof; or any legal entity whatsoever.

SOUND-AMPLIFYING EQUIPMENT -- Any machine or device for the amplification of the human voice, instrumental music or any other sound. As used in this chapter, "sound-amplifying equipment" shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes or authorized fire horns or other authorized emergency alarms.

SOUND SOURCE -- Any person or thing from which sound is created.

UNREASONABLE NOISE -- A level of sound that is injurious or annoying or disturbing to be heard.

§ 240-4. Unreasonable noise prohibited. [Amended 8-4-2004 by Ord. No. 2004-12]

- A. No person shall intentionally cause public inconvenience, annoyance or alarm or recklessly create a risk thereof by making unreasonable noise or by causing unreasonable noise to be made.
- B. For the purpose of implementing and enforcing the standard set forth in Subsection A of this section, "unreasonable noise" shall mean any sound created or caused to be created by any person which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of the public or which causes injury to animal life or damages to property or business. Factors to be considered in determining whether unreasonable noise exists in a given situation include but are not limited to any or all of the following:
 - (1) The intensity of the noise.
 - (2) Whether the nature of the noise is usual or unusual.
 - (3) Whether the origin of the noise is associated with nature or human-made activity.
 - (4) The intensity of the background noise, if any.
 - (5) The proximity of the noise to sleeping facilities.
 - (6) The nature and the zoning district of the area within which the noise emanates and of the area within 500 feet of the source of the sound.

- (7) The time of the day or night the noise occurs.
 - (8) The time duration of the noise.
 - (9) Whether the sound source is temporary.
 - (10) Whether the noise is continuous or impulsive.
 - (11) The volume of the noise.
 - (12) The existence of complaints concerning the noise from persons living or working in different places or premises who are affected by the noise.
- C. This section shall not be interpreted to prevent the issuance of permits pursuant to § 240-14 that will authorize particular sound sources.
- D. "Person" defined. For the purposes of this section:
- (1) For an offense that occurs on any public property where permission was obtained to use that public property, a "person" shall include the person or persons who obtained permission to utilize that property for that event.
 - (2) For an offense that occurs on private property, a "person" shall include any adult person or persons who live in or on the property that is involved in the offense.
 - (3) For an offense that occurs after granting of a permit pursuant to Article III of this chapter, a "person" shall include the person or persons who are listed on the permit.

ARTICLE II, Special Noise Sources

§ 240-5. Purpose of article.

The provisions of this Article II complement and supplement the other provisions of this chapter and shall be interpreted and applied in accordance with and in addition to and not in lieu of those other provisions. The provisions of this article shall not be interpreted to prevent the issuance of permits pursuant to § 240-14 that will authorize particular sound sources.

§ 240-6. Radios, television sets and similar sound-amplifying devices.

- A. It shall be unlawful for any person anywhere in the city to use or to operate any radio or receiving set, musical instrument, phonograph, television set, any other machine or device for the producing or reproducing of sound or any other sound-amplifying equipment in a loud, annoying or offensive manner such that noise from the device interferes with the comfort, repose, health or safety or members of the public or

recklessly creates a risk thereof, within any building or, outside of a building, at a distance of 25 feet or more from the source of such sound or interferes with the conversation of members of the public who are 25 feet or more from the source of such sound. [Amended 9-1-2004 by Ord. No. 2004-13]

- B. "Person" defined. For the purposes of this section: [Added 8-4-2004 by Ord. No. 2004-12]
- (1) For an offense that occurs on any public property where permission was obtained to use that public property, a "person" shall include the person or persons who obtained permission to utilize that property for that event.
 - (2) For an offense that occurs on private property, a "person" shall include any adult person or persons who live in or on the property that is involved in the offense.
 - (3) For an offense that occurs after granting of a permit pursuant to Article III of this chapter, a "person" shall include the person or persons who are listed on the permit.

§ 240-7. Parties and other social events.

- A. It shall be unlawful for any person in charge of a party or other social event that occurs on any private or public property to allow that party or event to produce noise in a loud, annoying or offensive manner such that noise from the party interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, or recklessly creates the risk thereof, at a distance of 25 feet or more from the source of such sound. [Amended 9-1-2004 by Ord. No. 2004-13]
- B. For the purposes of this section, a "person in charge of a party or other social event": [Amended 9-1-2004 by Ord. No. 2004-13]
- (1) That occurs on any public property shall include the person or persons who obtained permission to utilize that property for that event.
 - (2) That occurs on private property shall include the person who owns the premises involved and any adult person who lives in or on the premises involved in such party or social event.
 - (3) Shall include the person who is listed on a permit granted pursuant to Article III of this chapter with respect to such event.
- C. For any violation of this section where beer is being served from a keg on the premises, the person to whom the keg is registered shall be presumed to be responsible for the violation, in addition to any person designated in Subsection A or B above.

§ 240-8. Hawkers and peddlers.

It shall be unlawful for any person to advertise, promote or sell anything by outcry within any area of the City zoned for residential uses. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events.

§ 240-9. Machinery.

It shall be unlawful for any person to operate or repair any machinery, motor vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device or to engage in any commercial or industrial activity in any manner so as to create unreasonable noise as defined in § 240-4 of this chapter. In making such determination with respect to the matters governed by this section, additional factors to be considered shall include:

- A. The necessity of the work being done.
- B. The ability of the creator of the noise to minimize or reduce the amount of noise created or to otherwise minimize its adverse effects.

§ 240-10. Construction during nighttime hours.

- A. Except for the purposes specified in Subsection B hereunder, during nighttime hours it shall be unlawful for any person within a residential zone or within 500 feet of a residential zone to operate construction equipment (including but not limited to any pile driver, steam shovel, pneumatic hammer, derrick or steam or electric hoist) or perform any outside construction or repair work so as to create noise. Any designated official of the City of Ithaca shall give a verbal warning that the violation exists and of the penalties that may result if the violation continues.
- B. This section shall not be deemed to prohibit:
 - (1) Work of an emergency nature.
 - (2) Work of a domestic nature on buildings, structures or projects being undertaken by a person(s) residing in such premises; provided that, if any domestic power tool, including but not limited to mechanically powered saws, sanders, grinders and lawn and garden tools used outdoors, is operated during the nighttime hours, no person shall operate such machinery so as to cause noise within a residential building or across a residential real property boundary where such noise interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, at 25 feet or more from the source of the sound.

§ 240-11. Applicability of section.

Section 240-10 shall be applied in addition to § 240-4.

§ 240-12. Continuing noise.

It shall be unlawful for any person to make or continue or cause to be made or continued any loud, unnecessary or unusual noise or sound which shall exceed the permitted noise levels specified in this chapter. Any designated official of the City of Ithaca may issue a verbal warning that the violation exists and of the penalties that may ensue.

§ 240-13. Horns and alarms.

This chapter shall not apply to fire horns or other alarms authorized by the Fire Department or Police Department and operated in accord with that authorization.

ARTICLE III, Other Provisions

§ 240-14. Permit procedures for certain activities. [Amended 9-1-2004 by Ord. No. 2004-14]

- A. Where a sound source is planned, installed or intended to be installed or modified by any person in a manner that such source will create or is likely to create unreasonable noise or otherwise fail to comply with the provisions of this chapter, such person must secure a permit pursuant to this section.
- B. Where any person uses or plans to use any sound-amplifying equipment in such a way that such equipment is or will be heard outside of any building or vehicle between 10:00 p.m. of any day and 7:30 a.m. to the next day, such person must secure a permit under this section.
- C. Where any person uses or plans to use a public-address system that will make sound outside of a building, such person must secure a permit under this section.
- D. The application for the permit shall provide the following information:
 - (1) The reasons for such usage, including a demonstration why it is desirable or necessary that the sound source involved be authorized by a permit pursuant to this section.
 - (2) Plans and specifications of the use.
 - (3) Noise-abatement and -control methods to be used with respect to the sound source involved.
 - (4) The period of time during which the permit shall apply.

- (5) The name of the person(s) who is responsible for ensuring that the activity complies with any permit issued for it pursuant to this section.
 - (6) Evidence that notification of the application for the permit has been given to each person reasonably expected to be affected by the noise, the content of such notification and the manner in which such notification has been given, if the event is not a community-wide or public event. The notification shall state that any person objecting to the granting of such permit may contact the appropriate city department to whom the application is being made to express his/her opposition to the granting of the permit.
 - (7) Evidence that a copy of the application for the permit has been provided to the Chief of Police.
- E. The application shall be made to the Superintendent of Public Works in connection with construction work on public rights-of-way or in parks; to the Building Commissioner for all other construction projects; and to the Mayor for any other events. The issuance of permits shall be discretionary and shall be issued only where the responsible official determines that such permit is reasonable and necessary and will allow an activity that is consistent with the general purposes of this chapter, as stated in § 240-2. When determining if a permit should be issued, factors the official shall consider shall include but are not limited to the volume of the noise, the proximity of the noise to sleeping facilities, the time of the day or night the noise occurs, the time duration of the noise, and the impact of the noise on persons living or working in different places or premises who are affected by the noise. Any permit granted shall state that the permit only applies to this chapter, that § 240.20, Subdivision 2, of the Penal Law of the State of New York, Disorderly Conduct, provides that "a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, ... he makes unreasonable noise."
- F. In order to further the purposes of this chapter and to facilitate its implementation and enforcement, the Superintendent of Public Works, the Building Commissioner and the Mayor shall have authority to impose such conditions as they determine are reasonable and necessary on permits they issue pursuant to this section. Such conditions may govern factors which include but are not limited to the time and location the involved sound source may be utilized.
- G. The Superintendent of Public Works, the Building Commissioner and the Mayor shall provide the Chief of Police with a copy of any permit issued pursuant to this section.

§ 240-15. Penalties for offenses; presumptions.

- A. Any person who shall violate any provision of this chapter shall be punishable by a fine not to exceed \$500 or imprisonment of not more than 15 days, or not more than 100 hours of community service or any combination of such fine and imprisonment and not less than \$100 or 25 hours of community service; provided, however, that a

person who shall violate any provision of this chapter after having been convicted of a violation of any provision of this chapter within the preceding three years shall be punishable by a fine not to exceed \$750 or by imprisonment of not more than 15 days, or not more than 125 hours of community service or, any combination of such fine and imprisonment and not less than \$200 or 40 hours of community service; and further provided that any person who shall violate any provision of this chapter after having been convicted two or more times of a violation of any provision of this chapter within the preceding three years shall be punishable by a fine not to exceed \$1,000 or by imprisonment of not more than 15 days, or not more than 125 hours of community service, or any combination of such fine and imprisonment, and not less than \$300 or 50 hours of community service. For any penalties of community service, the court may accept community service from people other than the defendant whom the court deems appropriate, such as other residents of the premises or others who choose to accept responsibility for the violation. In assessment of the above penalties, aggravating factors shall include but not be limited to the presence of the following factors:

- (1) A common source of alcohol such as a keg;
 - (2) A live band or disc jockey or other live entertainment;
 - (3) Amplified sound emanating from speakers placed or directed outside of the building;
 - (4) A charge to gain entrance into the premises or to consume alcohol;
 - (5) A violation of § 250.8 (public urination) of this Code on the premises;
 - (6) The offense takes place after midnight on weekdays and 1:00 a.m. on weekends and before the following 6:00 a.m.;
 - (7) More than 25 guests on the premises, "guests" being defined for the purposes of this section as any people who do not reside at the premises;
 - (8) Any underage person or persons possessing or consuming alcohol on the premises, each underage person constituting a separate aggravating circumstance;
 - (9) More than one complaint made to the police about the noise, each complaint after the first being a separate aggravating circumstance.
- B. For purposes of this chapter, for any offense that takes place on private property, if the person or persons directly responsible for the activity that violates any provision of this chapter cannot be determined, then all residents of the property on which the activity takes place shall be presumed to be responsible for the violation.