

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. Devices for sound amplification, production and reproduction.

- 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 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.
- B. "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.

§ 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 creates the risk thereof, at a distance of 25 feet or more from the source of such sound.

- B. For the purposes of this section, a "person in charge of a party or other social event":
- (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.
 - (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. Maximum permissible sound levels.

In addition to prohibitions set forth elsewhere in this chapter, the following general prohibitions regarding sound levels shall apply in determining unreasonable noise:

- A. No person shall operate or cause to be operated any source of continuous sound from any occupancy in such a manner as to create a sound level which exceeds the limits set forth in the receiving zone category in Table I, when measured at or within the real property line of the receiving property.

**Table I
Maximum Permissible Sound Level Limits by Receiving
Land Zones dBA**

Residential¹	Residential	Commercial²	Commercial
7:30 a.m. to 10:00 p.m.	10:00 p.m. to 7:30 a.m.	7:30 a.m. to 12:00 midnight	12:00 midnight to 7:30 a.m.
		Outdoors	
60	50	65	55
		Indoors ³	
50	40	55	40

1. Property receptor located within an area that's zoned residential.
2. Property receptor located within an area that's zoned commercial, including but not limited to those zones designated CBD, Waterfront, B, WDEZ, MU (Collegetown Mixed-Use District), and PUD (projects that have an approved PUD).
3. The indoor permissible sound level limits will only apply if the sound source is on or within the same property as the receiving property, as in the case of a multi-dwelling-unit building or a multi-use property (e.g., sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building). In addition, indoor measurements shall be taken if the property line between the receiving property and the source property is a common wall, floor or ceiling.

B. Impulsive sound. No person shall make, cause, allow or permit the operation of any impulsive source of sound within any and all property in the City which has a maximum sound pressure level in excess of 80 dBA, when measured at or within the real property line of the receiver. If an impulsive sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently than four times in any hour the levels set forth in Table I shall apply.

§ 240-9. Other prohibited acts.

A. Unamplified human voice.

- (1) No person shall make, continue, or cause to be made or continued, any unreasonable noise by use of the unamplified human voice. The unamplified human voice engaged at conversational levels shall be exempt from this provision if such sound is not plainly audible beyond 100 feet or does not infringe on the legitimate rights of others. Raised vocal effort, such as shouting, yelling or screaming, with intent to cause public inconvenience, annoyance or alarm or recklessly causing a risk thereof or that serves no legitimate purpose, when audible at distances greater than 100 feet, is prima facie evidence of a violation of this provision. This shall not apply to spontaneous utterances such as laughter, exclamations of warning, or sporting events.
 - (2) 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, including all R and CR zones. 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.
- B. 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:
- (1) The necessity of the work being done.
 - (2) The ability of the creator of the noise to minimize or reduce the amount of noise created or to otherwise minimize its adverse effects.
- C. Construction during nighttime hours.
- (1) 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.

(2) This section shall not be deemed to prohibit:

(a) Work of an emergency nature.

(b) 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.

§ 240-10. Motor vehicles.

- A. No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.
- B. No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the federal noise regulations under 40 CFR 205.
- C. No person shall operate any motor vehicle with an engine braking device engaged which does not have a muffler in good working order.
- D. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction from the vehicle between the hours of 10:00 p.m. and 7:30 a.m.
- E. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner

that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 7:30 a.m. and 10:00 p.m.

§ 240-11. Applicability of section.

Sections 240-6, 240-7, 240-8 and 240-9 shall be applied in addition to § 240-4.

§ 240-12. Exceptions.

The provisions of this chapter shall not apply to:

- A. Sound and vibration emitted for the purpose of alerting people in an emergency or in the performance of the response to an emergency.
- B. Sounds connected with any authorized carnival, fair, exhibition, parade or community celebration or from any municipally sponsored celebration, event, activity or individually sponsored event where a permit or other relevant permission has been obtained from the City.
- C. The operation or use of any bell, chimes, or other instrument from any church, synagogue, temple, mosque or school licensed or chartered by the State of New York, provided such operation or use does not occur during nighttime hours.
- D. Sounds created by any government agency by the use of public warning devices.
- E. Noise from domestic power tools, lawn mowers, leaf blowers and agricultural equipment when operated with a muffler between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and 9:00 a.m. and 8:00 p.m. on weekends and legal holidays, provided they produce less than 75 dBA at or within any real property line of a receiving residential property.
- F. Noise from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal.
- G. Noise from an exterior burglar alarm of any building or motor vehicle, provided such burglar alarm shall terminate its operation within five minutes after it has been activated.
- H. Sounds created by any governmental agency or railroad agency by the use of public warning devices or created by public utilities in carrying out the normal operations of their franchises.

- I. Noise necessarily or customarily caused by construction, demolition, repair or other activity conducted pursuant to a building permit issued by the City of Ithaca, and in compliance with all limitations required by the building permit and from site plan review.

ARTICLE III
Other Provisions

§ 240-13. Permit procedures for events of temporary duration.

Except as provided for in § 157-8 of the City Code regarding the Ithaca Commons:

- A. Where a sound source exists, 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 Subsection D of 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. of the next day, such person must secure a permit pursuant to Subsection D of 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 pursuant to Subsection D of this section.
- D. Applications shall be submitted at least 72 hours in advance of an event. 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) If required by the party issuing the permit, proof 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 which the application is being made to express his/her opposition to the granting of the permit.

- E. The application shall be made to the Superintendent of Public Works, or his/her designee, in connection with construction work on public rights-of-way or in parks; to the Director of Planning and Development, or his/her designee, for all other construction projects; and for others to the Mayor or his/her designee. The issuance of permits shall be discretionary, and a permit 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, and 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 Director of Planning and Development and the Mayor, or their designees, 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 Director of Planning and Development and the Mayor, or their designees, shall provide the Chief of Police with a copy of any permit issued pursuant to this section.

§ 240-14. Variances.

The Mayor or his/her designee may grant for a sustained duration an individual variance from the limitations prescribed in this article

whenever it is found, after a noticed public hearing before the Planning and Economic Development Committee of Common Council and upon presentation of adequate proof, that compliance with any part of this article will impose an undue economic burden upon any lawful business, occupation or activity, and that the granting of the variance will not result in a condition injurious to health or safety.

- A. Any variance, or renewal thereof, shall be granted within the following limitations:
- (1) If the variance is granted on the grounds that compliance with the particular requirement or requirements will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Mayor or his/her designee, is requisite for taking of the necessary measures. A variance granted on the ground specified in this subsection shall contain a timetable for taking of action in an expeditious manner and shall be conditioned on adherence to the timetable; or
 - (2) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Subsection A(1), it shall be for not more than one year.
- B. Any person seeking a variance shall file a petition for variance and a filing fee of \$50 with the Mayor or his/her designee. The Mayor or his/her designee shall thereafter conduct a noticed public hearing in accordance with this section at a regularly scheduled meeting of the Planning and Economic Development Committee of Common Council, accept documentary and testimonial evidence in accordance with accepted administrative hearing procedures, and make a final decision regarding the granting of the variance.
- C. Written notice of the public hearing, the time and place of which shall be set by the Mayor or his/her designee, shall be mailed by the petitioner at least 10 days prior to the hearing, with proof of mailing provided to the Mayor at least eight days prior to the hearing, to:
- (1) The owners as shown by the records of the County Assessor of lots comprising the site of the variance and lots within 200 feet, excluding public right-of-way, of the site of the variance;

- (2) Any neighborhood association if the site of the variance is within the neighborhood association's boundaries or within 200 feet of the neighborhood association's boundaries, excluding public right-of-way.
 - (3) Any other person or entity that has filed with the Mayor a request to receive a notice of the variance proceeding.
- D. The notice of hearing shall set forth the name and address of the petitioner, the location of the site of the variance, that the petitioner has requested a variance from this chapter, the nature of the requested variance, and that part of the chapter that would be waived if approved.
- E. Following the hearing, the Mayor or his/her designee shall render a written final decision, including findings of fact and conclusions of law. The Mayor or his/her designee shall mail the decision to all parties of record.

§ 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.