

Chapter 182. Noise

[HISTORY: Adopted by the City Council of the City of Haverhill as Secs. 23-4 and 23-22 of the 1963 City Code; amended in its entirety 8-8-2006 by Doc. 155^[1] (Ch. 182 of the 1980 Code). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems — See Ch. **97**.

Dogs and other animals — See Ch. **137**.

Explosives — See Ch. **145**.

Parades and processions — See Ch. **185**.

Peace and good order — See Ch. **189**.

Peddling and soliciting — See Ch. **191**.

Street and sidewalk construction — See Ch. **222**, Arts. III, V and VII.

Recreational vehicles and racing — See Ch. **222**, Art. **XI**, and Ch. **241**.

[1] *Editor's Note: This ordinance deleted original § 182-4 and added §§ 182-4 through 182-17. Existing §§ 182-1 through 182-3 were unchanged.*

§ 182-1. Permit required for noisemaking.

No person shall ring, operate or use nor cause to be rung, operated or used any bell, horn, whistle, radio, noisemaking device or other instrument in, on or adjacent to any street, place or way nor utter any boisterous outcry in, on or adjacent to any such street, place or way to give notice of any business or calling, announce news, advertise or promote the sale of any article or thing without a permit therefor granted by the Chief of Police upon written application to and under conditions imposed by him.

§ 182-2. Application for permit.

Every application for a permit hereunder shall state the name of the applicant, the place where the permitted article is to be stationed or used, the period during which it is to be operated, whether the operation is to be constant or intermittent and such further information as may be required by the Chief of Police.

§ 182-3. Bells, horns and musical instruments.

No person other than musicians in a lawful and authorized parade or procession, or itinerant musicians or other persons licensed thereto by the Chief of Police, shall, in any street or way or public place, ring or blow or cause to be rung or blown any bell or horn except as a warning of danger or use or play upon or cause to be used or played upon any musical or noisemaking instrument.

§ 182-4. Unreasonable noise prohibited; definitions.

- A. No person shall make or cause to be made any unreasonable or excessive noise, by or from whatever means or from whatever source.
- B. As used herein, the following terms shall have the following meanings:

dBa

A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standard Institute Specifications for Sound Level Meter, properly calibrated, and operated on the "A" weighting network.

LOUD AMPLIFICATION DEVICE or SIMILAR EQUIPMENT

A radio, television, phonograph, stereo, record player, tape player, cassette player, compact disc player, loudspeaker, or sound amplifier, which is operated in such a manner that it creates unreasonable or excessive noise.

UNREASONABLE OR EXCESSIVE NOISE

- (1) Noise measured in excess of 50 dBa between the hours of 11:00 p.m. and 7:00 a.m. or in excess of 70 dBa at all other hours; or
- (2) Any noise plainly audible at a distance of 100 feet or, in the case of loud amplification devices or similar equipment, noise plainly audible at a distance of 100 feet from its source by a person of normal hearing.

§ 182-5. Unreasonable noise from automobile safety devices.

The use of any device whose purpose it is to protect an owner's vehicle from damage and/or theft through the mechanical creation of a noise of sufficient magnitude to be plainly audible at a distance of 100 feet from such device which does not automatically terminate any such noise within five minutes shall be declared an unlawful use of a noisemaking instrument.

§ 182-6. Regulation of construction hours.

No erection, demolition, alteration, or repair of any building or structure and excavation in regard thereto, including gravel permit activities and operations, shall be allowed except between the hours of 7:00 a.m. and 7:00 p.m., except in the interest of public safety or welfare as determined by the Building Inspector. The allowed hours of operation shall be included on every building permit or other permit for the above activities issued by the City. The Building Inspector's decision may be appealed pursuant to § **255-75** of the City Code.

§ 182-7. Construction noise levels at residential lot lines.

It shall be unlawful for any person, except in emergencies by public utility companies or by any City department, to operate any construction device(s), including but not limited to impact devices, on any construction site if the operation of such device(s) emits noise, measured at the lot line of an abutting residential lot, in excess of 50 dBa between the hours of 6:00 p.m. and 7:00 a.m.

§ 182-8. Disturbing the peace.

- A. It shall be unlawful for any person or persons to disturb the peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any radio, phonograph or sound related producing device or instrument, or from the playing of any band or orchestra, or from the use of any device to amplify the aforesaid noise, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, or from the use of any device to amplify such noise; provided, however, that any performance, concert, band, group or person who has received and maintains a valid license or permit from the Chief of Police, pursuant to § **182-1** or **182-3**, shall be exempt from the provisions of this section.
- B. Any person aggrieved by such disturbance of the peace may complain to the police about such unreasonable or excessive noise. The police, in response to each complaint, shall verify by use of the sound level meter

described herein that the noise complained of does exceed the limit described herein and, if so, may thereupon arrest and/or make application in the appropriate court for issuance of a criminal complaint for violation of MGL c. 272, § 53, which sets forth the penalties for disturbing the peace.

§ 182-9. Loud amplification devices in motor vehicles prohibited.

It shall be unlawful for any person in any area to operate a loud amplification device or similar equipment, as defined in § **182-4B**, in or on a motor vehicle, which is either moving or standing in a public way.

§ 182-10. Loud amplification devices in public ways or places prohibited.

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in § **182-4B**, on a public way or in any other public place except as permitted by § **182-1**.

§ 182-11. Loud amplification devices in or on residential premises prohibited.

It shall be unlawful for any person in any area of the City to operate a loud amplification device or similar equipment, as defined in § **182-4B**, in a dwelling house or on the land or other premises of such dwelling house.

§ 182-12. Excessive noise emission by rail carriers prohibited.

The provisions set forth in the Code of Federal Regulations, Section 201 (Subparts 1 - C), Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers, as authorized by the Noise Control Act of 1972 (Pub. L. 92-574, 86 Stat. 1234), shall be hereby adopted and enacted in its entirety. Any and all rail carriers, as defined in said regulations, whether interstate or intrastate, shall comply with the noise emission standards and procedures set forth within said regulations while operating within the City.

§ 182-13. Excessive noise emission by animals prohibited.

It shall be unlawful to own, possess or harbor any animal which frequently or for continued duration makes sounds which create a noise disturbance across a residential real property boundary.

§ 182-14. Enforcement.

Any of the provisions of this chapter may be enforced by any police officer. Section **182-6**, **182-7**, **182-12**, **182-13**, **182-14** or **182-15** may be enforced by agents of the Board of Health or the Building Inspector. Section **182-13** may be enforced by the Animal Control Officer. The Housing Court or the District Court, if applicable, may enforce violations of these sections.

§ 182-15. Violations and penalties.

- A. Any person who violates any of the provisions of this chapter shall for the first offense be fined \$50. The enforcing person shall make a record of the complaint, and such record shall include the following information, to the extent that it is available: name and address of person violating; name and address of landlord, if applicable; date; time; motor vehicle registration number, if applicable; and location of the violation. If the violator refuses to give the above-noted information or if any information proves false, said person shall be punished by a fine of an additional \$50. The enforcing person shall give the violator a notice of the violation and

fine, and the violation and fine may be disposed of pursuant to § **1-16B**. A copy of each violation notice shall be sent to the landlord and to the school at which the violator is enrolled, when applicable.

- B. No landlord or person in charge of a residential structure shall permit or suffer the repeated violations of this chapter, after notice thereof. Such person shall be punished at the time of a subsequent violation, and every violation thereafter within 12 months of the first violation, by a fine of \$100 in the case of the second violation and \$300 for each thereafter. It shall be a defense that the landlord or person in charge of a residential structure shall have made a good-faith effort to prevent violations, including the seeking of a court order or commencement of a summary process action.
- C. All fines hereunder may be recovered by the noncriminal disposition procedures pursuant to § **1-16B**; provided, however, that if a violator fails to follow the procedures and requirements of said § **1-16B** and MGL c. 40, § 21D, the fine or fines shall be recovered by indictment or a complaint pursuant to MGL c. 272, § 53.

§ 182-16. Arrests and seizure of property.

- A. Notwithstanding the provisions of any other ordinance, if a person is arrested by a police officer under the authority of the General Laws, without limitation to the provisions of MGL c. 272, § 54, for disturbing the peace under MGL c. 272, § 53, or any applicable General Laws, the arresting officer may, pursuant to said General Laws, seize any loud amplification device or similar equipment, as defined in § **182-4B**, as evidence. In the event of such seizure for evidence by a police officer incident to such arrest, said amplification device or similar equipment shall be inventoried and held by the Police Department or its agents pursuant to its established policies, and shall be returned to its owner according to the terms of this section, unless a court of competent jurisdiction orders otherwise.
- B. The arresting officer, in addition to any other reports or procedures required of him, shall give the person claiming to be the owner of said loud amplification device or similar equipment a receipt indicating where, when, and for what reason said device or equipment was seized, and for what purpose it is being held. Copies of said receipt shall be filed in the Police Department and shall be made available to the court. No receipt shall be redeemed and no such device or equipment shall be returned to any person unless and until all judicial proceedings that may be held regarding the criminal allegations shall have been concluded; provided, however, that if a motor vehicle shall be seized incident to an arrest, such motor vehicle may be returned to its registered owner if said loud amplification device or equipment has been duly removed therefrom with the written permission of the registered owner of said motor vehicle. In such cases, the Police Department shall provide said owner with a receipt for the removed device or equipment as herein provided.

§ 182-17. Exemptions.

The following are exempted from the above provisions and shall not be considered unreasonable or excessive noise for purposes of this chapter:

- A. Noise from police, fire, ambulance and civil and national defense activities, or in training exercises related to emergency activities.
- B. Parades, public gatherings, or sporting events, for which permits have been issued or which are supervised by the School Department or the Human Services Department.
- C. Noncommercial public speaking and public assembly activities as allowed by federal or state law or § **189-1** of Chapter **189**, Peace and Good Order, of the Code of the City of Haverhill.