

## Chapter 182. NOISE

[HISTORY: Adopted by the Council of the City of Schenectady 10-24-1983 by Ord. No. 83-88;<sup>[1]</sup> amended in its entirety 6-26-2006 by Ord. No. 2006-6. Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Alarms — See Ch. **124**.

Dances and dance halls — See Ch. **142**.

Dogs and other animals — See Ch. **144**.

Explosives — See Ch. **152**.

Peace and good order — See Ch. **192**.

Peddlers and vendors — See Ch. **194**.

Vehicles and traffic — See Ch. **248**.

Ice cream truck vendors — See Ch. **251**.

[1]: *Editor's Note: This ordinance also repealed former Ch. 182, Noise, adopted 2-9-1970 by Ord. No. 15274.*

### § 182-1. Legislative intent.

- A. It is hereby declared to be the policy of the City of Schenectady to prevent excessive, unnecessary or unusually loud noises. It is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of preserving, protecting and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of Schenectady and its inhabitants.
- B. This chapter shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the emergency powers of any City department or the right of such department to engage in any necessary or proper activities. Nothing herein shall abridge the powers and responsibilities of any Police Department or law enforcement agency to enforce the provisions of this chapter.

### § 182-2. Nonapplicability.

This chapter shall not apply to the operation or use of any organ, radio, bell, chimes or other instrument, apparatus or device by any church, synagogue or school.

### § 182-3. Unnecessary or unreasonable noise.

- A. The creation of any unreasonably loud, disturbing and unnecessary noise is prohibited.
- B. Said noise shall be prohibited when it is of such character, intensity and duration or of a type or volume that a reasonable person would not tolerate under the circumstances and that is detrimental to the life, health or welfare of any individual or would cause or create a risk of public inconvenience, annoyance or alarm.

### § 182-4. Unnecessary noises enumerated.

It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, unreasonable or unusual noise, or to permit any other so to do, which disturbs the peace or quiet within the geographical boundaries of the City of Schenectady, or which causes discomfort or annoyance to any

reasonable person of normal sensitiveness. For the purposes of this chapter, it shall be presumed that the owner, tenant, person or persons in possession or control, and the occupants of the particular premises, are, jointly or severally, permitting such noise. Prohibited noises may arise from the following activities, but the following list shall not be deemed to be exclusive:

- A. Horns, signaling devices. The sounding of any horn or other signal device on any automobile, motorcycle, bus or other vehicle while stationary, except as a danger signal when an approaching vehicle is apparently out of control or, if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended, the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of any such device for an unnecessary period of time.
- B. Noisy vehicles. No person shall:
  - (1) Use an automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create loud, unnecessary grating, grinding, rattling or other noise;
  - (2) Operate any vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires or revving the motor of such vehicle; or
  - (3) Modify or cause to be modified the muffler, exhaust system or other noise-control device of any vehicle in a manner that will increase the noise emitted by such vehicle above that emitted by the vehicle when newly manufactured, regardless of the date of manufacture. The noise-control devices of any vehicle operated in the City of Schenectady shall be maintained and in good working order. No person shall operate or permit to be operated a vehicle where the muffler, exhaust system or other noise-control device has been so modified or has not been maintained.
- C. Recreational vehicles (including snowmobiles). No person shall operate, or permit to be operated, any motor-powered recreational vehicle not licensed for operation on public streets pursuant to the Vehicle and Traffic Law.
  - (1) On the private property of another without the express prior written consent of the owner and the occupancy of said property. Such consent may be revoked at any time by the grantor thereof. Where such express prior written consent has been obtained, the operator or person at the site responsible for such operation shall keep said consent on his person and available for immediate display at all times during the period of such operation. Excepted from the operation of this subsection are any private clubs or other organizations that permit the operation of recreational motor vehicles on their property in connection with the principal use of said property by the members of any such club or organization;
  - (2) On any public grounds or property, including City or school-owned land, which shall include but not be limited to parks, ball parks and recreation areas;
  - (3) In such a manner as to create unnecessary noise so as to unreasonably disturb or interfere with persons in the peaceful and quiet enjoyment of their property. To this end, no person shall operate a recreational motor vehicle before the hour of 9:00 a.m. and after the hour of 9:00 p.m.; or
  - (4) In a careless, reckless or negligent manner so as to endanger the safety or property of any person.
- D. Discharge of exhaust. The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine, motor vehicle or boat engine or motor, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- E. Construction, demolition, excavation. The erection, including excavating, demolition, alteration or repair, of any building other than between 6:00 a.m. and 9:00 p.m., except in case of an urgent necessity in the interest or public safety and then only with a permit from the City Engineer, which permit may be renewed for a period of three days or less while the emergency continues.
- F. Noise near schools, other institutions. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital, church or court street.

- G. Loading, unloading. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- H. Hawking, peddling. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood and is unreasonable under the circumstances.
- I. Drums, loudspeakers, similar devices. The use of a drum, loudspeaker or any other sound-producing instrument or device for the purpose of attracting public attention by the creation of noise, except where authorized by special permit to be issued by the Chief of Police, who shall make reasonable rules and regulations therefor.
- J. Sound reproduction.
  - (1) No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound so as to produce unreasonable or unnecessary noise at any time, except for activities open to the public or for the public benefit and for which permission has been granted by the City of Schenectady.
  - (2) Said sound reproduction shall be per se unreasonable and unnecessary if produced:
    - (a) Between the hours of 11:00 p.m. and 6:00 a.m. the following day in such a manner as to create noise that can be heard inside any residence, regardless of whether the windows of said residence are open;
    - (b) In such a manner as to create noise that can be heard 50 feet from such device, when operated in or on a motor vehicle on a public highway or in a boat on public waters or by a person on public or private property; or
    - (c) In such a manner as to create noise when operated by any passenger on a common carrier.
- K. Animals. No person shall keep, permit or maintain any animal under his control that causes unnecessary noise by continued barking, howling or other animal noises that can be heard in any other residence, regardless of whether the windows of such residence are open.
- L. Shouting. No person shall shout, yell, call, hoot, whistle or sing on public streets or in public places in such a manner and for such a period of time as to be unreasonable under the circumstances.
- M. Noise from tools, machinery and heavy equipment in the construction, repair or alteration of property. The use of domestic or industrial tools, machinery and equipment of any kind in construction, repair or alteration of property and resulting in loud grinding, hammering, sawing and similar noise shall be prohibited:
  - (1) Between the hours of 9:00 p.m. and 6:00 a.m. the following day, if said noise can be heard inside any residence, regardless of whether the windows of such residence are open; or
  - (2) At any other time if said noise is unnecessary or unreasonable under the circumstances.
- N. Noise in the conduct of any business. The creation of noise in the operation, conduct and/or maintenance of any business, factory, plant yard or manufacturing establishment (except as otherwise provided in this chapter), including but not limited to excavating, blasting, grinding, breaking, crushing or processing of any substance (where permitted), shall be prohibited:
  - (1) Between the hours of 9:00 p.m. and 6:00 a.m. the following day, if said noise can be heard inside any residence, other than in the building where the premises are located, regardless of whether the windows of said residence are open; or
  - (2) At any other time if said noise is unnecessary or unreasonable under the circumstances.
- O. The operation of restaurants, taverns, bars and discos.  
[Amended 8-14-2006 by Ord. No. 2006-7]
  - (1) No restaurant, tavern, bar, nightclub, disco or other similar use, whether public or private, shall be conducted so that music or other noise caused by and/or emanating from said use can be heard:
    - (a) Inside any residence between the hours of 11:00 p.m. and 12:00 noon the following day, other than in

the building where the premises is located, regardless of whether the windows of such residence are open except in the Downtown Schenectady Improvement District where such hours shall be between 1:00 a.m. and 12:00 noon the following day on Fridays, Saturdays, and any night immediately preceding a legal holiday as defined by New York State General Construction Law § 24.

- (b) At any other time if said noise is unnecessary or unreasonable under the circumstances.
  - (2) Any owner, operator or proprietor of such a business use or the owner, licensee or person in control of any private premises shall so limit the level of noise emanating from the premises.
  - (3) Further, it shall be the duty of any such person to disburse any assembly of persons loitering, drinking alcoholic beverages or otherwise engaging in lewd or disorderly conduct adjacent to or near the premises or to immediately notify the Schenectady Police of such conduct.
- P. Fraternities and sororities, dormitories, private clubs, meeting halls, private residences, parties and other social events.
- (1) No noise from parties, entertainment, music or social gatherings of any kind, whether public or private, shall be such that noise caused by and/or emanating from said use can be heard:
    - (a) Between the hours of 11:00 p.m. and 12:00 noon the following day, inside any residence, regardless of whether the windows of such residence are open; or
    - (b) At any other time if said noise is unnecessary or unreasonable under the circumstances.
  - (2) 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.
    - (a) 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 involved in such party or social event.
    - (b) The owner of any real property (except public highways, and other publicly owned facilities) from which sounds prohibited by this chapter emanate shall be guilty of a violation of this chapter, whether or not such owner was on the premises or occupied the same when the proscribed sounds emanated from same. This section, however, shall not render a landlord liable for a violation emanating from a leased premises.

## § 182-5. Standards for unreasonable noise.

The standards which may be considered in determining whether a violation of this chapter exists may include, but not be limited to, the following:

- A. The level or volume of the noise; it shall be presumed that an eighty-decibel reading on a noise meter is excessive and a violation of this chapter, and § 375-47(a) of the New York State Vehicle and Traffic Law as it applies to automobiles is incorporated by reference into this section.
- B. The time of day or night the noise occurs.
- C. The duration of the noise.
- D. Whether the noise is recurrent, intermittent or constant.
- E. Whether the making of noise is reasonably necessary for the protection or preservation of property or of the

health, safety and welfare of a person or persons.

- F. Whether reasonable methods are available for deadening or muffling the noise.
- G. The proximity of the noise to residential property or property customarily used by persons for sleeping.

## § 182-6. Penalties for offenses.

- A. If any party shall knowingly violate the provisions of this chapter or engage in conduct in violation of this chapter, he shall be punished by a fine not to exceed \$250. Each incidence of any violation of a provision herein, or any subsequent or continuing violation occurring within 1/2 hour of the first such violation or any subsequent violation, shall constitute a separate offense.
  - (1) A second violation occurring within 12 months after the first such violation shall be punished by a fine not less than \$250 nor exceeding \$400.
  - (2) A further violation within 12 months after the last violation shall be punished by a fine not less than \$400 nor exceeding \$500, or imprisonment for a period not exceeding 30 days, or both such fine and imprisonment.
- B. When there is probable cause to believe that a noise violation has occurred under this chapter, the party responsible shall be subject to confiscation and evidentiary seizure of the offending source of noise and subject to forfeiture upon conviction of the appropriate Code § **182-3** or **182-4A** through **P**. Pending trial, the source of the offensive noise may be returned to the offending party or owner of the source of the offending noise upon the deposit of \$250 with the Code Enforcement Officer in possession of the source of the offensive noise. Said deposit shall be forfeited if the responsible party does not appear for trial or other pretrial proceedings and may be returned to the responsible party at the conclusion of the case or applied to any fine levied. Forfeiture or return of the source of noise shall be plea bargain options pending trial. Loud dogs shall be dealt with in accordance with § **144-8** of the Code pertaining to seizure of dogs.

## § 182-7. Filing of deposition or citizen complaints.

Any person who observes or has knowledge of a violation of this chapter may file a signed deposition, under oath, with a police officer, specifying the objectionable conduct, the date and time thereof, and the name and address, if known, of the alleged violator. A police officer shall investigate each complaint and, if the complaint is supported by probable cause, issue a notice of violation therefor.