

ORDINANCES
MILES CITY, MONTANA

ORDINANCE NO. 1366

AN ORDINANCE ENACTING "CHAPTER 26 - NOISE" OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA.

WHEREAS, the City of Miles City finds that it is necessary to enact noise regulations within the City of Miles City to ensure the peaceful enjoyment of our community by the residents therein;

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. A new Chapter 26, entitled "Noise," is hereby enacted, as follows:

CHAPTER 26 - NOISE

Sec. 26-1. - Prohibitions generally. It is unlawful for any person willfully to make or continue to make, or cause to be made or continued, any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area. The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include the following:

- a. The perceived volume and intensity of noise;
- b. Whether the nature of the noise is usual or unusual;
- c. Whether the noise is produced by a commercial or noncommercial activity;
- d. The volume and intensity of the background noise, if any;
- e. The proximity of the noise to residential sleeping facilities;
- f. The nature and zoning of the area within which the noise emanates;
- g. The density of the inhabitation of the area within which the noise emanates;
- h. The time of the day or night the noise occurs;
- i. The duration of the noise;
- j. Whether the noise is recurrent, intermittent or constant; and
- k. The public benefit derived from the source of the noise.

Sec. 26-2 - Hours of authorized outdoor events. Unless granted a waiver from the times listed below pursuant to section 26-4, all non-emergency outdoor events exempted from noise level regulations pursuant to section 26-3 shall conclude no later than ten (10) o'clock p.m. Sunday through Thursday, and eleven fifty-nine (11:59) p.m. on Friday and Saturday, with exception of downtown events associated with the Miles City Bucking Horse Sale which occurs during and preceding the 3rd weekend in May and which shall conclude no later than two (2) o'clock a.m.

Sec. 26-3. - Exemptions. The following uses and activities shall be exempt from noise regulations:

- a. Noise from safety signals and warning devices;
- b. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- c. Noise resulting from emergency work;
- d. Noise resulting from the operating of motorized lawnmowers fitted with equipment-type mufflers between the hours of 7:00 a.m. and 8:00 p.m.;
- e. Noise resulting from reasonably necessary snow removal activities between the hours of 6:00 a.m. and 10:00 p.m. in all residential zones, with no such

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restriction for hours of snow removal activities in all commercial and industrial zones.

- f. Noise caused by home or building repair, construction, or grounds maintenance between the hours of 7:00 a.m. and 8:00 p.m.;
- g. Activities on school grounds and public parks which are conducted in accordance with a memorandum of understanding in the manner in which such spaces are generally used including but not limited to school athletic and school entertainment events. Provided however, the use of public address system loudspeakers, such as may be included in stadiums and similar venues, shall not be used other than for the official events those systems are designed for and for brief, occasional equipment checks as necessary. Athletic team practices and similar informal events that do not include a gathering of the public are specifically excluded from this exemption;
- h. Public park events. Athletic, musical and other events permitted in writing by the city parks, recreation and public lands department and such permit provides a waiver;
- i. Non-event noise from public parks, schools, and recreational facilities between the hours of 7:00 a.m. and 8:00 p.m.;
- j. Special events for which a waiver has been granted;
- k. Noise from construction or maintenance activities performed by the city, or at the direction of the city, including but not limited to solid waste retrieval, street sweeping, road maintenance, and snow removal.
- l. Noise from construction or maintenance activities performed in the public right-of-way for which a waiver has been granted;
- m. Noise from construction or maintenance activities for which a waiver has been granted;
- n. Other activities for which a waiver is granted pursuant to section 26-4;
- o. City-sanctioned or permitted fireworks displays;

Sec. 26-4. - Waiver. Any person may apply to the mayor or designee for a waiver from the provisions of this chapter. Such application shall be submitted to the office of city clerk along with a non-refundable application fee of \$20.00. The mayor may designate representatives from police, parks, and building, to review and grant waivers under this section. Each day of an event shall require a separate approved waiver. All such conditions must be followed. Any waiver erroneously granted under such circumstances shall be void and of no effect.

Waiver review procedures established by the city shall include but not be limited to consideration of the following criteria:

- a. Whether the noise would endanger the public health, safety, or welfare;
- b. That compliance with the provisions of this chapter from which a waiver is sought would cause serious hardship without producing equal or greater benefit to the public;
- c. The time of day the noise will occur;
- d. The duration of the noise;
- e. The loudness of the noise relative to the typical noise expected within the zoning designation for the property and surrounding properties;
- f. Whether the noise is continuous or intermittent;
- g. The distance of proposed activity from residential housing or other noise-sensitive properties;
- h. Whether the proposed activity encourages the promotion of entertainment and nightlife in an area where residential housing is sparse;
- i. Any other factor that is reasonably related to the impact of the noise on the health, safety and welfare of the community, the degree of hardship that may result from the enforcement of the provisions of this article, and the benefit to the public of granting such a waiver.

Any waiver application may be granted, granted with conditions, or denied by the city. Any applicant denied a waiver by the city may appeal the denial to the city

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council. An appeal must be presented to the mayor for inclusion on the next available city council regular agenda at least thirty (30) calendar days before the event is scheduled to occur.

Sec. 26-5. - Violations; remedies. Any violation of this article shall be punishable as a municipal infraction and shall have imposed a civil penalty of not more than three hundred dollars (\$300.00) for a first infraction. For each repeat infraction of the same section, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. Each day such violation is committed or permitted to continue constitutes a separate offense.

As an additional remedy, the operation or maintenance of any noise source in violation of any provision of this chapter and which causes discomfort and annoyance to any reasonable person of normal sensitivity or which endangers the comfort, repose, health or peace of residents in the area is a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 13th day of December, 2022.

ATTEST:



Mary Rowe, City Clerk



John Hollowell, Mayor

FINALLY PASSED AND ADOPTED this 27th day of December, 2022.

ATTEST:



Mary Rowe, City Clerk



John Hollowell, Mayor