

Chapter 17 - NOISE⁽¹⁾

Footnotes:

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Editor's note—Ord. No. 13-5603, § 1, adopted May 28, 2013, amended chapter 17 in its entirety to read as herein set out. Formerly, chapter 17, sections 17-101—17-112 pertained to similar subject matter, and derived from the Code of 1967, § 10.94.010—10.94.130, and Ord. No. 93-4940, § 5, adopted October 18, 1993.

Cross reference— Health and sanitation, Ch. 15.

Sec. 17-101. - Definitions.

As used in this chapter, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this section:

Ambient noise is the noise which exists at a point of measurement in the absence of the sound emitted by the source being measured, being the total effect of all other sounds coming from near and far.

dB(A) means sound levels in decibels measured on an "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication S.4-1970.

Decibel. Sound pressure level in decibels is a logarithmic unit used to express the magnitude of sound pressure with respect to a reference sound pressure. It is defined as twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure to the reference sound pressure. By international standards, the reference sound pressure is 2×10^{-5} newtons/meter squared. By example, a doubling of sound pressure, at any magnitude, will result in a six (6) decibel increase in sound pressure level; a ten-fold increase will result in a 20-decibel increase in sound pressure level.

Emergency work is unanticipated work, maintenance, or construction required to restore property to a safe condition following a public calamity, meteorological event, accident, or any other event which interrupts essential services or utilities, endangers persons or property, or adversely affects infrastructure.

Residential area **includes all residential zones within the City:**

~~Residential-rural;~~

~~Residential-suburban;~~

~~Residential-suburban-trailer;~~

~~Residential-one family;~~

~~Residential-one family, restricted;~~

~~Residential-two family;~~

~~Residential-multiple family;~~

~~Residential-professional.~~

"Light commercial" includes:

~~Commercial-limited.~~

~~"Heavy Commercial" includes: all commercial zones within the City.~~

~~Commercial-highway;~~

~~Commercial-general;~~

~~Commercial-central.~~

~~"Industrial" includes: all industrial zones within the City.~~

~~Industrial-light;~~

~~Industrial-heavy.~~

(Ord. No. 13-5603, § 1, 5-28-13)

Cross reference— Definitions and rules of construction generally, § 1-102.

Sec. 17-102. - 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:

- (1) The volume of noise;
- (2) The intensity of the noise;
- (3) Whether the nature of the noise is usual or unusual;
- (4) Whether the noise is produced by a commercial or noncommercial activity;
- (5) The volume and intensity of the background noise, if any;
- (6) The proximity of the noise to residential sleeping facilities;
- (7) The nature and zoning of the area within which the noise emanates;
- (8) The density of the inhabitation of the area within which the noise emanates;
- (9) The time of the day or night the noise occurs;
- (10) The duration of the noise;
- (11) Whether the noise is recurrent, intermittent or constant; and
- (12) The public benefit derived from the source of the noise.

(Ord. No. 13-5603, § 1, 5-28-13)

Sec. 17-103. - Noise limitations.

- (a) The maximum permissible decibel limits on noise emitting from sources in residential, commercial and industrial districts are as follows.
- (b) Noise will be measured at a distance of twenty-five (25) feet from the source or at the boundary of the lot, whichever is the greater distance. Noise radiating from properties or buildings in excess of the

dB(A) established for the districts and times in Table I herewith constitutes prima facie evidence that such noise is a public nuisance. This includes noise from such activities as production, processing, cleaning, servicing, testing and repair of vehicles, materials, goods or products. Noises caused by home or building repair, construction, or grounds maintenance are excluded as provided in section 17-104.

Table I—Limitations

Districts	7:00 a.m.—8:00 p.m.	8:00 p.m.—7:00 a.m.
Residential	65 dB(A)	55 dB(A)
Light Commercial	80 dB(A)	60 dB(A)
Heavy Commercial	85 dB(A)	70 dB(A)
Industrial	90 dB(A)	80 dB(A)

(c) At boundaries between zones, the lower of the dB(A) level shall be applicable.

(Ord. No. 13-5603, § 1, 5-28-13)

Cross reference— Operation of loud sound amplification systems in motor vehicles, § 24-351 et seq.

Sec. 17-104 Hours of Authorized Outdoor Events

Events exempted from noise level regulations pursuant to Section 17-105 or granted a waiver pursuant to Section 17-106 shall conclude in accordance with the times listed below:

Central Business District (CBD) and East Billings Urban Renewal District (EBURD):

Ten (10) O'clock p.m. Sunday Through Thursday

Eleven (11) O'clock p.m. Friday and Saturday

Outside The Central Business District:

Nine (9) O'clock p.m. Sunday through Thursday

Ten (10) O'clock p.m. Friday and Saturday

Sec. 17-1054. - Exemptions.

The following uses and activities shall be exempt from noise level regulations:

- (1) Noise from safety signals and warning devices;
- (2) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- (3) Noise resulting from emergency work;
- (4) 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.;
- (5) Noise caused by home or building repair, construction, or grounds maintenance between the hours of 7:00 a.m. and 8:00 p.m.;
- (6) Reasonable activities conducted on places of public which are conducted in accordance with the manner in which such spaces are generally used including but not limited to school athletic and school entertainment events
- (7) Athletic, musical and other events sponsored permitted by the City Parks, Recreation and Public Lands Department.
- (8) Noise from public parks, schools, and recreational facilities between the hours of 7:00 a.m. and 8:00 p.m.;
- (9) Special events for which a waiver has been granted;
- (10) 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;
- (11) Noise from construction or maintenance activities performed in the public right-of-way for which a waiver has been granted;
- (12) Noise from construction or maintenance activities for which a waiver has been granted;
- (13) Other activities for which a waiver is granted pursuant to section 17-106.

(Ord. No. 13-5603, § 1, 5-28-13)

Sec. 17-105. - Measurement of noise.

For the purpose of determining and classifying any noise as excessive or unusually loud as prohibited by this chapter, the following test measurements and requirements shall be applied:

- (1) The noise shall be measured on a sound level meter meeting current American National Standards Institute standards, operated on the "A" weighted scale, or other noise measuring instrument proven sufficiently reliable by commonly accepted scientific standards and admissible in a court of law.

- (2) No noise source shall constitute a violation of this chapter unless the noise source is at least ten (10) dB(A) above the ambient noise at the time of measurement.
- (3) In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time of the sound level measurement.

(Ord. No. 13-5603, § 1, 5-28-13)

Sec. 17-106. - Waiver.

- (a) Any person may apply to the city administrator or designee for a waiver from the provisions of this chapter. Such application shall be submitted to the office of city administrator along with a non-refundable application fee. The city administrator shall designate waiver application and review procedures and application fees by administrative order. The city administrator may designate representatives from police, parks, building, and engineering to review and grant waivers under this section by administrative order. Each day of an event shall require a separate approved waiver. Except for public construction projects, no more than four waivers may be granted involving the same location within twelve (12) months. Events occurring in the Central Business District (CBD) and East Billings Urban Renewal District (EBURD) shall be exempt from this limit.
- (b) Waiver review procedures established by the city shall include but not be limited to consideration of the following criteria:
 - (1) Whether the noise would endanger the public health, safety, or welfare;
 - (2) 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;
 - (3) The time of day the noise will occur;
 - (4) The duration of the noise;
 - (5) The loudness of the noise relative to the maximum permissible sound levels as set forth in this chapter;
 - (6) Whether the noise is continuous or intermittent;
 - (7) The distance of proposed activity from residential housing or other noise-sensitive properties;
 - (8) Whether the proposed activity is within or outside of the Central Business District (CBD) or East Billings Urban Renewal District (EBURD), and whether the proposed activity encourages the promotion of entertainment and nightlife in an area where residential housing is sparse;
 - (9) 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.
- (c) Any waiver application may be granted or denied by the city. Any applicant denied a waiver by the city may appeal the denial to the city council. An appeal must be presented to the City Administrator for inclusion on the next available City Council Regular agenda at least thirty (30) calendar days before the event is scheduled to occur.

(Ord. No. 13-5603, § 1, 5-28-13)

Sec. 17-107. - Violations; remedies.

- (a) Any violation of this article shall be punishable as a municipal infraction with civil penalties as provided in section 18-1304. Any person who is convicted of a violation of any such section shall for each

~~offense be subject to criminal penalties as provided in section 1-110.~~ Each day such violation is committed or permitted to continue constitutes a separate offense.

- (b) 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.

(Ord. No. 13-5603, § 1, 5-28-13)

Sec. 18-1304. - Penalties.

- (a) A municipal infraction is a civil offense and for a proven violation, a civil penalty may be imposed.
- (b) For a first violation, a civil penalty of not more than three hundred dollars (\$300.00) shall be imposed.
- (c) For each repeat violation, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. Each day that a violation occurs or is permitted to exist constitutes a separate and distinct infraction.
- (d) Seeking a civil penalty as authorized in this article does not preclude the city from seeking alternative relief from the court in the same action.
- (e) Statutory surcharges and required city surcharges must be imposed, as provided in MCA 3-1-317(1)(a), 3-1-318(1), and 46-18-236(6), on municipal infractions that are criminal offenses under state law, and the amounts must be distributed as provided in those sections.
- (f) All penalties and forfeitures collected by the municipal court for a municipal infraction shall be remitted to the city in the same manner as fines and forfeitures collected for criminal offenses.
- (g) A defendant against whom judgment is entered shall pay court costs and fees as in small claims court under Title 25, Chapter 35 of the Montana Code Annotated in addition to the penalties imposed by the court.
- (h) In addition to the imposition of civil penalties authorized by law against a defendant, the court may impose alternative relief in the same action. Alternative relief may consist of any of the following:
 - (1) Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court;
 - (2) Order the defendant to abate or cease the violation;
 - (3) Authorize the city to abate or correct the violation;
 - (4) Order the city's costs for abatement or correction of the violation be entered as a judgment against the defendant or assessed against the property where the violation occurred or both.
- (i) The municipal court may assess or enter judgment for costs of abatement or correction in any amount not to exceed the jurisdictional amount for a money judgment in a civil action under MCA 3-11-103. If the city seeks abatement or correction costs in excess of this amount, the matter shall be referred to district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appealed under MCA 25-35-803.
- (j) A defendant who willfully violates the terms of an order imposed by the municipal court is guilty of contempt.

(Ord. No. 10-5501, § 1, 1-11-10)