

ORDINANCE NUMBER XXX

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAINVILLE, MONTANA CREATING CHAPTER 9.12 OF THE BAINVILLE TOWN CODE ENTITLED "NOISE" TO REGULATE, RESTRICT OR PROHIBIT NOISES WHICH A REASONABLE PERSON MAY FIND OFFENSIVE.

WHEREAS, the Town Council finds that the regulation of noise to protect, preserve and promote the health, safety, welfare, peace and quiet of the citizens of the Town of Bainville through the reduction, control, and prevention of any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of normal sensitivity.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Bainville, Montana, that a new chapter of the Bainville Town Code, 9.12, shall be created to read as follows:

Chapter 9.12

NOISE

9.12.010 GENERALLY

It is unlawful for any person to make or cause to be made any excessive or unusually loud noise or any noise measured or unmeasured which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivity within the Town.

9.12.020 PROHIBITED ACTS

It is unlawful to perform any of the following acts within the Town:

- (A) ***Sound amplifying equipment.*** Using, operating or permitting the use of any radio receiving set, musical instrument, television, stereo or other machine or device for the production or reproduction of sound in such a manner as to disturb the quiet, comfort or repose of any normally sensitive and reasonable person;
- (B) ***Yelling, shouting.*** Yelling, shouting, hooting, whistling or loud verbalizations between the hours of 11:00 p.m. and 7:00 a.m. so as to annoy or disturb the quiet, comfort or repose of any normally sensitive and reasonable person;
- (C) ***Exhausts.*** Discharging into the open air the exhaust of any stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- (D) ***Defect in vehicle or load.*** Operating any truck, trailer, automobile, motorcycle or vehicle so out of repair or so loaded in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise;
- (E) ***Loading, unloading, opening containers.*** Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects in such a manner as to disturb the quiet, comfort or repose of any normally sensitive and reasonable person between the hours of 11:00 p.m. and 6:00 a.m.;

(F) **Construction projects or repair of buildings.** Operating equipment or performing any construction or repair work on buildings, structures or projects or operating any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other construction type device in such a manner as to disturb the quiet, comfort or repose of any normally sensitive and reasonable person;

(G) **Exemption clause.** Any of the above acts performed for emergency work for the safety, welfare and public health of the citizens of the Town will not be construed to be in violation of this chapter.

9.12.030 EXEMPTIONS

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

- (A) Noise of 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 or noise for which a special permit has been granted, as hereafter provided for;
- (D) Noise resulting from the operating of motorized lawnmowers fitted with equipment-type mufflers between the hours of 7:00 a.m. and 10:00 p.m.;
- (E) Noise caused by home or building repair or grounds maintenance between the hours of 7:00a.m. and 9:00 p.m.;
- (F) Athletic events held in parks or other events approved by permit.

9.12.040 PERMIT FOR RELIEF

Applications for a permit for relief from the noise level designated in this chapter on the basis of undue hardship may be made to the Town. Any permit granted by the Town shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The Town may grant the permit applied for if it finds:

- (A) That additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with this chapter;
- (B) The activity, operation or noise source will be of temporary duration, and cannot be performed in the manner that would comply with other subsections of this section;
- (C) That no other reasonable alternative is available to the applicant;
- (D) The Town may prescribe any conditions or requirements it deems necessary to minimize adverse effects upon the community or surrounding neighborhood.

9.12.050 VIOLATIONS; REMEDIES

(A) Whenever in any section of this chapter or rule or regulation promulgated hereunder, the doing of any act is required, prohibited or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, any person who is convicted of a violation of any such section shall, for each offense, be punished by a fine of not more than five hundred dollars (\$500.00). 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.

Effective Date: This ordinance shall be effective 30 days after adoption.

Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

First reading on the 14th day of November, 2022, by a vote of 3 Ayes, 0 Nays, 0 Abstain, and 0 Absent

Second reading and final adoption on the ____ day of ____ 2022, by a vote of ____ Ayes, ____ Nays, ____ Abstain, and ____ Absent.

ATTEST

APPROVED

Nikki Rogers, CMC-CMMC
Clerk-Treasurer

Toby Romo,
Mayor