

ORDINANCE NO. 18-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 17-106 and 17-107; ALLOWING FOUR NOISE WAIVERS PER TWELVE-MONTH CALENDAR PERIOD; EXCLUDING THE CENTRAL BUSINESS DISTRICT AND EAST BILLINGS URBAN RENEWAL DISTRICT FROM THIS WAIVER LIMIT; AMENDING THE WAIVER CRITERIA; REVISING THE APPEAL PROCEDURE IF A WAIVER IS DENIED AND PROVIDING THAT ANY VIOLATION OF ANY SECTION OF THE NOISE ORDINANCES IS A MUNICIPAL INFRACTION AND RETAINING OTHER ADDITIONAL LEGAL REMEDIES SUCH AS ABATEMENT OR INJUNCTION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Section 17-106, of the Billings, Montana City Code is amended so that such section shall read as follows:

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, from January 1 through December 31 of each calendar year. 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.

Section 2: That Section 17-107 of the Billings, Montana City Code is amended so that such section shall read as follows:

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.

PASSED by the City Council on first reading this 14th day of May, 2018.

PASSED, ADOPTED and APPROVED on second reading this 29th day of May, 2018.

CITY OF BILLINGS:

By: _____
William A. Cole, Mayor

ATTEST:

By: _____
Denise R. Bohlman, City Clerk