

ORDINANCE #145

AN ORDINANCE REPEALING AND REPLACING “NOISE” FROM TITLE 11, CHAPTER 4, SECTION 5 (J) OF THE ENNIS TOWN CODE AND REPLACING IT WITH “NOISE ORDINANCE” IN TITLE 6, CHAPTER 8, SECTION 1

As per Title 11, Chapter 1, Section 13 of the Town of Ennis Zoning Code, “The Town Commission may, from time to time, amend, supplement or change this Title and Zoning Map” and in accordance with Title 1, Chapter 1, Section 3 of Ennis Town Code “AMENDMENTS” the Town Commission of the Town of Ennis, Montana hereby ordains as follows:

1. REPEAL “NOISE” from Title 11, Chapter 4, Section 5 (J) and **REPLACE** with **NOISE ORDINANCE**, Title 6, Chapter 8, Section 1 with the following:

6-8-1 Noise Ordinance:

To protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens through the reduction, control, and prevention of raucous (a disturbingly loud or harsh noise) noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

1. Loud and raucous noise degrades the environment of the city to a degree that:
 - a. It may be harmful to the health, welfare, and safety of its inhabitants and visitors;
 - b. It may interfere with the comfortable enjoyment of life and property reasonably expected in an urban environment;
 - c. It may cause or aggravate health problems.
2. Both the effective control and the elimination of loud or raucous noise are essential to the health and welfare of the citizens and visitors of the city as well as to the conduct of the normal pursuits of life, including recreation, work and communication.
3. The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of the citizens of and visitors to the city.
4. Certain short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the city.
5. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

a. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate attention.

b. "Emergency work" means any work:

1. Performed for the purpose of preventing or alleviating physical trauma or property damage;

2. Restoring property to a safe condition following a public calamity;

3. By private or public utilities when restoring utility service; or

4. Performed to protect persons or property from exposure to danger or potential danger.

c. "Health" means an optimal state of physical, mental and emotional well-being and not merely the absence of disease.

d. "Person" means any individual, firm, association, partnership, joint venture, corporation or public entity, including but not limited to federal, state or city government.

e. "Public right-of-way" means any street, avenue, boulevard, highway, sidewalk, alley, or similar place which is normally accessible to the public which is owned or controlled by a government entity.

f. "Public space" means any real property or structure on real property, owned by the government and normally accessible to the public, including but not limited to parks and other recreational areas. For the purposes of this article, public space will also include any property, whether publicly or privately owned, used by members of the general public as a method of ingress, egress or for parking.

6. It is unlawful to perform any of the following acts anywhere within the Town's jurisdictional limits:

a. Yelling and shouting. Yelling, shouting, hooting, or whistling on public rights-of-way at any time as to annoy or disturb the quiet, comfort, or repose of any normally sensitive and reasonable person.

b. 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 noises.

c. Loudspeakers, amplifiers, public address systems. Except as authorized by the Town the use or operation of any loudspeaker, amplifier, public address system or any similar instrument or equipment whose purpose is to amplify or make sound louder in a fixed or movable position or mounted upon any sound truck for the purpose of giving instructions, directions, talks, addresses, lectures, or transmitting music to any person or assemblages, in or on any public right-of-way within city areas in such a manner as to disturb the quiet, comfort or repose of any normally sensitive and reasonable person.

d. Loud or unusual noises. Making or causing to be made any excessive or unusually loud noise or any noise which is so harsh, prolonged, unnatural, or

unusual in time and place as to annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of any reasonable person of normal sensitivity within the limits of the city.

7. The following activities will be authorized as follows:

a. Non-emergency signaling devices. The sounding or permitting of any amplified signals from any bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes, including but not limited to back-up beepers, will be authorized at any time between the hours of 6:00 a.m. and 10:00 p.m. from October 1 through March 31 and between 6:00 a.m. and 11:00 p.m. from April 1 through September 30.

b. Construction projects. Operating equipment or performing any construction or repair work will be authorized between the hours of 6:00 a.m. and 8:00 p.m. from October 1 through March 31 and between 6:00 a.m. and 10:00 p.m. from April 1 through September 30. The Director of Public Works may authorize temporary relief from this section upon application and a showing of extraordinary need for the use of this equipment beyond or outside these hours. Such authorization will clearly set forth the dates and hours of the authorized use as well as any special conditions needed to mitigate potential negative noise impacts.

c. Loading, unloading or opening containers. The loading, unloading, opening or other handling of boxes, crates, containers, solid waste containers or other similar objects, including but not limited to the collection of solid waste, recyclables or compostable materials by either the city or a private contractor duly licensed by the Montana Public Service Commission for the collection and transportation of solid waste will be authorized provided the parties obtain and comply with any permits required. Should a permit not be required, this activity is authorized between the hours of 5:00 a.m. and 8:00 p.m. from October 1 through March 31 and between 5:00 a.m. and 10:00 p.m. from April 1 through September 30.

d. Snow blowers, leaf blowers or similar devices. The operation of any equipment as defined above will be authorized between the hours of 6:00 a.m. and 10:00 p.m.

e. Outdoor and indoor events, including sound amplifying equipment. Any outdoor or indoor gatherings, public dances, shows, sporting events, and other similar events indoor or outdoor will be authorized provided the parties obtain any permits required the Town. Should the event not require a permit, the gathering will be authorized between the hours of 6:00 a.m. and 10:00 p.m. from October 1 through March 31 and between 6:00 a.m. and 11:00 p.m. from April 1 through September 30.

f. Outdoor activities. Activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to the use of a city-owned park, swimming pool, skate park, ball fields, school athletic or school entertainment events.

g. Public work. Noise created in the performance of any work in the public right-of-way or on public space as defined herein which is reasonably necessary for the public benefit, welfare, convenience or safety, including but not limited to the maintenance of streets, parking lots, water and wastewater lines but excluding solid waste activities.

8. Nothing in this section will be construed to allow activity which is prohibited by Montana Code or Ordinance

9. Any of which are performed for emergency work for the safety, welfare, and public health of the citizens of the city are exempted from the provisions of this article.

10. Penalty: A violation of this chapter is punishable by a fine as provided in section 1-4-1 of this code.

2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

4. WHEN EFFECTIVE. This ordinance shall be effective from and after 30 days following its final approval and adoption.

Nici Haas, Mayor

ATTEST:

Ginger Guinn, Clerk/Treasurer

1st Reading: February 10, 2022

2nd Reading: April 14, 2022

Adoption: