

## **ORDINANCE NO. 384**

**AN ORDINANCE OF THE CITY OF IDAHO CITY, BOISE COUNTY, IDAHO, REPEALING TITLE 5, CHAPTER 6 OF THE CITY CODE AND REPLACING IT WITH A NEW TITLE 5, CHAPTER 6, OF THE CITY CODE, REGULATING THE CREATION OF NOISE WITHIN THE CITY, IMPOSING PENALTIES, ALLOWING FOR WAIVER, AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, The City Council has determined that the generation of noise within the city limits should be regulated in order to protect the health, safety, and welfare of the citizens of Idaho City and visitors to Idaho City,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF IDAHO CITY, IDAHO:

**SECTION 1: Repeal.** Chapter 6 of Title 5 of the City Code of the City of Idaho City, as codified by Ordinance 316 enacted on October 23, 2007 is hereby repealed.

**SECTION 2:** A new Chapter 6 of Title 5 of the City Code of the City of Idaho City shall be created as follows:

### **5-6-1: PURPOSE:**

The purpose of this Ordinance is to protect the health, safety, and welfare of the citizens of Idaho City. It is determined that sound can and does constitute a hazard to the health, safety, welfare, and quality of life of city residents. The Mayor and Council, by way of Idaho Code Section 50-308, are empowered to impose reasonable limitations and regulations upon the production of sound to reduce the harmful effects thereof. Now, therefore, it is hereafter the policy of this city to prevent and regulate sound generated by loud amplification devices wherever it is deemed to be harmful to the health, safety, welfare, or quality of life of the citizens of the city, and this Ordinance shall be liberally construed to effectuate that purpose.

### **5-6-2 DEFINITIONS:**

For the purposes of this Ordinance, the following definitions shall apply:

**CITY:** Idaho City, Idaho, or the area within the city limits of Idaho City, Idaho.

**COMMON AREA(S):** The area(s) of a facility, complex, apartment unit, hotel, motel or the like that are open either to the general public or persons with the permission of the owner or agent of the owner of the area. This definition would include but not be limited to the following: swimming pools, restaurants, patios, hot tubs, saunas, laundry rooms, meeting rooms, lobbies, lounges, bars, and other areas within the facility that are either constructed or designed for use in this manner.

**EMERGENCY:** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

**EMERGENCY VEHICLE:** A motor vehicle belonging to a fire department, fire-fighting association, or fire district, an ambulance, or a motor vehicle belonging to a federal, state, county, or municipal law enforcement agency.

**LOUD AMPLIFICATION DEVICE:** Any equipment designed or used for sound production, reproduction, or amplification, including, but not limited to any radio, television, phonograph, musical instrument, stereo, tape player, compact disc player, loudspeaker, public address (P.A.) system, sound amplifier, or comparable sound broadcasting device.

**PERSON:** Any individual, association, organization, or entity having a legally recognized existence, whether public or private.

**PLACE OF RESIDENCE:** Any building or portion thereof adapted or used and intended for the overnight accommodation of persons. In the event the building is used for multiple individual units (i.e., apartment, condominium, hotel, motel, duplex, triplex, etc.) each individual unit shall be considered a separate residence for the purposes of this ordinance.

**PLAINLY AUDIBLE:** Sound for which the information content is clearly communicated to the listener, including, but not limited to understandable spoken speech, comprehension of whether a voice is raised or normal, comprehensible musical rhythms, melody, or instrumentation, and the source of which is identifiable to the listener.

#### **5-6-3 NOISE PROHIBITIONS:**

1. It shall be unlawful for any person to operate or permit the operation of any loud amplification device in such a manner that the sound therefrom:
  - A. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
  - B. Noisy animals. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
  - C. Plainly audible loud or offensive noise that exceeds eighty (80) decibels at the closest property line, or,
  - D. Plainly audible upon a public right-of-way or street at a distance of one hundred fifty (150) feet or more from the source of such sound, or,
  - E. Plainly audible within any place of residence not the source of the sound.
  - F. Use of drums or other instruments to attract attention. The use of any drum or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show, or sale.
  - G. Use of loudspeakers or amplifiers for advertising. The use, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound.

H. Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

2. Loud Amplification Devices Upon Or Within Motor Vehicles: It shall be unlawful for any person to operate or permit the operation of any loud amplification device upon or within a motor vehicle in such a manner that the sound therefrom is plainly audible upon a public right of way or street at a distance of fifty feet (50') or more from the source of the sound.
3. Between the hours of eleven o'clock (11:00) P.M. one day and seven o'clock (7:00) A.M. the next day, it shall be unlawful for any person or business to make or cause loud or offensive noise by means of voice, musical instrument, horn, radio, loudspeaker, automobile, machinery, vibrating compaction equipment, vehicles with backup beepers engaged in reverse or moving in a reverse direction except for any vehicle being used for emergency purposes. other sound amplifying equipment, or any other means which disturbs the peace, quiet, and comfort of any reasonable person of normal sensitiveness residing in the area.

#### **5-6-4 EXCEPTIONS:**

The following sounds are exempted from the provisions of this Ordinance:

1. Airplanes and other FAA-regulated aircraft.
2. City-hosted events.
3. Sounds caused by any emergency vehicle or personnel when responding to an emergency call or acting in time of emergency.
4. Sounds caused by burglar alarms that are not in violation of the City Code of Idaho City.
5. Sounds caused by parades, fireworks display, or any other event for which a permit for that type of activity is required and has been obtained from the authorized governmental entity within such hours as may be imposed as a condition for the issuance of said permit.
6. Sounds caused by safety warning devices required by law.

#### **5-6-5 ENFORCEMENT:**

1. Peace officer citation: Any Idaho City peace officer or person empowered to enforce this provision of the Idaho City Code is authorized to issue a uniform citation upon his own observation of a violation without the necessity of a citizen complainant's signature on said citation. By signing the citation, the officer or person is certifying that he has reasonable grounds to believe that the person cited committed the offense contrary to law.
2. Citizen citation: A uniform citation may also be signed by any citizen or person in whose presence an alleged violation of this Ordinance occurred and be witnessed by an Idaho City peace officer or person empowered to enforce this provision of the Idaho City Code whose name shall be endorsed on the citation.

#### **5-6-6 ORDINANCE ADDITIONAL TO OTHER LAW:**

The provisions of this Ordinance shall be cumulative and nonexclusive and shall not affect any other claim, cause of action, or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend, or modify any law, ordinance, or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

#### **5-6-7 PENALTY:**

Any person who shall violate any of the terms or provisions of this Ordinance shall be guilty of a misdemeanor, and each such violation is punishable as provided in section 1-4-1 of this code.

#### **5-6-8 TEMPORARY WAIVERS / FEES:**

1. A person or entity may apply to the City Council for a temporary waiver from the provisions of this chapter.
2. A waiver from the time limitations in Paragraph 3 of Section 5-6-3 may be extended no later than midnight with the exception of New Year's Eve, which may be extended to one o'clock (1:00) A.M. New Year's Day. Such applications shall be submitted to the City Clerk's Office at least thirty (30) days in advance of the date of the activity or event seeking the waiver.
3. Application fees for temporary waivers (variance request) shall be established by resolution adopted by the Council of the City of Idaho City.


**SECTION 3. Severability Clause.** The provisions and parts of this Ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

**SECTION 4. Saving Clause.** Ordinance Nos. 263 and 322 repealed by this ordinance, shall remain in force to authorize fees and the arrest, prosecution, conviction, and punishment of a person who violates Ordinance No. 316 prior to the effective date of this ordinance,

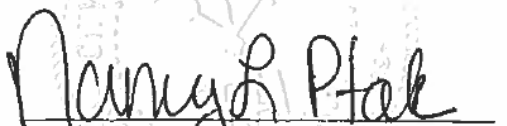
**SECTION 5. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED BY THE COUNCIL of the City of Idaho City this 13<sup>th</sup> day of September 2023.

APPROVED BY THE MAYOR of the City of Idaho City this 13<sup>th</sup> day of September 2023.

  
Kenny Everhart, Mayor

ATTEST:

  
Nancy L. Ptak, City Clerk – Treasurer