

MILLVILLE CITY CODE
TITLE 9 - PUBLIC PEACE, MORALS AND WELFARE
CHAPTER 9.22 - NOISE CONTROL

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9.22.010: NOISE CONTROL; DECLARATION OF FINDINGS AND POLICY

- A. Excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life; and
- B. A substantial body of science and technology exists by which excessive sound and vibration may be substantially abated; and
- C. The people have the right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or welfare or safety or degrade the quality of life; and
- D. It is the policy of the city to prevent excessive sound and vibration which may jeopardize the health or welfare or safety of its citizens or degrade the quality of life. (Ord. 2000-18 § 2: prior code § 13-331-1)

9.22.020: DEFINITIONS

All terminology used in this section, not defined below, shall be in conformance with the applicable publications of the American National Standards Institute (ANSI) or its successor body.

A-WEIGHTED SOUND LEVEL: The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

COMMERCIAL AREA: Any area zoned as a commercial retail (CR), commercial service (CS), or commercial manufacturing (CM) district in title 17 of this code.

CONSTRUCTION: Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights of way, structures, utilities, or similar property.

DECIBEL OR dB: A logarithmic and dimensionless unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound to the referenced pressure, which is twenty (20) micropascals (20 micronewtons per square meter).

DEMOLITION: Any dismantling, intentional destruction or removal of structure, utilities, public or private right of way surfaces, or similar property.

EMERGENCY: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demand immediate action.

EMERGENCY WORK: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

GROSS VEHICLE WEIGHT RATING OR GVWR: The value specified by the manufacturer as the maximum loaded weight of a single motor vehicle. In cases where tractors and trailers are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

HEALTH OFFICER: The director of the Bear River health department, or his or her representative, agents, or employees.

IMPULSIVE SOUND: Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

MOTOR VEHICLE: Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, go-carts, snowmobiles, amphibious crafts on land, dune buggies, or racing vehicles, but not including motorcycles.

MOTORBOAT: Any vessel which operates on water and which is propelled by a motor, but not limited to boats, barges, amphibious craft, water ski towing devices and hovercraft.

MOTORCYCLE: An unenclosed motor vehicle having a saddle for the use of the operator and two (2) or three (3) wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

MUFFLER OR SOUND DISSIPATIVE DEVICE: A device for abating the sound of escaping gases of an internal combustion engine.

NOISE: Any sound that annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE: Any sound that:

- A. Endangers or injures the comfort, health, welfare, hearing, peace, or safety of other persons; or
- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Endangers or injures personal or real property.

NOISE SENSITIVE ZONE: Any area designated to certain noise sensitivity activities for the purpose of ensuring exceptional quiet. Noise sensitive activities include, but are not limited to, public and private schools, daycare centers, preschools, libraries, open to public churches, synagogues, mosques, courts, healthcare facilities, housing for the elderly, auditoriums, concert halls, and music shells.

PERSON: Individual, association, partnership, corporation or entity, public or private, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

POWERED MODEL VEHICLE: Any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

PUBLIC RIGHT OF WAY: Any street, avenue, boulevard, highway, sidewalk or alley or similar place that is owned or controlled by a governmental entity.

PUBLIC SPACE: Any real property or structures thereon that are owned or controlled by a governmental agency.

PURE TONE: Any sound that can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this section, a pure tone shall exist if the one-third ($1/3$) octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third ($1/3$) octave bands by 5 dB for center frequencies of 500 Hz, and above and 8 dB for center frequencies between 160 Hz and 500 Hz, and by 15 dB for center frequencies less than 160 Hz.

RMS SOUND PRESSURE: The square root of the time averaged square of the sound pressure, denoted P_{rms} .

REAL PROPERTY BOUNDARY: An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

RESIDENTIAL AREA: Any area zoned as an R-1, R-2, R-3 district in title 17 of this code.

SOUND: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium which internal forces that causes compression and rarefaction of that medium. The description of sound may include the characteristic of such sound, including duration, intensity, and frequency.

SOUND LEVEL: The weighted sound pressure level obtained by the use of a sound level meter and frequency network, such as A, B, C, flat, or linear as specified in the American National Standards Institute specification for sound level meters (ANSI 1.4-1985, as amended). If the frequency rating employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER: An instrument which includes at least a microphone, amplifier, output meter, and weighting networks used to measure sound pressure levels.

SOUND PRESSURE: The instantaneous difference between the actual pressure and the average barometric pressure at a given point in space, as produced by sound energy.

SOUND PRESSURE LEVEL: Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals (20×10^{-6} N/m²). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

VIBRATION: An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

WEEKDAY: Any Monday through Friday. (Ord. 2013-2, 2013: Ord. 2000-18 § 2: prior code § 13-331-2)

9.22.030: PROHIBITED ACTS

No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any public space or public right of way shall be exempt from the operation of this section. Specific prohibitions are listed below. For sources of noise other than those specifically listed in this section, determination of noise disturbances may be made through application of the sound level limits listed in section 9.22.050, table 1 of this chapter.

- A. Radios, Television Sets, Musical Instruments, And Similar Devices: The following acts, and the causing thereof, are declared to be a violation of this section: operating, playing or permitting the operation or playing of any radio, television, phonograph or other recorded sound playing device, drum, musical instrument, sound amplifier, or similar device that produces, reproduces, or amplifies sound:
 - 1. Between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone;
 - 2. In such a manner as to create a noise disturbance at fifty feet (50') from such device, when operated in or on a motor vehicle on a public right of way or public space;
 - 3. This subsection A shall not apply to noncommercial spoken language covered under subsection C of this section.

- B. Loudspeakers/Public Address Systems: The following acts, and the causing thereof, are declared to be a violation of this section:
 - 1. Using or operating for any noncommercial purpose any loudspeaker, public address system, or similar device between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.
 - 2. Using or operating for any commercial purpose any loudspeaker, public address system, or similar device:

- a. Such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or
 - b. Between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. on the following day on a public right of way or public space.
- C. Street Sales: Offering for sale or selling anything by shouting or outcry, or the causing thereof within any residential area of the city, is declared to be a violation of this section, except by permit as issued by the health officer according to the criteria set forth in subsection 9.22.040B of this chapter.
- D. Animals And Birds: The following acts, and the causing thereof, are declared to be a violation of this section: owning, possessing or harboring any animal or bird which frequently, or for continued duration, howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.
- E. Loading And Unloading: The following acts, and the causing thereof, are declared to be a violation of this section: loading, unloading, opening, closing or handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. the following day in such a manner to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone
- F. Construction: The following acts, and the causing thereof, are declared to be a violation of this section: operating or permitting the operation of any tool or equipment used for construction, drilling or demolition work:
 - 1. Between the hours of nine thirty o'clock (9:30) P.M. and seven o'clock (7:00) A.M. the following morning on weekdays or at anytime on Sundays or holidays, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued pursuant to subsection 9.22.040B of this chapter.
 - 2. This subsection F shall not apply to the use of domestic power tools subject to section 9.22.050 of this chapter.
- G. Vehicle Or Motorboat Repair And Testing: The following acts, and the causing thereof, are declared to be a violation of this section: repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle or motorboat within a residential area in such a manner as to cause a noise disturbance across a residential real property boundary or within a

noise sensitive zone between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. the following day.

- H. Places Of Public Entertainment: The following acts, and the causing thereof, are declared to be a violation of this section: operating, playing, or permitting the operation or playing of any radio, television, phonograph or other recorded sound playing device, drum, musical instrument, sound amplifier, or similar device that produces, reproduces, or amplifies sound in any place of public entertainment at sound level greater than 95 dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating:

WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT.

- I. Explosives, Firearms, And Similar Devices: The following acts, and the causing thereof, are declared to be a violation of this section: the use or firing of explosives, firearms, or similar devices that create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right of way, without first obtaining a special variance issued pursuant to subsection 9.22.040B of this chapter.
- J. Powered Model Vehicles: The following acts, and the causing thereof, are declared to be a violation of this section: operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in table 1 of section 9.22.050 of this chapter. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by section 9.22.050 of this chapter and subsection N of this section, respectively.
- K. Vibration: The following acts, and the causing thereof, are declared to be a violation of this section: operating or permitting the operation of any device that creates vibration that is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at fifty feet (50') from the source if on a public space or public right of way. For the purposes of this subsection K, "vibration perception threshold" means a minimum ground or structure borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- L. Stationary Nonemergency Signaling Devices: The following acts, and the causing thereof, are declared to be a violation of this section:

1. Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place;
 2. Devices used in conjunction with places of noncommercial purpose such as for religious worship or education shall be exempt from the operation of this subsection L.
 3. Sound sources covered by this provision and not exempted under subsection L2 of this section shall be exempted by (appropriate authority) using criteria set forth in section 9.22.040 of this chapter.
- M. Emergency Signaling Devices: The following acts, and the causing thereof, are declared to be a violation of this section: the intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar emergency signaling device, except for emergency purposes or for reasonable testing.
- N. Noise Sensitive Zones: The following acts, and the causing thereof, are declared to be a violation of this section:
1. Creating or causing the creation of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone; provided that conspicuous signs are displayed indicating the presence of the zone; or
 2. Creating or causing the creation of any sound within any noise sensitive zone, containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients or residents in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.
- O. Domestic Power Tools: The following acts, and the causing thereof, are declared to be a violation of this section: operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snowblower, or similar device used outdoors in residential areas between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. the following day so as to cause a noise disturbance across a residential real property boundary. (Ord. 2000-18 § 2: prior code § 13-331-3)

9.22.040: EXCEPTIONS AND VARIANCES

A. Emergency Exception: The provisions of this section shall not apply to:

1. The emission sound for the purpose of alerting persons to the existence of an emergency; or
2. The emission sound in the performance of emergency work.

B. Special Variances:

1. The health officer shall have authority, consistent with this section, to grant special variances that may be required.
2. Any person seeking a special variance pursuant to this section shall file an application with the health officer. The application shall contain information that demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this section would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the health officer containing any information to support his or her claim. If the health officer finds that sufficient controversy exists regarding an application, a public hearing may be held.
3. In determining whether to grant or deny an application, the health officer shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety, and welfare of persons affected, the adverse impact on property, and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the health officer may reasonably require. In granting or denying an application, the health officer shall place on public file a copy of the decision and the reasons for granting or denying the special variance.
4. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to the provisions of the section regulating the source of sound or activity for which the special variance was granted.

5. Application for extension of time limits specified in the special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under subsection B2 of this section. (Ord. 2000-18 § 2: prior code § 13-331-4)

9.22.050: SOUND LEVELS BY RECEIVING LAND ZONE

- A. Maximum Permissible Sound Levels By Receiving Land Zone: No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level that exceeds the limits set forth in table 1 of this section when measured at or within the property boundary of the receiving land zone.

TABLE 1 - SOUND LEVELS BY RECEIVING LAND ZONE

Receiving Land Use Zone	Time	Sound Level Limit, dBA
R-1 R-2 R-3	7:00 A.M. to 7:00 P.M.	60
	7:00 P.M. to 10:00 P.M.	55
	10:00 P.M. to 7:00 A.M.	50
CR	8:00 A.M. to 9:00 P.M.	65
	9:00 P.M. to 8:00 A.M.	60
CS	6:00 A.M. to 11:00 P.M.	65
	11:00 P.M. to 6:00 A.M.	60
CM	24 Hours/ 7 Days per week	100
TC	24 Hours/ 7 Days per week	100

- B. Correction For Character Of Sound: For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in subsection A of this section shall be reduced by ten (10) dBA.

- C. Exemptions: The provisions of this chapter shall not apply to:

1. Activities covered by the following subsections: 9.22.030F, "Construction"; 9.22.030I, "Explosives, Firearms, And Similar Devices"; 9.22.030L, "Stationary

Nonemergency Signaling Devices"; 9.22.030M, "Emergency Signaling Devices"; 9.22.030O, "Domestic Power Tools"; 9.22.060A, "Motor Vehicles And Motorcycles On Public Rights Of Way"; and 9.22.060D, "Recreational Motorized Vehicles Operating Off Public Rights Of Way", of this chapter;

2. The unamplified human voice;
3. Interstate railway locomotives and cars; and
4. Nonstationary farming equipment. (Ord. 2018-6: Ord. 2013-2, 2013: Ord. 2000-18 § 2: prior code § 13-331-5)

9.22.060: MOTOR VEHICLE MAXIMUM SOUND LEVELS

A. Motor Vehicles And Motorcycles On Public Rights Of Way: No person shall operate or cause to be operated a public or private motorized vehicle or motorcycle on a public right of way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in table 2 of this section.

TABLE 2
 MOTOR VEHICLE AND MOTORCYCLE SOUND LIMITS_
 MEASURED AT 50 FEET (15 METERS)
 Sound Level In dBA

Vehicle Class	Speed Limit 35 mph Or Less	Speed Limit Over 35 mph	Stationary Run up
Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 pounds or more	88	90	88
All other motor vehicles of GVWR or GCWR of 6,000 pounds or more	88	90	88
Any motorcycle	86	90	86

Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	83	76
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For the purpose of enforcing the above level, the standard measurement distance may be shortened to no less than twenty one feet (21') or increased to no more than one hundred feet (100'), applying the following correction factors to be added or subtracted from the permitted sound level:

Measurement Distance (Feet)	Correction Limits Of Sound Level, In dBA
21 or more but less than 29	+7
29 or more but less than 32	+6
32 or more but less than 35	+5
35 or more but less than 39	+3
39 or more but less than 43	+2
43 or more but less than 48	+1
48 or more but less than 58	0
58 or more but less than 70	-1
70 or more but less than 83	-2
83 or more but less than 99	-3
99 or more but less than 118	-4

B. Adequate Mufflers Or Sound Dissipative Devices:

1. No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation; and
2. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

C. Motor Vehicle Horns And Signaling Devices: The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space, except as a warning of danger, are declared to be in violation of this section.

D. Recreational Motorized Vehicles Operating Off Public Rights Of Way: No person shall operate or cause to be operated any recreational motorized vehicle off a public right of way in such a manner that the sound level emitted therefrom exceeds the limits set forth in table 3 of this section at a distance of fifty feet (50') (15 meters) or more from the path of a vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This subsection shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial and noncommercial racing vehicles, motorcycles, go-karts, snowmobiles, amphibious crafts, campers, dune buggies, and motorboats.

**TABLE 3
RECREATIONAL MOTORIZED VEHICLE SOUND LIMITS
MEASURED AT 50 FEET (15 METERS)**

Vehicle Type	Sound Level, dBA
Motorcycle	73
Snowmobile	73
Any other vehicle	73

(Ord. 2000-18 § 2: prior code § 13-331-6)

9.22.070: ENFORCEMENT

A. Penalties:

1. Any person who violates any provision of this chapter shall be guilty of an infraction.
2. Any person who violates any provision of this chapter shall be fined for each offense not more than one hundred fifty dollars (\$150.00).
3. Any person who wilfully or knowingly violates any provision of this chapter shall be fined for each offense a sum not less than fifty dollars (\$50.00) and not more than two hundred fifty dollars (\$250.00).
4. Each day of violation of any provision of this chapter shall constitute a separate offense.

- B. Abatement Orders: A court of competent jurisdiction may issue an order requiring abatement of any source of sound or vibration alleged to be in violation of this chapter within a reasonable time. (Ord. 2000-18 § 2: prior code § 13-331-7)