

ORDINANCE NO. 326

AN ORDINANCE OF THE CITY OF HAMILTON TO REPLACE THE TEXT OF SECTION 9.12.080 OF THE HAMILTON MUNICIPAL CODE (HMC).

WHEREAS, the current text of Section 9.12.080, HMC, is insufficient to address community concerns about loud and offensive noise; and,

WHEREAS, new text for Section 9.12.080, HMC, has been reviewed and approved by City staff, the Mayor, the Legislative Committee, the Zoning, Annexation and Planning Committee and the City Council; and,

WHEREAS, the City published notice of the related public hearing before the City Council in the Ravalli Republic newspaper on March 30, 2009, and on April 6, 2009, thereby complying with legal notice requirements; and,

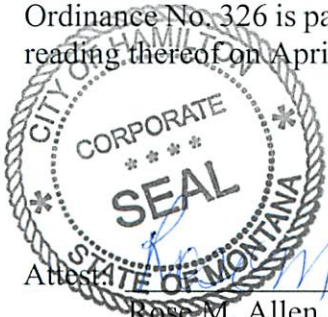
WHEREAS, the Hamilton City Council held its public hearing on April 7, 2009; and,

WHEREAS, the City Council held a first reading of this Ordinance No. 326 on April 7, 2009; and,

WHEREAS, the City Council held a second reading of this Ordinance No. 326 on April 21, 2009; and,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hamilton that the present text of Section 9.12.080, HMC, shall be withdrawn and replaced with the text set forth in Exhibit "A" to this Ordinance No. 326 in all respects.

BE IT FURTHER ORDAINED by the City Council of the City of Hamilton that this Ordinance No. 326 is passed, approved and adopted effective thirty (30) days following the second reading thereof on April 21, 2009.



By: 
Jerry E. Steele, Mayor


Rose M. Allen, City Clerk

**EXHIBIT "A" to
ORDINANCE NO. 326**

9.12.080 **Sound amplification - loudspeakers.**

A. Declaration of Policy. It is declared to be consistent with the public policy of the City of Hamilton to regulate the noise levels in the City so as to preserve, protect and promote the public health, safety and welfare, and peace and quiet of the inhabitants of the City. It is the public policy of the City of Hamilton that every person is entitled to live in an environment where noise levels are not detrimental to life, health and enjoyment of property and community. It is declared that making loud, unusual, and offensive noises within the limits of the City of Hamilton is unlawful pursuant to §9.12.010, HMC (Disturbing the peace), and §45-8-101, MCA (Disorderly conduct).

B. Loudspeakers and Sound Amplification. Between the hours of 8:00 p.m. and 8:00 a.m. it shall be unlawful to use any device that emits loud, unusual and/or offensive sound anywhere within the City without first obtaining a permit from the City of Hamilton. Any person who uses such a device is required to insure that the level of sound he/she creates does not have a severely unpleasant or disturbing effect on any other person.

C. Sound Amplification Permits. Sound amplification permits shall be issued at the discretion of the Mayor or another administrative staff member designated by the Mayor. The exercise of such discretion shall be based upon the following: (1) the date and time of day when the event will take place; (2) the location of the event; (3) the permit applicant's history of compliance with permit conditions on prior occasions; (4) prior complaints against an applicant or a particular event; and, (5) an analysis of the possible benefit(s) to the general public versus the possible inconvenience and disturbance that may be caused by the event.

1. All permits shall be conditioned, and the conditions related to each permit shall be printed upon the face of the permit. All permits shall be issued to an individual person who shall be responsible to see that all permit conditions are complied with.
2. No permit shall be issued for an event that will not conclude by 10:00 p.m. on Sunday through Thursday evenings and by 12:00 midnight on Friday and Saturday evenings.
3. All permit applications must be submitted to the Hamilton City Clerk, or to another City staff member designated by the Mayor in the Clerk's absence, no less than five (5) working days and no more than thirty (30) calendar days prior to the date of the (first) event in the application. Applicants may request permits for no more than three (3) event dates in a single application. All permit applications must be complete or they will be returned to the

applicant for completion. A non-refundable administrative fee of \$15.00 per event date request must accompany each application.

4. Each permit holder is required to post his/her permit in an obvious and accessible location at the site of the event for which the permit was issued.
5. Limitations on the Number of Permits
 - a. There shall be no more than one (1) sound amplification permit issued for any calendar day.
 - b. Not more than two (2) permits will be issued per calendar month for the same location.

D. Exemptions. The following events shall be exempt from the requirement to obtain a sound amplification permit when such events are conducted within the hours of 8:00 a.m. and 10:00 p.m. Sunday through Thursday and 8:00 a.m. and 12:00 midnight on Friday and Saturday:

1. Organized athletic events conducted at locations generally intended for such events (stadiums, parks, schools, athletic fields);
2. Events for which a separate Special Event Permit has been issued by the City of Hamilton; and,
3. Events held at the Ravalli County Fairgrounds which have been organized and sanctioned by the Ravalli County Fair Board or its designee and which are open to the public.

The operation of emergency vehicles and equipment, warning devices and alarm systems shall also be exempt.

E. Transportation of Sound Devices Within the City.

The use of a sound amplification device to project speech, music or other noise beyond the immediate surrounding area of the vehicle (which includes "sound trucks") or person transporting the sound amplification device along or upon any street, alley or public right-of-way within the City is declared to be a nuisance and is prohibited unless such devices are transported as an integral part of an organized parade for which event the organizer has obtained a Special Event Permit. Such devices shall include, but not be limited to, radio, phonograph or other speech or musical producing device.

F. Enforcement and Penalties. The violation of the terms of this Section of the Hamilton Municipal Code shall be punishable by a fine of not more than five hundred dollars

(\$500.00) and by the loss of the privilege to apply for another sound amplification permit and/or the loss of the privilege of another applicant to apply for such a permit for the location involved in the violation. Further:

1. A violation of the terms and conditions of an issued sound amplification permit may result in the citation of the person to whom the permit was issued for a violation of §9.12.010, HMC (Disturbing the peace), or a violation of §45-8-101, MCA (Disorderly Conduct).
2. A sound amplification permit may be revoked and removed from an event site by a Hamilton Police Department officer who, at any time during the event for which the permit was issued, has reasonable grounds to believe that the sound amplification produced by the event is a violation of §9.12.010, HMC, or §45-8-101, MCA.

G. Appeals.

1. A sound amplification permit applicant whose application is denied in whole or in part may appeal the denial to the City Council. Such an applicant must inform the City Clerk of his/her intent to appeal far enough in advance of a City Council meeting to be included in its agenda. The applicant must then appear at the appropriate City Council meeting prepared to argue his/her case.
2. A person to whom a sound amplification permit is issued who is cited by the Hamilton Police Department for a violation of permit conditions and who is convicted of §9.12.010, HMC (Disturbing the Peace) or §45-8-101, MCA (Disorderly Conduct) may appeal a City Court conviction *de novo* to the Twenty-First Judicial District Court for Ravalli County. A permit holder cited for and convicted of a violation of this §9.12.080, HMC (producing unlawful sound without a permit) may also appeal a City Court conviction *de novo* to the Twenty-First Judicial District Court for Ravalli County.