

# **ORDINANCE NO. 462**

## **Disturbing the Peace**

**AN ORDINANCE OF THE CITY OF MACKAY, CUSTER COUNTY, STATE OF IDAHO, INVOKING IDAHO TITLE 18, CHAPTER 64, PARAGRAPH 18-6409; PROVIDING THAT VIOLATION OF THIS ORDINANCE IS A MISDEMEANOR; AND ESTABLISHING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MACKAY, CUSTER COUNTY, IDAHO:

SECTION 1: The City Council in adopting this Ordinance is aware of the areas of noise control which are preempted by other jurisdictions.

- A. It is not the intent of this Order to control aircraft noise
- B. Noise control of motor vehicles operating on public rights-of-way is preempted by State or federal laws and regulations.
- C. Noise in occupational/construction environments.

SECTION 2: The City of Mackay (City), Custer County, Idaho invokes the State of Idaho Title 18, Chapter 64, Paragraph 18-6409 as follows:

**DISTURBING THE PEACE.** (1) Every person who maliciously and willfully disturbs the peace or quiet of any neighborhood, family or person, by loud or unusual noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight or fighting, or fires any gun or pistol, or uses any vulgar, profane or indecent language within the presence or hearing of children, in a loud and boisterous manner, is guilty of a misdemeanor.

SECTION 3: The City of Mackay hereby states this Ordinance shall be in effect twenty-four (24) hours each day, seven day each week, with no exceptions.

SECTION 4: DEFINITIONS:

**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, loud speaker, public address (PA) system, sound amplifier or comparable sound broadcasting device.

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

# **ORDINANCE NO. 462**

## **Disturbing the Peace**

**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 (such as, apartment, condominium, hotel, motel, duplex, triplex, etc.) each individual unit shall be considered a separate residence for the purpose 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.

**SECTION 5:** 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. Is plainly audible within any place of residence not the source of the sound; or
- B. Is plainly audible upon a public right-of-way or street at a distance of one hundred feet (100') or more from the source of such sound.

**SECTION 6:** A. Peace Officer Citation: Any peace officer or person empowered to enforce this Ordinance is authorized to issue a 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.

B. Citizen Citation: A citation may also be signed by any citizen or person in whose presence an alleged violation of this Ordinance occurred and be witnessed by a peace officer or person empowered to enforce this Ordinance whose name shall be endorsed on the citation.

**SECTION 7:** If conviction of violating this Ordinance is (1) punishable by imprisonment in a county jail not exceeding six (6) months, or (2) by a fine not exceeding one thousand dollars (\$1,000), or by both. (Idaho Code 18-113); plus, court costs.

**SECTION 8:** This Ordinance shall be in full force and effect immediately upon its passage and publication according to law, the Council dispensing with the rule that ordinances must be read on three different days, all as provided by law.

**ORDINANCE NO. 462**  
**Disturbing the Peace**

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MACKAY,  
CUSTER COUNTY, IDAHO, THIS 10<sup>th</sup> DAY OF NOVEMBER 2020.

CITY COUNCIL OF THE CITY OF MACKAY, CUSTER COUNTY, IDAHO A  
MUNICIPAL CORPORATION OF IDAHO

By   /S/ Wayne C. Olsen  

Wayne C. Olsen, Mayor

ATTEST:   /S/ Natalie Perez  

Natalie Perez City Clerk