

ORDINANCE 2006

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ANKENY, IOWA, 2008, BY AMENDING PROVISION PERTAINING TO NOISE CONTROL

BE IT ENACTED by the City Council of the City of Ankeny, Iowa:

SECTION 1. SECTION MODIFIED. Section 44 of the Code of Ordinances of the City of Ankeny, Iowa, is repealed and the following adopted in lieu thereof:

44.01 PURPOSE. The purpose of this chapter is to establish standards for the control of excessive sound and vibration in the City thereby protecting the public's health, safety, and general welfare.

44.02 SCOPE OF REGULATIONS. This chapter applies to the control of all noise originating within the limits of the City, except in the following cases:

1. A State or Federal agency has adopted a different standard or rule than prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable; or
2. The Council has determined that, by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the residents of the City.

44.03 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI):

1. "Application" means the application submitted to the City requesting a noise permit.
2. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
3. "Emergency work" means any work performed for the purpose of alleviating or resolving an emergency.
4. "Motorcycle" means any two or three-wheeled motor vehicle.
5. "Motor vehicle" means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways. (Note: "motor vehicle" includes most motorcycles.)
6. "Noise" means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

7. “Noise Control Officer” means the official of the Ankeny Police Department having lead responsibility for administration and enforcement of this chapter.
8. “Noise disturbance” means those sounds defined as “sounds not allowed” in Section 44.05 of this chapter.
9. “Person” means, unless used in such a manner to denote only a human being, any firm, partnership, domestic or foreign corporation, association, joint stock company, trust or other association or entity, City, County or State government and subdivisions or agencies thereof, and the Federal government and subdivisions and agencies thereof.
10. “Powered model vehicle” means any self-propelled, airborne, waterborne or land-borne model plane, vessel or vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car or rocket.
11. “Public right-of-way” means the traveled portion of any street or alley or similar place which is owned or controlled by the City or other governmental entity.
12. “Real property boundary” means 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 intra-building real property division.
13. “Recreational vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways is deemed a “motor vehicle” (or “motorcycle” if two or three-wheeled) and not a “recreational vehicle.” (Examples of recreational vehicles are snowmobiles, mini-bikes, stock-cars, or motorboats.)
14. “Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
15. “Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.
16. “Sound equipment” means any radio, record player, tape deck or CD player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except; however, “sound equipment” does not include sirens and other equipment used to alert persons to the existence of an emergency; equipment used by law enforcement and other public safety officials in the performance of their official duties; church carillons, bells or chimes; mobile radio or telephone signaling devices; and automobile and truck radios, tape decks or CD players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted therefrom is not audible for more than fifty (50) feet from such automobile or truck.
17. “Sound level” means the weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting network, such as A or C, as specified in the American National Standards Institute (ANSI) specifications for sound level meters, or latest approved revision thereof.

18. “Sound level meter” means an ANSI Type 1 or Type 2 approved instrument which includes a microphone, sound pressure detector, integrator or time averaging device, output meter, and weighting networks used to measure different kinds of noise.
19. “Sound pressure” means the instantaneous difference between the actual pressure and the average barometric pressure of a given point in space, as produced by sound energy.
20. “Vibration” means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

44.04 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make, continue, cause, or allow any noise disturbance within the City.

44.05 SOUNDS NOT ALLOWED. The term “noise disturbance” means any of the following sounds:

1. Alarm Testing. The sound emitted by the intentional sounding outdoors of any privately-owned fire alarm, burglar alarm, siren, whistle, or similar stationary emergency signaling device for the essential testing of such device, when conducted between the hours of 5:00 p.m. and 8:00 a.m.
2. Motor Vehicle Radios. The sound emitted by an automobile or truck radio, tape deck or compact disk player, or other such standard equipment used and intended for the use and enjoyment of such vehicle’s occupants, if the sound emitted therefrom is audible for more than 50 feet, at all times.
3. Chain Saws. The sound emitted by motor-powered tree trimming equipment operated between the hours of 9:00 p.m. and 7:00 a.m.
4. Construction Noise. The sound made by privately owned and operated tools or equipment in the erection, demolition, excavation, drilling, or other such construction work, which is received between the hours of 9:00 p.m. and 7:00 a.m. on weeknights and between the hours of 6:00 p.m. and 9:00 a.m. on Saturday and Sunday.
5. Engine Brake Noise. The sound made by an engine brake device of a diesel engine truck, at all times.
6. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing a motor vehicle or recreational vehicle which is received between the hours of 9:00 p.m. and 7:00 a.m.
7. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the health, safety or welfare of a human being, disturbs a reasonable human being of normal sensitivities, or causes or tends to cause an adverse physiological or physical effect on human beings, or devalues or injures property, at all times.
8. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler-equipped, lawn and garden equipment operated between the hours of 9:00 p.m. and 7:00 a.m. Golf courses are exempt from lawn mower operation restrictions.

9. Power Snow Removal Equipment. The sound of power snow-removal equipment in residential areas, between 12:00 midnight and 5:30 a.m.
10. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing, or handling of boxes, crates, containers, building materials, trash cans, receptacles, and/or dumpsters, between the hours of 9:00 p.m. and 7:00 a.m. unless the activity is occurring on property zoned as retail, commercial or industrial which shall be exempt from time provisions.
11. Musical Instruments. The sound made by a drum, horn, reed and/or string instrument, or other musical instrument or device, which is received between the hours of 9:00 p.m. and 7:00 a.m.
12. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system is defective or has been modified by the installation of a muffler cutout or bypass, at all times.
13. Off-road Motorcycle and Recreational Vehicle Noise. The sound made on private or City-owned property other than a public right-of-way by a motorcycle or recreational vehicle and received between the hours of 9:00 p.m. and 7:00 a.m., provided; however, the sound made by a motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a “noise disturbance” unless made so by some provisions of this section.
14. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of 9:00 p.m. and 7:00 a.m.
15. Racing. The sound made by a motor vehicle or recreational vehicle on private property or public right-of-way during any racing event or time trial, whether organized or unorganized, at all times.
16. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle, at all times.
17. Selling by “Hawking” or “Barking.” The sound of selling by shout or outcry when made within the area of the City zoned residential or commercial, at all times.
18. Sound Equipment. The sound made by sound equipment (see definition under Section 44.03(16)) operated upon the public right-of-way, or in any building, or upon any public or private premises, if plainly audible from any public right-of-way within the City, unless the person using, operating, or causing to be used or operated, the sound equipment possesses a current noise permit and the actual use or operation of such sound equipment is not inconsistent with the statements made in the application, the conditions imposed in the noise permit, or the limitations specified in Section 44.06 of this chapter, at all times.

44.06 NOISE PERMIT FOR SOUND EQUIPMENT. No person shall use, operate or cause to be used or operated any sound equipment upon the public right-of-way, in any building or upon any public or private premises, if the sound emitted is plainly audible from the public right-of-way within the City, unless such person has obtained a noise permit in accordance with this section, and the actual use or operation of such sound equipment is not inconsistent with the statements made in the application, the conditions imposed in the sound equipment permit or the limitations specified in subsection 5 of this section.

1. A noise permit for sound is an annual license that expires on March 31 each year and must be renewed prior to the first event after that date. Each event where a noise permit will be needed must be listed on the permit application. The event schedule may be amended from time to time with the City Clerks approval.
2. A single-event noise permit license may be issued for a duration of no more than three (3) consecutive days.
3. A noise permit shall not be transferable, and it shall be conspicuously displayed on or adjacent to the sound equipment
4. Hours of operation of sound equipment shall be limited to six (6) hours. If a sound permit is issued in conjunction with a city approved special events permit then the six (6) hour limitation may be modified and extended.
5. Application for Permit. Applications for noise permits shall be made in writing to the City Clerk and shall contain the following information:
 - A. Name, address, phone numbers, and signature of applicant.
 - B. The purpose for which the sound equipment will be used.
 - C. The location where the sound equipment will be used.
 - D. The dates of the event(s) that are to be included under the permit.
 - E. The proposed hours of operation of the sound equipment.
 - F. A general description of the sound equipment, including the license number of any motor vehicle upon which it is to be operated.
 - G. The name, address, phone number and a letter of written permission from the building and/or property owner if the noise permit is issued for a location that is not owned or leased by the applicant.
 - H. The signature(s) of property owners within 200 feet of a residential property line and of property owners adjacent to a commercial property line.
 - I. Any other information as may be required by the City Clerk.
 - J. Acknowledgement of Rules established by the City and agreement to adhere to them.
 - K. Single event applications and fees must be received at least ten (10) business days before the event, and annual permits must be received twenty (20) business days before the first scheduled event of the year.
6. Application Fee. The application fee shall be paid by the applicant for the permit upon submission of the application. The application fee shall be nonrefundable. No fee is required for a noise permit issued to City, State or Federal government or any governmental subdivision or agency.
7. Issuance of Permit. Applications for noise permits shall be reviewed and issued or denied by the City Clerk and must adhere to the rules set forth for specified times defined in Section 44.06 subsection 7.

8. Appeal. If the City Clerk refuses to issue a noise permit, the City Clerk shall make a part of the record the reasons. The applicant shall have a right to appeal the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the City Clerk by majority vote of the Council members present and the City Clerk shall carry out the decision of the Council.

9. Limitations. A sound equipment permit shall not be issued if:

A. The sound to be emitted by the sound equipment is other than human speech or music.

B. The sound equipment is to be operated for commercial advertising purposes or for the purpose of attracting the attention of the public to any building, structure, or vehicle for monetary profit or for the purpose of advertising such sound equipment.

C. The sound to be emitted by the sound equipment would be a noise disturbance under Section 44.05 of this chapter (other than subsection 18 of said section).

10. Conditions. The City Manager or the City Manager's designee may impose reasonable conditions and requirements to be met or fulfilled by the noise permit holder preliminary to or at the time of the use or operation of the sound equipment. Such conditions and requirements shall be those necessary or advisable to protect the health, welfare and quality of life of the residents of the City and may include, without limitation, setbacks, fences, walls or other screening necessary to mitigate noise, restrictions on the time of day the sound equipment can be used or operated, restrictions on the level of the sound to be produced and restrictions on the number of minutes or consecutive minutes (or other units of time) that the sound equipment may be used or operated during any one hour or day (or other units of time).

11. Time. The proposed hours of operation of the sound equipment shall be limited to six (6) hours, unless issued in conjunction with a city approved special event permit. Noise permits shall not extend after 9:00 p.m. on a weeknight or after 11:00 p.m. on a weekend night or on the night prior to a holiday or the night of a holiday, except in unusual circumstances, for good cause shown and approved by the City Council at their next regular council meeting. Weeknight includes Sunday through Thursday and Weekend night includes Friday through Saturday. Notwithstanding the preceding, the hours set out in a Noise Permit issued to a permittee that has been issued a Special Use Permit in accordance with 196.02(I) shall not exceed those hours granted in the Special Use Permit.

12. Rules. No person shall operate or cause to be operated on public or private property any source of sound in such a manner as to create a sound level that exceeds the following limits on receiving land:

RECEIVING	MAXIMUM dB PERMITTED:
Residential:	70 dB between 7 a.m. and 8 p.m. 65 dB after 8 p.m.

Commercial:	75 dB between 7 a.m. and 8 p.m. 70 dB after 8 p.m.
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A. The measurement of sound shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute (ANSI). The instrument shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the noise source.

B. If there is no voluntary compliance within a reasonable amount of time, the Noise Control Officer is given the authority to issue a municipal citation to shut down the event, to turn off the sound equipment, or to reduce the sound to the level authorized by the Noise Permit.

C. An event for which a Noise Permit either has not been obtained or which is in violation of the maximum decibel levels will also be subject to those penalties established elsewhere in this Code.

44.07 EXCEPTIONS TO THIS CHAPTER. This chapter shall not apply to the following:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency. This is to include the public address systems.
2. The emission of sound in the performance of emergency work.
3. Rail and air transportation and public mass transportation vehicles.
4. The emission of sound from church bells, carillons, or chimes.
5. The emission of sounds from sound equipment made by students, employees or the general public while in attendance at any school-sponsored event or any City sponsored, hosted or funded event using sound equipment with approval from the City Manager.
6. The emission of sounds made by participants and observers of any parade that has been approved by the Council.
7. The sound made or caused to be made by City, school or State-owned or hired equipment or facilities for the conduct of City, school or State operations.
8. The emission of sound associated with the business operations of a company located on property zoned as retail, commercial or industrial during the hours in which the company conducts business operations to include loading and unloading at any time. This exception does not include amplified sound or music.

44.08 POWERS AND DUTIES OF THE NOISE CONTROL OFFICER.

1. In order to implement and enforce this chapter and for the general purpose of sound and vibration abatement and control, the Noise Control Officer (NCO) shall have, in addition to any other authority vested, the power to:

- A. Conduct, or cause to be conducted, research, monitoring, and other studies related to sound and vibration.
 - B. Conduct programs of public education regarding:
 - (1) The causes, effects and general methods of abatement and control of noise and vibration; and
 - (2) The actions prohibited by this chapter and the procedures for reporting violations; and
 - (3) Encourage the participation of public interest groups in related public information efforts.
 - C. Coordinate the noise and vibration control activities of all municipal departments.
 - D. Cooperate to the extent practicable with appropriate County and municipal agencies.
2. In order to implement and enforce this chapter effectively, the NCO shall:
- A. Develop and promulgate standards, testing methods and procedures, subject to approval of the City Council;
 - B. Investigate and pursue possible violations of this chapter;
 - C. Delegate functions, where appropriate under this chapter, to personnel within the NCO and to other departments of the City.

44.09 SUSPENSION OR REVOCATION OF PERMIT.

- 1. Any permit issued under the provisions of this chapter may be suspended or revoked by the City as follows.
 - A. Grounds. The City Clerk's Office may suspend or revoke any license issued under this chapter for any of, but not limited to, the following reasons:
 - (1) The permit holder has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
 - (2) The permit holder has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.
 - (3) The permit holder has conducted his/her business in such a manner as to endanger the public welfare, safety, order, or morals.
 - (4) The City Clerk's Office has received and investigated three (3) or more found complaints during the permitted period.
 - B. Notice of Suspension or Revocation; Right to Appeal. The City Clerk or Clerk's designee shall cause notice of the permit revocation to be served in person by a City official or by mail to the licensee's local address, which notice shall specify the reason(s) for such action. The permit holder may appeal the revocation of the permit to the City Council at its next regularly scheduled meeting by filing

with the Clerk a written request for an appeal to the City Council at least seven (7) days prior to the meeting. The City Council may affirm, modify or reverse the decision of the Clerk to revoke such permit. If a permit is revoked, no refund of any permit fee paid shall be made. Upon the revocation of a permit the permit holder is not eligible for the issuance of a new permit under this chapter for a period of one year from the date the revocation is served in person or deposited in the U.S. mail.

44.09 PENALTY. Unless another penalty is expressly provided by this chapter for any particular provision or section, violations of this chapter are simple misdemeanors subject to a fine of not more than five hundred dollars (\$500.00) and may also be punishable as municipal infractions subject to a civil penalty as set forth in this Code. Police officers, code enforcement officers or the Police Chief's designees shall have the authority to issue citations for violations of this chapter and shall have the discretion to enforce this chapter as either a simple misdemeanor or municipal infraction.

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

SECTION 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.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this ____ day of _____, 2020.

Gary Lorenz, Mayor

ATTEST:

Denise L. Hoy, City Clerk

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DES MOINES REGISTER
ON THE 27 DAY OF March, 2020**

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