

Ordinance No. 2019-268

AN ORDINANCE AMENDING THE CITY OF KEOTA, IOWA, 2017 MUNICIPAL CODEBOOK OF ORDINANCES BY ADDING PROVISIONS PERTAINING TO NOISE CONTROL.

**BE IT ENACTED** by the City council of the city of Keota, Iowa:

**SECTION 1.** Title VI, Chapter 25 of the City of Keota, Iowa, 2017 Municipal Codebook of Ordinances, is hereby repealed and the following adopted in lieu thereof:

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 25 NOISE CONTROL**

**6-25-1 Scope of Regulations**

**6-25-2 Definitions**

**6-25-3 Noise Disturbance Prohibited**

**6-25-4 Included Sounds**

**6-25-5 Excluded Sounds**

**6-25-6 Sound Equipment Permit**

**6-25-7 Other Laws and Ordinances**

6-25-1: Scope of Regulations:

This chapter applies to the control of all noise originating within the limits of the City, except in the following cases: (a) a State or Federal agency has adopted a different standard or rule than that prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable, or (b) 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.

6-25-2: 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 herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI):

1. "Application" means the application discussed in Section 6-25-6 of this chapter.
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 disturbance" means those sounds defined as "noise disturbances" in Section 6-25-4 of this chapter which have not otherwise been excepted and excluded from said Section 6-25-4 under any of Sections 6-25-1(b), 6-25-5 or 6-25-6 of this chapter.
8. "Powered model vehicle" means any self-propelled airborne, waterborne or landborne model plane, vessel or vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car or rocket.
9. "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.
10. "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.
11. "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 a snowmobile, a minibike, a stock car or motorboat.)
12. "Residential property" means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
13. "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 the medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
14. "Sound equipment" means any radio, record player, tape deck or player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except, however, "sound equipment" does not include (a) sirens and other equipment used to alert persons to the existence of an emergency, (b) equipment used by law enforcement and other public safety officials in the performance of their official duties, (c) church carillons, bells or chimes, (d) mobile radio or telephone signaling devices and (e) automobile and truck radios, tape decks or 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.

#### 6-25-3: Noise Disturbance Prohibited:

It is unlawful for any person to willfully make or continue or cause or allow to be made or continued any noise disturbance within the City.

6-25-4: Included Sounds:

Except for sounds excluded under any of Sections 6-25-1(b), 6-25-5 or 6-25-6 of this chapter, the term “noise disturbance” means any of the following sounds:

1. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the welfare, safety or health of a human being or 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.
2. 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.
3. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing or handling of boxes, crates, containers, building materials or similar objects between the hours of eight o’clock (8:00) p.m. and six o’clock (6:00) a.m. within any area of the City zoned residential. The sound made by the outdoor loading, unloading, opening, closing or handling of trash cans, trash containers, trash receptacles, trash dumpsters or similar objects which is received between the hours of eight o’clock (8:00) p.m. and six o’clock (6:00) a.m. at the real property boundary of residential property.
4. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying or testing of a motor vehicle or recreational vehicle which is received between the hours of eight o’clock (8:00) p.m. and six o’clock (6:00) a.m. at the real property boundary of residential property.
5. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of eight o’clock (8:00) p.m. and six o’clock (6:00) a.m. at the real property boundary of residential property.
6. Musical Instruments. The sound made by a drum, horn, reed instrument, string instrument or other musical instrument or device which is received between the hours of eight o’clock (8:00) p.m. and six o’clock (6:00) a.m. at the real property boundary of residential property.
7. Off-road Motorcycle and Recreational Vehicle Noise. The sound made on private property or on City-owned property other than a public right-of-way by a motorcycle or recreational vehicle and received between the hours of eight o’clock (8:00) p.m. and six o’clock (6:00) a.m. at the real property boundary of residential property; 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 other than this subsection 7.

8. Construction Noise. The sound made by tools or equipment in erection, demolition, excavation, drilling or other such construction work which is received between the hours of eight o'clock (8:00) p.m. and six o'clock (6:00) a.m. at the real property boundary of residential property.
9. Sound Equipment. The sound made by sound equipment operated upon the public right-of-way or in any building or upon any premises, public or private, 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 sound equipment permit and the actual use or operation of such sound equipment is not inconsistent with the statements made in the application or the conditions imposed in the sound equipment permit.
10. 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.
11. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle in areas of the City zoned residential or commercial.
12. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system is damaged, missing or has otherwise been modified by the installation of a muffler cut-out or bypass.

6-25-5: Excluded Sounds:

Any other provision of Section 6-25-4 or other section of this chapter to the contrary notwithstanding, the term "noise disturbance," as used in this chapter, does not mean or include the following sounds:

1. Lawn and Garden Equipment. The sound emitted by motor-powered muffler-equipped lawn and garden equipment operated between the hours of six o'clock (6:00) a.m. and eight o'clock (8:00) p.m.
2. Chain Saws. The sound emitted by motor-powered tree-trimming equipment operated between the hours of six o'clock (6:00) a.m. and eight o'clock (8:00) p.m.
3. Snow Removal Equipment. The sound emitted by motor-powered, muffler-equipped snow removal equipment operated between the hours of six o'clock (6:00) a.m. and ten o'clock (10:00) p.m. and the sound emitted by City-owned or hired snow removal equipment.
4. Emergencies. The sound emitted in the performance of emergency work or to alert persons to the existence of an emergency.

5. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for emergency purpose or for the essential testing of such device.
6. Church Bells, The sound emitted by church carillons, bells or chimes.
7. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or player or other such standard equipment used and intended for the use and enjoyment of such vehicle's occupants while such vehicle is on the public right-of-way, provided that the sound emitted therefrom is not audible for more than fifty (50) feet.
8. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling device.
9. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.
10. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.
11. Construction Noise. The sound emitted by construction work (erection, demolition, excavation, drilling, etc.) between the hours of six o'clock (6:00) a.m. and eight o'clock (8:00) p.m., which is being performed pursuant to a proper and current building permit.
12. Mosquito spraying equipment. The sound made by the City-owned or hired mosquito spraying equipment.
13. Concrete Sawing. The sawing of concrete in connection with a City project as approved by the City Engineer.
14. Sounds emitted by other general work for a business in a residentially zoned area between the hours of 6:00 a.m. to 8:00 p.m., Monday through Friday; 6:00 a.m. to 2:00 p.m. on Saturdays; No Sunday work to be done. The business must abide by the hours enumerated in this item unless special issue permit is approved by the city council.

6-25-6: Sound Equipment Permit:

No person shall use, operate or cause to be used or operated any sound equipment upon the public right-of-way or in any building or upon any premises, public or private, if the sound emitted thereby is plainly audible from the public right-of-way within the City unless such person has obtained a sound equipment 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 or the conditions imposed in the sound equipment permit.

1. Application for Permit. Applications for sound equipment permits shall be made in writing to the Clerk or Building Official and shall contain the following information:
  - a. Name and address of applicant.
  - b. The type of event for which the sound equipment will be used.
  - c. The location where the sound equipment will be used.
  - d. The proposed date and duration of the event and the hours of operation of the sound equipment.
  - e. A general description of the sound equipment, including whether the sound source will be located inside a building or outside as well as the license number of any motor vehicle upon which said sound equipment is to be operated if applicable.
  - f. Any other information as may be required by the Clerk or Building Official.
2. Permit Fee. The fee for a sound equipment permit shall be as established by resolution of the Council.
3. Issuance of Permit. Permits may be issued by the City Administrator or his designee(s). In the event that two (2) or more designees are selected by the city Administrator, approval of the issuance of any permit shall be unanimous. Except as hereinafter provided, if the application contains the required information and is accompanied by the required fee, the sound equipment permit shall be issued with reasonable dispatch.
4. Limitations. A sound equipment permit shall not be issued if the sound to be emitted by the sound equipment would be a noise disturbance under Section 6-25-4 (other than subsection 9) of this chapter. A sound equipment permit issued in violation of this subsection 4 is void and of no force and effect.
5. Conditions. The Building Official or the Council may impose reasonable conditions and requirements to be met or fulfilled by the sound equipment permit holder preliminary to or at the time of the use or operation of the sound equipment. Such conditions and requirements shall be those conditions and requirements necessary or advisable to protect the health, welfare and quality of life of the residents of the City and may include, without limitation, 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 that the sound equipment may be used or operated during any one hour or day.
6. Permissibility. Any other language to the contrary in this chapter notwithstanding, sound made by sound equipment for which a valid sound equipment permit has been issued under this Section 6-25-6 shall be permissible hereunder and shall not constitute a violation of this

chapter regardless of the fact that said sound equipment may be operated upon the public right-of-way or in a building or upon premises, public or private, that is plainly audible from a public right-of-way within the City.

6-25-7: Other Laws and Ordinances:

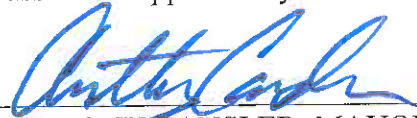
No provisions of this chapter should be construed to legalize or permit sounds, devices or activities made unlawful by other ordinances of the City or State or Federal statutes.

**SECTION 2. REPEALER.** That all other ordinances or parts of ordinances in conflict herewith are repealed.

**SECTION 3. SEVERABILITY CLAUSE.** That if any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Keota, Iowa, hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrased be declared 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 by the Keota City council on the 16 day of September 2019.

  
ANTHONY CANSLER, MAYOR

1<sup>st</sup> Reading: September 16, 2019

ATTEST:

  
TOMISHA HAMMES, CITY CLERK

<b>ROLL CALL VOTE</b>				
<b>COUNCIL MEMBER NAME</b>	<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
MIKE BENDER	✓			
KEITH CONRAD	✓			
MATT GREINER	✓			
ROD HILL	✓			
SCOTT WESTENDORF	✓			