ORDINANCE NO. 6488

AN ORDINANCE TO AMEND CHAPTER 3.08 "BEER AND LIQUOR CONTROL" OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING SECTION 3.08.045 "EXCEPTIONS TO CBMC 3.08.040 PARAGRAPH E" PERTAINING TO SPECIAL EVENTS.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Chapter 3.08 "BEER AND LIQUOR CONTROL" of the 2020 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by amending Section 3.08.045 "Exceptions to CBMC 3.08.040 Paragraph E" pertaining to Special Events to read as follows:

3.08.045 Exceptions To CBMC 3.08.040 Paragraph E

A. Open-air Dining—Exception. If an applicant can establish that approximately fifty (50) percent of its gross revenue from items to be consumed on premise are derived, or are likely to be derived from the sale of nonalcoholic food items, and if the establishment is or is to be located in an area zoned C-4, C-3, or in an area zoned C-2 and is not within fifty (50) feet of a residential zone, or a nonresidential area other than C-4 or C-2, and is not within three hundred (300) feet of a residential use or zone. The restrictions established in CBMC 3.08.040 Paragraph E, need not apply to the entire premises if the conditions listed above are met. For that portion of the premises which the applicant wishes to exclude from such restrictions, the following restrictions must be complied with:
    1. It must be so enclosed so that it may only be entered from that portion of the premises which is in compliance with CBMC 3.08.040 Paragraph E.
    2. All exits from such area shall be for emergency use only and shall be equipped with the appropriate hardware to ensure such limited use.
    3. No amplified music shall be permitted in such area between the hours of 10:00 p.m. and 7:00 a.m. Amplified music will be permitted in such areas between the hours of 7:00 a.m. and 10:00 p.m., so long as it complies with sound levels specified in CBMC 4.50.080 Paragraph H. Special sound variances pursuant to CBMC 4.50.080 Paragraph G,2 may be granted. If any outdoor dining facility is cited for violating CBMC 4.50 three times in a twelve-month period that ultimately result in three convictions, the service of alcoholic beverages in such area shall be suspended for a twelve-month period.
    4. No live dancing, such as go-go dancing, strip tease acts or exotic dancing shall be permitted in such area.
    5. Such area must be approved by the health department for open-air dining.
    6. Outdoor dining facilities in C-2 zones shall not allow alcohol sales or consumption in their outdoor areas between the hours of 12:00 midnight and 6:00 a.m.
    7. If the application is for an establishment in a C-2 zone, the applicant shall have the duty to notify all property owners within three hundred (300) feet of the premises to be licensed. This notice shall be given in the following fashion:
        a. Applicant shall establish a list of parties to be notified through utilization of the records of the county auditor;

b. Applicant shall prepare envelopes addressed to each of the parties identified in paragraph A,7,a of this section, with the appropriate postage for certified delivery affixed thereto;
c. Applicant shall prepare a notice for each of such property owners, advising of the nature of the action which is being sought, including the date it is to be acted upon by the city council;
d. Applicant shall deliver all of the above to the city clerk at least ten (10) days prior to the date at which the action is proposed to be taken;
e. It shall be the duty of the city clerk to insert the notices into the envelopes and deliver same to the post office within forty-eight (48) hours of receipt.

B. Golf-courses—Exception. The restrictions established in CBMC 3.08.040 Paragraph E shall not apply to golf courses consisting of fifteen (15) acres or more.

C. Stadium-type Activities—Exception. For the purpose of this section, a stadium-type activity is a sporting event to which there is controlled access. It shall only be permitted in areas zoned nonresidential and shall not be permitted within two hundred (200) feet of a residential use or zone; or if there are residential uses within two hundred (200) feet and the owner and/or occupant has signed a petition in support of the proposed use. The restrictions established in CBMC 3.08.040 Paragraph E, need not apply to the entire premises if the conditions listed above are met. For that portion of the premises which the applicant wishes to exclude from such restrictions, the following restrictions must be complied with:
1. It must be enclosed by a fence or a wall.
2. It must be enclosed so that it may only be entered from that portion of the premises which is in compliance with CBMC 3.08.040 Paragraph E.
3. All exits from such area other than those that go into the CBMC 3.08.040 Paragraph E compliant area shall be for emergency use only.
4. No amplified music shall be permitted in such area.
5. No live dancing, such as go-go dancing, strip tease acts or exotic dancing shall be permitted in such area.
6. If the area is within two hundred (200) feet of a residential use no activities shall be permitted therein after 10:00 p.m.

D. Special Events—Exception for Areas Zoned Other Than C-4. The restrictions established in CBMC 3.08.040 Paragraph E shall not apply to special events as long as they are not held within five hundred (500) feet of a residential use. For purposes of this exception, a special event shall last a maximum of seventy-two (72) hours.

Special Event—Exceptions for areas zoned C-4. The restrictions established in CBMC 3.08.040 Paragraph E shall not apply to special events held in areas zoned C-4.

These special event exceptions shall only be permitted if the following restrictions are satisfied:

1. The area intended to be utilized as a temporary liquor license premises must be clearly delineated, and so enclosed so that it will only allow ingress to and egress from the area at specifically identified locations approved by the Fire Marshall or his/her designee;
2. The applicant has developed a plan to address crowd and traffic control as well as state and city health codes and concerns created by the special event which have been approved by the Police Chief, Public Works Director and/or other appropriate City Officials. The applicant shall identify sufficient off-street parking to accommodate the size of the proposed licensed premises within a reasonable distance of the event;

3. Variance to the five hundred (500) feet buffer from a residential use. If the applicant is unable to demonstrate the required five hundred (500) feet buffer from a conforming residential use, but is able to provide the city with a written, signed and notarized consent to authorization for the event from either the owner and/or occupant of each such residence, the buffer requirement may be waived.
4. Premises authorized under this exception shall not be permitted to operate between the hours of 12:00 midnight and 6:00 a.m.;
5. Applicant's failure to abide by any of these restrictions and the plans approved herein or any other city or state law governing the sale and/or dispensing of alcoholic beverages shall be grounds for the immediate cessation of a special event exception.

PC and A-3—Exception. The restrictions established in CBMC 3.08.040 Paragraph E shall not apply to liquor license establishments which are located in either a PC or an A-3 zone as long as the following criteria have been met:

1. The licensed premises is not within five hundred (500) feet of a residential zone.
2. Access to the licensed premises is restricted.

E. Open Air Tavern—Exception 1. In the C-4 zone, a liquor license establishment need not comply with the requirements of CBMC 3.08.040 Paragraph E if the non-complying portion of the liquor license premises meets the following conditions:
    1. It is contiguous to a liquor license premises that does comply with CBMC 3.08.040 Paragraph E.
    2. It is discernible from areas that are not part of the liquor license premises.
    3. Access to the area is restricted.
    4. No open containers of alcohol or consumption of alcohol are permitted in this area between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday, or 12:00 a.m. and 7:00 a.m. on Fridays and Saturdays.
    5. Amplified music will be permitted in these areas during the hours that consumption is permitted, but will be subject to the city's noise ordinance.
    6. If two violations of state law or the Council Bluffs Municipal Code occur in the outdoor area within a twelve-month period that result in the conviction of the owner and/or his/her employees or agents, the use of the outdoor area as part of the liquor license premises will cease for a period of twelve (12) months, starting on the date of the second conviction. The same penalty will occur if four different incidents occur in the outdoor area within a twelve-month period that result in at least one conviction of persons other than the owner or his/her employees or agents.
    7. The fencing and/or railing that is constructed to restrict access (paragraph F,3 of this section) shall be so designed so as to allow viewing of the restricted access area from outside. Its design shall be approved by the historic preservation commission.
F. Open Air Tavern—Exception 2. In areas not zoned C-4, a liquor license establishment need not comply with the requirements of CBMC 3.08.040 Paragraph E if the liquor license establishment is a legal non-conforming use, the maximum area does not exceed one hundred fifty (150) square feet, and it meets the conditions set forth below:
    1. It must be so enclosed so that it may only be entered from that portion of the premises which is in compliance with CBMC 3.08.040 Paragraph E.
    2. All exits from such area shall be for emergency use only and shall be equipped with the appropriate hardware to ensure such limited use.

3. No open containers of alcohol or consumption of alcohol are permitted in this area between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday, or 11:00 p.m. and 7:00 a.m. Fridays and Saturdays.
4. Amplified music will be permitted in these areas during the hours that consumption is permitted, but will be subject to the city's noise ordinance.
5. If two violations of state law or the Council Bluffs Municipal Code occur in the outdoor area within a twelve-month period that result in the conviction of the owner and/or his/her employees or agents, the use of the outdoor area as part of the liquor license premises will cease for a period of twelve (12) months, starting on the date of the second conviction. The same penalty will occur if four different incidents occur in the outdoor area within a twelve-month period that result in at least one conviction of persons other than the owner or his/her employees or agents.
6. The fencing and/or railing that is constructed to restrict access shall be so designed as to allow viewing of the restricted access area from outside.

G. Special Events—Exception for City Controlled Property. The restrictions established in CBMC 3.08.040 Paragraph E shall not apply to special events to be held on property either owned or controlled by the city of Council Bluffs or other governmental body. The department, agency or governmental body in charge of said property may undertake or authorize such an event upon receiving confirmation that the health department, department of public works, police department and the fire department consent to the proposed activity. Once said consent has been obtained application may then be made with the city clerk for the appropriate license.

H. For purposes of this section, when determining the distance from a residential use or zone, it will be measured from the property line of the residential use or zone to the actual licensed premises.

I. For purposes of this section, nonresidential zones shall include those zones for which a residential dwelling is not a principal use.

(Ord. No. 6095, § 1, 7-12-2010; Ord. No. 6129, § 1, 6-13-11; Ord. No. 6161, § 1, 8-27-2012; Ord. No. 6171, § 1, 4-22-2013; Ord. No. 6235, § 1, 6-8-2015)

Editor's note— Ord. No. 6095, § 1, adopted July 12, 2010, repealed the former section and enacted a new section as set out herein. The former section pertained to similar subject matter and derived from Ord. No. 5882, § 1, 2006; Ord. No. 6040, § 1, 8-24-2009; Ord. No. 6069, § 1, 4-26-2010.

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 of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

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

PASSED
AND April 11, 2022.
APPROVED

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MATTHEW J. WALSH Mayor

Attest: _____

JODI QUAKENBUSH City Clerk

First Consideration: 3-28-22
Second Consideration: 4-11-22
Public Hearing: n/a
Third Consideration: _____