ORDINANCE NO. 6353

AN ORDINANCE TO AMEND CHAPTER 4.02 "AIR POLLUTION CONTROL" OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.02.010 THROUGH 4.02.080.

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

SECTION 1. That Chapter 4.02 "Air Pollution Control" of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.02.010 through 4.02.080 as follows:

~~4.02.010 - Incinerators prohibited.~~
~~It is unlawful for any person to sell or install within the city any device intended for use as a refuse burner or incinerator, except when the owner or operator of such device has met the provisions herein and those specified in the State Code of Iowa.~~

~~4.02.020 - Open burning prohibited.~~
~~For the purpose of this chapter, open burning means the burning of any material wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from any enclosed chamber. A chamber shall be regarded as enclosed when, during the time combustion takes place, only such apertures, ducts stacks, flues, or chimneys as are necessary to provide combustion air and to permit the escape of exhaust gases are open.~~
~~(1) It is unlawful for any person to open burn any refuse or to permit open burning of any refuse within the city of Council Bluffs, Iowa. Except as hereinafter provided, this section shall apply to all refuse, including but not limited to waste paper, boxes, market wastes, garden wastes, trees, tree limbs, automobiles and parts thereof, and any and all materials other than material used as fuel in a furnace or boiler.~~
~~(2) This section shall not apply to outdoor fireplaces or barbeque grills used solely for the noncommercial preparation of food. Such outdoor fireplaces or grills may be used at other than daylight hours, but shall not be used for burning of refuse or combustible waste.~~

~~Fire containment devices, such as fire pits and chimaneas may be used but are subject to the provisions hereinafter set forth:~~

~~(A) No outdoor burning is permitted if the wind speed exceeds ten (10) mph;~~
~~(B) The fire must be constantly attended and supervised by a responsible adult until the fire has been completely extinguished;~~
~~(C) Fire containment devices shall not be permitted within fifteen (15) feet of any combustible or structure, or within ten (10) feet of a lot line unless mutually agreed upon by the neighboring property owner;~~
~~(D) Fire pits or other fire containment devices shall not exceed three feet in diameter;~~
~~(E) Flames shall be kept below two feet in height above the pit or other fire containment device;~~
~~(F) A portable fire extinguisher or other approved extinguishing equipment, such as a garden hose, must be readily available;~~

(G) Burning that is offensive or objectionable to a reasonable person because of smoke or odor emissions, or when atmospheric conditions or local circumstances making such fires hazardous, shall be prohibited.

(H) The fire chief or fire chief's designee has the authority to enforce the regulations contained within Section 4.02.020.

(3) The director of public health or the director's designee may permit an open fire for the following purposes and subject to the provisions hereinafter set forth:

(A) City crews operating under the authority of the department of public works;

(B) The instruction of public employees in methods of fighting fires;

(C) On private property used for industrial purposes for the instruction of employees in the methods of fighting fires;

(D) For public gatherings under the legitimate sponsorship of civic, fraternal, religious, educational or similar organizations;

(E) Recreational bonfire:

(i) Permit application and applicable fee is required;

(ii) Fire ring free of grass and weeds is required;

(iii) Water source must be available at the proposed site.

(iv) Fire containment devices shall not be permitted within twenty-five (25) feet of any combustible or structure, or within ten (10) feet of a lot line unless mutually agreed upon by the neighboring property owner;

Authorization to permit an open fire will not be granted by the director of public health or the director's designee when such conditions arise that the fire chief deems such fires to be a safety hazard.

(4) Exceptions.

(A) This section shall not apply to flare stacks used for the open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with State Code of Iowa, or to any incinerator operated under a permit granted by the director of public health or the director's designee pursuant to this chapter.

(B) This section shall not apply to prescription burns of native grasses when the following conditions are met.

(i) Submittal of a Council Bluffs prescription burn application and associated fee to the health department.

(ii) Develop and submit a site fire management plan with health department.

a. Plan shall contain: Site background information, fire management justification, fire regime proposal, smoke management plan, neighbor and community relationships and associated aerial maps.

(iii) Develop and submit a burn prescription.

a. Prescription shall: Identify proper location and owner, plans for unit preparation, ignition and holding operations, identify the unit and all hazards, identify the objectives of the burn, outline contingency plans, describe the weather conditions required, and present plans to notify proper authorities.

(iv) All pertinent information must be reviewed and approved by the fire and health departments prior to any prescription burn.

(v) Credentialed burn boss shall be utilized for site fire management plan, burn prescription as well as the actual burn.

4.02.030 - Fugitive dust—Generally.

For the purpose of minimizing atmospheric pollution, the director of public health or the director's designee shall have the authority to require that reasonable precautions be taken to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to:

(1) Where possible, use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;

(2) Application of asphalt, oil, water or suitable chemicals on dirt roads, material stockpiles, or other surfaces which can give rise to airborne dusts;

(3) Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations;

(4) Covering at all times, when in motion, open-bodied trucks transporting materials likely to give rise to airborne dust;

(5) The paving of roadways and their maintenance in a clean condition; (6) The prompt removal of earth or materials from paved streets onto which earth or other material has been transported or deposited by trucking or earth moving equipment, by water erosion, or by other means.

4.02.040 - Precautions to minimize pollution.

It is unlawful for any person handling, loading, unloading reloading, storing, transferring, transporting, placing, depositing, throwing, discarding, or scattering any ashes, fly ash, cinders, slag or dust collected from any combination process, any dust, dirt, chaff, waste paper, trash, rubbish, waste or refuse matter of any kind, or any other substance or material whatsoever, which is likely to be scattered by the wind or is susceptible to being windborne, to do so without taking reasonable precautions or measures to prevent particulate matter from becoming airborne so as to minimize atmospheric pollution.

4.02.050 - General prohibition.

It is unlawful for any person to operate or maintain any building, structure, or premises, open area, storage pile of materials, yard vessel or construction, alteration, building, demolition or wrecking or salvage operation, or any other enterprise which has or involves any matter, material, or substance likely to be scattered by the wind or susceptible to being windborne, without taking reasonable precautions or measures to prevent particulate matter from becoming airborne so as to minimize atmospheric pollution.

4.02.060 - Airborne material prohibited.

No person shall cause, allow, or permit any material in a manner described by Sections 4.02.030 and 4.02.050 to become airborne in such quantities and concentrations that it remains visible in the ambient air, or is deposited beyond the premises where it originates.

4.02.070 - Exceptions.

Sections 4.02.030, 4.02.040, and 4.02.050 shall not apply to the following:

(1) The maintenance of public roads by the city of Council Bluffs or its various departments;

(2) Agricultural operations including tilling, planting, cultivating or harvesting within a field, the moving of livestock on foot, or the hauling or produce within the confines of a farm;

(3) Driveways limited to residential use.

4.02.080 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city

~~attorney, any violation of the provisions of this chapter may he or she pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.~~

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 October 8, 2018.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____