ORDINANCE NO. 6363

AN ORDINANCE TO AMEND TITLE 4 "HEALTH AND SANITATION" OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING "CHAPTER 4.50 – NOISE CONTROL."

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

SECTION 1. That Title 4 "Health and Sanitation" Chapter 4.50 "Noise Control" of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

4.50.010 - Short title.
The ordinance codified in this chapter may be cited as the "Noise Control Ordinance of the city of Council Bluffs."

4.50.020 - Declaration of findings—Policy—Scope.
Findings and Policy. Whereas excessive sound is a serious hazard to the public health and welfare, safety and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and whereas the people have a right to and should be insured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life; and now, therefore, it is the policy of the city of Council Bluffs to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

2.2 Scope. This chapter shall apply to the control of sound originating within the limits of the city of Council Bluffs.

4.50.030 - Definitions.
3.1 Terminology. All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

3.2 "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

3.3 "Ambient noise" means the all encompassing noises associated with a given environment, usually a composite of sounds from many sources near and far.

3.4 "Background noise" means the all encompassing noises associated with a given environment, excluding the source of sound being measured.

3.5 "Commercial land use" means all areas designated commercial districts by the zoning ordinance of the city of Council Bluffs, Iowa, as amended.

3.6 "Construction" means any site preparation assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

3.7 "Day" means the period from seven a.m. until ten p.m. local time.

3.8 "Day-night average sound level (L dn)" means the twenty-four hour energy average of the A-weighted sound pressure level, with the levels during the period ten p.m. to seven a.m. the following day increased by ten dBA before averaging.

3.9 "Decibel (dB)" means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

3.10 "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

3.11 "Chief Building Official" shall mean the Director of Community Development of the City of Council Bluffs or authorized representative.

3.12 "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

3.13 "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

3.14 "Equivalent A-weighted sound level (L eq)" means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound.

3.15 "L eq (1)" means the equivalent A-weighted sound level measured for a period of one hour or less as described in the measurement procedures.

3.16 "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

3.17 "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-force impacts, and the discharge of firearms.

3.18 "Industrial land use" means all areas designated industrial districts by the zoning ordinance of the city of Council Bluffs, as amended.

3.19 "Measurement procedures" means the sound level measurement procedures for the enforcement of the noise control ordinance codified in this chapter

3.20 "Motor carrier vehicle engaged in interstate commerce" means any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

3.21 "Motor vehicle" means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck trailers, semitrailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, but not including motorcycles.

3.22 "Motorboat" means any vessel which operates on water and which is propelled by a motor, including, but not limited to, barges, boats, amphibious craft, water ski towing devices and hover craft.

3.23 "Motorcycle" means an unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

3.24 "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.

3.25 "Night" means the period from ten p.m. until seven a.m. local time.

3.26 "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

3.27 "Noise disturbance" means any sound which:

(a) Endangers or injures the safety or health of humans or animals; or (b) Annoys or disturbs a reasonable person of normal sensitivities; or (c) Endangers or injures personal or real property.

3.28 "Noise sensitive area" means any area designated pursuant to subsection 4.2(h) of Section 4.50.040 of this chapter for the purpose of insuring exceptional quiet.

3.29 "Person" means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

3.30 "Powered model vehicle" means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

3.31 "Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

3.32 "Public space" means any real property or structures which are owned or controlled by a governmental entity.

3.33 "Pure tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches such as a hum, whine, whistle, screech, etc.

3.34 "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 intrabuilding real property divisions.

3.35 "Residential land use" means all areas designated open space and residential districts by the zoning ordinance of the city of Council Bluffs, as amended.

3.36 "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted P rms .

3.37 "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 sound, including duration, intensity and frequency.

3.38 "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4—1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

3.39 "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting networks used to measure sound pressure levels.

3.40 "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

3.41 "Sound pressure level" means twenty (20) times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals (twenty (20) micronewtons per square meter). The sound pressure level is denoted L p or SPL and is expressed in decibels.

3.42 "Weekday" means any day Monday through Friday which is not a legal holiday

4.50.040 - Powers, duties and enforcement.

4.1 Enforcement. The Chief Building Official and the Council Bluffs police department, unless delegated to another authority by written directive, shall be the enforcement authority and shall have the power and duty of enforcing the provisions of this chapter. The Chief Building Official and/or his/her assignee shall have the power to issue citations for violations of this chapter.

4.2 Powers and Duties. In order to implement and enforce this chapter, the enforcement authority may:

(a) Studies. Conduct, or cause to be conducted, research, monitoring and other studies related to sound; (b) Education. (1) Conduct programs of public education regarding: (A) The causes, effects and general methods of abatement and control of noise, (B) The actions prohibited by this chapter and the procedures for reporting violations, (2) Encourage the participation of public interest groups in related public information efforts; (c) Coordination and Cooperation. (1) Coordinate the noise activities of all municipal departments, (2) Cooperate to the extent practicable with all appropriate state and federal agencies, (3) Cooperate or combine to the extent practicable with appropriate county and municipal agencies, (4) Enter into contracts, with the approval of the city council, for the provision of technical and enforcement services; (d) Review of Actions of Other Departments. Request any other department or agency responsible for any proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this chapter; (e) Review of Public and Private Projects. Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this chapter, if such projects are likely to cause noise in violation of this chapter; (f) Inspections. (1) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests; (2) Stop any motor vehicle, motorcycle, or motorboat operation on a public right-of-way, public space, public waterway, or any private property which is reasonably suspected of violating any provision of this chapter, and issue a notice of violation or abatement order which require the motor vehicle, motorcycle or motorboat to be inspected to tested as the enforcement authority may reasonably require; (h) Noise Sensitive Area Recommendations. Prepare recommendations, to be approved by the city council for the designation of noise sensitive areas which contain noise sensitive activities. Existing quiet areas shall be considered noise sensitive areas until otherwise designated. Noise sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals and nursing homes; (i) Planning to Achieve Long-term Noise Goals. Develop a generalized sound level map of the city, a long-term plan for achieving quiet in the city, and integrate this plan with the city planning commission's comprehensive city plan.

4.50.060 - Prohibited acts.

6.1 Noise Disturbances Prohibited. It is unlawful for any person to unreasonably make, continue or cause to be made or continued, any noise disturbance.

6.2 Exemptions. The provisions of this section shall not apply to:

(a) The specific prohibitions in this section during the hours a sound level limit is specified; (b) Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.

6.3 Specific Prohibitions. It is unlawful for any person to perform, create, cause or permit the following acts, and the same are declared to be in violation of this chapter, unless a special variance is issued pursuant to the provisions of subsection 7.2 of Section 4.50.070:

(a) Radios, television sets, musical instruments and similar devices which produce, reproduce or amplify sound: (1) Between the hours of ten p.m. and seven a.m. the following day in such a

manner as to create a noise disturbance across a real property boundary or within a noise sensitive area and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, (2) In such a manner as to be audible at one hundred (100) feet from such device, regardless of the time of day, when operated in or on a motor vehicle or boat, on a public right-of-way, public space or public waters, (3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier, (4) Subsection (a) shall not apply to noncommercial spoken language covered under subsection (b); (b) Loudspeakers—Public Address Systems: (1) Using or operating for any noncommercial purpose any loudspeaker, public address system, or similar device (A) so that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive area; or (B) between the hours of ten p.m. and seven a.m. the following day on a public right-of-way or public space and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, (2) Using or operating for any commercial purpose any loudspeaker, public address system, or similar device (A) so that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive area; or (B) between the hours of ten p.m. and seven a.m. the following day on a public right-of-way or public space, (3) This subsection 6.3(b) shall not apply to any member of a federal, state or local law enforcement, public safety or civil defense agency, in performance of official duty; (c) Street Sales. Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the city, except between the hours of seven a.m. and ten p.m.; (d) Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary, or within a noise sensitive area; (e) Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects, or the operation of compacting mechanisms, between the hours of ten p.m. and seven a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive area and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, except that sound emission from commercial and industrial land use shall be governed by the provisions of Section 4.50.080 at all times; (f) Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work: (1) Between the hours of ten p.m. and seven a.m. the following day on weekdays or Saturday or any time on Sunday or holidays, so that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive area, except for work of city public works crews, work being performed under contract to the city, or public service utilities, (2) Any other time so that the sound level across a real property boundary exceeds the limit of eighty-five (85) L eq(1) at fifteen (15) meters (fifty (50) feet) measured from construction site boundary, (3) This subsection (f) shall not apply to the use of domestic tools subject to subsection (q) of this section; (g) Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone; (h) Reserved; (i) Places of Public Entertainment. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level greater than ninety dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating, "WARNING, SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT"; (j) Explosives, Firearms and Similar Devices. The use or firing of explosives, firearms, fireworks or similar

devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, without first obtaining a special variance issued pursuant to subsection 7.2 of Section 4.50.070. Such permit need not be obtained for licensed game hunting activities on property where such activities are authorized. This subsection (j) shall not apply to any federal, state or local law enforcement agency or person in performance of official duty:

Exceptions:

(1) The discharging of consumer fireworks (as defined in the newly adopted Section 110.19 of the Code of Iowa) that are permitted to be sold within the state of Iowa shall be permitted only if authorized by a resolution of the City Council approved at least 30 days in advance of the effective date; (2) Restriction as to Age. Consumer fireworks that are identified as being class one or class two may only be discharged by individuals that are eighteen (18) years of age and older. Fireworks that are classified as novelties (APAS 87-1) may be discharged by individuals five years of age and older but only when supervised by an adult; (3) Restrictions as to Locations. An individual shall not use consumer fireworks on real property other than that individual's real property or on real property of a person who has consented to the use of consumer fireworks on that property; (4) No fireworks shall be permitted to be discharged in areas zoned C-3/commercial district or C-4/commercial district at any time; (5) No individual shall discharge any consumer fireworks within fifty (50) feet of another person or within fifty (50) feet of a structure; (6) Restrictions due to drought conditions. No person shall discharge consumer fireworks at any time when Pottawattamie County has issued a burn ban;
Penalty: Any discharging of the above referenced consumer fireworks outside of the excepted dates, hours or locations or under conditions restricted above shall be deemed a simple misdemeanor and shall be punishable by a fine of not less than two hundred fifty dollars ($250.00);

(k) Powered Model Vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of ten p.m. and seven a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Table 1 of Section 4.50.080, and shall be measured at a distance of fifteen (15) meters (fifty feet) from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by subsection 8.1 of Section 4.50.080 and subsection 6.3(p) of this section, respectively; (1) Reserved; (m) Stationary Nonemergency Signaling Devices: (1) Sounding or permitting the sounding of any signal from any stationary or mobile bell, chime, siren, whistle, horn or similar device, whether or not electronically amplified, intended primarily for nonemergency purposes, from any place, for more than one minute in any hourly period, (2) Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision; (n) Emergency Signaling Devices: (1) The intentional sounding or permitting the sounding outdoors of any fire, burglar alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subdivision (2) of this subsection (n), (2) (A) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before seven a.m. or after ten p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds, (2) (B) Testing of the complete emergency signaling system, including the

functioning of the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before seven a.m. or after ten p.m. The time limit specified in subdivision (a)(2)(A) shall not apply to such complete system testing, (3) Provisions of this subsection (n) shall not apply to government owned and operated civil defense sirens under the jurisdiction of the civil defense director; (o) Motorboats: Operating or permitting the operation of any motorboat in any lake, river, stream or other waterway in such a manner as to exceed a sound level of seventy-six dBA (fast meter response) at fifteen (15) meters (fifty (50) feet) or the nearest shoreline, whichever distance is greater; (p) Noise Sensitive Areas: (1) Creating or causing the creation of any sound within any noise sensitive area designated pursuant to subsection 2.10 of Section 4.50.040, so as to disrupt the activities normally conducted within the area; provided, that conspicuous signs are displayed indicating the presence of the area, or (2) Creating or causing the creation of any sound within any noise sensitive area, designated pursuant to subsection 2.10 of Section 4.50.040, containing a hospital, nursing home or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity; provided, that conspicuous signs are displayed indicating the presence of the area; (q) Domestic Tools. (1) Operating or permitting the operation of any saw, hammer, drill, sander, grinder, lawn or garden tool, lawnmower, or similar device used outdoors in residential areas between the hours of ten p.m. and seven a.m. the following day so as to cause a noise disturbance across a residential real property boundary, (2) Snowblowers and other machinery used for snow removal are exempt from the requirements set forth in subdivision (q)(1) of this section, while actually being used for snow removal; (r) Tampering. It is unlawful to tamper, remove or render inaccurate or inoperative any sound monitoring instrument or device positioned by or for the enforcement authority; (s) Voice Disturbance. Yelling, shouting, screaming, or otherwise vocalizing frequently, for continued duration or using abusive or obscene language as defined by Council Bluffs Municipal Code Section 8.20.010, making a noise disturbance at any time of day or night, across a residential or commercial real property boundary, or within a noise sensitive area.

4.50.070 - Exceptions and variances.

7.1 Emergency Exceptions. The provisions of this chapter shall not apply to (a) the emission of sound for the purpose of alerting persons to the existence of any emergency, or (b) the emission of sound in the performance of emergency work.

7.2 Special Variances.

(a) The City Council shall hear and determine all variance applications within fifteen (15) days of the application upon such notice as the council may direct. (b) Any person seeking a special variance pursuant to this section shall file an application with the City Clerk. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the City Clerk containing any information to support his or her claim. (c) In determining whether to grant or deny the application, the City Council shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the council may reasonably require. In granting or denying an application, the board

of health shall place on public file a copy of the decision and the reasons for granting or denying the special variance. (d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted. (e) In addition to other requirements, the City Council, as part of the conditions of a special variance, may: (1) Require the owner or operator of any commercial or industrial activity to establish and maintain records and make such reports as the board may reasonably prescribe; (2) Require the owner or operator of any commercial or industrial activity to measure the sound level of any source in accordance with the methods and procedures and at such locations and times as the Council may reasonably prescribe, and to furnish reports of the results of such measurements to the board. The board may require the measurements to be conducted in the presence of its enforcement officials. (f) No variance shall be granted for a period to exceed three years at a time. (g) Application for extension of time limits specified in special variances for modification of other substantial conditions or for renewal shall be treated like applications for initial special variances under subsection (b). (h) The City Council may issue guidelines defining the procedures to be followed in applying for a special variance, and the criteria to be considered in deciding whether to grant a special variance.
7.3 Reserved.

7.4 Appeals. Any determination by the Director pursuant to this provision may be appealed within ten (10) days to the Council Bluffs city council by filing a notice of appeal with the city clerk.

4.50.080 - Sound levels by receiving land use.
8.1 Maximum Permissible Sound Levels by Receiving Land Use. It is unlawful for any person to operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 as follows, unless otherwise provided in this chapter, when measured at or within the property boundary of the receiving land use; provided, however, that no measurement of sound levels shall be made less than fifteen (15) meters (fifty (50) feet), or equivalent (Section 4.50.110, Noise measurement procedures), from such source of sound.

Table 1
Sound Levels By Receiving Land Use

Sound Emitting Land-Use Category	Sound Receiving Land-Use Category	Sound Level Time of Day	Sound Level Limit, dBA Leq(1)
Residential	Residential	Daytime	55
		Nighttime	45
Business/Commercial	Residential	Daytime	60
		Nighttime	50
Industrial	Residential	Daytime	65
		Nighttime	55
Residential	Business/Commercial	Anytime	60
Business/Commercial	Business/Commercial	Anytime	65
Industrial	Business/Commercial	Anytime	65

Industrial	Industrial	Anytime	75

8.2 Correction for Character of Sound. For any source of sound which emits a pure tone or impulsive sound, the L eq(1) sound level limits set forth in subsection (8.1) of this section, shall be reduced by five dBA for any pure tone or impulsive sound. Special instrumentation and measurement techniques are required if a pure tone or impulsive sound is less than five dBA above the background noise level.

8.3 Exemptions. The provisions of this section shall not apply to:

(a) Any of the subsections in Section 4.50.060, except as noted in Section 4.50.060; (b) Interstate railway locomotives and cars; (c) Undeveloped land, farm land and nonstationary farming equipment and all normal agricultural activities; and (d) Notwithstanding Table 1 above, an electric utility generation facility, as defined in Chapter 15.03 of the Council Bluffs Municipal Code, may generate a decibel reading not to exceed sixty-five (65) dBA at anytime (day or night) to a receiving land use that is residential. The level of sound for an electric utility generation facility shall be measured by using an L90 measurement technique, and for a one-hour average. Sound from sources other than the electric utility generation facility, including, but not limited to, streets, highways, seasonal insects and other uses, shall not be counted against the ordinance limits.

4.50.090 - Motor vehicle maximum sound levels.

9.1 Motor Vehicles and Motorcycles on Public Rights-of-way. It is unlawful for any person to operate or cause to be operated a motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table 2 as follows, for the speed limit zone, regardless of the actual speed of the motor vehicle or motorcycle or in any other manner prohibited by this section.

Table 2
Motor Vehicle and Motorcycle Sound
Limits Measured at Fifteen Meters (fifty feet)
(maximum sound level, fast meter response)

Vehicle Class	Sound Level in dBA Speed Limit Zone (35 MPH or Less)	Sound Level in dBA Speed Limit Zone (Over 35 mph)	Sound Level in dBA Stationary Run-Up
1. Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 lbs. or more	86	90	88
2. All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	86	90	85
3. Any motorcycle	82	86	85
4. Any other motor vehicle or any combination	76	82	85

of vehicles towed by any other motor vehicle			

(a) Adequate Mufflers or Sound Dissipative Devices. (1) No person shall operate or cause to be operated on a public right-of-way any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order, in constant operation, and that will sufficiently reduce sound to any acceptable level so as not to create a nuisance to any person. (2) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle. (b) Motor Vehicle Horns and Signaling Devices. The following acts and the causing thereof are declared to be in violation of this chapter: (1) The sounding of any horn, bell or other auditory device on or in any motor vehicle on any public right-of-way or public space for the period of more than one minute in any hourly period, except as a warning of danger; (2) The sounding of any horn or other auditory signaling device which produces a sound level in excess of eighty-five (85) dBA at fifteen (15) meters (fifty (50) feet), except as a warning of danger. (c) Reserved. (d) Standing Motor Vehicles. No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within forty-six (46) meters (one hundred fifty (150) feet) of a residential area or designated noise sensitive zone, between the hours of ten p.m. and seven a.m. the following day.

9.2 Recreational Motorized Vehicles Operating off Public Rights-of-way.

(a) Except as permitted in subdivision (b) or (c) below no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table 3 of this subsection, at a distance of fifteen (15) meters (fifty (50) feet) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This subsection (9.2) shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, gocarts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats. (b) It is illegal for any person to sponsor or conduct any recreational, sporting or other type of motorized racing event without first registering said event with the city health director. (c) Other special variances may be obtained from the board of health.

Table 3
Recreational Motorized Vehicle Sound Limits (Measured at Fifteen Meters (Fifty Fee))
(Maximum Sound Level, Fast Meter Response)

Vehicle Type	Sound Level, dBA
Snowmobile	78
Motorcycle	78
Any other motorized recreational vehicle	78

4.50.110 - Enforcement.

(a) Noise Measurement Procedures. The noise measurement procedures to be used for the enforcement of this chapter shall be based on current industry standards. (b) Nuisance Declared. Any violation of the provisions of this chapter shall be deemed a nuisance. The provisions of Chapter 8.54 shall apply to any violation of any of the provisions of this chapter. (c) Immediate Threats to Health and Welfare. (1) The Chief Building Official shall declare an emergency as provided in Chapter 8.54 and order an immediate halt to any sound which exposes any person across a real property boundary to continuous sound levels in excess of those shown in Table 4. (2) No order pursuant to subdivision (1) of this subsection shall be issued if the only persons exposed to sound levels in excess of those listed in Table 4 are exposed as a result of (A) trespass, or (B) invitation upon private property by the person causing or permitting the sound, except as provided in subsection (6.3)(i) of Section 4.50.060. (3) Any person subject to an order issued pursuant to subdivision (1) of this subsection shall comply with such order until: (A) The sound is brought into compliance with the order, as determined by the director of public health; or (B) The board of health or a judicial order has superseded the director of public health's order. (d) Reserved.

Table 4
Continuous Sound Levels Which Pose an Immediate Threat to Health and Welfare Measured at the Receiver's Ear Across a Real Property Boundary (slow meter response)

Sound Level Limit (dBA)	Duration Hours and	Minutes
90	8	0
91	7	0
92	6	0
93	5	20
94	4	40
95	4	0
96	3	30
97	3	0
98	2	40
99	2	20
100	2	0
101	1	45
102	1	30
103	1	20
104	1	10
105	1	0
106	0	54
107	0	48
108	0	42
109	0	36
110	0	30
111	0	27

112	0	24
113	0	21
114	0	18
115	0	15

(e) Non-exclusive Nature of Remedy. (1) This chapter is not the exclusive regulation of sound within the city. It shall supplement and be in addition to the other regulatory codes, statutes, ordinances, and rules and regulations heretofore or hereafter enacted by the city, the state, the federal government, or any other legal entity or agency having jurisdiction. (2) No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.

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 22, 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: _____