ORDINANCE NO. 6369

AN ORDINANCE TO AMEND CHAPTER 12.02 "MISCELLANEOUS PROVISIONS" OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY ADDING SECTION 12.02.056 "OPEN BURNING PROHIBITED".

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

SECTION 1. That Chapter 12.02 "Miscellaneous Provisions" of the 2015 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by adding Section 12.02.056 "Open Burn Prohibited", to read as follows:

12.02.055 - Fireworks displays—Fire suppression standby.
(a) Any fireworks display on city property shall be required to have fire suppression standby provided by the Council Bluffs fire department on-site at the expense of the responsible party. The fee shall be as set forth in the prevailing schedule of fees. (b) The fire chief may require fire suppression standby at fireworks displays held on private property within the city of Council Bluffs at the expense of the responsible property. The fee shall be as set forth in the prevailing schedule of fees. (c) Any additional expenses incurred by the city as a result of fireworks displays shall be billed to the responsible party at the rate set forth in the prevailing schedule of fees. These expenses may include, but shall not be limited to mowing, barricades, etc.

12.02.056 – Open Burn 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 12.02.056.

(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.
(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 fire 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 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.

12.02.060 - 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 be 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 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: _____