ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 4.50 "NOISE CONTROL" OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING SECTION 4.50.060 "PROHIBITED ACTS" TO ACCOMMODATE EARLY COLLECTION OF SOLID WASTE IN EXTREME HEAT.

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

SECTION 1. That Chapter 4.50 "Noise Control" of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by amending Section 4.50.060 "Prohibited Acts" to read as follows:

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:

1. The specific prohibitions in this section during the hours a sound level limit is specified;
2. 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 CBMC 4.50.070 Paragraph 7.2:

A. Radios, television sets, musical instruments and similar devices which produce, reproduce or amplify sound:
    1. Between the hours of 10:00 p.m. and 7:00 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 7:00 a.m. to 10:00 p.m. so as to violate the provisions of CBMC 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. Paragraph 6.3,A shall not apply to noncommercial spoken language covered under paragraph 6.3,B;
B. Loudspeakers—Public Address Systems:
    1. Using or operating for any noncommercial purpose any loudspeaker, public address system, or similar device:
        1. So that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive area, or
        2. Between the hours of 10:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space and from 7:00 a.m. to 10:00 p.m. so as to violate the provisions of CBMC 4.50.080;

2. Using or operating for any commercial purpose any loudspeaker, public address system, or similar device:
    1. So that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive area, or
    2. Between the hours of 10:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space;
3. This paragraph 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 7:00 a.m. and 10:00 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 10:00 p.m. and 7:00 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 7:00 a.m. to 10:00 p.m. so as to violate the provisions of CBMC 4.50.080, except for that sound emission from commercial and industrial land use shall be governed by the provisions of CBMC 4.50.080 at all times and work performed under contract to the city during times of extreme heat;

F. Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:
    1. Between the hours of 10:00 p.m. and 7:00 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(l) at fifteen (15) meters (fifty (50) feet) measured from construction site boundary,
    3. This paragraph 6.3,F shall not apply to the use of domestic tools subject to paragraph 6.3,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 (90) 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 CBMC 4.50.070 Paragraph 7.2. Such permit need not be obtained for licensed

game hunting activities on property where such activities are authorized. This paragraph 6.3,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 Iowa Code § 110.19) 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 thirty (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 10:00 p.m. and 7:00 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 CBMC 4.50.080, and shall be measured at a distance of fifteen (15) meters (fifty (50) 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 4.50.080 Paragraph 8.1 and paragraph 6.3,P of this section, respectively;

L. 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 paragraph 6.3,N,2,

1. 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 7:00 a.m. or after 10:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds,
2. 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 7:00 a.m. or after 10:00 p.m. The time limit specified in paragraph 6.3, A,2,a shall not apply to such complete system testing,

2. Provisions of this paragraph 6.3,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 (76) 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 CBMC 4.50.040 Paragraph 2.10, 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 CBMC 4.50.040 Paragraph 2.10, 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 10:00 p.m. and 7:00 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 paragraph 6.3,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 CBMC 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.

(Ord. 5382 § 1, 1998)

(Ord. No. 6296, § 1, 6-12-2017; Ord. No. 6363, § 1, 10-22-2018)

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 _____, 2020.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: _____
Second Consideration: _____
Public Hearing: _____
Third Consideration: _____