**ORDINANCE NO. 2020-03**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF GILMORE CITY, IOWA BY ADDING A NEW CHAPTER 43 ENTITILED “NOISE CONTROL”.

**WHEREAS**, it is the desire of the City of Gilmore City, Iowa to promote the general welfare of the community; and

**NOW THERFORE**, be it adopted as follows to wit:

**SECTION 1.** The Code of Ordinances of the City of Gilmore City, Iowa, is amended by adding Chapter 43 to as follows:

**NOISE CONTROL**

43.01 Purpose

43.02 Scope of Regulations

43.03 Definitions

43.04 Noise Disturbance Prohibited

43.05 Sounds Not Allowed

43.06 Exceptions to This Chapter

43.07 Other Laws and Ordinances

**43.01 PURPOSE.** The purpose of this chapter is to establish standards for the control of noise pollution in the City thereby protecting the public’s health, safety, and general welfare.

**43.02 SCOPE OF REGULATIONS.** This chapter applies to the control of all noise originating within the limits of the City, except in the following cases:

1. A State or Federal agency has adopted a different standard or rule than prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable, or

2. The City Council may grant a variance by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to community.

**43.03 DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI):

1. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
2. “Emergency work” means any work performed for the purpose of alleviating or resolving an emergency.
3. “Noise” means any sound which disturbs humans, or which causes or tends to cause an adverse psychological or physiological effect on humans.
4. “Noise disturbance” means those sounds defined as “sounds not allowed” Section in 43.05of this chapter.
5. “Plainly Audible” means any sound that can be detected by a person using his or her unaided hearing faculties, including, but not limited to, the understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.
6. “Powered model vehicle” means any self-propelled, airborne, waterborne or landborne model plan, vessel or vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car, or rocket.
7. “Real property boundary” means any 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 intra-building real property division.
8. “Recreational vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways is deemed a “motor vehicle” (or “motorcycle” if two or three-wheeled) and not a “recreational vehicle.” (Examples of recreational vehicles are snowmobiles, minibikes, stockcars, four wheelers, or motorboats.)
9. “Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
10. “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 such sound, including duration, intensity, and frequency.
11. “Sound equipment” means any radio, record player, tape deck or player, loud speaker, amplifier, sound track, or other device for producing, reproducing, or amplifying sound, except; however, “sound equipment” does not include sirens and other equipment used to alert persons to the existence of an emergency; equipment used by law enforcement and other public safety officials in the performance of their official duties; church carillons, bells or chimes; mobile radio or telephone signaling devices; and automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted there from is not audible for more than fifty (50) feet from such automobile or truck.

**43.04 NOISE DISTURBANCE PROHIBITED.** It is unlawful for any person to willfully make, continue, cause or allow any noise disturbance within the City between the hours of 10 p.m. and 7 a.m. on Sunday through Thursday and from midnight to 7 a.m. on Friday and Saturday.

**43.05 SOUNDS NOT ALLOWED.** The term “noise disturbance” means any of the following sounds:

1. Alarm Testing. The sound emitted by the intentional sounding outdoors of any privately-owned fire alarm, burglar alarm, siren, whistle, or similar stationary emergency signaling device for the essential testing of such device, when conducted between the hours of 5:00 p.m. and 8:00 a.m.

2. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or compact disk player, or other such standard equipment used and intended for the use and enjoyment of such vehicle’s occupants while such vehicle is on the public right-of-way if the sound emitted there from is audible for more than 50 feet.

3. Chain Saws. The sound emitted by motor-powered chain saws, tree trimming equipment and weed cutters operated between the hours of 10:00 p.m. and 7:00 a.m.

4. Construction Noise. The sound made by privately-owned and operated tools or equipment in erection, demolition, excavation, drilling or other such construction work which is received between the hours of 10:00 p.m. and 6:00 a.m. Sunday through Thursday; 12:00 p.m. Midnight and 6:00 a.m. Friday and Saturday.

5. Engine Brakes and Compression Brakes. The sound made by an engine brake device, compression brake, or a mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, at all times.

6. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing a motor vehicle or recreational vehicle which is received between the hours of 10:00 p.m. and 7:00 a.m.

7. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler- equipped lawn and garden equipment operated between the house of 10:00 p.m. and 7:00 a.m.

8. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing, or handling of boxes, crates, containers, building materials, trash cans, containers, receptacles, and/or dumpsters between the hours of 10:00 p.m. and 7:00 a.m.

9. Musical Instruments. The sound made by a drum, horn, reed and/or string instrument, or other musical instrument or device which is played between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday; 12:00 p.m. Midnight and 7:00 a.m. Friday and Saturday.

10. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system is defective or has been modified by the installation of a muffler cutout or bypass.

11. Off-road Motorcycle and Recreational Vehicle Noise. The sound made on private or City-owned property other than a public right-of-way by a motorcycle or recreational vehicle and received between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday; 12:00 p.m. Midnight and 7:00 a.m. Friday and Saturday, provided; however, the sound made by a motorcycle when traveling from private property to a public right-of- way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a “noise disturbance” unless made so by some provisions of this section.

12. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday; 12:00 p.m. Midnight and 7:00 a.m. Friday and Saturday.

13. Racing. The sound made by a motor vehicle or recreational vehicle on private property or public right-of-way during any racing event or time trial, whether organized or unorganized, at all times.

14. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle, at all times.

15. Selling by “Hawking” or “Barking.” The sound of selling by shout or outcry when made within the area of City zoned residential or commercial properties, at all times.

16. Sound Equipment. The sound made by sound equipment (see definition under Section 43.03(12) operated upon the public right-of-way, or in any building, or upon any public or private premises, if “plainly audible” for more than 100 feet from the real property boundary, at all times between the hours of 10p.m. to 7 a.m. Sunday through Thursday, and 12:00p.m.Midnight to 7 a.m. Friday and Saturday.

**43.06 EXCEPTIONS TO THIS CHAPTER**

A. This article shall not apply to the following:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency. This is to include the public address systems.

2. The emission of sound in the performance of emergency work.

3. Rail and air transportation and public mass transportation vehicles.

4. The emission of sound in the performance of military operations, exclusive of travel by individuals to or from military duty.

5. The emission of sound from activities in the discharge of weapons, fireworks displays, or parades permitted by the City Council.

6. The emission of sound from activities where the State or federal agency has adopted a different standard or rules than that prescribed within this Chapter.

7. The emission of sound during nonprofessional athletic and school events or practices.

8. The emission of sound from on-site stationary trash compactors, Municipal or municipally contracted compacter trucks loading or unloading of yard waste, recyclable material, trash, and garbage. In cases where the sound originates within 300 feet of a residential area land use of noise sensitive land use exemption shall only apply between the hours of 7:00 a.m. to 10 p.m.

9. The emission of sound during the operation, maintenances, repair, and cleaning of public streets and facilities. Work performed by or for public utilities.

10. Agricultural activities, exclusive of those involving the ownership or possession of animals or birds.

11. The emission of sound by church carillons, bells, or chimes, be it electronic or manual.

12. The emission of sound from activities at a local bar, restaurant or City Celebration.

**43.07 OTHER LAWS AND ORDINANCES.** No provisions of this chapter should be construed to legalize, or permit sounds, devices or activities made unlawful by other ordinances of the City or State or Federal statutes. This Ordinance shall be in full force and effect from and after the publication of this ordinance, as required by law.

**43.08 VIOLATIONS.** All violations of any provisions of this Chapter may be prosecuted by the City either as simple misdemeanors or municipal infractions. The fines for violating any section of this ordinance after 1st warning shall be the following:

Municipal Infractions:

1. Offense: $100

2. Offense: $250

3. Offense: $500

Adopted this \_\_8th\_\_\_ day of \_\_\_\_August\_\_\_\_\_, 2020

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Melissa Ubben-City Clerk Lowell Johnson-Mayor

First Hearing: July 13, 2020 All Ayes

Second Hearing: August 17, 2020 All Ayes

Third Hearing: Waived

Published: