

ORDINANCE NO. 6494

AN ORDINANCE TO AMEND TITLE 8, PUBLIC SAFETY AND MORALS OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING CHAPTER 8.75 "POSSESSION OF FIREARMS-PROHIBITED" AND REPLACING IT WITH A NEW CHAPTER 8.75 ENTITLED "POSSESSION OF WEAPONS".

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

SECTION 1. That Title 8, Public Safety and Morals of the 2020 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Chapter 8.75 "Possession of Weapons-Prohibited" and replacing it with a new Chapter 8.75 "Possession of Weapons" to read as follows:

Chapter 8.75- POSSESSION OF WEAPONS

8.75.010 Definitions - Possession Of Weapons

8.75.020 Possession Of Weapons - Prohibited

8.75.030 Penalty For Violation

8.75.010 Definitions - Possession Of Weapons

Possess: To have within the possession or control of a person or to have about a person or to transport within any motor vehicle, in such a place as to be accessible to the driver or passenger of the vehicle, including the glove box and the area under or beneath the seats.

Weapon: Those instruments or items which are designed or have been modified so as to be capable of causing bodily injury. They shall include, but shall not be limited to, daggers, dirks, stilettos, or any knife having a blade of three inches or longer, metallic knuckles, pocket billy, sand bag, skull-cracker, slug-shot, nunchucks, or offensive weapon as defined in Iowa Code §724.1 Furthermore, such definitions shall include those items which, although not designed or modified so as to be capable of causing bodily injury, are capable of such, and are threatened to be used, or carried with the intent to be used, as a weapon.

For purposes of this Chapter, such weapons shall not include any firearms or weapons that are legal to possess under Iowa Code §724 or any other state law that preempts the jurisdiction of a political subdivision of the state of Iowa.

8.75.020 Possession Of Weapons - Prohibited

It is unlawful for any person to possess, within the city limits of Council Bluffs, Iowa, a weapon as defined in this Chapter, with the following exceptions:

- A. Any peace officer, when his or her duties require the person to carry such weapon;
- B. Any member of the Armed Forces of the United States or of the National Guard, or person in the service of the United States, when the weapons are carried in connection with his or her duties as such;
- C. Any person who goes armed with a weapon in his or her own dwelling or place of business, or on land owned or possessed by the person, or upon property of another with the consent of the person in lawful possession of the property;

- D. Any correctional officer, serving in an institution under the authority of the Division of Adult Corrections;
- E. Any person who, under the laws of this state and the United States, is lawfully engaged in the business of supplying those authorized to possess such devices;
- F. Any museum or similar place which possesses, solely as relics, offensive weapons which are rendered permanently unfit for use;
- G. Any person who uses the weapon as a tool in his or her lawful trade or business, so long as he or she is participating in the trade or business at the time of the possession, or is on his or her way to or from participating in the trade or business;
- H. Any person who has in his or her possession and who displays to any peace officer, on demand, a valid permit to carry weapons which has been issued to the person and whose conduct is within the limits of that permit. No person shall be convicted of a violation of this section if the person produces at his or her trial a permit to carry weapons which was valid at the time of the alleged offense, and which would have brought the person's conduct within this exception if the permit had been produced at the time of the alleged offense.

8.75.030 Penalty For Violation

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 CBMC 8.02.020. 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 CBMC 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.

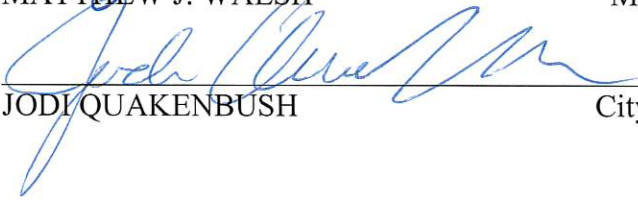
PASSED AND APPROVED

May 23, 2022


MATTHEW J. WALSH

Mayor

Attest:


JODIQUAKENBUSH

City Clerk

First Consideration: 5-9-22

Second Consideration: 5-23-22

Public Hearing: n/a

Third Consideration: Waived

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by: Graham Jura

Ordinance 6494
ITEM 6.C.

Council Action: 5/23/2022

Description

Ordinance to amend Title 8, Public Safety and Morals of the 2020 Municipal Code, by repealing existing Chapter 8.75 "Possession of Weapons-Prohibited" and replacing it with a new Chapter 8.75 "Possession of Weapons".

Background/Discussion

With the passage of HF 756, the Iowa Legislature enacted the permit-less carry of firearms throughout the state of Iowa. Included in this legislation was a provision that pre-empted all local ordinances in conflict with the new carry law under Iowa Code §724, rendering them null and void. However, the statute does not prohibit the regulation of offensive weapons, as defined in Iowa Code §724.1, or other dangerous weapons from being regulated at the municipal level. After reviewing our Code with police department personnel, the attached changes to our code are recommended to allow for compliance with the new constitutional carry law while also giving our officers the basis they need for municipal code enforcement to protect Council Bluffs citizens.

Recommendation

Approval is recommended.

ATTACHMENTS:

Description	Type	Upload Date
Ordinance-red line version	Other	4/26/2022
Ordinance 6494	Ordinance	5/3/2022

8.75.010 Definitions - Possession Of Weapons—Firearms

~~Apparatus capable of propelling a missile: Any device or apparatus which is capable of propelling a missile by any means whatsoever, excluding the propulsion of the missile by an explosive charge, including but not limited to, any air rifle, CO-2 rifle, bow and arrow, slingshot, etc.~~

~~Firearm: Unless otherwise designated, "firearm" means any device whereby a missile is propelled by the use of an explosive charge, including but not limited to, pistols, revolvers, rifles, shotguns, cannons, etc.~~

Commented [GJ1]: Deleted as it is covered under offensive weapons under Iowa Code 724.1, which I reference in the code below.

~~Possess: To have within the possession or control of a person or to have about a person or to transport within any motor vehicle, in such a place as to be accessible to the driver or passenger of the vehicle, including the glove box and the area under or beneath the seats. Such term shall not include the concealment of a dangerous weapon, as defined by (2005) Iowa Code § 702.7, on or about a person.~~

~~Weapon: Those instruments or items which are designed or have been modified so as to be capable of causing bodily injury. They shall include, but shall not be limited to, daggers, dirks, stilettos, or any knife having a blade of three inches or longer, metallic knuckles, pocket billy, sand bag, skull-cracker, slug-shot, numb-nunchucks, or offensive weapon as defined in Iowa Code § 724.1 etc.~~ Furthermore, such definitions shall include those items which, although not designed or modified so as to be capable of causing bodily injury, are capable of such, and are threatened to be used, or carried with the intent to be used, as a weapon. For purposes of this Chapter, such weapons shall not include any firearms or weapons that are legal to possess under Iowa Code § 724 or any other state law that preempts the jurisdiction of a political subdivision of the state of Iowa.

~~(Ord. 5877 § 1, 2006)~~

8.75.020 Possession Of Weapons - Prohibited

It is unlawful for any person to possess, within the city limits of Council Bluffs, Iowa, a weapon as defined in this Chapter, with the following exceptions:

1. Any peace officer, when his or her duties require the person to carry such weapon;
2. Any member of the Armed Forces of the United States or of the National Guard, or person in the service of the United States, when the weapons are carried in connection with his or her duties as such;
3. Any person who goes armed with a weapon in his or her own dwelling or place of business, or on land owned or possessed by the person, or upon property of another with the consent of the person in lawful possession of the property;
4. Any correctional officer, serving in an institution under the authority of the Division of Adult Corrections;
5. Any person who, under the laws of this state and the United States, is lawfully engaged in the business of supplying those authorized to possess such devices;
6. Any museum or similar place which possesses, solely as relics, offensive weapons which are rendered permanently unfit for use;
7. Any person who uses the weapon as a tool in his or her lawful trade or business, so long as he or she is participating in the trade or business at the time of the possession, or is on his or her way to or from participating in the trade or business;
8. Any person who has in his or her possession and who displays to any peace officer, on demand, a valid permit to carry weapons which has been issued to the person and whose conduct is within the limits of that permit. No person shall be convicted of a violation of this section if the person produces at his or her trial a permit to carry weapons which was valid at the time of the alleged offense, and which would have brought the person's conduct within this exception if the permit had been produced at the time of the alleged offense.

(Ord. 4378 § 1 (part), 1981)

8.75.030 Possession Of Firearms – Prohibited

~~No person shall possess any firearm or apparatus capable of propelling a missile within the city limits of Council Bluffs, Iowa, unless such firearm is taken down or contained in a case, and the breach chambers, cylinders, and/or magazines thereof are unloaded; or unless such apparatus capable of propelling a missile is unloaded or rendered incapable of propelling a missile, with the following exceptions:~~

- ~~1. A person who goes armed with a firearm in his or her own dwelling or place of business, or on land owned or possessed by the person, or upon property of another with the consent of the person in lawful possession of the property;~~
- ~~2. Any peace officer, when his or her duties require the person to carry such firearm;~~
- ~~3. Any member of the Armed Forces of the United States or of the National Guard, or person in the service of the United States, when the firearms are carried in connection with his or her duties as such;~~
- ~~4. Any correctional officer, when his or her duties require, serving under the authority of the Division of Adult Corrections;~~
- ~~5. Any person, while he or she is lawfully engaged in target practice on a range designed for that purpose;~~
- ~~6. Any person who has in his or her possession and who displays to any peace officer on demand a valid permit to carry firearms which has been issued to the person, and whose conduct is within the limits of that permit. No person shall be convicted of a violation of this section if the person produces at his or her trial a permit to carry firearms which was valid at the time of the alleged offense, and which would have brought the person's conduct within this exception if the permit had been produced at the time of the alleged offense;~~
- ~~7. Any person, firm, or corporation who, under the laws of this state and the United States, is lawfully engaged in the improvement, invention, or manufacture of firearms.~~

(Ord. 4378 § 1 (part), 1981)

8.75.035 Exclusion

~~Nothing in this chapter shall be interpreted as regulating any conduct regulated by state law, such as the carrying of pistols or revolvers, in violation of (1981) Iowa Code § 724.4.~~

(Ord. 4378 § 1 (part), 1981)

8.75.040 Penalty For Violation

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 CBMC 8.02.020. 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 CBMC 1.95 in lieu of criminal prosecution.

(Ord. 5627 § 1, 2001)

Commented [GJ2]: No reason to keep this. Could change it to mirror the prohibitions within 724 (minors, drunks, etc.) but if they change then you have to change this.

Commented [GJ3]: 724.4 is now "Use of a dangerous weapon in the commission of a crime" – no longer relevant.

Proof Of Publication

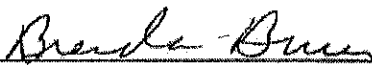
State of Iowa

Pottawattamie County

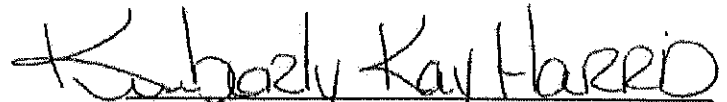
I, (the undersigned) on my oath do solemnly that I am an authorized representative of CBN Daily Nonpareil, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

The attached notice was published in said newspaper 1 consecutive time(s) as follows:

The First publication thereof began on the 28th day of May, 2022.


Brenda Brun
Billing Representative

Sworn to and subscribed before me this 28th day
of May, A.D. 2022.


Kimberly Kay Harris
Notary Public

State of Virginia
County of Hanover
My Commission expires _____

Kimberly Kay Harris
NOTARY PUBLIC
Commonwealth of Virginia
Reg. No. 356753
Commission Exp. Jan. 31, 2025

CITY OF COUNCIL BLUFFS
209 PEARL ST.
COUNCIL BLUFFS, IA 51503

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jquakenbush@councilbluffs-ia.gov

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E. Any person who, under the laws of this state and the United States, is lawfully engaged in the business of supplying those authorized to possess such devices;

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tool in his or her lawful trade or business, so long as he or she is participating in the trade or business at the time of the possession, or is on his or her way to or from participating in the trade or business;

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PASSED AND APPROVED May 23, 2022

MATTHEW J. WALSH Mayor

Attest:
JODI QUAKENBUSH City Clerk

First Consideration: 5-9-22
Second Consideration: 5-23-22
Public Hearing: n/a
Third Consideration: Waived
2022 (5) 28-1 Saturday