City of Carroll

Brad Burke, Chief of Police

Police Department

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MEMO TO: Mike Pogge-Weaver, City Manager MSP-W

FROM: Brad Burke, Chief of Police BB

DATE: December 20, 2019

SUBJECT: Carroll City Ordinance Chapter 40.02 amendment

On September 26, 2019, the United States District Court for the Southern District of Iowa, ruled that Iowa Code Section 723.4(2) is unconstitutionally vague on its face and unenforceable. City of Carroll Code of Ordinances 40.02(2) has the exact language of Iowa Code 723.4(2) which makes it also unconstitutionally vague on its face and unenforceable. The Police Department has stopped enforcing this code but the City of Carroll City Council should amend the Code of Ordinance 40.02 to remove paragraph 2. I have attached the current City of Carroll Code of Ordinance 40.02.

RECOMMENDATION: Council consideration and waiving of all three readings of the ordinance and approving the amendment to Chapter 40.02 of the City of Carroll Ordinance.

ORDINANCE NO._____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARROLL, IOWA, 2011, BY AMENDING PROVISIONS PERTAINING TO PUBLIC PEACE

BE IT ENACTED by the City Council of the City of Carroll, Iowa:

SECTION 1. Chapter 40 of the Code of Ordinances of the City of Carroll, Iowa, 2011, is amended as follows:

CHAPTER 40
PUBLIC PEACE

40.02 DISORDERLY CONDUCT

1. No change to this numbered paragraph
2. Delete this numbered paragraph
3. No change to this numbered paragraph
4. No change to this numbered paragraph
5. No change to this numbered paragraph
6. No change to this numbered paragraph
7. No change to this numbered paragraph
8. No change to this numbered paragraph

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 All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.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 section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this _____ day of _____, 2020.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

_____
Eric P. Jensen, Mayor

ATTEST:

_____
Laura A. Schaefer, City Clerk

I certify that the foregoing was published as Ordinance No._____ on the _____day of _____, 2020.

_____
Laura A. Schaefer, City Clerk

Print

Carroll, IA, Iowa Code of Ordinances

40.02 DISORDERLY CONDUCT.
No person shall do any of the following:

1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct that is reasonably related to that sport.

(Code of Iowa, Sec. 723.4[1])

2. Noise. Make loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.

(Code of Iowa, Sec. 723.4[2])

3. Abusive Language. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.

(Code of Iowa, Sec. 723.4[3])

4. Disrupt Lawful Assembly. Without lawful authority or color of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

(Code of Iowa, Sec. 723.4[4])

5. False Report of Catastrophe. By words or action, initiate or circulate a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

(Code of Iowa, Sec. 723.4[5])

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States, or the state of Iowa with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault.

(Code of Iowa, Sec. 723.4[6])

7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

(Code of Iowa, Sec. 723.4[7])

8. Funeral or Memorial Service. A person shall not do any of the following within one thousand feet of the building or other location where a funeral or memorial service is being conducted, or within one thousand feet of a funeral procession or burial:

A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.

C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

This subsection applies to conduct within 60 minutes preceding, during, and within 60 minutes after a funeral, memorial service, funeral procession, or burial.

(Code of Iowa, Sec. 723.5)

(Ord. 1509 – Jan. 16 Supp.)