City of Carroll

Brad Burke, Chief of Police **Police Department**

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MEMO TO: Mike Pogge-Weaver, City Manager MPW

FROM: Brad Burke, Chief of Police BB

DATE: November 4, 2020

SUBJECT: Carroll City Ordinance Chapter 44, Noise Control, addition

As of this date I have not received any feedback on this ordinance.

In December of 2019, the City Code of Ordinances amended Disorderly Conduct due to a court ruling that the code was unconstitutionally vague. Since that time, the police department has not been able to adequately handle noise complaints. After a review with the City Attorney, City Manager, and Mayor, the attached draft of the ordinance was created.

RECOMMENDATION: Council consideration of the ordinance addition of Noise Control, Chapter 44 of the City of Carroll Code of Ordinances.

ORDINANCE NO._____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARROLL, IOWA, 2011, BY ADDING A NEW CHAPTER FOR NOISE CONTROL

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

SECTION 1. NEW CHAPTER

The Code of Ordinances of the City of Carroll, Iowa, is amended by adding a new chapter, Chapter 44, entitled NOISE CONTROL, which is hereby adopted to read as follows:

44.01: DEFINITIONS:

As used in this chapter, the following definitions shall apply:

1. AMPLIFIED SOUND: To increase sound in intensity and duration by electrical, electronic, mechanical or other nonhuman means, including an electronic device.
2. NOISE DISTURBANCE: Any loud and raucous noise, or any noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity.
3. PERSON: Any natural person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assignee of any of the foregoing, or any other legal entity.
4. PLAINLY AUDIBLE: Any sound for which the information content of the sound is transferred to the listener such as, but not limited to, understanding of spoken speech, comprehension of whether a voice is raised or lowered or comprehension of musical rhythms.
5. PUBLIC PLACE: Any street, avenue, boulevard, highway, sidewalk or alley or similar place owned or controlled by the city, including any structure or park.
6. REAL PROPERTY LINE: An 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 intrabuilding real property divisions.
7. SOUND PRODUCTION DEVICE: Radio, tape player, disc player, loudspeaker, digital audio player, portable media player or other electric, electronic or mechanical device that produces or reproduces sound.

44.02: SPECIFIC ACTIVITIES PROHIBITED:

1. No person shall play or operate, or permit the playing or operating of, a sound production device within a motorized vehicle that is plainly audible by any person: 1) either across a real property line or at a distance of fifty feet (50') or more from the vehicle; and 2) for more than thirty (30) continuous seconds.
2. No person shall operate a motor vehicle or a recreational vehicle whose exhaust system has been modified by the installation of a muffler cut-out or bypass to create excessive or unusual noise, that is plainly audible by any person: 1) either across a real property line or at a distance of fifty feet (50') or more from the vehicle; and 2) for more than thirty (30) continuous seconds.

3. No person shall cause or create, or permit the causing or creating of, a noise disturbance that is plainly audible by any person: 1) either across a real property line or at a distance of fifty feet (50'); and 2) for more than thirty (30) continuous seconds.
4. No person shall so load, unload, open, close or handle boxes, crates, containers, building materials, garbage cans or similar objects outdoors between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M. the following morning as to create a noise disturbance across the real property line for more than thirty (30) continuous seconds. property.
5. No person shall operate construction equipment before six o'clock (6:00) A.M. and after ten o'clock (10:00) P.M. to create a noise disturbance across the real property line of residentially zoned property for more than thirty (30) continuous seconds, unless a permit therefor has been obtained from the city.

44.03: EXCEPTIONS TO PROVISIONS:

The provisions herein shall not apply to:

1. The emission of sound for the purpose of alerting persons to the time of day, the existence of an emergency or the approved testing thereof.
2. The emission of sound in the performance of emergency work, including snow removal and maintenance of trees.
3. Emergency vehicles, such as firetrucks, police and ambulances.
4. Essential services, such as electrical substations and safety devices.
5. Construction and maintenance activities between six o'clock (6:00) A.M. and ten o'clock (10:00) P.M. "Maintenance activities" shall be nonroutine operations, temporary in nature and conducted infrequently.
6. Cement sawing of freshly poured concrete street, alley, sidewalk or road surface.
7. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including, but not limited to, school athletic and school entertainment events.
8. Events conducted by affiliated groups if sponsored or funded in whole or in part, by a governmental entity.
9. Equipment used for political advertisements.
10. Equipment used for public health and safety purposes.
11. Church or clock carillons, bells or chimes or other reasonable sounding of devices from houses of worship.
12. Parades, processions or other public events.
13. Car or truck horns or similar devices when used to denote danger or a warning or possible danger.
14. Garbage collections services as applied in Chapter 106 of the City of Carroll Code of Ordinances.
15. Special permission may be granted by the Chief of Police to exceed the noise and/or time limits outlined in this chapter for specific activities, events, celebrations, and public gatherings.

44.04: VIOLATION:

Violation of this chapter shall be considered a municipal infraction punishable by a penalty as provided for in section 1.14 of this code or a simple misdemeanor punishable by a fine of at least ninety dollars ($90.00), but not more than eight hundred fifty-five dollars ($855.00).

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.

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Laura A. Schaefer, City Clerk