City of Carroll

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

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

FROM: Brad Burke, Chief of Police BB

DATE: November 5, 2019

SUBJECT: Carroll City Ordinance Chapter 136.03 amendment

Chapter 136 of the City of Carroll Code of Ordinances deals with Sidewalk Regulations and specifically 136.03 deals with Removal of Snow, Ice and Accumulations. The attached amendment to The City Code of Ordinances Chapter 136.03 provides more detail on how the City can efficiently require homeowners to remove snow and ice from sidewalks. This change in ordinance will create a better timeline that the snow and ice removal need to be accomplished while also detailing how notification will be delivered as well as the ramifications if the ordinance is ignored.

RECOMMENDATION: Council consideration and first reading of the ordinance change to Chapter 136, subsection 03 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 DANGEROUS AND VICIOUS ANIMALS

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

SECTION 1. Chapter 136, Section 03, of the Code of Ordinances of the City of Carroll, Iowa, 2011, is repealed and the following adopted in lieu thereof:

136.03: REMOVAL OF SNOW AND/OR ICE ACCUMULATIONS:

1. It is the responsibility of the owner to remove snow, ice and accumulations promptly from sidewalks and the owner shall be liable for injuries and damages caused by the failure to use reasonable care in the removal of snow, ice and accumulations. If the owner does not remove snow, ice and accumulations within a reasonable time and after receiving notice by the City, the City may do so and assess the costs against the owner for collection in the same manner as property tax. If the City is required to remove snow, ice and accumulations after notice, this action shall not release or relieve the owner of liability imposed above. The owner shall further defend, indemnify, and hold harmless the City of Carroll, from and against any claim, arising out of the failure to remove snow, ice and accumulations.

(Code of Iowa, Sec. 364.12[2b & e])

2. Enforcement of Section: The City Manager shall appoint the director of public works, building official, and/or the police chief or their designated representative, who shall enforce the provisions of this section.

3. Definitions: Unless otherwise expressly stated, the following terms shall have the meaning given in this subsection:

ACCUMULATIONS: Snow and/or ice deposits.

PERSON: Includes an individual or group or association of individuals; a firm or any member thereof; a corporation, or any executive officer, manager, person in charge or employee thereof; and the use of a pronoun specifying one gender shall include both genders.

PROPERTY OWNER: The record titleholder or the contract purchaser of record, if any.

SNOW SEASON: The period beginning October 1 and ending May 1.

4. Obligation of Property Owner:

A. The owner of any property abutting a public sidewalk with the exception of bike paths and combination bike paths/pedestrian walkways maintained by the city, shall remove snow, ice and accumulations from sidewalks within a reasonable time but in no case more than twenty four (24) hours following the

cessation of the weather or other event by which they were deposited, provided, however, that in extraordinary weather circumstances the director of public works, building official or police chief or their designated representative may extend the period of time provided herein. In those situations, the director of public works, building official or police chief or their designated representative will deliver to news media a statement indicating the amount of additional time property owners shall have to remove accumulations from sidewalks.

B. If accumulations are not removed as required above, including any extraordinary weather circumstances, or required treatment pursuant to subsection 5 is not completed and maintained, the building official or chief of police or their designated representative may give to the property owner a notice entitled "Official Notice - Failure to Remove Snow or Ice Accumulation on Sidewalk and/or Failure to Treat Snow and/or Ice Accumulation on Sidewalk" setting forth the location/address of the violation and to whom the notice is directed with the explanation of the violations. This notice shall be personally served upon the owner of the residence. If personal service is not possible, written notice of such violation shall be affixed to the front door of the premises. If the owner is leasing or renting the premise, the tenant shall be personally served or notice affixed to the front door and the owner shall also be personally served with the notice. The owner of the property in violation shall have twenty-four (24) hours from the time of service or posting of this notice in which to take corrective action and bring the sidewalk into compliance with this code. The existence of extraordinary weather conditions as determined by the director of public works, building official or police chief, pursuant to this subsection, shall extend the twenty-four (24) hours until such extraordinary weather conditions have dissipated. Upon notification by the public works director, building official or police chief of the end of extraordinary weather conditions the twenty-four (24) hours will start. If after notice, the accumulations are not timely removed or the required treatment pursuant to subsection 5 is not completed and maintained, the police chief or their designated representative is authorized to issue a civil citation pursuant to section 364.22 of the code of Iowa.

C. A second subsequent violation of this section shall not be considered a repeat offense pursuant to section 364.22, Code of Iowa, for the purposes of increasing the civil penalty provided in said code section, unless the prior or preceding offenses have occurred within the current snow season.

5. Treatment of Unremovable Snow And/Or Ice: When accumulations have formed upon any sidewalk so that it cannot be reasonably removed, the abutting property owner shall within the period set forth in subsection 4 of this section keep and maintain such accumulations sprinkled with fine cinders, sand or de-icing chemicals in such manner as to provide traction and prevent the sidewalk from being dangerous to persons using the same. Nothing in this subsection shall be construed to be a substitute for the removal of accumulations, as required in subsection 4 of this section. This subsection shall only apply when accumulations cannot be reasonably removed, however, all accumulations shall be removed as soon as practical.

6. Unlawful Deposit of Snow And/Or Ice: No person shall remove, or cause to be removed, accumulations from private premises and deposit the same or cause the same to be deposited upon any public street, avenue, alley, public square or traveled area within the city.

The chief of police or their designated representative is authorized to issue a civil citation pursuant to section 364.22 of the code of Iowa to anyone violating this subsection indicating said person is in violation of this subsection and is subject to the penalties provided for in section 364.22, the code of Iowa.

7. Removal By The City of Carroll: Whenever accumulations have remained on any sidewalk in violation of subsection 4 and/or whenever unremovable accumulations have formed on any sidewalk in violation of subsection 5, and the time for the property owner to take action after service of the notice has expired, the city may cause such accumulations to be removed and/or treatment of unremovable accumulations either by use of city personnel and equipment or by contracting for the work to be undertaken.

8. Right to Assess: When the city removes or causes to be removed accumulations and/or treats accumulations, the city may assess the actual cost plus any administrative costs of removing such accumulations from the abutting property owners' sidewalks and/or treatment of unremovable accumulations, in addition to taking any other action provided for in this section.

9. Assessment of Costs: The actual cost of removal and/or treatment of accumulations, including an administrative cost of seventy-five dollars ($75) per occurrence, shall be paid by the owner of the property abutting thereon.

The property owner shall be sent an itemized bill by the city for said costs to permit voluntary payment thereof by the property owner. The bill shall be sent within thirty (30) days of the city's action as set forth in subsection 8 of this section. Failure to pay said bill within thirty (30) days after mailing of bill will cause the action to appear on a schedule of assessments to be forwarded to the City Clerk.

10. Schedule of Assessments: Whenever any accumulations have been removed from any sidewalks or treatment of the sidewalks for unremovable accumulations by the city as provided in this section, and the right to assess provided for in subsection 9 is invoked, the city shall cause to be prepared a schedule giving the name of the owner, so far as known, a description of the property, the date when the work was done, and the amount charged to each lot, and for what work and materials the charge was made. As soon thereafter as practicable the schedule shall be filed with the City Clerk.

11. Certification For Collection: Upon receipt of the schedule of assessments and certification by the City Clerk, the City Clerk shall file said assessments with the County Treasurer for collection in the manner provided by law.

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 _____, 2019.

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 _____, 2019.

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Laura A. Schaefer, City Clerk