

# Request for City Council Action

Date: April 28, 2015

<b>Agenda Section:</b> General Business  <b>No. 6</b>	<b>Originating Department:</b>  Police Department/Legal
<b>Item:</b> Ordinance Amending Titles Four (4) and Fourteen (14) of the Carbondale Revised Code as it relates to Noise in the City of Carbondale  <b>No. 6.2</b>	<b>Approved:</b>

**Background and Summary:**

With Carbondale being the home of Southern Illinois University, our community, like many other university communities, faces quality of life issues that are often attributed, either accurately or inaccurately, to the presence of an institution of higher education. University communities like ours continually need to assess what issues may negatively impact their quality of life and what can be done to address those issues. For the last two years in a row, survey data from the International Town-Gown Association has determined the most common and most challenging issues facing university communities are house parties (35%), late-night noise (33%) and underage drinking (30%).

Since the beginning of the year, police department staff has been meeting with a representative of the Arbor District to develop strategies to deal with all of these quality of life issues, not just for that particular neighborhood and its residents, but for the broader community and everyone who calls Carbondale home. Neighborhood based community policing efforts and initiatives must not only seek to reduce crime across the community, it must also place an emphasis in the heart of our residential neighborhoods which are primarily occupied with high density student rentals, yet bordered by owner occupied, historic residential properties, as these areas of the community are often the most difficult to police and are most susceptible to issues which negatively affect quality of life. In doing so, this initiative seeks to strengthen an existing ordinance to combat late night noise, most often associated with large, late night gatherings and house parties.

The City of Carbondale seeks to control noise in its residential districts for the purpose of protecting the public health, safety, morals, comfort, and general welfare of its residents. Further, the City of Carbondale seeks to conserve the value of property throughout the city, and to prevent noise pollution in that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, depresses property values, offends the sense, creates public nuisances and in other respects diminishes the quality of life of our residents and our environment.

This ordinance proposal amends the Carbondale Revised Code as it relates to the emission of sound from

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by \_\_\_\_\_ 2nd by \_\_\_\_\_ to \_\_\_\_\_

any source. The current Ordinance regarding the Use of Sound Devices is limited to the enforcement of noise only if the noise in violation is being produced by a “device which produces loud and raucous sounds,” such as a home stereo system or guitar amplifier. The current ordinance does not account for sound(s) which is being produced by a person or group of people.

Further, the change in this ordinance will take into account all sound created by any means, including any noise emitted by a device or a person. The amendment to the Ordinance will also recognize the use of a decibel meter to monitor complaints regarding potential noise violations. The decibel meter will add another tool to measure the noise against the ambient background noise. Measurements of noise and ambient background noise shall be made at the property line unless other persons using the same property are complaining about the noise in which case the measurement shall be from the source of the noise. The use of measuring devices may be used as a supplement to other evidence or as evidence of a violation, but it is not required for the establishment of a violation. Any and all decibel data compiled shall be maintained for the purposes of determining ambient sound levels to assist in determining whether maximum decibel level allowances should be incorporated into this ordinance in the future.

**The following counties or jurisdictions have a more strict noise ordinance:**

**Crystal Lake:** Their noise ordinance states that “No person shall make, continue, or cause to be made continued:

1. Any reasonable loud or raucous noise; or
2. Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the city; or
3. Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.”

**Peoria:** “No person shall allow or cause to be used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, compact disc player, DVD player or other machines or devices for the producing or reproducing of sound in a manner as to unreasonably disturb or to substantially interfere with the peace, quiet, comfort and repose of persons of ordinary sensibilities occupying, owning or controlling nearby properties or persons making use of public properties for their intended purposes, particularly between the hours of 11:00 p.m. and 7:00 a.m. ...”

Peoria does use a decibel level limit on motor vehicle mufflers at certain distances.

**St. Charles:** Their noise ordinance states that amplified sounds “shall not be heard clearly audible at the property line” at a single family dwelling and that noise “shall not be clearly audible at the perimeter of the dwelling unit” of a multiple family dwelling. These are enforced between 10:00 p.m. and 10:00 a.m.

**Urbana:** Their ordinance as it relates to “loud and raucous noise” states that “It shall be unlawful and a violation of this chapter for any person to generate, produce, create, broadcast, manufacture, maintain, or cause or facilitate the generation, production, creation, broadcast, manufacture, or maintenance of any loud and raucous noise when such noise is audible from any Public street; Public park; School, whether public or private,

or upon the grounds of any such school; Publicly-owned building or upon the grounds of any publicly-owned building; Religious house of worship, affiliated building associated with any such religious house of worship, or the grounds of any religious house of worship or affiliated building associated with any such religious house of worship; Hospital, clinic, surgical center or the grounds of any such entity unless necessary for the direct provision of patient; Parking lot, whether public or private; or Residence.”

Currently, our Ordinance regulates sound during the daytime hours of 7:00 A.M. to 10:00 P.M from any noise source to any receiving residential land which can be heard from a distance of 100 hundred feet (100’) or more from the source, and during the nighttime hours of 10:00 P.M. to 7:00 A.M. from any noise source to any residential land which can be heard from a distance of fifty feet (50’) or more from the source. This amendment does not change those distances, except as it relates to multiple unit dwellings and mobile home parks, where it would become unlawful for any person to use or operate a device which produces loud and raucous sounds at a distance greater than twenty-five feet (25’) during nighttime hours or greater than fifty feet (50’) during daytime hours from any sound amplifying device upon property containing multiple unit dwellings or within a mobile home park.

As there are currently plans to develop a formal landlord notification program regarding crime and quality of life violations at rental dwellings, this proposal also requires the owner or manager of the property be notified by any landlord notification program that is developed from this date and forward.

The penalty for violations of this ordinance requires any person found to have violated this ordinance to be fined a minimum \$100 for the first offense, a minimum \$250 for the second offense which occurs within a twelve (12) month period, and be fined a minimum \$500 for a third and subsequent offenses which occurs within a twelve (12) month period. If a subsequent offense occurs more than twelve (12) months after a prior offense, it shall be treated as a first offense.

**Recommended Action:**

It is recommended that the City Council approve an Ordinance amending Titles Four (4) and Fourteen (14) of the Carbondale Revised Code as it relates to noise in the City of Carbondale.

**CITY OF CARBONDALE, ILLINOIS**

**ORDINANCE NO. 2015- \_\_\_\_**

**AN ORDINANCE AMENDING TITLES FOUR AND FOURTEEN OF THE  
CARBONDALE REVISED CODE AS IT RELATES TO NOISE IN  
THE CITY OF CARBONDALE**

**ADOPTED BY THE CITY COUNCIL**

**OF THE CITY OF CARBONDALE, ILLINOIS**

**THE 14<sup>TH</sup> DAY OF APRIL, 2015**

**Published in pamphlet form by authority of the City Council of the City of Carbondale,  
Jackson County, Illinois, this 15<sup>th</sup> day of April, 2015.**

**CERTIFICATE OF PUBLICATION**

**I, Jennifer R. Sorrell, the duly qualified City Clerk of the City of Carbondale,  
Illinois, and the official custodian of the records of said City, do hereby certify that this  
ordinance was published in pamphlet form by authority of the City Council on the 15<sup>th</sup> day  
of April, 2015.**

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**Jennifer R. Sorrell, City Clerk**

**ORDINANCE NO. 2015-\_\_\_\_**

**AN ORDINANCE AMENDING TITLES FOUR AND FOURTEEN OF THE  
CARBONDALE REVISED CODE AS IT RELATES TO NOISE IN  
THE CITY OF CARBONDALE**

**WHEREAS**, the City of Carbondale, Illinois, is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

**WHEREAS**, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, the City Code of the City of Carbondale, Illinois, regulates sound devices under the Carbondale Revised Code Section 14-4-7; and

**WHEREAS**, Carbondale has adopted the Illinois Pollution Control Board regulations regulating noise under Carbondale Revised Code Section 4-6-1; and

**WHEREAS**, noise continues to be a potential problem within the city limits affecting the health and welfare of the citizens of Carbondale; and

**WHEREAS**, the City of Carbondale seeks to control noise in its residential districts for the purpose of protecting the public health, safety, morals, comfort, and general welfare of its residents. Further, the City of Carbondale seeks to conserve the value of property throughout the city, and to prevent noise pollution in that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, depresses property values, offends the sense, creates public nuisances, and in other respects reduces the quality of our environment.

**WHEREAS**, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to amend Titles 4 and 14 of the Carbondale Revised Code for the benefit of the citizens of the City of Carbondale.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE AS FOLLOWS:**

**SECTION 1.** That Section 4-6-1 of Title 4 of the Carbondale Revised Code is hereby amended to read as follows:

4-6-1:           **ADOPTION OF ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, POLLUTION CONTROL BOARD NOISE REGULATIONS:** There is hereby adopted by reference by the City, that certain set of regulations known as “Subtitle H: Noise” of the Illinois Pollution Control Board (1987), one copy of which is on file with the City Clerk, and the same is hereby adopted and incorporated herein as though set out in full, and from the date which this Chapter shall take effect, the provisions thereof shall be controlling within the city and on any city property, subject to the terms of Carbondale Revised Code Section 14-4-7.

**SECTION 2.** That Section 14-4-7 of Title 14 of the Carbondale Revised Code is hereby amended as follows:

**14-4-7: USE OF SOUND DEVICES & GENERAL NOISE RESTRICTIONS:**

A.     Definitions: For purposes of this section the following definitions shall apply unless a contrary meaning is clear from the context:

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|-----------------------|--|
| <b>BOUNDARY LINE:</b> | That line where the property meets any public right of way for streets, sidewalks or alleys, or that line formed by objects or structures which are positioned so that a reasonable person would believe that the objects or structures mark the boundary of the property. |
| <b>DAYTIME HOURS:</b> | Seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M. local time.  |
| <b>DEVICE:</b>        | Any device used to create noise or music, such as a musical instrument, tuner, phonograph record, magnetic tape, compact disc, or any electrically synthesized sound or human voice.   |

MOTOR VEHICLE: For purposes of this section, "motor vehicle" shall have the meaning ascribed to it in 625 Illinois Compiled Statutes act 5.

MOTORCYCLE: For purposes of this section, "motorcycle" shall have the meaning ascribed to it in 625 Illinois Compiled Statutes act 5.

MULTIPLE UNIT DWELLINGS: Any parcel of land containing more than four (4) dwelling units.

NIGHTTIME HOURS: Ten o'clock (10:00) p.m. to seven o'clock (7:00) a.m. local time.

DECIBELS: Is the weighted sound level measured by the sound pressure level decibels as measured on a sound level meter using the "A" weighting network. The level so read is designed dB(A) or dBA.

YELLING OR SHOUTING: Yelling, shouting, hooting, whistling or singing on public streets, so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.

B. Sound Device Restrictions: It shall be unlawful for any person to use or operate a sound device which produces loud and raucous sounds, as follows:

1. Noise From Any Property: At a distance greater than fifty feet (50') during the nighttime hours or greater than one hundred feet (100') during the daytime hours from any boundary line of the property upon which the sound device is located., except the persons or devices located in subsection E of this section.
2. Noise Upon Property Containing Multiple Unit Dwellings And Mobile Home Parks: At a distance greater than ~~fifty~~ twenty-five feet (5025') during nighttime hours or greater than ~~one hundred~~ fifty feet (10050') during daytime hours from any sound device upon property containing multiple unit dwellings or within a mobile home park.
3. Noise From Motor Vehicle Or Motorcycle: From a motor vehicle or motorcycle located within the public right of way that produces sounds from a sound device at a distance greater than fifty feet (50') from the motor vehicle or motorcycle at any time.

C. General Noise Restrictions: It shall be unlawful for any person or persons to create or cause to be created, any noise, including yelling or shouting, which shall be presumed to be excessive, loud and disturbing if any of the following apply:

1. Noise From Any Property: At a distance greater than fifty feet (50') during the nighttime hours or greater than one hundred feet (100') during the daytime hours from any boundary line of the property upon which the device is located, except the persons or devices located in subsection E of this section.

D. Presumptions: Any noise emanating from the subject property shall be presumed to be excessive, loud and disturbing if any of the following apply:

1. The noise is clearly audible for a distance of 100 feet (100') or more from the property line from which the noise emanates; or

2. The noise occurs between the hours of 10:00 p.m. and 7:00 a.m. and can be heard more than fifty feet (50') beyond the property line from which the noise emanates; or

3. The noise is clearly audible by a passenger of a motor vehicle, other than a vehicle from which the noise may come, on a public street or thoroughfare with the doors and windows of the vehicle closed; or

4. In the event noise measuring devices or equipment are available, or become available, to measure the noise as against the ambient background noise. Measurements of noise and ambient background noise shall be made at the property line unless other persons using the same property are complaining about the noise in which case the measurement shall be from the source of the noise. The use of measuring devices may be used as a supplement to other evidence or as evidence of a violation but is not required for the establishment of a violation. This section is not intended to be exclusive of any other section or provision of this chapter and use of a measuring device or equipment, when used, may be supplemental and does not preclude establishing a violation of other sections or through other evidence. Any and all data compiled shall be maintained for the purposes of determining ambient sound levels to assist in future use of determining proper level of decibals.

E. Exceptions: The following persons and devices are exempt from the restrictions contained in this section:

1. Police, fire, ambulance and other emergency personnel when acting in their official capacity.

2. Sounds produced under the supervision of units of government.

3. Sounds produced by warning and antitheft devices.

4. Sounds produced by carillons.

5. ~~Persons authorized to operate such devices by the city at a city fair.~~ Community Events. The term “community events” shall include, but is not limited to, such things as parades, festivals, drum corps shows, sports events and Fourth of July celebrations, which are sanctioned or sponsored in whole or in part by local governments, schools, or charitable or service organizations.

6. ~~Persons using or operating such devices as part of an authorized parade.~~  
Persons using or operating such devices as part of a beer garden permitted under section 2-4-10 of this code, except that amplified live performances from a beer garden shall only be allowed from twelve o'clock (12:00) noon Friday to two o'clock (2:00) A.M. Sunday. (Ord. 2006-02)

7. Emergency Operations. Emergency short term operations which are necessary to protect the health, safety and welfare of the citizens, such as emergency utility and street repair, fallen tree removal or emergency fuel shall be exempt, provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from the same.

8. Powered equipment. Powered equipment, such as air conditioners, lawn mowers, small lawn and garden tools, riding tractors, snow removal equipment, and power tools which are necessary for the maintenance of property, is kept in good repair and maintenance as to prevent any excessive or unusual noise. However, the use of radios or other sound/entertainment devices on such equipment shall not be exempted if listened to at a level otherwise violating the terms of this ordinance.

9. Powered tools or equipment used in the maintenance and repair of automobiles, when used at a location zoned for motor vehicle repairs, or used at a residential location for the personal maintenance of the occupants motor vehicle; however, no such equipment maybe used during night-time hours in a residentially zoned neighborhood.

10. Agricultural Noise. Specifically excluded from the provisions of this ordinance is noise generated by agricultural equipment on land zoned and/or used for agricultural purposes.

11. Motor Vehicles. Nothing herein shall be construed as a limitation on the operating of duly registered motor vehicles as defined in the Illinois Motor Vehicle Code, which are not in violation of 625 ILCS 5/12-602.

12. Work Performed by a Public Body/Service Workers. Any work performed by or on behalf of a public body, including that which is performed by subcontractors, shall be exempted. Such activities may include, but are not limited

to, routine maintenance work, road and bridge construction, and emergency repairs. Private garbage services shall comply with the time restriction of 10-1-3.A of the Carbondale Revised Code.

13. Motorcycles. Nothing herein shall be construed as a limitation on the operation of duly registered motorcycles as defined in the Illinois Motor Vehicle Code, which are not in violation of 625 ILCS 5/12-602.

14. Construction Sites. Construction noise that occurs between the hours of 7:00 a.m. and 8:00 p.m. shall be exempted. However, if in the opinion of the City of Carbondale, equipment or activities employed in the performance of construction exceeds the allowable decibel levels within this code, the City of Carbondale may require noise mitigation methods be implemented and used at the construction site to mitigate noises which exceed the requirements herein.

E. Notice to Property Owner: The owner of the property shall be notified by any landlord notification program that is developed from this date and forward.

F. Penalty: It shall be unlawful to violate any of the terms and provisions of this ordinance. Any person found to have violated this ordinance shall be fined a minimum \$100 for the first offense, shall be fined a minimum \$250 for the second offense which occurs within a twelve (12) month period, and shall be fined a minimum \$500 for a third and subsequent offenses which occurs within a twelve (12) month period. If a subsequent offense occurs more than twelve (12) months after a prior offense, it shall be treated as a first offense.

G. After the violator has either been warned or cited under this ordinance by a member of the Carbondale Police Department, each contact with a member of the Carbondale Police Department shall be considered a distinct and separate violation.

**SECTION 3.** All of the remaining sections of Titles 4 and 14 of the Carbondale Revised Code shall remain in full force and effect.

**SECTION 4.** That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

**SECTION 5.** That repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinances.

**SECTION 6.** That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**SECTION 7.** That the City Council of the City of Carbondale finds that the subject matter of this Ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to authorities granted it by State statutes and the Home Rule powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution.

**SECTION 8.** That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: \_\_\_\_\_  
Donald D. Monty, Acting Mayor

ATTEST: \_\_\_\_\_  
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

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P. Michael Kimmel, City Attorney