Meeting Date: 09-27-2016

Contact: Chief Meshishnek & City Attorney

Topic or Problem Statement:

It is the intention of City of Colville to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise, and to control the level of noise pollution in a manner which promotes commerce, the use, value, and enjoyment of property, sleep and repose, and the quality of the environment by establishing maximum environmental noise levels applicable within designated areas or zones of the city, and to adopt appropriate exemptions to the provisions of this chapter to allow for the functioning of commercial business and the operation of construction and emergency equipment, and to declare certain noise-producing activities to be noise disturbances.

Type of Briefing:

☐ Information Only  ☐ Discussion Only  XX Decision Needed

Background of Situation:

The old City Municipal code interpreted to be unconstitutional & vague because it could was not measurable

Goals and Objectives: i.e., CFP, Comprehensive Plan, Safety, etc.

1. Colville is a community where people want to live and work.
2. Colville is a safe and healthy place to live.
3. Colville effectively delivers services.
4. Colville City encourages transparency and communication with its residents.

Evaluate Alternatives or Options/Consequences of Inaction:

An alternative would be to not to adopt proposed ordinance and continue the practice of not having noise regulations that are enforceable.

Funding Needed and Recommended Source (BARS #):

No funding needed outside of normal Police Budget. The purchase of Noise / decibel meters and the training of Officers on the use & calibration of the new decibel meters.
**Attachments:**

New proposed City Municipal Code 9.45

**Recommended Action with Justification:**

The City & County Attorney’s office have both agreed to the new proposed City Municipal Code 9.45 as written. I recommend that City Council adopt this proposed Municipal Code 9.45

![Colville Logo]

**City Council Goals:**

1. Colville is a community where people want to live and work.
2. Colville manages its finances through a combination of active investments and sustainable revenue with realistic projections and expenditures.
3. Colville is a safe and healthy place to live.
4. Colville effectively delivers services.
5. Colville City encourages transparency and communication with its residents.
6. Colville is a community with a diversified and healthy business environment.
7. Colville has a strategic plan outlining a vision for the future.
8. Colville will strive to maintain and upgrade our infrastructure and assets while planning for improvements and replacements.
ORDINANCE NO. _______ N.S.


WHEREAS RCW Chapter 70.107 is the state Noise Control Act utilizing decibel-based standards for noise control, and grants municipalities the power to make a noise ordinance for the Municipality; and

WHEREAS WAC 173-60 sets forth maximum environmental noise levels, and criteria for measuring environmental noise; and

WHEREAS, it is the intention of City of Colville to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise, and to control the level of noise pollution in a manner which promotes commerce, the use, value, and enjoyment of property, sleep and repose, and the quality of the environment by establishing maximum environmental noise levels applicable within designated areas or zones of the City, and to adopt appropriate exemptions to the provisions of this chapter to allow for the functioning of commercial business and the operation of construction and emergency equipment, and to declare certain noise-producing activities to be noise disturbances.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLVILLE, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS AND DOES ESTABLISH A NEW COLVILLE MUNICIPAL CODE SECTION REGARDING NOISE REGULATIONS:

SECTION 1

Chapter 9.45
NOISE REGULATIONS

Sections:
9.45.010 Purpose.
9.45.015 Definitions.
9.45.020 Finding of special conditions.
9.45.030 Public disturbance noise.
9.45.035 Sound level measurement requirements.
9.45.040 Exemptions.
9.45.010 Purpose.

The purpose of this chapter is to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. The intent of the City Council is to control the level of noise pollution in a manner which promotes commerce, the use, value, and enjoyment of property, sleep and repose, and the quality of the environment by establishing maximum environmental noise levels applicable within designated areas or zones of the City, and to adopt appropriate exemptions to the provisions of this chapter to allow for the functioning of commercial business and the operation of construction and emergency equipment, and to declare certain noise-producing activities to be noise disturbances.

9.45.015 Definitions.

All terminology used in this chapter which is not defined below shall be interpreted in conformance with the most recent definitions used by the American National Standards Institute (ANSI) or its successor body, where applicable.

A. “dBA” means the sound pressure level in decibels measured using the “A” weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of pressure of the sound to a reference pressure of 20 micropascals.

B. “Noise disturbance” means any sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities, or any sound which unreasonably injures or endangers the comfort, repose, health, hearing, peace, or safety of persons or animals.

C. “Person responsible for the violation” means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission which is a violation or causes or permits a violation to occur or remain upon property in the City, and includes but is not limited to owner(s), lessor(s), tenant(s), or other person(s) entitled to control, use and/or occupy property where a violation occurs.

D. “Property boundary” means the surveyed line at ground surface which separates the real property owned, rented, or leased by one or more persons from that owned, rented, or leased by one or more persons, and its vertical extension.
E. "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

F. "Sound amplification equipment" means any machine or device for the amplification of the human voice, music or any other noise or sound.

G. "Sound level" means a weighted sound pressure level measured by the use of a sound level meter using an A-weighted network and reported as decibels, dBA.

H. "Sound level meter" means a device which measures sound pressure levels and conforms to Type I, S1A, Type II or S2A, as specified in the American National Standards Institute Specification Section 1.4 (1971) as now exists or as hereafter amended or modified.

9.45.020 Finding of special conditions.

The Colville City Council is aware of citizen complaints regarding specialized noise occurrences, such as the play of amplified music, the reproduction of amplified speech, the operation of motorized vehicles, and the running of either gas or diesel powered generators all at such volume and duration as unreasonably disturb and interfere with the peace, comfort and repose of others. Such noises constitute a public disturbance. These noise occurrences adversely affect the public health and welfare, the value of property and the quality of the environment and constitute special conditions within the City which make necessary any and all differences between this chapter and regulations adopted by the Washington State Department of Ecology. Any public disturbance noise prohibited by this chapter is hereby declared to be a public nuisance per se.

9.45.030 Public disturbance noise.

A. It is unlawful for any person to cause or permit any sound or noise to intrude into the property of another person which sound or noise exceeds the maximum permissible noise levels set forth below in this section. For purposes of this chapter the properties within the City of Colville are as follows:

1. Residential zones – Class A.
2. Commercial zones – Class B.
3. Industrial zones – Class C.

B. 1. The sound and noise limitations established herein are as set forth in the following table after any applicable adjustments provided herein are applied:
### Property Sound or Noise Source

<table>
<thead>
<tr>
<th></th>
<th>Maximum Decibel Reading</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class A</td>
<td>60 dBA</td>
</tr>
<tr>
<td>Class B</td>
<td>70 dBA</td>
</tr>
<tr>
<td>Class C</td>
<td>75 dBA</td>
</tr>
</tbody>
</table>

2. Between the hours of 10:00 p.m. and 7:00 a.m. the sound and noise limitations of the foregoing table shall be reduced by 10 dBA for Class A residential zones and Class B commercial zones.

3. At any hour of the day or night the applicable noise limitations in subsections (B)(1) and (2) of this section may be exceeded at the sound source for no more than two minutes.

For purposes of this chapter, enforcement shall be undertaken by a person with City delegated authority with respect to violations. For enforcement purposes, each disturbance, defined as a noise that the City delegated authority writes a citation for due to a violation of this chapter, constitutes a separate violation.

#### 9.45.035 Sound level measurement requirements.

For purposes of this chapter, sound measurements shall be taken at the property boundary of the Receiving Property or anywhere within the Receiving Property. Sound measurements shall be conducted in accordance with sound level measurement procedures provided by the State of Washington, Department of Ecology, Chapter 173-60 WAC.

#### 9.45.040 Exemptions.

The following sounds are exempt from the provisions of this chapter:

A. Sounds created by fire alarms;

B. Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community or individuals of the community, or to restore property to a safe condition following a public calamity;

C. Sounds created by yard maintenance equipment utilized for yard maintenance purposes between the hours of 7:00 a.m. and 10:00 p.m.;

D. Sounds created by snow removal equipment utilized for snow removal purposes between the hours of 7:00 a.m. and 10:00 p.m.
E. Sounds created by the installation or repair by a public entity of essential utility;

F. Sounds from the combined activities of starting, servicing, idling, revving or testing motorized vehicles unrelated to use of the vehicle for the purpose of ingress and egress as provided in subsection (F) of this section. This exemption from the provisions of this chapter only allows these activities for up to five minutes in any four-hour period between the hours of 7:00 a.m. and 10:00 p.m. If there is more than one vehicle involved, the five-minute limitation applies to all of the vehicles combined;

G. The operation of motorized vehicles for the purpose of ingress and egress to the property, including idling a vehicle to warm the engine prior to departure from property. This is limited to what is customary for a reasonably prudent resident of the City of Colville. However, for purposes of warm-up of a vehicle, idling is limited to 10 minutes for all vehicles except commercial diesel vehicles, which are limited to 20 minutes;

H. Sounds originating from officially sanctioned parades and other public events;

I. Sounds, including sounds created by sound amplification equipment, emanating from any event or activity for which a special use permit has been issued by the City of Colville in which case the provisions of the special use permit shall control. The City Council shall retain the authority to approve with conditions, or deny special use permits at its sole discretion;

J. Noise from existing industrial installations which exceeds the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation.

9.45.045 Content of sound.

The content of the sound will not be considered in determining a violation of this chapter.

9.45.050 Variances.

The City Council or a committee thereof designated by the City Council may, upon written application filed with the City Clerk, grant a variance from any of the provisions of this chapter.

A. A variance shall be granted only after public hearing by the City Council, or by such designated committee thereof.

B. Upon the filing of an application for variance from the terms of this chapter, the City Clerk shall give notice of the application and notice of the time, date and place of hearing of the application. Such notice shall be published one time in the City’s official newspaper; publication shall be at least five days prior to the date of hearing. The applicant shall pay for the cost of the publication of the notice.
C. Any person may appear at such hearing and be heard, either for or against the application.

D. Any variance granted and any special permit issued thereunder shall state the nature of the activity, and the date, times and place for which the variance is granted, and shall state any special provisions or limitations applicable to the exercise of the variance.

E. Upon the granting of a variance the Chief of Police shall issue a special permit to the applicant to conduct the activity for which a variance has been granted.

F. Any activity conducted under a variance and special permit shall conform strictly to the terms and provisions of the variance and special permit.

9.45.055 Violation – Penalty.

A. Violations – Unlawful. The violation or failure to comply with any of the provisions of this chapter is declared to be unlawful.

B. Criminal Violations. Any person who violates the provisions of this chapter is guilty of a misdemeanor. For the third violation and each subsequent violation by any person in a one year period, that person is guilty of a gross misdemeanor as an habitual offender. In addition to the criminal violation, the City shall issue a fine pursuant to CMC 1.10:

1. For the first violation of this section within any twelve-month period a fine of $100.00;

2. For the second violation of this section within any twelve-month period a fine of $200.00;

3. For the third violation and each subsequent violation of this sections within any twelve-month period, a fine of $500.00.

9.45.060 Severability.

This chapter shall be liberally construed to carry out its broad purposes. If any provision of this chapter is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.

SECTION 2

Ordinance No. 956 N.S. except for the penalty section codified in Colville Municipal Code 9.40.080 and Ordinance No. 1166 N.S. are hereby repealed.

This Ordinance shall take effect and be in full force five (5) days from its passage, approval and publication.
Passed and adopted by the City Council of the City of Colville, Washington the ____ day of ______________, 2016.

__________________________  Attest: 
MAYOR LOUIS F. JANKE  Holly Pannell, CMC, PFO, City Clerk/ Human Resources Manager

Approved as to form:

__________________________
City Attorneys McGrane and Schuerman

Ord – Colville Noise Ordinance

Adopted by Council on
Published on
Effective on
Chapter 9.40 PUBLIC NUISANCES

Sections:

9.40.010 Machines, vehicles and equipment.
9.40.020 Disturbing noises in residential zones during nighttime hours.
9.40.030 Parties, gatherings, musical instruments and sound reproduction devices.
9.40.060 Barking dogs – Exemption.
9.40.070 Variances.
9.40.080 Violation – Penalty.

9.40.010 Machines, vehicles and equipment.

No person, firm or corporation, being the owner, possessor, occupant or person in possession or control of any premises within the city, or being the person in possession or control of any machine, vehicle or equipment within the city, shall keep, maintain, use, suffer or allow to exist on such premises or on any public rights-of-way adjacent to such premises, or suffer or allow the use of any machine, vehicle or equipment within the city any public nuisance as defined in this chapter. No person, firm or corporation shall commit any act defined in this chapter as a public nuisance. (Ord. 956 NS § 1, 1986).

9.40.020 Disturbing noises in residential zones during nighttime hours.

Between the hours of 10:00 p.m. and 7:00 a.m. within all zones designated by the zoning ordinance as residential zones and bearing the prefix “R,” it shall be a public nuisance for any person, firm or corporation to:

A. Engage in any building activity, structure repair, construction, reconstruction, remodeling or demolition activity, excavating activity, or use any tool or machine or engaged in any other activity, the noise of which shall unreasonably annoy or unreasonably disturb any person or persons residing in the vicinity.

B. Operate any power lawnmower or power snow remover or blower, or any chain saw. (Ord. 1166 NS § 1, 1998; Ord. 956 NS § 2, 1986).

9.40.030 Parties, gatherings, musical instruments and sound reproduction devices.

It shall be a public nuisance for any person, firm or corporation to commit or suffer to be committed the following acts:

A. On privately owned premises and in residential areas of publicly owned premises in the city, to sponsor, suffer or allow any meeting, party or gathering of persons, the noise of which unreasonably annoys or disturbs any person or persons residing in the vicinity.
B. In any place within the city, to play any musical instrument, radio, television set or any sound reproducing device, the noise of which unreasonably annoys or disturbs any person or persons residing in the vicinity. (Ord. 1166 NS § 2, 1998; Ord. 956 NS § 3, 1986).


CMC 9.40.020 shall not apply to the United States, the state, Stevens County, the city, or any of their respective officers, employees or contractors when engaged in snow removal, street cleaning, emergency repair to any street, building or structure, fire suppression or any other emergency for the preservation of life or property. (Ord. 1166 NS § 3, 1998; Ord. 956 NS § 6, 1986).


The operation of any motorcycle, motorbike or terrain vehicle in the city on any property not a part of the street system of the city when such motorcycle, motorbike or terrain vehicle does not conform to the muffler standards required for operation on the public streets shall be a public nuisance. (Ord. 956 NS § 4, 1986).

9.40.060 Barking dogs – Exemption.

No person owning or keeping any dog shall permit such dog to disturb the peace and quiet of the neighborhood by barking or making other loud noises, as defined herein:

Barking or loud noises is defined as continuous howling, yipping, barking, braying, whining, crying or any other noises for a continuous 10 minutes or more within any one-hour period which noises can be heard at a distance of 30 feet or more from the property line of dog owner where the sound originates.

Such violation is a public nuisance after three previous infraction violations have occurred under CMC 6.04.160. Barking and disturbing the peace by dogs prohibited.

Exception: provided, however, this section shall not apply to any kennel or pound kept or maintained in conformance with the city zoning ordinance. (Ord. 1527 NS § 1, 2014).

9.40.070 Variances.

The city council or a committee thereof designated by the city council may, upon written application filed with the city clerk, grant a variance from any of the provisions of this chapter.

A. A variance shall be granted only after public hearing by the city council, or by such designated committee thereof.

B. Upon the filing of an application for variance from the terms of this chapter, the city clerk shall give notice of the application and notice of the time, date and place of hearing of the application. Such notice shall be published one time in the city's official newspaper; publication shall be at least five days prior to the date of hearing. The applicant shall pay for the cost of the publication of the notice at the time application is filed with the city clerk.

C. Any person may appear at such hearing and be heard, either for or against the application.
D. Any variance granted and any special permit issued thereunder shall state the nature of the activity, and the date, times and place for which the variance is granted, and shall state any special provisions or limitations applicable to the exercise of the variance.

E. Upon the granting of a variance the chief of police shall issue a special permit to the applicant to conduct the activity for which a variance has been granted.

F. Any activity conducted under a variance and special permit shall conform strictly to the terms and provisions of the variance and special permit. (Ord. 956 NS § 7, 1986).

9.40.080 Violation – Penalty.

Any person, firm or corporation who violates the provisions of this chapter is guilty of a misdemeanor. (Ord. 956 NS § 8, 1986).