



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: November 17, 2016

Staff Contact: Lee Plemel, Community Development Director

Agenda Title: For Possible Action: To adopt Bill No. 114 on second reading, Ordinance No. ___, an ordinance amending Title 10, Vehicles and Traffic, by amending a portion of Chapter 10.30, Motorcycles, Section 10.30.120, Violations, to amend provisions relating to certain motorcycle violations; and adding thereto a new chapter, 10.31 Off-Road Vehicles, All-Terrain Vehicles and Motorcycles that are not Street-Legal Motorcycles; establishing various provisions relating to off-road vehicles, all-terrain vehicles and motorcycles that are not street-legal motorcycles. (LPlemel@carson.org; Sheriff Ken Furlong: kfurlong@carson.org)

Staff Summary: Current Carson City Municipal Code regulates off-road two-wheel and three-wheel vehicles ("motorcycles") in their operation in proximity to houses but does not regulate four-wheel off-road vehicles. The proposed ordinance would include four-wheel off-road and other all-terrain vehicles in the regulations related to noise and other disturbances in residential areas. The current Chapter 10.30 regarding "motorcycles" has not been amended since 1978 and likely did not contemplate the use of four-wheeled off-road vehicles in residential neighborhoods.

Agenda Action: Ordinance - Second Reading

Time Requested: 5 minutes

Proposed Motion

I move to adopt Bill No. 114 on second reading, Ordinance No. ___, an ordinance amending Title 10, Vehicles and Traffic, by amending a portion of Chapter 10.30, Motorcycles, Section 10.30.120, Violations, to amend provisions relating to certain motorcycle violations; and adding thereto a new chapter, 10.31 Off-Road Vehicles, All-Terrain Vehicles and Motorcycles that are not Street-Legal Motorcycles; establishing various provisions relating to off-road vehicles, all-terrain vehicles and motorcycles that are not street-legal motorcycles.

Board's Strategic Goal

Quality of Life

Previous Action

The Board of Supervisors introduced Bill No. 114 on November 3, 2016, by a vote of 4-0.

Background/Issues & Analysis

CCMC Chapter 10.30, Motorcycles, prohibits the use of off-road motorcycles within 500 feet of a residence. Motorcycles are defined in that chapter as having only two or three wheels. Therefore, the regulations do not apply to "quads" and other four-wheel off-road vehicles that are typically in use today, creating a "loophole" in the code that allows the use of quads in a residential neighborhood. The current code was adopted in 1978, which was prior to the development and ubiquitous use of four-wheel ATVs. The proposed ordinance would amend the code to allow enforcement of all off-road vehicles in the same manner. The proposed amendments also clarify provisions related to the use of motorcycles near residential areas.

Title 10, Vehicles and Traffic, is enforced by the Sheriff. The Community Development Code Enforcement Division is bringing this item forward in conjunction with the Sheriff's Office and District Attorney.

Applicable Statute, Code, Policy, Rule or Regulation

Chapter 10.30, Motorcycles.

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: N/A

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: N/A.

Alternatives

Do not amend the code related to motorcycles and other all-terrain vehicles.

Attachments:

1) Ordinance

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

BILL NO. ____

ORDINANCE No. 2016-__

AN ORDINANCE AMENDING TITLE 10, VEHICLES AND TRAFFIC, BY AMENDING A PORTION OF CHAPTER 10.30, MOTORCYCLES, SECTION 10.30.120, VIOLATIONS, TO AMEND PROVISIONS RELATING TO CERTAIN MOTORCYCLE VIOLATIONS; AND ADDING THERETO A NEW CHAPTER, 10.31 OFF-ROAD VEHICLES, ALL-TERRAIN VEHICLES AND MOTORCYCLES THAT ARE NOT STREET-LEGAL MOTORCYCLES; ESTABLISHING VARIOUS PROVISIONS RELATING TO OFF-ROAD VEHICLES, ALL-TERRAIN VEHICLES AND MOTORCYCLES THAT ARE NOT STREET-LEGAL MOTORCYCLES.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 10 (Vehicles and Traffic), Chapter 10.30 (Motorcycles), Section 10.30.120 (Violations) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

10.30.120 - Violations.

1. [~~It~~] **Except as otherwise provided in this section, it** is unlawful for any person to **use, operate or** drive a motorcycle **that is** not equipped with an effective and operating muffler:
 - a. Within five hundred feet (500') of [~~any~~] **a** residence owned or occupied by another [~~;~~ ~~or~~] **person;**
 - b. [~~More than five hundred feet (500') from any residence owned or occupied by another where the operation of such motorcycle disturbs the peace;~~] **In a manner so as to disturb the peace and quiet of another person;** or
 - c. On any **public road or** highway.
2. [~~It is unlawful for any parent, guardian, or other person having charge, care, custody or control of any person under the age of eighteen (18) years to permit such person to be in violation of subsection 1 of this section after notice. Notice shall be given to the parent, guardian, or other person having care, custody or control of the person by personal service, and shall refer to this section, giving specific dates and times of violations and shall inform the parent, guardian, or other person having the charge, care, custody or control of any person under the age of eighteen (18) years, that continued violation by their child shall subject them to criminal prosecution.] **For purposes of subsection 1, a motorcycle that is not equipped with an effective and operating muffler is deemed to be used, operated or driven in a manner so as to disturb the peace and quiet of another person if the motorcycle creates:**~~

- a. An unreasonably loud, disturbing or unnecessary noise, or dust, smoke or exhaust fumes, which cause material distress, discomfort or injury to a person of ordinary sensibilities; or
 - b. Any noise of such character, intensity or continuous duration, or dust, smoke or exhaust fumes, which substantially interfere with the reasonable and comfortable enjoyment of a residential dwelling by a person of ordinary sensibilities.
3. ~~[It is unlawful for any person to drive any motorcycle so as to disturb the peace and quiet of any neighborhood.]~~ The provisions of this section do not apply to the proper and lawful use or operation of a motorcycle that is not equipped with an effective and operating muffler:
- a. By a person in any place or manner that is expressly permitted under federal or state laws or regulations.
 - b. By an agent or employee of a federal, state or local governmental entity, including, without limitation, an agent or employee of a law enforcement agency, for official governmental purposes.
 - c. For the performance of agricultural or farming activities on property that is zoned for such purposes.
 - d. For the temporary and immediate entrance into or exit from any property.

SECTION II:

That Title 10 (Vehicles and Traffic) is hereby amended by adding thereto a new chapter, 10.31 Off-Road Vehicles, All-Terrain Vehicles and Motorcycles that are not Street-Legal Motorcycles, as follows (**bold, underlined** text is added):

10.31 Off-Road Vehicles, All-Terrain Vehicles and Motorcycles that are not Street-Legal Motorcycles.

- 1. Except as otherwise provided in this section, it is unlawful for any person to use, operate or drive an off-road vehicle, all-terrain vehicle or motorcycle that is not a street-legal motorcycle:
 - a. Within five hundred feet (500') of a residence owned or occupied by another person;
 - b. In a manner so as to disturb the peace and quiet of another person; or
 - c. On any public road or highway.
- 2. For purposes of subsection 1, an off-road vehicle, all-terrain vehicle or motorcycle that is not a street-legal motorcycle is deemed to be used, operated or driven in a manner so as to disturb the peace and quiet of another person if the vehicle creates:
 - a. An unreasonably loud, disturbing or unnecessary noise, or dust, smoke or exhaust fumes, which cause material distress, discomfort or injury to a person of ordinary sensibilities; or

- b. Any noise of such character, intensity or continuous duration, or dust, smoke or exhaust fumes, which substantially interfere with the reasonable and comfortable enjoyment of a residential dwelling by a person of ordinary sensibilities.
- 3. The provisions of this section do not apply to the proper and lawful use or operation of an off-road vehicle, all-terrain vehicle or motorcycle that is not a street-legal motorcycle:
 - a. By a person in any place or manner that is expressly permitted under federal or state laws or regulations.
 - b. By an agent or employee of a federal, state or local governmental entity, including, without limitation, an agent or employee of a law enforcement agency, for official governmental purposes.
 - c. For the performance of agricultural or farming activities on property that is zoned for such purposes.
 - d. For the performance of maintenance activities on private property, including, without limitation, snow plowing and weed removal.
 - e. For the temporary and immediate entrance into or exit from any property.
- 4. As used in this section:
 - a. "All-terrain vehicle" means a small, open cabin, motor vehicle equipped with three or more wheels fitted with large, low-pressure tires or treads, or both, and which is designed to traverse varied, uneven terrain as well as roads, and is commonly known as an ATV, quad bike, three-wheeler, four-wheeler or quadricycle.
 - b. "Motor vehicle" has the meaning ascribed to it in CCMC 10.04.310.
 - c. "Off-road vehicle" means a motor vehicle that is capable of transporting a person and which is designed or used primarily for recreational activities away and off of public rights-of-way, including, without limitation, such vehicles commonly known as a dune buggy, go-cart, snowmobile, side-by-side, utility task vehicle, recreational off-highway vehicle or multipurpose off-highway utility vehicle.
 - d. "Street-legal motorcycle" means a motorcycle that is lawfully licensed or registered for use on public roads and highways as determined by the rules, regulations or policies adopted by the Nevada Department of Motor Vehicles. The term includes a motorcycle that was not originally equipped or certified at the time of sale by the manufacturer for use on public roads and highways but has since been certified for such use by the Nevada Department of Motor Vehicles.

SECTION III:

That no other provisions of Title 10 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____, 2016.

PROPOSED by _____.

PASSED _____, 2016.

VOTE: AYES: SUPERVISORS: _____

 NAYS: SUPERVISORS: _____

 ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

SUE MERRIWETHER
CLERK/RECORDER

This ordinance shall be in force and effect from and after the ____ day of _____, 2016.