

**ORDINANCE NO. 05-08-56**

**AN ORDINANCE TO PROVIDE FOR NOISE CONTROL IN THE UNINCORPORATED AREAS OF BERKELEY COUNTY; TO PROVIDE FOR PENALTIES THEREOF; AND TO REPEAL ORDINANCE NO. 93-4-4 IN ITS ENTIRETY.**

**WHEREAS**, Berkeley County Council adopted Ordinance No. 93-4-4 providing for noise control in the unincorporated areas of Berkeley County in April 1993; and

**WHEREAS**, Berkeley County Council has now determined that there is a need to clarify, expand and further amend the noise control ordinance for the welfare of its citizens;

**NOW, THEREFORE, BE IT ENACTED** by the Berkeley County Council, in a meeting duly assembled:

**Section 1. Definitions.**

As used in this article, the following terms have the indicated meaning:

- a. Excessive noise means any noise prohibited by section two of this article.
- b. Residential areas means areas of the county containing single-family and multifamily dwellings, including houses, apartments, condominium projects, mobile homes, and mobile home parks.
- c. Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

**Section 2. Prohibited Acts.**

It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary and unusual noise which disturbs the peace and quiet of any unincorporated residential area or which causes discomfort or annoyance to any person in any unincorporated residential area of the county. This shall include, but not be limited to, noises made by motor vehicles, motor boats, mechanical devices, electrical devices, electronic devices, musical instruments, and all activities accessory to residential living. In determining whether an

occurrence constitutes a violation under this section, a court or authority may consider, in addition to all other logically relevant factors, one or more of the following:

1. The intensity of the noise;
2. The general characteristics of the area where the noise is occurring;
3. The time of day or night that the noise is occurring;
4. The reasonable expectation of quiet that could be expected by individuals on public or private property surrounding the area where such noise is occurring;
5. In the case of motor vehicles and/or boats, whether or not such vehicles are equipped with mufflers and/or such suppression devices that keep exhaust noises down to a level equal to or below that which the manufacturers of such vehicles provided as original equipment designed for acceptable use.
6. Also in the case of motor vehicles, whether or not such noise emanating from such vehicles has such volume as to cause the driver of such vehicle not to hear emergency sirens or warning horns from a safe distance.

### **Section 3. Exemptions.**

The following are exempt from action pursuant to this article:

1. Noises arising from normal farm activities, including the use of agricultural equipment.
2. Noises resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of emergency.
3. Noises resulting from emergency work.
4. No prohibition contained in this section shall apply to any permitted public performance, gathering, or parade, or to any public performance, gathering, or activity conducted, sponsored, or cosponsored by Berkeley County.

### **Section 4. Specific prohibitions.**

The following acts are specifically prohibited, as further illustrations, or in addition to the general prohibitions contained in Section 2, and not, in any form or interpretation, in lieu of the general prohibitions contained above.

1. Horns/ signaling devices. The sounding of any horn or signaling device on any motor vehicle or any street or public place in the unincorporated area of this county continuously and/or incessantly, except as a danger warning.

2. Radios, televisions, musical instruments, and similar devices.
  - a. The operating of playing of any radio, musical instrument, and devices commonly known as boom boxes or similar device which produces or reproduces sound on the public rights-of way, other than as specified in subsection b, below, in such a manner as to be plainly audible to any person other than the operator of the device.
  - b. The operating or playing of any radio/boom box, television, phonograph, musical instrument or similar device which produces or reproduces sound in a motor vehicle or public area or area with public access or in public use, in a manner as to be plainly audible at a distance of 100 feet or inside any residence other than the source of the sound.
3. Emergency signaling devices. Subject to the exemptions of section three, herein,
  - a. Except in case of an emergency, the intentional sounding of any alarm between the hours of 10:00 p.m. and 7:00 a.m.
  - b. The testing of any alarm for a period in excess of 60 seconds at any time.
  - c. The testing of a complete emergency signaling system, including the signaling device and the personnel response to the signaling device, more than once in each calendar month, and the sounding of the emergency signaling system for a period in excess of 15 minutes.
4. Heavy equipment. The using or operating of any heavy equipment outside of normal business hours within or adjacent to any residential area such that the use or operation causes adjacent residences to vibrate, shake or rattle.

#### **Section 5. Violations.**

Any person who violates these provisions shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine of not more than \$500 or be imprisoned for a period not exceeding 30 days, or both.

#### **Section 6. Severability.**

If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

#### **Section 7. Repealer.**

Ordinance No. 93-4-4 is hereby repealed in its entirety.

**Section 8. Effective Date.**

This ordinance shall become effective upon ratification by Council.

**ADOPTED** this 29th day of August 2005.

S/James H. Rozier, Jr., Chairman  
Berkeley County Council

ATTEST:

S/Barbara B. Austin, CCC  
Clerk of County Council