

ORDINANCE NO. 21-10-64

AN ORDINANCE TO PROVIDE FOR NOISE CONTROL IN BERKELEY COUNTY; TO PROVIDE FOR PENALTIES THEREOF; TO REPEAL ORDINANCES NO. 05-08-56 AND NO. 09-04-21 IN THEIR ENTIRETY; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Berkeley County Council adopted Ordinance Number 05-08-56 on August 29, 2005 providing for noise control in the unincorporated areas of Berkeley County; and

WHEREAS, Berkeley County Council adopted Ordinance Number 09-04-21 on April 27, 2009, clarifying certain sections of Ordinance Number 05-08-56; and

WHEREAS, Berkeley County Council has now determined that there is a need to repeal Ordinance Numbers 05-08-56 and 09-04-21 and to provide for noise control for the welfare of its citizens.

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

SECTION 38-1. Noise.

- (a) *Definitions.* As used in this section, the following terms have the indicated meaning:
1. *Noise:* any sound that is either loud, boisterous, unpleasant, unreasonable or that causes a disturbance of the public peace.
- (b) *Prohibited Acts.* The making, creation, or maintenance of the excessive, nuisance, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of Berkeley County shall be prohibited. Any persons found to make, or cause to be made, any loud, boisterous, or unreasonable noise shall be in violation of this ordinance.
- (c) *Types of Noise.*
1. Radios, televisions, percussion instruments, or loudspeakers
 2. Construction, repairing, or demolition of buildings.
 3. Yelling or shouting
 4. Vehicle exhaust or vehicle defect
 5. Fireworks or gunshots
 6. Any other loud or unnatural noise that would be a discomfort to any residence

(d) *Enforcement Factors.* In the enforcement of standards established in this section, an enforcement officer may be required to exercise judgment in determining if a particular noise is sufficiently loud or otherwise so offensive that it would unreasonably disturb a person of ordinary sensibilities in the vicinity. When making the determinations, the enforcement officer shall consider the following factors:

1. The volume of the noise;
2. The intensity of the noise;
3. Whether the nature of the noise is usual or unusual;
4. Whether the origin of the noise is natural or unnatural;
5. The type and intensity of background noise, if any;
6. The proximity of the noise to residential sleeping facilities;
7. The nature of zoning of the area(s) in which the noise is heard;
8. The time of day or night the noise occurs;
9. The duration of the noise; and
10. Whether the noise is recurrent, intermittent, or constant.

(e) *Exemptions.* The following noises shall be exempt from the prohibitions from this section, even when they cause a disturbance:

1. The sound produced by horns, sirens and alarms used with authorized emergency vehicles or otherwise used as safety devices to alert persons to danger or attempted crime; however, this exemption shall not apply to improperly operating burglar alarms.
2. The sound produced by emergency repair measures necessary to restore public utilities, to restore property to a safe condition or to protect persons or property from imminent danger, following a fire, accident or natural disaster.
3. The sound produced by bells, chimes or other carillon instruments when used to signify the passage of hour, half-hour, or quarter-hour components, or to commemorate a wedding funeral or similar event including regular religious services, provided the sound does not exceed five continuous minutes in duration in any one-hour period.
4. The sound produced by the following, provided there is compliance with any federal regulations applicable to the noise:
 - i. Aircraft in flight or in operation at an airport; and
 - ii. Railroad equipment in operation on railroad rights-of-way; and
 - iii. Motor vehicles, otherwise in lawful operation, on all public streets and highways; and
 - iv. Farm equipment while performing normal farm activities.
5. The unamplified sound emanating from a ballpark, playing field, stadium or comparable outdoor facility designed and intended for recreational or sports activity when used during the period between 7:00 a.m. and 11:00 p.m. of the same calendar day for organized exhibitions, participatory sports, or recreational activities.

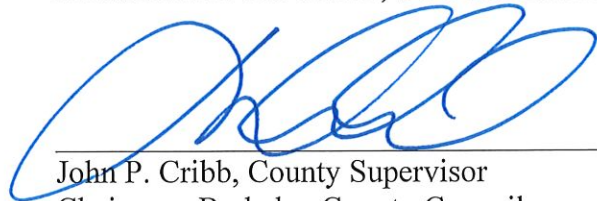
- (f) *Special Permits for Events.* Berkeley County Permitting may issue an operational or temporary use permit as allowed by Sec. 11-31. Included in those operations are 105.6.2 (Amusement Buildings), 105.6.4 (Carnivals and Fairs}, 105.6.13 (Exhibits and Trade Shows), 105.6.36 (outdoors assembly event), and 105.6.47 (Temporary membrane structures and tents). This permit will be issued on a temporary basis. Permits for special events or exhibitions such as (but not limited to) music, speeches, or general entertainment as a part and in recognition of the community celebration of national, state or city events, concerts, festivals, parades, athletic and recreational events, to permit reasonable and limited exceptions to the provisions of this section. Any special event or exhibition permit issued shall contain specific provisions as to the activities that will be conducted and dates and times during which the provisions of this section are to be suspended. Specific sources of any noise shall be identified, and special conditions may be established in the permit which will minimize the noise impact of the special event or exhibition on the community, provided the permit shall be subject to revocation at the discretion of Berkeley County on the basis of excessive or inappropriate noise. Whenever the revocation occurs, the activities of the event or exhibition shall then become subject to the prohibitions of this section.
- (g) *Times of Noise.* Construction or repairing, demolition, alteration of any building should be between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, and 9:00 a.m. and 9:00 p.m. on weekends, except in cases of urgent necessity. Normal residential noise should be between the hours of 6:00am and 10:00pm.
- (h) *Violations.* Any person who violates this section shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine of not less than \$100.00, nor more than \$500.00, or be imprisoned for a period not exceeding 30 days, or both. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- (i) *Enforcement.* The Berkeley County Sheriff's Office and Berkeley County Code Enforcement Officers. in cooperation with county government, shall enforce the provisions in this ordinance.
- (j) *Conflicting Ordinances.* All ordinances or parts of ordinances in conflict with this section or inconsistent with its provisions are hereby repealed or superseded to the extent necessary to give this section full force and effect.
- (k) *Effective Date.* This ordinance shall become effective on the date of adoption by County Council.

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ADOPTED this 25th day of October, 2021.


BERKELEY COUNTY, SOUTH CAROLINA

[SEAL]



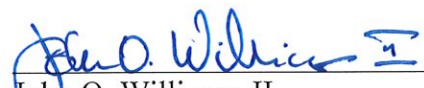
John P. Cribb, County Supervisor
Chairman, Berkeley County Council

Attest:



Amanda D. Turner
Clerk to County Council

Approved as to form:



John O. Williams, II
County Attorney

First Reading: August 23, 2021
Second Reading: September 27, 2021
Public Hearing: October 25, 2021
Third Reading: October 25, 2021

21-10-64

MEMBERS OF COUNTY COUNCIL



THOMAS D. OWENS

Voting Aye

BRANDON COX

Voting EXCUSED


JOSHUA S. WHITLEY

Voting Aye


JACK H. SCHURLKNIGHT

Voting Aye


PHILLIP OBIE, II

Voting Aye


CALDWELL PINCKNEY, JR.

Voting Aye


JOE T. NEWELL

Voting Aye


STEVE C. DAVIS

Voting Aye