

ORDINANCE NO. 200.2012

KERSHAW COUNTY EXCESSIVE NOISE LIMITATION ORDINANCE

WHEREAS, as an incident to the enactment of this ordinance, Kershaw County Council, as the governing body of Kershaw County, has made the following legislative findings: Inadequately controlled noise may present a growing danger to the health and welfare of the residents of the County. The making and creating of excessive or unusually loud noises within the jurisdictional limits of Kershaw County is a condition which has persisted and the level and frequency of occurrence of such noises continue to increase. The making, creation or continuance of such excessive noises which are prolonged or unusual in their time, place and use, effect are a detriment to the public health, comfort, safety and welfare of the residents of Kershaw County. Every person is entitled to an environment in which excessive or unusually loud noise is not detrimental to his or her life, health and enjoyment of property. Any unreasonably loud, disturbing or unnecessary noise which causes discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is prohibited. Any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of private dwellings by persons of ordinary sensibilities is hereby declared to be a nuisance. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared to be a matter of legislative determination and public policy and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in the pursuance of and for the purpose of securing and promoting the public health, comfort, safety, welfare, peace and quiet of Kershaw County and its inhabitants. Counties are authorized, pursuant to South Carolina Code of Laws Section 4-9-25, to enact ordinances to protect and promote the health, security general welfare and safety of the counties of preserving the health, peace, order and good governments in them and/or for the citizens in them. Counties are further authorized by South Carolina Code of Laws Section 4-9-30 (16.2) to obtain injunctive relief to abate nuisances created by the operation of noisy or disorderly business establishments. It is further found that in many circumstances, the problems created by such noise can be best solved by better communication between neighbors, which the County encourages, but that those problems can become sufficiently severe to warrant the impositions of the provisions and prohibitions set forth in this chapter; and

WHEREAS, excessive sound and vibration are a serious hazard to the public health, welfare, safety, and the quality of life; and

WHEREAS, the Kershaw County Council wishes to ensure and protect the public welfare of the citizens of the county by prohibiting excessive noise in the unincorporated areas of Kershaw County.

NOW, THEREFORE, the Kershaw County Council hereby ordains the following:

Sec. 1. Definitions.

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

Excessive noise means any noise prohibited by section 2 of this article.

Residential area means any area of the county containing single-family and multifamily dwellings which include houses, apartments, condominium projects, mobile homes and mobile home parks.

Sec. 2. Enumeration of 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 (collectively defined as excessive noise). This shall include, but not be limited to, noises made by motor vehicles, all terrain motorized vehicles, motor bikes, off road motorized vehicles of any type, motor boats, motors, mechanical devices, electrical devices, electronic devices, human voice, musical instruments, animals and all activities accessory to residential living or commerce. In determining whether an occurrence constitutes a violation under this section, a court or other authority should 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) Any previous request by law enforcement officers or citizens for the abatement of any such noise; and
- (6) In the case of motor vehicles and/or motor boats, whether or not such vehicles are equipped with mufflers and/or such suppression devices which 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.

Sec. 3. Enforcement of article.

The provisions of this article shall be enforced by the county sheriff's deputies or Kershaw County Code enforcement officers.

Sec. 4. Penalty for violation of article.

The violation of any section of this article shall constitute a misdemeanor. Any person, firm, or corporation who violates this article or fails to comply with any of its requirements shall, upon conviction thereof may be punishable by a fine of no more than \$100.00 for the first offense and no more than \$250.00 and/or 30 days in jail for the second offense and following offenses.

Sec. 5. Separability.

The provisions of this ordinance are hereby declared to be separable and, if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

THIS ORDINANCE SHALL BECOME EFFECTIVE UPON THIRD READING.

ADOPTED by Kershaw County Council this 24th day of July, 2012.

KERSHAW COUNTY COUNCIL

By: _____

ATTEST:

Merri M. Seigler
Clerk to County Council

First Reading: June 12, 2012
Second Reading: July 10, 2012
Third Reading: July 24, 2012