

**AN ORDINANCE**

**TO AMEND PART II OF THE CHARLESTON COUNTY CODE OF ORDINANCES SO AS TO ESTABLISH A CHAPTER 3 ENTITLED "LIVABILITY," COMPRISED OF THE FULL PROVISIONS OF THE EXISTING CHAPTER 3, "ANIMALS AND FOWL" AND ADDITIONAL PROVISIONS AS ESTABLISHED BY THIS ORDINANCE; TO ENACT ADDITIONAL PROCEDURES AND REQUIREMENTS FOR ANIMALS AND FOWL KEPT ON RESIDENTIAL PROPERTIES, INCLUDING PROVISIONS RELATED TO NOISE FROM ANIMALS AND FOWL; TO REPEAL ARTICLE III OF CHAPTER 14.5, CONTAINING THE PROVISIONS OF ORD. 1138 OF 2000 ("NOISE ORDINANCE") AND REPEAL §§14.5-2 AND 14.5-3 RELATED TO LOUD AND UNNECESSARY NOISES AND SOUND AMPLIFICATION DEVICES; AND TO ENACT NEW PROVISIONS AND REQUIREMENTS MAKING UNLAWFUL CERTAIN OFFENSES RELATED TO NOISE THAT DISTURBS THE PEACE AND TRANQUILITY OF CITIZENS OF THE COUNTY; AND TO MAKE CERTAIN TECHNICAL CORRECTIONS AND AMENDMENTS TO THE EXISTING CODE OF ORDINANCES CONSISTENT WITH STATE LAW AND CURRENT PRACTICE.**

**WHEREAS**, County Council finds that excessive noise and other nuisances compromises the public welfare and impairs the livability and enjoyment of private property; and

**WHEREAS**, in order to allow for the peaceful enjoyment of private property, certain nuisances and sources of undue and excessive noise, whether from animal, human, mechanical, or electrical sources, must be regulated ; and

**WHEREAS**, Ord. 875 of 1993 and Ord. 1138 of 2000 were enacted in order to achieve these goals with regard to noise, but these two Ordinances are in potential conflict with each other, as well as insufficient to achieve the fair and equitable enforcement of offenses related to undue and excessive noise; and

**WHEREAS**, it is in the interest of the County, its citizens, and the various officials charged with the enforcement of laws to enact a comprehensive and equitable set of procedures, policies, and offenses related to livability and the enjoyment of private property.

**NOW, THEREFORE, BE IT ORDAINED** by County Council in a meeting duly assembled as follows:

## **SECTION I. FINDINGS INCORPORATED**

The above-referenced recitals and findings are incorporated herein by reference and made a part of this Ordinance.

## **SECTION II. PURPOSE**

The purpose of this Ordinance is to amend the Charleston County Code of Ordinances so as to establish a Chapter 3 of Part II entitled "Livability," comprised of the full provisions of the existing Chapter 3, "Animals and Fowl"; to enact additional procedures and requirements for animals and fowl kept on residential properties, including provisions related to noise from animals and fowl; to repeal Article III of Chapter 14.5, containing the provisions of Ord. 1138 of 2000 ("Noise Ordinance") and repeal §§14.5-2 and 14.5-3 related to loud and unnecessary noises and sound amplification devices; and to enact new provisions and requirements making unlawful certain offenses related to noise that disturbs the peace and tranquility of citizens of the County.

## **SECTION III. LIVABILITY**

The title of Chapter 3 of Part II of the Charleston County Code of Ordinances is hereby retitled "Livability," and the full provisions of the existing Chapter 3 related to animal and fowl are incorporated in full and without amendment, except as may be provided for hereafter.

## **SECTION IV. ADDITIONAL PROVISIONS RELATED TO ANIMALS AND FOWL**

Chapter 3 of Part II of the Charleston County Code of Ordinances is hereby amended so as to add the following provisions:

### **Sec. 3-17. –Identification of Dogs and Cats**

- A. Any person who owns or keeps a dog or cat three (3) months of age or older shall affix and maintain a durable metal or plastic identification tag on the collar of the animal which has permanently stamped or printed thereon the owner's address and phone number(s). The tag shall be maintained in such a condition as to make the stamped or printed information clearly legible. Microchip technology or tattooing as otherwise provided by law may be used in lieu of a collar tag, provided that owner identification and contact information remains current.
- B. The provisions of Section A are not applicable when:
  1. The animal is participating in any organized exhibition, field trial, competition or is in training for these events, or is undergoing grooming;

2. the dog or cat is confined in a boarding kennel, grooming facility or veterinary hospital, in which case the identification tag information shall be recorded and readily available; or
3. When a licensed veterinarian orders in writing that the identification tag and/or collar be removed for reasons of the animal's health, in which case the animal shall be confined within an enclosed building, fenced area or kennel at all times until the veterinarian permits the collar and tag again to be placed on the animal.

**Sec. 3-18. –Nuisances**

- A. It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner as to constitute a public nuisance or a nuisance to neighbors. By way of example and not of limitation, the following acts or actions of an owner, harbinger or possessor of an animal are hereby declared to be a public nuisance and therefore unlawful:
  1. Having an animal that disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with the ordinary use and enjoyment of their property, or public property; or
  2. Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers or vegetables, or repeatedly defecating upon the property of another; or
  3. Maintaining animals in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare or safety, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or
  4. Maintaining property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property; or
  5. Allowing or permitting an animal to bark, whine or howl in an excessive, continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; or
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6. Maintaining an animal that is diseased and dangerous to the public health; or
7. Maintaining an animal that habitually or repeatedly chases, snaps at, threatens, attacks or barks at pedestrians, joggers, dogs walked on a leash by owners, bicycles, or vehicles; or
8. Failing to confine a female dog or cat, while in season, in a building or secure enclosure in such a manner that she cannot come into contact with another dog or cat or creates a nuisance by attracting other animals; provided this section shall not be construed to prohibit the intentional breeding of animals within an enclosed, concealed area on the premises of the owner of an animal which is being bred.

C. In addition to the right of the County to bring an enforcement action for violations of this section, any individual who is specifically damaged by any violation may, in addition to other remedies, institute an appropriate civil action or other proceeding in the Magistrate Court or Circuit Court to abate or prevent the nuisance.

## **SECTION V. NOISE OFFENSES**

Chapter 3 of Part II of the Charleston County Code of Ordinances is hereby amended so as to add the following provisions:

### **Sec. 3-40. –Definition**

- A. As used below, “plainly audible” means any sound that can be detected by a person using his or her unaided hearing facilities.

### **Sec. 3-41. –Noise-Amplified Sound from Vehicles**

It shall be unlawful for any person to play, operate, or cause to be played or operated, any radio or other vehicular music or sound amplification or reproduction equipment in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the vehicle or plainly audible within the residential dwelling of another. The detection of the rhythmic bass component of the music or sound is sufficient to constitute a plainly audible sound. Prohibitions contained in this section shall not be applicable to emergency or public safety vehicles for sound emitted during job-related operation.

### **Sec. 3-42. –Noise-Amplified Sound in General**

It shall be unlawful for any person to play, operate, or cause to be played or operated, any radio or other music or sound amplification or reproduction equipment upon real property in such a manner as to be plainly audible within any residential dwelling of another. The detection of the rhythmic bass component of the music or sound is sufficient to constitute a plainly audible sound.

**Sec. 3-43. –Noise-Excessive, Unnecessary or Unreasonable Noise.**

A. Any excessive, unnecessary, or unreasonable sound that is plainly audible as set forth in §§ 3-41 and 3-42 of this Code which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensibilities is prohibited.

B. The following shall be exempt from the prohibition contained in section A, supra:

1. Church bells or other activities of organized religious services.
2. Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation, provided, however, that burglar alarms not terminating within fifteen (15) minutes after being activated shall be unlawful.
3. Warning devices required by state or federal regulations.
4. Farming equipment or farming activity.
5. Timber harvesting and milling during daylight hours.
6. Noise from domestic power equipment including but not limited to chain saws, sanders, grinders, lawn and garden tools or similar devices operated during daylight hours.
7. Noise generated by any construction, demolition equipment, or mineral extraction (including crushing, screening, or segregating) operated during daytime hours as per local, state, or federal law or regulation, or as otherwise provided for by permit or variance, whichever is more restrictive.
8. Emergency maintenance, construction or repair work.
9. Noise created by any government-sponsored events or privately organized sports, recreation, or athletic events.
10. Emergency or extraordinary situations.
11. A business may use an outside sound system to notify patrons waiting to pick up an order, obtain a table, or to be able to participate in the activities of the business, provided that such sound does not create an excessive, unnecessary or unreasonable noise.
12. Noise from any idling vehicles at a commercial establishment in the process of loading or unloading merchandise for the establishment, or waiting for the opportunity to do the same.

**Sec. 3-44. –Penalty**

Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$500.00 or not more than 30 days in jail, or both.

**Sec. 3-45. –Noise-Private Action**

In addition to the right of the County to bring an enforcement action for violations of this section, any individual who is specifically damaged by any violation of this Chapter related to noise may, in addition to other remedies, institute an appropriate civil action or other proceeding in the Magistrate Court or Circuit Court to abate or prevent the nuisance.

**SECTION VI. TECHNICAL CORRECTIONS AND AMENDMENTS**

1. Sections 3-14 and 3-15 are hereby repealed and said sections reserved for future use.

**SECTION VII. TECHNICAL CORRECTIONS AND AMENDMENTS**

1. The following provisions of the Charleston County Code of Ordinances are hereby repealed:
  - A. Part II, Chapter 11, Article IV, “Memorial Hospital”
  - B. Part II, Chapter 11, Article V, “Emergency Medical Board”
  - C. Part II, Chapter 11, Article VI, “Medical Examiner Commission”
  - D. Part II, Chapter 11, Article VII, “Indoor Clean Air”
  - E. Part II, Chapter 11, Article VIII, “Transportation of Nuclear Material”
2. Section 11-151 of the Charleston County Code of Ordinances (“Alcohol and Other Drug Abuse Department) is amended in part so as to provide that the director “shall be hired and fired by the County Administrator *or the Administrator’s designee...*” The italicized portion herein reflects additional text.
3. Section 11-158 of the Charleston County Code of Ordinances (“Alcohol and Other Drug Abuse Department) is amended so as to replace the reference to section 61-5-320(b) of the South Carolina Code of Laws with section 61-12-20.
4. Section 11-153 of the Charleston County Code of Ordinances (“Alcohol and Other Drug Abuse Department) is amended in part so as to delete the phrase “Mini-bottle revenues will be received by the county, and” and insert “Revenues disbursed by the State and received by the County pursuant to Chapter 12 of Title 61 of the S.C. Code of Laws...”
5. Section 11-151 of the Charleston County Code of Ordinances (“Alcohol and Other Drug Abuse Department) is amended so as to add the following as the last sentence of said section: “The county alcohol and other drug abuse department is authorized to use the metonym “Charleston Center” in its daily operations and educational materials and any reference to “Charleston

- Center” shall be interchangeable with the county alcohol and other drug abuse department.”
6. The caption of Part II, Chapter 10, Article I is hereby amended so as to delete the phrase “BEAUTIFICATION OF PROPERTY BY” with the new caption being “REGULATION OF WEEDS, RANK VEGETATION, AND SOLID WASTE.”

#### **SECTION VIII. SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

#### **SECTION IX. EFFECTIVE DATE**

This Ordinance shall take effect upon third reading by County Council.