

AN ORDINANCE FOR THE CITY OF CLEMSON, SOUTH CAROLINA

Chapter 13: Offenses and Miscellaneous Provisions

Article I: General

Replace Section 13-10: Noise declared nuisance and prohibited; enumeration.

Now, therefore, be it ordained that the City Code of the City of Clemson, South Carolina shall be amended:

Done and ordained this the 13th day of June 2016.

First Reading: 05/16/16

Final Reading: 06/13/16

Ord. No CC-2016- 09

J.C. Cook III, Mayor

Attest:

Beverly A. Coleman, Municipal Clerk

Section 13-10 – Excessive noise declared nuisance and prohibited.

(a). Purpose

Excessive noise can be a serious hazard to public health, welfare, safety, and quality of life. It can interfere with the comfortable enjoyment of life and property by others. The effective control of excessive noise is essential to the conduct of normal pursuits of life, including, but not limited to, healthcare, work, education, relaxation, sleep, rest, recreation, and communication. Therefore, this ordinance is enacted to protect, preserve, and promote the health, safety, welfare, and quality of life within the City of Clemson.

(b). Definitions

Construction. The term “construction” means all activities related to the preparation for, construction of, and alteration to buildings, utilities, and structures of any nature. Specifically, “constructions” includes, but is not limited to, site preparation, site alteration, assembly, erection, repair, alteration, renovation, additions to, demolition of, and communications related to, buildings, utilities, and structures of any nature.

The term “construction” does not include periodic or routine maintenance work performed by property owner or occupier at his or her primary residence; however, activities that require a building permit, such as structural remodels or roof replacements, are considered to constitute “construction,” whether performed by the owner/occupier or other person or entity.

Construction sounds. “Construction sounds” are sounds related to or caused by the preparation for, construction of, and alteration to buildings, utilities, and structures of any nature. These include, but are not limited to, sounds caused by hammers, tools, pneumatic and other power tools, equipment, heavy equipment, vehicles used in construction, backup signals and alarms, impact noises, grinding, sawing, cutting, radio and other communication traffic, and loud voices.

Excessive noise. “Excessive noise” is any noise that violates the prohibitions of the Noise Ordinance but is not subject to an exception to the ordinance. Excessive noise includes, but is not limited to:

- any unreasonably loud or raucous noise within the City limits; or,
- any noise which is plainly audible at or beyond the property boundary on which the noise is being produced and which is of such a volume, nature, intensity, duration, location, timing, and/or repetition that a reasonable person of ordinary sensibility would find that it interferes with the comfortable enjoyment of life and/or property by another person; or,
- any noise produced at such a time or in such manner as to otherwise violate this ordinance.

Excessive noise is hereby declared to constitute a nuisance.

Firework. A firework is any device designed to produce a visible or audible effect by combustion, deflagration, or detonation. Legal fireworks are such devices as are permitted by State law.

Plainly audible. A sound that can be detected by a City officer using his or her unaided hearing faculties is plainly audible. For example, if an officer uses his or her normal, unaided hearing and can hear a rhythmic bass or drumbeat, he or she has detected a plainly audible sound. It is not

required that an officer be able to identify the sound by specific nature or cause, title, style, words, or artist.

Pyrotechnic display. A pyrotechnic display is the detonation, ignition, or deflagration of display fireworks, flames, or flame effects to produce visual and/or audible effects before the public, invitees, or licensees, regardless of whether admission is charged.

(c). **Prohibitions and Rules**

1. General prohibition of excessive noise

No person or entity shall make, allow to be made, or cause to be made excessive noise.

2. Specific prohibitions

The following prohibitions address specific types of noise, but are in no way all-inclusive as to types of excessive noise prohibited by this ordinance.

- (a) In residential areas, music, however produced, is not allowed between 10:30 p.m. and 7 a.m. if plainly audible at or beyond the boundary of the property where the music is being produced.

In commercial areas, such as downtown Clemson, music, however produced, is not allowed between 10:30 p.m. and 7 a.m. if plainly audible at or beyond the boundary of the commercial area. In other words, if music from a commercial business is plainly audible on a residential property outside of the commercial area where the business is located during the time period between 10:30 p.m. and 7 a.m., such music would constitute excessive noise.

- (b) In residential and noise-sensitive areas, the operation of lawn care, tree care, shop, car repair, and other noise-creating equipment, is not allowed from 10:30 p.m. until 7 a.m., if the noise produced is plainly audible at or beyond the property boundary of the property on which the noise is produced.
- (c) The keeping of animals or birds that produce frequent or continued excessive noise is not allowed.
- (d) Yelling, shouting, loud conversation, whistling, singing, and all other excessive verbal noise, whether electronically amplified or not, is not allowed between 10:30 p.m. and 7 a.m. in residential and noise sensitive areas, nor at any other time or location if the noise is excessive and unreasonably disturbs the quiet, comfort, or repose of a reasonable person of ordinary sensibilities. This prohibition is not intended to restrict the content of legal speech, but is intended to address public health, welfare, safety, and quality of life.
- (e) If conspicuous signs are posted indicating that an area is a school, church/temple/mosque, court, or hospital/healthcare facility street (noise sensitive areas), excessive noise is not allowed on any street adjacent to such locations at any time that such locations are in session operation, except as may be required for emergency or City-sanctioned activities.
- (f) The sounding of any horn or siren, whether vehicular or not, except as a danger or warning signal, is not allowed.

- (g) The operation of a vehicle and/or a sound system of a vehicle in such a manner as to cause excessive noise, whether through grating, grinding, pounding, engine revving, jarring, rattling, vibrations, or other excessive noise is not allowed.
- (h) Deliveries, loading, and unloading are permitted at any time not otherwise prohibited; however, excessive noise caused by or connected with deliveries, loading, and unloading in any way is not allowed.
- (i) The operation of any type of engine, whether combustion, electric, or compressed air, including, but not limited to vehicular and boat engines and compressed air devices, is not allowed unless effectively muffled to reduce noise produced by such device.
- (j) The operation of a steam, electronic, or other type of whistle, except to give warning of danger, to cease or start play during a sporting event, or to begin and stop work, is not allowed.

(d). Exceptions

1. Government and emergency services

- (a) Because of traffic, parking, and congestion issues within the City, the City of Clemson may conduct or arrange for City garbage, street cleaning services, and other safety or health services at any time during which services may be safely and efficiently performed. This includes, but is not limited to, nighttime and early morning hours, if public welfare and convenience renders it impractical to work during the day.
- (b) Repairs or excavations of bridges, streets, highways, or utilities at any time during which services may be safely and efficiently performed. This includes, but is not limited to, nighttime and early morning hours, if public welfare and convenience renders it impractical to work during the day.
- (c) Emergency services sirens and public emergency warning announcements may be sounded at any time.
- (d) City-sanctioned or sponsored parades, gatherings, sporting events, and other special events.

2. Construction

Construction sounds must comply with all other prohibitions and rules in the Noise Ordinance, with the following exceptions.

- (a) Monday through Saturday, construction sounds are allowed from 7 a.m. to 8 p.m.
- (b) On Sundays, constructions sounds are allowed from noon until 8 p.m.
- (c) Construction sounds are allowed at any time for emergency repairs to restore power and/or utility service, to protect life or property from water or other destructive forces, and to remove trees, limbs, debris, or vehicles from buildings, power lines, or roads, and for any other emergency work necessary to protect or preserve life or property.

- (d) When exigent circumstances require that construction sounds take place outside of the hours set forth above, the person/entity responsible for construction may request a limited construction sound exception permit from the City of Clemson Police Chief (or his designate). Except in rare cases, this should be done at least seven (7) calendar days in advance of the date or dates on which the permit is needed; however, the Police Chief may consider more urgent requests for exception permits in extreme circumstances.

If an exception permit is issued, the person/entity is responsible for notifying nearby businesses, residents and/or property owners, in the manner and in the time frame as directed by the Police Chief.

3. Fireworks

- a) The discharge of any type of fireworks on or onto public or private property is prohibited without permission from the property owner.
- b) The discharge of fireworks may also be banned by the City Fire Marshal or State authorities during drought conditions, high wind conditions, or other situations where the use of fireworks could pose a danger to life or property.
- c) Generally, the discharge of any type of fireworks is strictly prohibited after 10:30 p.m. and before 10 a.m.
- d) However, the discharge of legal fireworks is permitted at New Year's from 10 a.m. on December 31 until 1 a.m. on January 1.
- e) Similarly, the discharge of legal fireworks is permitted on July 4 from 10 a.m. until 1 a.m. on July 5.
- f) Upon prior application and approval by the City, the City may grant permission for a pyrotechnic display, a public or commercial fireworks display, or a special event exception for the discharge of legal fireworks.

4. Church/temple/mosque chimes, bells, carillons, and calls to worship

Church/temple/mosque chimes, bells, carillons, and calls to worship are permitted between the hours of 7 a.m. and 10:30 p.m..

(e). Severability, savings, and effective date

1. Severability

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of this ordinance shall not affect the validity of the remaining parts of the ordinance.

2. Savings

Any enforcement action which is pending on the effective date of this ordinance and which arose from a violation of an ordinance repealed by this ordinance, or a prosecution which is started within

one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

3. Effective date

This ordinance is effective immediately upon enactment.