

Sponsor(s) : Judicial and Public Safety Committee
First Reading : March 1, 2011
Committee Referral : Judicial and Public Safety Committee
Committee Consideration Date : April 19, 2011
Committee Recommendation : Approval
Second Reading : April 19, 2011
Public Hearing : April 19, 2011
Third Reading : May 3, 2011
Effective Date : May 4, 2011

I *Tamara J. Little*
Council Clerk, certify that this
Ordinance was advertised for
Public Hearing on 4/3/11.

ORDINANCE NO. 11-05-11

COUNCIL ADMINISTRATOR FORM OF GOVERNMENT FOR AIKEN COUNTY

(To Amend Chapter 15 Offenses and Miscellaneous Provisions, Article III Nuisances, Section 15-22(10) Specific Nuisances of the Aiken County Code of Ordinances Regarding Unreasonably Loud and Distributing Noises; to Provide for the Issuance of Permits to Allow Extended Hours for Certain Activities Normally Exempted During Specific Hours.)

WHEREAS:

1. The County has received inquiries and requests from various individuals and organizations who desire to be able to hold special events that would require exceptions to the time limitations placed on certain activities by the Noise Restriction provisions of the Aiken County Nuisance Ordinance; and
2. County Council desires to change the noise ordinance to provide for the issuance of special exception permits under certain conditions.

NOW THEREFORE BE IT ENACTED BY THE AIKEN COUNTY COUNCIL THAT:

1. The Aiken County Code of Ordinances Chapter 15 Offenses and Miscellaneous Provision, Article III Nuisances, Section 15-22(10) Specific Nuisances is hereby amended as follows:

Sec. 15-22. Specific Nuisances.

Acts of nuisance shall include but are not expressly restricted to:

- (1) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county permitting the premises to become unsanitary or a fire menace by allowing any offensive or unsafe matter to grow, accumulate or otherwise occupy and remain upon such premises.
- (2) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county permitting pools of water to accumulate and remain upon the premises and become stagnant and foul.
- (3) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county and in a residential area allowing junk, disabled cars and trucks, trash, waste, old lumber or used tires to accumulate and remain upon the premises as a possible harborage for rats, snakes and other vermin.
- (4) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county allowing the accumulation of abandoned or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
- (5) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county allowing the accumulation of any compost pile which is of such a nature as to

spread or harbor a disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects; but the presence of earthworms in a compost pile shall not constitute a nuisance.

- (6) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county keeping or permitting another to keep upon any premises deleterious septic material unless such material is contained in containers or vessels which deny access to humans, flies, insects, rodents, vermin and animals.
- (7) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county in a residential area maintaining livestock, chickens or groups of other domestic animals in such a manner as to allow the spread or harboring of disease, emit unpleasant odors or harmful gases, or attract rodents, vermin or other disease-carrying pests, animals or insects.
- (8) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county maintaining a premises in a condition or a building in a condition which is detrimental to property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.
- (9) The owner, occupant or agent of any owner or occupant of one (1) or more lots, parcels or areas within the county allowing any partially dismantled, wrecked, junked, discarded or otherwise non-operating motor vehicle or motor vehicle parts to remain on such property longer than ten (10) days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential area, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the county or any other public agency or entity.
- (10) Any unreasonably loud or disturbing noise that causes material, physical or mental 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 intermittent or continued duration which substantially interferes with the comfortable enjoyment of dwellings, hotels or other types of residence by persons of ordinary sensibilities is hereby declared to be a nuisance and is prohibited.

The following acts, whether on or within public or private property, and the causing or permitting thereof, are hereby specifically declared to be unreasonably loud and disturbing noises in violation of this section:

- a. The playing or permitting the playing at any time of any radio, tape recorder, phonograph, portable television set, loudspeaker, sound amplifier, amplified or unamplified musical instrument, live music of any kind or any other sound-producing device by any person while inside any theater, retail store, bank, public or private building, public or private modes of transportation, indoor or outdoor public sports area, or any other public or private area, in such manner or with such volume as to unreasonably disturb the quiet, comfort, or peace of the public or private residents.
- b. The harboring or keeping of a dog or other animal or bird that by loud and frequent or habitual barking, howling, yelping, crying, crowing, cackling, or singing shall cause disturbance to the neighborhood.
- c. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public or private place of the county for an unnecessary or

unreasonable period of time, or with such volume as to create any unreasonably loud or harsh sound; provided that the prohibitions of this subsection shall not apply to the sounding of any horn or signaling device when used as a danger warning; and further provided that authorized emergency vehicles may use warning sounds at any time.

- d. The discharge into the open air within the county of the exhaust of any steam engine, gasoline engine, stationary internal combustion engine, or other kind or type of engine, motor boat, or motor vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises therefrom.
 - e. The use within the county of any wagon, cart, automobile, truck, motorcycle, or other vehicle, so out of repair or loaded in such manner or with material of such nature as to create loud or irritating, grating, grinding, rattling, or other noises.
 - f. The creation within the county of loud or excessive noise in connection with loading or unloading of any vehicle, or the opening or destruction of bales, boxes, crates, containers, or the like, without exercising reasonable care to limit such noise and to confine the same.
 - g. The operation within the county between the hours of 9:00 p.m. and 7:00 a.m. of any pile driver, power shovel, pneumatic hammer, derrick or hoist, or other appliance, the use of which is attended by loud or disturbing noises.
 - h. The operation within the county of any noise-creating blower or power fan, the operation of which causes loud or disturbing noise, unless such blower or fan is muffled to deaden such noise.
 - i. The creation within the county of any loud, irritating, or disturbing noise in the vicinity of any school, institution of learning, church, court of law, hospital, or neighborhood while the same is in use or occupied, and which unreasonably interferes with the workings of such institution, or which disturbs persons of ordinary sensibilities within these buildings or neighborhoods. Signs shall be displayed at or near such public buildings indicating that the same is a school, institution of learning, hospital, court of law, or church. A neighborhood shall be defined as one (1) or more houses.
 - j. Yelling, shouting, hooting, whistling, singing, loud music (live or recorded), or any other amplified or unamplified equipment on the public or private streets or other public or private areas (to include residences) of the county at any time or place of such duration, frequency, or volume as to disturb the peace, quiet, comfort, or repose of persons in the vicinity of the disturbances listed above.
- (11) The owner, occupant or agent of any owner or occupant or user of any one (1) or more lots, parcels or areas within the county using such lot or any building or erection thereon for the purposes of lewdness, or prostitution, or for the sale or distribution or consumption of any illegal substance are all declared a nuisance and shall be enjoined and abated as provided for in this article.
- (12) Any person who makes excessive, unnecessary or unusually loud noises which disturbs others within the unincorporated area of Aiken County. The term "excessive, unnecessary or unusually loud noises" is defined to be any sound which is plainly audible at a distance of two hundred (200) feet from its source.
- (13) A dwelling or other building unfit for human habitation or use if conditions exist in such dwelling or building which are dangerous or injurious to the health, safety or morals of the occupants of such dwellings, the occupants of neighboring dwellings, or other residents in the county. Such conditions may include the following (without limiting the generality foregoing): defects therein

increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanliness; partial destruction.

- (14) Exceptions. The provisions of section 15-22-10 shall not apply to or be enforced against:
- i. Any county, law enforcement, or emergency vehicle while engaged in necessary public business;
 - ii. Noises of safety signals or warning devices;
 - iii. Noises generated by natural phenomena;
 - iv. Excavations or repairs of streets or utilities by or on behalf of utility companies, the city, county or state, at night, when the public welfare and convenience renders it impossible to perform such work during the day;
 - v. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character; or
 - vi. The reasonable use of amplifiers or loudspeakers and any loud noise generated or created in the course of any organized carnival or fair between the hours of 8:00 a.m. and midnight; or
 - vii. The reasonable use of amplifiers or loudspeakers in the course of sporting events at ballfields and racetracks in the county; yelling, shouting and cheering at sporting events at ballfields and racetracks in the county; and any loud noise associated with a ballfield or racetrack between the hours of 8:00 a.m. and midnight;
 - viii. Sound as the result of normal or routine lawn/yard maintenance and landscaping between the hours of 6:00 a.m. and 10:00 p.m.;
 - ix. Any sound emanating from a school or church;
 - x. Any noise resulting from activities sponsored or co-sponsored by the County;
 - xi. Noise from the use of fireworks or pyrotechnics from 8:00 a.m. until midnight;
 - xii. For those activities listed above, which are normally exempted only during specific hours, the exemption shall be from 8:00 a.m. until the following morning at 1:30 a.m. on the following holidays or their dates of official observance: New Year's Eve, Martin Luther King, Jr. Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

(15) The development official is authorized to issue permits for temporary extensions for the activities exempted between the hours of 8:00 a.m. and midnight as specified in Paragraph 14 to extend the exemption until 1:30 a.m. on days other than those holidays set forth in Paragraph 14(xii). Permits shall be subject to the following conditions and provisions:

- a. A permit may be granted for periods of time from one (1) day to ten (10) consecutive days;
- b. For multi-day events not held on consecutive days, each day or group of consecutive days shall constitute a separate event and require a separate permit;
- c. No more than four (4) permits may be granted for any applicant or location for any calendar year;

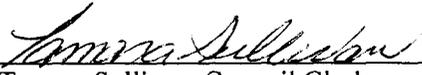
d. The total number of days for all permits granted for any applicant or location shall not exceed ten (10) days for any calendar year.

2. All provisions in other County Ordinances in conflict with this Ordinance are hereby repealed.
3. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

This Ordinance shall become effective on May 4, 2011.

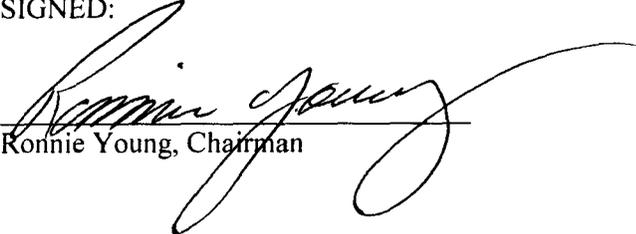
Adopted at the regular meeting of Aiken County Council on May 3, 2011.

ATTEST:



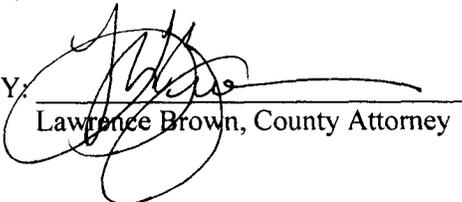
Tamara Sullivan, Council Clerk

SIGNED:



Ronnie Young, Chairman

REVIEWED BY:



Lawrence Brown, County Attorney

IMPACT STATEMENT:

COUNCIL VOTE: Unanimous
ABSENT: Rawls