

STATE OF SOUTH CAROLINA)

)

ORDINANCE NO: 23-24-005

COUNTY OF EDGEFIELD)

**AN ORDINANCE TO AMEND CHAPTER 32 OF THE EDGEFIELD COUNTY
ORDINANCES “NUISANCES”**

WHEREAS, the Edgefield County Administrator, based upon the recommendations of the Building and Planning Department staff, reviewed proposed changes to Chapter 32 of the Edgefield County Ordinances, and;

WHEREAS, the current Edgefield County Ordinances fail to provide the needed language to address specific Nuisances; and,

WHEREAS, it is in best interest of the current and future citizens of Edgefield County, that all homeowners and businesses are protected from specific acts that constitute a nuisance that could impact the enjoyment of their property,

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

1. Chapter 32 be amended as shown in Exhibit 1
2. This Ordinance shall be become effective upon adoption on third reading by Council.

Edgefield County Council

Dean Campbell, Chairman

ATTEST:

Aretha Eubanks, Clerk to Council

Chapter 32 NUISANCES

Sec. 32-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building means any structure which is intended to be used by humans but not specifically included in the term "dwellings." Nothing in this chapter shall be construed to apply to those buildings used primarily in an agricultural related manner.

County means the unincorporated area of Edgefield County, South Carolina.

Dwelling means any dwelling or structure, or part thereof, used and occupied for human habitation.

Excessive noise means any ~~sound~~ noise of such character, intensity and continued duration which causes discomfort or injury to persons of ordinary sensibilities. ~~of which exceeds the standards set forth in section 32-3, employing a realistic (registered) sound level meter, or one of higher quality, adjusted to decibel (hereinafter "dB") "A" weighting, with the response selector on "slow" and the 70dB range setting or as may be determined in the discretion of a trained law enforcement officer or other county official authorized to investigate the complaint.~~

Junk includes, but is not limited to abandoned barrels or drums, dismantled or inoperable industrial or commercial equipment or machinery, and the following old, scrap, or used items: metal, rope, wire, batteries, cardboard, plastics, pallets, appliances, motors, industrial or commercial fixtures, rubbish and wrecked or dismantled motor vehicles.

Residential area means any property developed primarily for the residential use of three or more dwellings within 1,000 feet of each other.

(Code 1999, § 91.01; Ord. No. 94-95-323, 5-2-1995; Ord. No. 07-08-592, 1-8-2008; Ord. No. 10-11-644, § 1, 8-2-2011)

Sec. 32-2. General prohibition.

It is declared as the policy of the county council that any act of any person, group, or business within the unincorporated area of the county whereby the health or life of any person may be endangered, injured, or impaired, whereby disease may directly or indirectly be caused by the act, or whereby because of the act any property may be endangered, injured, or damaged is hereby declared to be a nuisance and unlawful.

(Code 1999, § 91.02; Ord. No. 94-95-323, 5-2-1995; Ord. No. 07-08-592, 1-8-2008)

Sec. 32-3. Specific acts or noise restricted.

Specific acts of nuisance may include but are not expressly restricted to:

- (1) The owner, occupant, or agent of any owner or occupant of one or more lots, parcels, or areas within the county:
 - a. 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;

-
- b. Permitting pools of water to accumulate and remain upon the premises and become stagnant and foul;
 - c. In a residential area allowing junk, disabled cars and trucks, trash, waste, old lumber, or used tires to accumulate and remain upon premises as a possible harborage for rats, snakes, and other vermin;
 - d. Allowing the accumulation of abandoned or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers;
 - e. Allowing the accumulation of any compost pile which is of such a nature as to spread or harbor 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;
 - f. 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;
 - g. 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;
 - h. Maintaining a premises or a building in a condition which is detrimental to the 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;
 - i. Allowing any partially dismantled, wrecked, junked, discarded, or otherwise nonoperating motor vehicle to remain on such property longer than ten 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 or depository maintained in a lawful place and manner by the county or any other public agency or entity;
- (2) 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; and any noise of such character, intensity, or intermittent or continued duration which substantially interferes with the comfortable enjoyment of dwellings, hotels, or other types of residences by persons of ordinary sensibilities. 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 instruments, 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 a manner or with such volume as to unreasonably disturb the quiet, comfort, or peace of the public or private residences; Musical instruments: The playing of any radio, television, phonograph or other musical instrument in such manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.~~

-
- 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; Animals and birds: The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.~~
 - 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 section shall not apply to the sound 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; Horns or other signal devices on vehicles: The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh sound for any unnecessary and unreasonable period of time.~~
 - d. The discharge into the open air with 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 a manner or with material of such nature as to create loud or irritating grating, grinding, rattling, or other noises;
 - f. The creation with 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 a public building indicating that the same is a school, institution of learning, hospital, court of law, or church. The term "neighborhood" shall be defined as one 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;
 - k. The use or operation of any mechanical or electrical device, apparatus, or instrument to amplify, intensify, produce, or reproduce a human voice or any other sound when the sound from such activity is noticeably audible or of such intensity that annoys and disturbs persons of ordinary sensibilities between the hours of 10:00 PM and 7:00 AM. ~~is in excess of 75dB as measured by~~

the device described in section 32-1 "excessive noise" more than 50 feet from the sound producing device, apparatus, or instrument.

- l. ~~The playing or operation of any sound producing device, apparatus, or instrument when the speaker volume is elevated to such an extent that the sound is in excess of 75dB as measured by the device described in section 32-1 "excessive noise" audible more than 50 feet from the device. Where the provisions of this subsection apply to any device, apparatus, or instrument installed or located in a vehicle, they are intended to apply, regardless of whether the vehicle is traveling upon the streets of the county, stopped in traffic, or parked on public, or private property. Construction work: The erection, including excavation, demolition, alteration or repair work on any building other than between the hours of 7:00 a.m. and 9:00 p.m., except in case of urgent necessity in the interest of public safety and convenience, and then only by permit from the council, which permit may be renewed by the council during the time the emergency exists.~~
- m. ~~The loud playing of sound reproduction devices, amplifiers, loudspeakers, and other sound devices in any public park, outdoor public place, or privately owned or controlled courtyard or outdoor areas, including from vehicles, the sound and/or noise which is audible or measures in excess of 75dB by the device described in section 32-1 "excessive noise" to the distance of 50, or more, feet shall be an inference of a violation. Notwithstanding any time periods or other provisions of this section, sound (from any of the sources specified herein) which exceeds 85dB measured at the property line of the establishment from which the music is being generated shall be considered prima facie evidence of a violation.~~
- (3) The owner, occupant, agent of any owner or occupant, or user of any one or more lots, parcels, or areas within the county using such lot or any building or erection thereon for the purposes of lewdness, prostitution, gambling or for the sale or distribution or consumption of any illegal substance are all declared a nuisance and shall be abated as provided for in this section;
- (4) Any person who makes any excessive, unnecessary, or unusually loud noise which disturbs others within the unincorporated areas of the county. The term "excessive, unnecessary or unusually loud noise" means any sound which is plainly audible at a distance of 200 feet from its source. Sounds from emergency vehicles, churches, schools, lawn mowers, and other yard maintenance equipment and construction and public works machinery and equipment are exempt from the provisions of this section.
- (5) No person shall kindle or maintain an open burning or authorize any such fire to be kindled or maintained within the unincorporated areas of the county, except as stated in this article.
- a. Open burning of leaves, tree branches and yard trimmings originating on the premises of private residences and burned on those premises shall be permitted, provided that any fire must be located not less than 75 feet from any structure, road, or property line and adequate provision has been made to prevent the fire from spreading to within 75 feet of any such structure, road or property line.
- b. Open burning in undeveloped areas, including undeveloped areas within "residential" zoning districts, for the purpose of land-clearing or right-of-way maintenance shall be permitted, provided that such burning is conducted in accordance with the SC Department of Health and Environmental Control (DHEC) Air Quality Regulations 61-62.2 and 61-62.4 and S.C. Code 1976, § 48-35-10 et seq.
- c. The burning must be constantly attended by a competent person until such fire is extinguished. Such persons shall have a garden hose connected to a water supply, or other fire extinguishing equipment readily available for use. Proper notification shall be given to the state forester, or his duly authorized representative or other persons designated by the state forester. The notice shall contain all information required by the state forester or his representative. The burning must be

conducted in accordance with related state laws and regulations including, but not limited to, DHEC Air Quality Regulations 61-62.2 and 61-62.4 and S.C. Code 1976, § 48-35-10 et seq.

- d. Fires shall be prohibited as follows.
- a. The County Fire Departments may prohibit open burning when atmospheric conditions, local circumstances or other conditions exist that would make such fires hazardous.
 - b. The following materials shall not be burned in an open fire: Asphalt and asphalt materials, paint, plastics, metals, treated wood, paper, petroleum products, demolition debris, dead animals, construction debris, household chemicals, household garbage, tires, trade waste and cardboard.
 - c. Open burning shall be prohibited on all county roads and drainage rights-of-way, or within an area that may cause damage to such areas.
 - d. Open burning shall be prohibited within 1000 ft 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.

(Code 1999, § 91.03; Ord. No. 94-95-323, 5-2-1995; Ord. No. 07-08-592, 1-8-2008; Ord. No. 10-11-644, § 2, 8-2-2011)

Sec. 32-4. Complaints; investigation.

Wherever the county, through the county administrator or his designee, shall receive complaints from ~~three or more~~ residents of the county who reside within 1,000 feet of the property line of the lot, lots, parcels, or areas where the alleged nuisance exists or a member of the county council representing three or more residents, or the county administrator, a member of the county council or the county administrator's designee becomes aware that there exists a situation which is harmful to the general health, safety, welfare, or security of the community, the county administrator or his designee shall institute an investigation to determine if there is a reasonable basis for the complaint. The county administrator or his designee is authorized to request that other agencies or departments assist him in making such a determination.

(Code 1999, § 91.04; Ord. No. 94-94-323, 5-2-1995; Ord. No. 07-08-592, 1-8-2008)

Sec. 32-5. Voluntary abatement.

If there is a reasonable basis for a complaint made to the county administrator, the county administrator or his designee shall, by formal contact attempt to get the person, persons, or entities to willingly and voluntarily abate the nuisance or correct the situation within 30 calendar days of the date of the warning. The county administrator or his designee shall have the authority to enter into any agreement to abate as may be appropriate provided that the same does not commit the county to expend any public funds in any form or nature, be it monetary, equipment, or personnel.

(Code 1999, § 91.05; Ord. No. 94-95-323, 5-2-1995; Ord. No. 07-08-592, 1-8-2008)

Sec. 32-6. Assistance of county or state government.

If, after taking the actions provided for in section 32-5, the county administrator or the Sheriff or their designee shall not be successful in getting the person, persons, or entities to willingly and voluntarily abate the nuisance or correct the situation about which complaints are received, he shall then request the appropriate

agency or department of county or state government to assist in having the nuisance abated or the situation corrected.

(Code 1999, § 91.06; Ord. No. 94-95-323, 5-2-1995; Ord. No. 07-08-592, 1-8-2008)

Sec. 32-7. Summons to appear in magistrate's court.

If the nuisance is not abated within a 30-day period, unless a delay is caused by another government agency, the county administrator, Sheriff, or designee may issue a summons to the property owner or responsible party. If the nuisance cannot be abated within a 30-day period and the property owner or responsible party has attempted to remedy the nuisance, the Code enforcement officer, Sheriff, or designee may extend the 30-day period an additional 30 days before issuing the summons.

(Code 1999, § 91.07; Ord. No. 07-08-592, 1-8-2008)

Sec. 32-8. Abatement by county; lien.

The court may determine that the situation is so harmful or injurious to health, security, general welfare and safety of the community that the county may authorize the appropriate county department to expend funds or hire a contractor to expend funds to abate the nuisance. If the owner or the responsible person fails to comply with an order to remove, clean up, demolish, or abate the nuisance within the time frame defined by court, the county may cause such nuisance to be removed, cleaned up, demolished or otherwise abated. Any such public funds used to abate the nuisance shall be deemed to be a lien upon the real property upon which the cost incurred, shall be recorded in the registrar of mesne conveyance, and shall be collected in the same manner as county taxes.

(Code 1999, § 91.08; Ord. No. 07-08-592, 1-8-2008)

Sec. 32-9. Court action.

- (a) Complaints concerning nuisances described in subsections 32-3[(2) and (4)] made by one or more residents of the county ~~within 1,000 feet of the affected property~~ may be investigated by the sheriff, or the Code enforcement officer. The Code enforcement officer, Sheriff or any of his or her deputies, upon witnessing, observing or hearing a violation of subsections 32-3[(2) and/or (4)], may issue a warning or may issue a citation against any violator of said sections with such charge or charges to be adjudicated by the magistrate's court.
- (b) The county council may instruct the county attorney to institute an action in the appropriate court seeking injunctive relief requiring the person, persons, entity or entities to abate any nuisance or to cease and desist from the offending behavior.

(Code 1999, § 91.09; Ord. No. 94-95-323, 5-2-1995; Ord. No. 07-08-592, 1-8-2008; Ord. No. 10-11-644, § 3, 8-2-2011)

Sec. 32-10. Penalty for violation.

Any violation of provisions of this chapter shall be an offense punishable as provided in section 1-23.