

ORDINANCE NO. 2026-9

AN ORDINANCE FOR THE CITY OF FOREST ACRES, STATE OF SOUTH CAROLINA, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF FOREST ACRES, BE AMENDED BY REVISING CHAPTER 10, SECTION 10-11, RELATING TO NOISE VIOLATIONS.

WHEREAS, the Mayor and City Council of the City of Forest Acres find that it is necessary to provide for regulation of noise in order to protect residents, families, businesses and visitors from excessive and unreasonable noise; and,

WHEREAS, the City has a substantial interest in protecting its residents from excessive noise, and this "[t]his interest is perhaps at its greatest when government seeks to protect the well-being, tranquility, and privacy of the home," Ward v. Rock Against Racism, 491 U.S. 781, 796 (1989); and,

WHEREAS, Article I, Section 10 of the South Carolina Constitution of 1895 recognizes and protects the right to be free from unreasonable invasions of privacy, and "the privacy interests in one's home are the most sacrosanct," State v. Counts, 413 S.C. 153, 172, 776 S.E.2d 59, 69 (2015); and,

WHEREAS, particularly when unwelcome noise intrudes into the homes of residents, "privacy interests are substantially threatened because individuals cannot escape bombardment of their sensibilities," City of Beaufort v. Baker, 315 S.C. 146, 151, 432 S.E.2d 470, 473 (1993); and,

WHEREAS, the City's interest in regulating excessive noise is not limited to protecting the privacy of homes, and the City may act to protect even such traditional public forums as public streets and parks from excessive noise, Whitehurst v. Town of Sullivan's Island, 446 S.C. 137, 147, 919 S.E.2d 402, 408 (2025), and to protect merchants from intrusion of excessive noise into their places of business, ; and, Baker, 315 S.C. at 151, 432 S.E.2d at 473; and,

WHEREAS, when amplified music or other sounds result in excessive noise, lowering the volume of the sounds is legally recognized as an alternative avenue of communication, Baker, 315 S.C. at 151, 432 S.E.2d at 473; and,

WHEREAS, the City has a compelling interest in protecting the public from intrusion of disturbing, excessive noise into the privacy of residents' homes, particularly during regular sleeping hours, as this is a matter of public health and protects the fundamental privacy rights of individuals and families; and,

WHEREAS, federal law expressly recognizes that "inadequately controlled noise presents a growing danger [to] health and welfare," 42 U.S.C.S. § 4901; and,

WHEREAS, when amplified music or other sounds result in excessive noise, lowering the volume of the sounds is legally recognized as an alternative avenue of communication, Baker, 315 S.C. at 151, 432 S.E.2d at 473; and,

WHEREAS, the Mayor and City Council find that the noise regulations enacted pursuant to this ordinance, are necessary and narrowly tailored to serve the interests the City seeks to protect, constitute the least restrictive means of furthering the compelling governmental interests served by the regulations, and leave open ample alternative avenues of communication;

NOW, THEREFORE, pursuant to the power vested in the Council of the City of Forest Acres by virtue of Section 5-7-30 of the Code of Laws of South Carolina, 1976, as amended, and to promote and preserve public health, safety, order and the general welfare of the City:

BE IT ORDAINED BY THE CITY COUNCIL, City of Forest Acres:

Section 1. That Section 10-11 of the Code of Ordinances of the City of Forest Acres be amended to read as follows:

Sec. 10-11. - Noise.

(a) *Definitions.* The following definitions apply for purposes of this section:

- (1) *Loud and unseemly* shall mean noise that is unreasonably loud under the circumstances, including noise that is so loud as to unreasonably intrude upon the privacy of a captive audience such as residents within their homes or merchants within their places of business.
- (2) *Motor vehicle or vehicle* shall mean any automobile, motorcycle, truck, bus, camper, van, bicycle, scooter, boat, or any other device for transportation.
- (3) *Plainly audible* shall mean any sound that can be detected by a person using his or her unaided hearing facilities. As an example, if a person using 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 the person be able to identify the sound by specific nature or cause, title, style, words, or artist.
- (4) *Willfully* shall mean voluntarily and intentionally.

(b) *Loud and unseemly noise.* It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any loud and unseemly noise in the city.

(c) *Prima facie violations.* The following shall constitute prima facie evidence that noise is loud and unseemly in violation of this section:

- (1) Use or operation of any radio, sound system, musical instrument, amplification system, or similar device(s) to produce or reproduce sound in a manner as to be

plainly audible from the inside of any off-site housing or building, wherein all windows and doors are closed, between the hours of 8:00 p.m. and 8:00 a.m.

- (2) Use or operation of domestic power tools, lawn mowers, and agricultural equipment between the hours of 8:00 p.m. and 8:00 a.m.
- (d) *Willful violations.* It shall be unlawful for any person to willfully disturb any residence, business, institution, or other occupant of property by creating, assisting in creating, permitting, continuing or permitting the continuance of any sound which crosses the property line of such property and is plainly audible from the inside of any housing or building thereupon wherein all windows and doors are closed.
- (e) *Vehicles.* It shall be unlawful for any person in the operation of a vehicle to cause, suffer or allow any loud and unseemly noise in the operation or use of such vehicle upon any of the streets in the city.
 - (1) *Sounding horns or signaling devices.* It shall be unlawful for the operator of any vehicle to sound any horn or audible signal device in any other manner or circumstances or for any other purpose than required by law.
 - (2) *Playing radios, amplification systems, musical instruments, or similar devices.* It shall be unlawful to operate or play any radio, sound system, amplification system, or similar device which produces or reproduces sound in a vehicle in a manner as to be plainly audible at a distance of fifty (50) feet.
 - (3) *Racing engines of vehicles.* It shall be unlawful for any person to race the engine of any motor vehicle while such vehicle is not in motion, except when necessary to do so in the course of repairing, adjusting or testing the same.
- (f) *Noises deemed not loud and unseemly.* Notwithstanding any other provisions of this section, the following uses and activities are deemed not to be loud and unseemly and not otherwise in violation of this section:
 - (1) Noises of safety signals, warning devices, alarms and emergency signals used in a proper and lawful manner.
 - (2) Noises resulting from any authorized emergency vehicles when responding to an emergency call or acting in time of emergency.
 - (3) Noises resulting from emergency work.

- (4) Use or operation of domestic power tools, lawn mowers, and agricultural equipment between the hours of 8:00 a.m. and 8:00 p.m.
 - (5) Noise from stationary performing and signaling bells and chimes (for example, church bells) or athletic field buzzers and announcers, used only at brief periodic intervals and at reasonable volumes, between the hours of 8:00 a.m. and 11:00 p.m.
 - (6) Sounds generated by heating and air-conditioning systems in proper working order.
 - (7) Noise resulting from activities of a temporary duration permitted by law and for which a permit has been granted by the city as provided for under this section, subject to the terms and conditions of such permit.
 - (8) The use of property by the city for the purpose of promoting, producing, or holding special cultural, entertainment, athletic, or patriotic events, including, but not limited to, concerts, music festivals, and fireworks displays.
- (g) *Relief special permit.* Application for a permit for relief from this section on the basis of undue hardship may be made to the city administrator. Any permit granted shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The city administrator may grant the relief as applied for upon finding:
- (1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this chapter; or
 - (2) The activity, operation, or noise source will be temporary in duration and cannot be done in a manner that would comply with other subsections of this chapter; and
 - (3) That no other reasonable alternative is available to the applicant.
- (h) *Permit for special occasions.* Upon application to the city administrator or his/her designee, permits may be granted to responsible organizations to broadcast programs of music, speeches, or general entertainment as a part and in recognition of the community celebration of national, state or city events, public festivals or special events of a noncommercial character, provided that traffic on the streets is not obstructed by reason thereof. Any such permit issued shall provide, at minimum, for reasonable protections against noise impacts on surrounding properties between 8:00 p.m. and 8:00 a.m.

- (i) *Remedies; injunctions.* Besides the penalty provided by section 10-11(j) and as an additional remedy, the operation or maintenance of any device, instrument, or machinery in violation of any provision of this section, which operation or maintenance causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health, or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- (j) *Penalty.* Any persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined or be imprisoned as set out in section 1-8.

Section 2. Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 3. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Effective date. The effective date of this ordinance shall be immediately upon its passage.

ORDAINED AND ADOPTED under the Corporate Seal of the City of Forest Acres, State of South Carolina, this 9th day of June, 2026.



MAYOR



COUNCILPERSON



COUNCILPERSON



COUNCILPERSON

COUNCILPERSON

ATTEST: _____, City Clerk

Approval of City Attorney as to Form: William C. Dill

Person Requesting Ordinance: City Administrator

First Reading: May 12, 2026

Second Reading: June 9, 2026 (as amended)