

ORDINANCE NO. 665

AN ORDINANCE OF THE CITY OF SALEM, SD, AMENDING THE COMPILED ORDINANCES OF SALEM, BY DESCRIBING PROHIBITED NOISE IN THE CITY OF SALEM, SOUTH DAKOTA.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF SALEM, STATE OF SOUTH DAKOTA, AS FOLLOWS:

Sec. 1. That Chapter 5.01 – Offenses Against Public Welfare is hereby amended to adding:

Section 5.0109 - Loud and raucous noise.

- (a) *Prohibited generally.* It shall be unlawful for any person to willfully make or cause or allow to be made or allow to be continued any loud and raucous noise. For purposes of this subsection (a), the term "loud and raucous noise" shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the limits of the city. Quieter standards are expected during nighttime hours. The term includes the kinds of noise generated by the activities enumerated in subsection (c) of this section, except as provided in subsection (d) of this section. The term shall be limited to loud and raucous noise heard in any occupied residential unit which is not the source of the noise or upon the yard or driveway of such occupied residential unit, upon the public sidewalks and streets, school or public building or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, and in any event from a location not less than 50 feet from the source of the noise, measured in a straight line from the radio, loudspeaker, voice or other noise source.
- (b) *Prohibited noise resulting from a gathering of people.* No person in possession and present in any premises shall make or cause or allow to be made or allow to be continued any loud and raucous noise resulting from a gathering of people. For purposes of this subsection (b), the term "loud and raucous noise" resulting from a gathering of people shall mean any sound that, because of its volume level, duration, and character, annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the limits of the city. Quieter standards are expected during nighttime hours. The term includes the kinds of noise generated by the activities enumerated in subsection (c) of this section, except as provided in subsection (d) of this section. The term shall be limited to loud and raucous noise heard in any occupied residential unit which is not the source of the noise or upon the yard or driveway of such occupied residential unit, upon the public sidewalks and streets, in any public park, in any school or public building or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, and in any event from a location not less than 50 feet from the source of the noise, measured in a straight line from the radio, loudspeaker, voice or other noise source.
- (c) *Enumeration.* The following acts, subject to the exceptions provided in subsection (d) of this section, are declared to be public nuisances in violation of subsections (a) and (b) of this section, namely:
 - (1) Radios, amplifiers, and other devices for producing or reproducing sound. Using, operating, or permitting to be played, used, or operated any radio, amplifier, musical instrument, tape player, compact disc, MP3, loudspeaker, or other device for the producing or reproducing of sound in such manner as to cause loud and raucous noise.
 - (2) Yelling, shouting, and prolonged sounds by people. Yelling, shouting, whistling, or singing, or any prolonged sounds made by people at any time or place so as to create a

loud and raucous noise between the hours of 10:00 p.m. and 7:00 a.m. on any day of the week.

(d) *Exceptions.* The term "loud and raucous noise" does not include noise or sound generated by the following:

- (1) Cries for emergency assistance and warning calls.
- (2) Radios, sirens, horns and bells on police, fire, and other emergency response vehicles.
- (3) Activities on or in municipal facilities and on school or municipal athletic facilities and on or in publicly owned property and facilities, provided that such activities have been authorized by the owner of such property or facilities or their authorized personnel.
- (4) Fire alarms and security alarms.
- (5) Activities within the C-1 Central Business district and the other properties described below, provided such activities have been authorized by the owner of such property or facilities or their agent and a noise ordinance permit application has been issued by the City of Salem.

1) McCook Country Club;

2) Lot 5 in SW Corner Tract 4A of Streff's Tract, and

3) Tract 4A A subdiv of Tracts 4 & 5 of Streff's Tracts Ex Lots 1, 2A, 3, 4 & 5 in Tract 4A Thereof.

4) McCook Central Athletic Complexes

5) Salem Softball & Baseball Field Complexes

6) Salem Community Center Area

(e) *Construction; severability.* It is the intent of the city council that this section be construed to secure for the people of the city freedom from unwanted loud and raucous noise as described in this section without violating any of the rights secured by the Constitution to the people. If any provision of this section should ever be determined invalid for any reason, it is the intent of the city council that the remaining provisions continue in effect to the extent that they can be enforced notwithstanding such determination, and, therefore, this section is declared to be severable.

State Law reference- Unreasonable noise, SDCL 22-13-1.

Adopted this 7th day of March 2022.

Seal

Shawn English, Mayor

ATTEST:

Lori Heumiller, Finance Officer

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