

ORDINANCE # 2019- 09

TEXT AMENDMENT TO SECTIONS 7.01.D.32, 7.01.D.33 AND 10.03.B.4 OF THE KENDALL COUNTY ZONING ORDINANCE PERTAINING REGULATIONS OF OUTDOOR COMMERCIAL SPORTING ACTIVITIES AND OUTDOOR TARGET PRACTICE OR SHOOTING RANGES (NOT INCLUDING PRIVATE SHOOTING IN YOUR OWN YARD)

WHEREAS, 55 ILCS 5/5-12001 grants Kendall County the authority to regulate and restrict the location and use of structures and uses for the purpose of promoting the public health, safety, morals, comfort and general welfare throughout the unincorporated areas of the County; and

WHEREAS, gun clubs were a permitted use in the A-1 Agricultural District under the Kendall County Zoning Ordinance adopted January 16, 1940; and

WHEREAS, gun clubs were reclassified as a special use in the A-1 Agricultural District under the Kendall County Zoning Ordinances adopted in 1959 and July 9, 1974; and

WHEREAS, outdoor shooting ranges were classified as a similar use to gun clubs per the hearing of the Kendall County Zoning Board of Appeals on September 30, 1982 and were included as a special use in the A-1 Agricultural District by Ordinance 82-11 adopted November 9, 1982; and

WHEREAS, the restrictions governing target practice or shooting (not including private shooting in your own yard) in the A-1 Agricultural District and M-3 Earth Materials Extraction, Processing and Site Reclamation District were established through Ordinance 2013-14 adopted July 16, 2013; and

WHEREAS, Section 13.07 of the Kendall County Zoning Ordinance permits the Kendall County Board to approve text amendments and provides the procedure through which text amendments are granted; and

WHEREAS, on or about September 11, 2017, the Kendall County Planning, Building and Zoning Committee, hereinafter be referred to as "Petitioner", submitted a text amendment to the Kendall County Zoning Ordinance pertaining to outdoor target practice and shooting range zoning regulations; and

WHEREAS, on or about June 11, 2018, the Petitioner amended the proposed text amendment;

and

WHEREAS, following due and proper notice by publication in the Kendall County Record on August 9, 2018, the Kendall County Zoning Board of Appeals conducted a public hearing on August 27, 2018, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner and the Petitioner's representative presented evidence, testimony, and exhibits in support of the requested text amendment and four (4) members of the public testified in favor of the request and eleven (11) members of the public testified in opposition to the request; and

WHEREAS, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has recommended denial of the text amendment on August 27, 2018; and

WHEREAS, 55 ILCS 5/5-12014 (c) grants certain townships the right to file formal objections to proposed text amendments; and

WHEREAS, the Township of Na-Au-Say did file a formal objection in a manner permissible by State law; and

WHEREAS, 55 ILCS 5/5-12014 (c) requires the approval of at least three-fourths of a County Board to approve a text amendment over the formal objection of certain townships; and

WHEREAS, on or about February 11, 2019, the Petitioner amended the proposed text amendment and referred the proposal to the Kendall County Zoning Board of Appeals for rehearing; and

WHEREAS, following due and proper notice by publication in the Kendall County Record on March 14, 2019, the Kendall County Zoning Board of Appeals conducted a public rehearing on April 1, 2019, at 7:00 p.m., in the County Office Building at 111 W. Fox Street in Yorkville, at which the Petitioner and the Petitioner's representative presented evidence, testimony, and exhibits in support of the requested text amendment and zero (0) members of the public testified in favor of the request and twelve (12) members of the public testified in opposition to the request; and

WHEREAS, based on the evidence, testimony, and exhibits, the Kendall County Zoning Board of Appeals has recommended approval of the text amendment on April 1, 2019; and

WHEREAS, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the testimony presented at the aforementioned public hearing and Recommendation of the Kendall County Zoning Board of Appeals, and has forwarded to the Kendall County Board the requested text amendment; and

WHEREAS, the Kendall County Board has considered the recommendations of the Planning, Building and Zoning Committee and the Kendall County Zoning Board of Appeals, and has

determined that said petition is in conformance with the provisions and intent of the Kendall County Zoning Ordinance; and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Sections 7.01.D.32, 7.01.D.33 and 10.03.B.4 of the Kendall County Zoning Ordinance as provided:

- I. Recitals: The recitals set forth above are incorporated as if fully set forth herein.
- II. Amended Text: The existing language of Section 7.01.D.32 is hereby deleted and replaced with the following:

“7.01.D.32 Outdoor Commercial Sporting Activities including but not limited to swimming facilities and motocross sports. Appropriate regulations for lighting, noise, and hours of operation shall be included in the conditions. Outdoor commercial sporting activities shall exclude outdoor target practice or shooting, athletic fields with lights, paintball facilities and riding stables, including but not limited to polo clubs, and similar uses.”

- III. Amended Text: The existing language of Section 7.01.D.33 is hereby deleted and replaced with the following:

“7.01.D.33 Outdoor Target Practice or Shooting (not including private shooting on your own yard) with the following conditions:

- a. At the time of application for a special use permit, petitioners desiring to operate an outdoor target practice or shooting range shall submit copies of all of the studies and plans suggested in the 2012 NRA Range Source Book including, but not limited to, a safety plan, a business plan, a public relations plan, a maintenance plan, a noise plan, an environmental stewardship plan, and a closure plan. Two (2) copies of the 2012 NRA Range Source Book shall be available for public access in the Kendall County Planning, Building and Zoning Department. One (1) of the copies of the 2012 NRA Range Source Book shall be made available for rent to members of the public.
 1. The above-referenced plans shall contain information as suggested by the National Rifle Association.
 2. Included in the above documents, the petitioner shall submit a detailed written narrative describing the proposed use. The narrative shall, at a minimum, describe the type of range (i.e. public, private, or government), the type(s) of firearms and targets expected to be used and the proposed days and hours of operation.
 3. The safety plan shall describe the duties and qualifications of the range supervisors.

4. In at least one (1) of the required studies or plans, a hazardous waste plan addressing lead management shall be included. The lead management plan shall conform to either the requirements of the National Rifle Association's standards, the standards of the National Shooting Sports Foundations standards, or the United States Environmental Protection Agency's best management practices standards.
 5. In addition to the above requirements, the petitioner shall submit a water and drainage plan; this plan must be approved by the Kendall County Planning, Building and Zoning Office.
 6. Any changes to the above-required studies and plans shall be promptly forwarded to the Kendall County Planning, Building and Zoning Department.
 7. A bond shall be provided for site remediation. The specific dollar amount shall be determined by the County Board.
- b. Range layout requires conformity with the 2012 National Rifle Association standards with regard to layout and dimensions. The petitioner shall submit a site capacity a calculation and a detailed site plan showing the layout and design of the proposed shooting range, including all required setbacks and landscaping and the existing and proposed structures, their floor areas and impervious surfaces. The scale of the site plan shall be no greater than one inch equals one hundred feet (1"=100').
- c. The site plan for the proposed outdoor target practice of shooting range must show either sufficient berm height with sufficient downrange safety area or baffling that prevents projectiles from leaving the site.
1. The safety area shall conform to 2012 NRA Range Source Book for the shape and width. The safety area shall have signs posted at intervals stated in the special use permit warning of the potential danger from stray bullets.
 2. For the purposes of this regulation, the term "downrange safety area" shall mean the area away from the launching site towards the target. In case of shooting ranges where targets are not stationary, appropriate baffling shall be provided.
- d. Public ranges designed for the use of handguns and rifles shall provide berms at least twenty feet (20') high and six feet (6') thick at the top for ranges three hundred feet (300') in length, made of soft earth or other material that is unlikely to cause ricochets, and containing no large rocks. For every thirty (30') feet of firing line distance over twenty feet (20'), the berm height shall increase by ten feet (10') in height as an example. Berms shall be located as follows:
1. Shotgun ranges – No berming required.

2. Ranges for handguns and rifles
 - a. Target placement not to exceed twenty feet (20') from the backstop.
 - b. Lateral not closer than thirty feet (30') from the firing line.
3. All required berms shall be constructed prior to the commencement of operations and shall be maintained for the duration of the special use permit.
4. In addition to berms, appropriate baffling may be installed over the firing line creating a "no blue sky" to prevent projectiles from overshooting the berm.
5. The range shall be located on site where an uninhabited downrange safety area is available. The required length of the safety area shall be as follows:
 - a. Shotgun ranges – one thousand five hundred feet (1500'), provided that shot size is limited to #4 or smaller.
 - b. Ranges for handguns and rifles not more powerful than .22 long rifle – seven thousand feet (7,000').
 - c. Ranges for rifles more powerful than a .22 long rifle – thirteen thousand five hundred feet (13,500').
 - d. The downrange safety area requirement for handgun and rifle ranges may be waived if the firing line is provided with overhead baffling, berming, or a combination thereof, meeting the standards of the 2012 National Rifle Association's Source Book or appropriate baffling may be installed over the firing line creating a "no blue sky" to prevent projectiles from overshooting the berm.
- e. The range, including the safety area, must be under the control of the operator of the range, by ownership or lease.
- f. The firing line must be at least one thousand feet (1,000') from existing residential dwellings and property lines of schools, daycares, places of worship, airstrips, and residentially zoned property.
- g. The outdoor target practice or shooting range must have a sign that lists allowed firearm types based on the special use permit, rules of operation; hearing and vision protection required
- h. At least one (1) designated range safety officer must be present during operational hours when discharging of firearms is taking place. A "range safety officer" means a person who is certified under the National Rifle Association's Range Safety Officer Program or other equivalent state or nationally-recognized range safety officer certification program as approved by the County Board, for the type of shooting being supervised. The range safety officer shall enforce all range rules.

- i. At least one (1) range flag flown, a sign, cone, or red light lit at all times that firing is taking place.
- j. Everyone on the firing line is required to wear hearing protection and safety glasses.
- k. The range shall provide public bathroom facilities.
- l. The range shall require a minimum parcel size of twenty (20) acres.
- m. Hours and days of operation shall be specified in the special use permit and determined by the County Board. However, between October 1st and March 31st, no firing shall take place prior to 10:00 a.m. or after 5:00 p.m. and between April 1st and September 30th, no firing shall take place prior to 10:00 a.m. or after 8:30 p.m. However, notwithstanding the aforementioned hours of operation, up to twelve (12) night shoots per year shall be allowed ending no later than 10:00 p.m.
- n. Access must be controlled by a gated entrance. The range proper shall be gated and fenced in a manner so to prohibit entrance on the property by members of the public and shall have signs posted at one hundred foot (100') intervals warning members of the public of the danger. Berming may substitute for fencing.
- o. Must meet the existing setbacks of the zoning district.
- p. No alcohol, marijuana, or other illicit drugs allowed.
- q. No projectiles shall leave the boundaries of the site.
- r. The outdoor target practice or shooting range allowed by this special use permit shall provide the Kendall County Planning, Building and Zoning Department proof of accident and liability insurance prior to the commencement of operations; the insurance shall be at a level standard and customary for outdoor target practice or shooting range. An insurance policy meeting the above requirements must be maintained during the duration of the special use permit and the special use permit holder shall supply a copy of the insurance policy to the Kendall County Planning, Building and Zoning Department annually on or before February 1st of each year.

- s. All applicable Federal, State and County rules and regulations shall be adhered to.
- t. Must adhere to the Performance standards of Section 10.01.F of the Zoning Ordinance (Not more than sixty percent (60%) of the area of the lot may be covered by buildings or structures, including accessory buildings).
- u. Notwithstanding the hours of operations set in the special use permit, the range shall abide by the following noise regulations, so as not to exceed allowable residential noise in accordance with the following:
 - 1. Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential use which exceeds sixty (60) dBA when measured at any point within such receiving residential land; provided, however, that point of measurement shall be on the property line of the complainant.
 - 2. Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential use which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land; provided, however, that point of measurement shall be on the property line of the complainant.
 - 3. EXEMPTION: Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.
- v. Outdoor target practice and public or private shooting ranges in existence prior to the date of the adoption of this ordinance (May 7, 2019) shall be exempt from this sub-section of the Zoning Ordinance, but they shall follow the restrictions on their respective special use permits.
- w. Outdoor target practice and shooting ranges open to the public established after the date of this ordinance (May 7, 2019) must comply with the above regulations or secure applicable variance(s)."

IV. Amended Text: The existing language of Section 10.03.B.4 is hereby deleted and replaced with the following:

“10.03.B.4 Outdoor Target Practice or Shooting (not including private shooting on your own yard) with the following conditions:

- a. At the time of application for a special use permit, petitioners desiring to operate an outdoor target practice or shooting range shall submit copies of all of the studies and plans suggested in the 2012 NRA Range Source Book including, but not limited to, a safety plan, a business plan, a public relations plan, a maintenance plan, a noise plan, an environmental stewardship plan, and a closure plan. Two (2) copies of the 2012 NRA Range Source Book shall be available for public access in the Kendall County Planning, Building and Zoning Department. One (1) of the copies of the 2012 NRA Range Source Book shall be made available for rent to members of the public.
 1. The above-referenced plans shall contain information as suggested by the National Rifle Association.
 2. Included in the above documents, the petitioner shall submit a detailed written narrative describing the proposed use. The narrative shall, at a minimum, describe the type of range (i.e. public, private, or government), the type(s) of firearms and targets expected to be used and the proposed days and hours of operation.
 3. The safety plan shall describe the duties and qualifications of the range supervisors.
 4. In at least one (1) of the required studies or plans, a hazardous waste plan addressing lead management shall be included. The lead management plan shall conform to either the requirements of the National Rifle Association’s standards, the standards of the National Shooting Sports Foundations standards, or the United States Environmental Protection Agency’s best management practices standards.
 5. In addition to the above requirements, the petitioner shall submit a water and drainage plan; this plan must be approved by the Kendall County Planning, Building and Zoning Office.
 6. Any changes to the above-required studies and plans shall be promptly forwarded to the Kendall County Planning, Building and Zoning Department.
 7. A bond shall be provided for site remediation. The specific dollar amount of the bond shall be determined by the County Board.
- b. Range layout requires conformity with the 2012 National Rifle Association standards with regard to layout and dimensions. The petitioner shall submit a site capacity a calculation and a detailed site plan showing the layout and design of the proposed shooting range, including all required setbacks and

landscaping and the existing and proposed structures, their floor areas and impervious surfaces. The scale of the site plan shall be no greater than one inch equals one hundred feet (1"=100').

- c. The site plan for the proposed outdoor target practice of shooting range must show either sufficient berm height with sufficient downrange safety area or baffling that prevents projectiles from leaving the site.
 1. The safety area shall conform to 2012 NRA Range Source Book for the shape and width. The safety area shall have signs posted at intervals stated in the special use permit warning of the potential danger from stray bullets.
 2. For the purposes of this regulation, the term "downrange safety area" shall mean the area away from the launching site towards the target. In case of shooting ranges where targets are not stationary, appropriate baffling shall be provided.

- d. Public ranges designed for the use of handguns and rifles shall provide berms at least twenty feet (20') high and six feet (6') thick at the top for ranges three hundred feet (300') in length, made of soft earth or other material that is unlikely to cause ricochets, and containing no large rocks. For every thirty (30') feet of firing line distance over twenty feet (20'), the berm height shall increase by ten feet (10') in height as an example. Berms shall be located as follows:
 1. Shotgun ranges – No berming required.
 2. Ranges for handguns and rifles
 - a. Target placement not to exceed twenty feet (20') from the backstop.
 - b. Lateral not closer than thirty feet (30') from the firing line.
 3. All required berms shall be constructed prior to the commencement of operations and shall be maintained for the duration of the special use permit.
 4. In addition to berms, appropriate baffling may be installed over the firing line creating a "no blue sky" to prevent projectiles from overshooting the berm.
 5. The range shall be located on site where an uninhabited downrange safety area is available. The required length of the safety area shall be as follows:
 - a. Shotgun ranges – one thousand five hundred feet (1500'), provided that shot size is limited to #4 or smaller.
 - b. Ranges for handguns and rifles not more powerful than .22 long rifle – seven thousand feet (7,000').
 - c. Ranges for rifles more powerful than a .22 long rifle – thirteen thousand five hundred feet (13,500').

- d. The downrange safety area requirement for handgun and rifle ranges may be waived if the firing line is provided with overhead baffling, berming, or a combination thereof, meeting the standards of the 2012 National Rifle Association's Source Book or appropriate baffling may be installed over the firing line creating a "no blue sky" to prevent projectiles from overshooting the berm.
- e. The range, including the safety area, must be under the control of the operator of the range, by ownership or lease.
- f. The firing line must be at least one thousand feet (1,000') from existing residential dwellings and property lines of schools, daycares, places of worship, airstrips, and residentially zoned property.
- g. The outdoor target practice or shooting range must have a sign that lists allowed firearm types based on the special use permit, rules of operation; hearing and vision protection required
- h. At least one (1) designated range safety officer must be present during operational hours when discharging of firearms is taking place. A "range safety officer" means a person who is certified under the National Rifle Association's Range Safety Officer Program or other equivalent state or nationally-recognized range safety officer certification program as approved by the County Board, for the type of shooting being supervised. The range safety officer shall enforce all range rules.
- i. At least one (1) range flag flown, a sign, cone, or red light lit at all times that firing is taking place.
- j. Everyone on the firing line is required to wear hearing protection and safety glasses.
- k. The range shall provide public bathroom facilities.
- l. The range shall require a minimum parcel size of twenty (20) acres.
- m. Hours and days of operation shall be specified in the special use permit and determined by the County Board. However, between October 1st and March 31st, no firing shall take place prior to 10:00 a.m. or after 5:00 p.m. and between April 1st and September 30th, no firing shall take place prior to 10:00 a.m. or after 8:30 p.m. However, notwithstanding the aforementioned hours

of operation, up to twelve (12) night shoots per year shall be allowed ending no later than 10:00 p.m.

- n. Access must be controlled by a gated entrance. The range proper shall be gated and fenced in a manner so to prohibit entrance on the property by members of the public and shall have signs posted at one hundred foot (100') intervals warning members of the public of the danger. Berming may substitute for fencing.
- o. Must meet the existing setbacks of the zoning district.
- p. No alcohol, marijuana, or other illicit drugs allowed.
- q. No projectiles shall leave the boundaries of the site.
- r. The outdoor target practice or shooting range allowed by this special use permit shall provide the Kendall County Planning, Building and Zoning Department proof of accident and liability insurance prior to the commencement of operations; the insurance shall be at a level standard and customary for outdoor target practice or shooting range. An insurance policy meeting the above requirements must be maintained during the duration of the special use permit and the special use permit holder shall supply a copy of the insurance policy to the Kendall County Planning, Building and Zoning Department annually on or before February 1st of each year.
- s. All applicable Federal, State and County rules and regulations shall be adhered to.
- t. Must adhere to the Performance standards of Section 10.01.F of the Zoning Ordinance (Not more than sixty percent (60%) of the area of the lot may be covered by buildings or structures, including accessory buildings).
- u. Notwithstanding the hours of operations set in the special use permit, the range shall abide by the following noise regulations, so as not to exceed allowable residential noise in accordance with the following:
 - 1. Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential use which exceeds sixty (60) dBA when measured at any point within such receiving residential land; provided, however, that point of measurement shall be on the property line of the complainant.
 - 2. Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise

source to any receiving residential use which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land; provided, however, that point of measurement shall be on the property line of the complainant.

3. EXEMPTION: Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

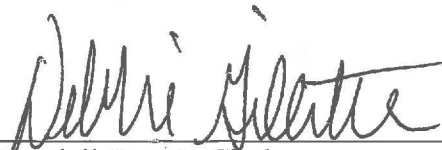
- v. Outdoor target practice and public or private shooting ranges in existence prior to the date of the adoption of this ordinance (May 7, 2019) shall be exempt from this sub-section of the Zoning Ordinance, but they shall follow the restrictions on their respective special use permits.

- w. Outdoor target practice and shooting ranges open to the public established after the date of this ordinance (May 7, 2019) must comply with the above regulations or secure applicable variance(s)."

V. Any completed application submitted prior to the date of the adoption of this ordinance shall follow the application procedures, requirements and restrictions in effect on the date that the completed application was submitted.

IN WITNESS OF, this amendment to the Kendall County Zoning Ordinance has been enacted by a supermajority vote of the Kendall County Board this 7th day of May, 2019.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
Scott R. Gryder