

KENDALL COUNTY, ILLINOIS
ORDINANCE NO. 13-18

ORDINANCE REGULATING NOISE OUTSIDE THE CORPORATE LIMITS OF ANY CITY, VILLAGE OR INCORPORATED TOWN IN KENDALL COUNTY, ILLINOIS

WHEREAS, the County of Kendall has the authority pursuant to 720 ILCS 5/47-5 to declare what shall be public nuisances and to abate the same with respect to the territory within the county and outside the corporate limits of any city, village, or incorporated town; and

WHEREAS, pursuant to the Illinois County Code 55 ILCS 5/5-12001, the County of Kendall also has the authority to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and other uses and to regulate and restrict the intensity of such uses, for the purpose of promoting the public health, safety, morals, comfort and general welfare, and conserving the values of property throughout the county; and

WHEREAS, the County of Kendall seeks to control noise in its residential districts for the purpose of protecting the public health, safety, morals, comfort, and general welfare of its residents, and;

WHEREAS, the County of Kendall seeks to conserve the value of property throughout the county, and to prevent noise pollution in that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, depresses property values, offends the senses, creates public nuisances, and in other respects reduces the quality of our environment.

NOW, THEREFORE, BE IT ORDAINED by the County Board of the County of Kendall, State of Illinois that hereafter Residential Zoning Districts which lie outside of

the corporate limits of any City, Village or Town and lying within the corporate limits of Kendall County, Illinois shall be subject to the following:

ARTICLE I - Title:

This ordinance shall hereinafter be known as the "Kendall County Noise Control Ordinance" and may be so cited.

ARTICLE II -- Definitions & Rules of Construction:

Except as specifically stated herein, the definitions of terms used in this Ordinance shall have their regular and usual meaning as indicated by common dictionary definition. However, all definitions of acoustical terminology used in this chapter shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. Words importing the singular number may extend and be applied to several persons or things. Words importing the plural number may include the singular. Words importing gender may be applied to both male and female.

ARTICLE III - Applicability:

This Ordinance's noise regulations shall apply in unincorporated Residential Zoning Districts, except where otherwise exempt under this Ordinance. Any person, including, but not limited to, the subject property's owner, agent, tenant, visitor and/or other occupant of the property who violates any provisions of this Ordinance, shall be liable for such noncompliance as further set forth herein.

Notwithstanding the above, a property owner shall be held liable for a violation under this ordinance if the County establishes by a preponderance of the evidence that he/she is legally accountable for the conduct giving rise to the violation, acquiesced to the conduct, and/or knew or should have reasonably known of the conduct occurring or that the conduct was likely to occur.

A Person for the purpose of this Ordinance shall be any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, or any legal successor, representative, agent or agency of the foregoing.

ARTICLE IV -- Measurement / Weighted Sound Level:

Measurement of sound for the purpose of this Ordinance shall be obtained using a device that utilizes the proper frequency sound weighting. Weighted Sound Level is the sound pressure level decibels as measured on a sound level meter using the A weighting network. The level so read is designed dB(A) or dBA.

ARTICLE V – Prohibited Activity:

(A) During Day Hours:

No person shall make, continue, or cause to be made the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land 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. Further, no person shall permit any sound as described herein to be made in or upon any house, premises or property owned or possessed by them or under their management and or control.

(B) During Night Hours:

No person shall make, continue, or cause to be made the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land 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. Further, no person shall permit any sound as described herein to be made in or upon any house, premises or property owned or possessed by them or under their management and or control.

(C) Sound emissions in violation of (A) and (B) above are hereby declared to be a public nuisance.

(D) For the purposes of determining violations of (A) and (B) above within attached multiple family structures/multiple unit developments such as apartments, condominiums and townhomes, the point of measurement shall be the outer property line of the multiple family structures/multiple unit developments and not at the dividing walls between individual units in said structures.

ARTICLE VI - Exemptions:

The following exemptions to violation of this Ordinance shall apply:

(A) Emergency Operations: Emergency short term operations which are necessary to protect the health, safety and welfare of the citizens, such as emergency utility and street repair, fallen tree removal or emergency fuel oil delivery shall be exempt, provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from the same. Emergency operations by fire and rescue services and police agencies shall also be exempt.

(B) Noises Required by Law: The provisions of this chapter shall not apply to any noise required specifically by law for the protection or safety of people or property.

- (C) **Powered Equipment:** Powered equipment, such as air conditioners, lawn mowers, small lawn and garden tools, riding tractors and snow removal equipment which is necessary for the maintenance of property, is kept in good repair and maintenance, and which equipment, when new, would not comply with the standards set forth in this chapter, shall be exempted. Good repair for the purpose of this exemption shall be when the equipment at issue is in a condition that meets factory specifications and is properly maintained to prevent any excessive or unusual noise. However, the use of radios or other sound/entertainment devices on such equipment shall not be exempted if listened to at a level otherwise violating the terms of this Ordinance.
- (D) **Community Events:** The term "community events" shall include such things as parades, festivals, drum corps shows, sports events and Fourth of July celebrations, which are sanctioned or sponsored in whole or in part by local governments, schools or charitable or service organizations.
- (E) **Agricultural Noise:** Specifically excluded from the provisions of this Ordinance is noise generated by agricultural equipment on land zoned and/or used for agricultural purposes.
- (F) **Motor Vehicles:** Nothing herein shall be construed as a limitation on the operation of duly registered motor vehicles as defined in the Illinois Motor Vehicle Code, which are not in violation of 625 ILCS 5/12-502.
- (G) **Work performed by a public body:** Any work performed by or on behalf of a public body, including that which is performed by subcontractors, shall be exempted. Such activities may include, but are not limited to, routine maintenance work, road and bridge construction and emergency repairs.
- (H) **Motorcycles:** Nothing herein shall be construed as a limitation on the operation of duly registered motorcycles as defined in the Illinois Motor Vehicle Code.
- (I) **Construction Sites:** Construction noise that occurs between the hours of 7 A.M. and 8 P.M. shall be exempted. However, if in the opinion of the Kendall County Planning, Building and Zoning Department, equipment or activities employed in the performance of construction exceeds the allowable decibel levels within this code, the Kendall County Planning, Building and Zoning Department may require noise mitigation methods be implemented and used at the construction site to mitigate noises which exceed the requirements herein.

ARTICLE VII- Enforcement:

Enforcement of this ordinance shall be performed by the Kendall County Sheriff's Office and any and all complaints of violations of this ordinance shall be directed to them. The Kendall County State's Attorney's Office shall be authorized to prosecute any violations of this Ordinance.

ARTICLE VIII – Notice to Property Owner:

- (A) Whenever a violation of this Ordinance occurs, the owner of the property shall be given notice of the violation in accordance with the following provisions:
 - (1) If the owner's name and current address are known, then by either personal service or mailing a copy of the notice by certified mail, return receipt requested, to that address. For purposes of notice under this Section, if the person cited for the conduct giving rise to the violation is the owner, then the address provided to the Kendall County Sheriff's Office at the time of citing shall be deemed to be that person's known address; or
 - (2) If the owner's address is not known, then by either personal service or mailing a copy of the notice by certified mail, return receipt requested, to the owner's address as provided to the County Clerk and/or County Supervisor of Assessments Office; or
 - (3) If the owner's address is not known, and is not on record as provided above, then by publication for 3 successive weeks in a newspaper of general circulation within Kendall County.

- (B) Notice served under this Ordinance is effective upon personal service, the last date of publication, or the mailing of written notice, whichever is earlier.

ARTICLE IX - Penalty:

- (A) It shall be unlawful to violate any of the terms and provisions of this ordinance. Any person, firm or corporation violating any of the said terms and provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and be punished by fines as follows:
 - (1) For the first offense, the minimum fine shall be \$50.00 and the maximum fine shall be \$500.00; and
 - (2) For any subsequent offense occurring within two years of the prior offense, the minimum fine shall be \$100.00 and the maximum fine shall be \$1000.00; and
- (B) The violation of this ordinance, or any part thereof, on more than one (1) day shall constitute separate offenses; and

(C) In addition to any penalty provided by this Ordinance, the Kendall County State's Attorney is authorized to initiate action to obtain injunctive relief in the Circuit Court, including, but not limited to, the issuance of a temporary restraining order and preliminary injunction, in order to abate any such nuisance condition as enumerated in this Ordinance.

ARTICLE X - Severability:

The articles, provisions and sections of this Ordinance shall be deemed to be separable and if any portion of this Ordinance is deemed invalid, such determination shall not affect the validity of the remainder.

ARTICLE XI - Effective Date:

This Ordinance and the regulations contained therein shall be in full force and effect on and after the date signed below.

ADOPTED and APPROVED this 17th day of September, 2013.

Attest: 
Debbie Gillette, County Clerk


John Shew, County Board Chairman