

ORDINANCE NUMBER 23- 36

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AMENDING VILLAGE CODE SECTION 93.11, NOISE, TO KEEP THE PROHIBITED NOISE TIMES AND DATES CONSISTENT WITHIN THE SECTION AND TO MATCH VILLAGE PRACTICES

WHEREAS, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Village desires to amend the Village of East Dundee Village Code (“Village Code”) to provide rules and regulations relating to its noise ordinance; and

WHEREAS, the Village desires to keep the prohibited noise times consistent in both Sections 93.11(B)(3)(b)(1) and 93.11(E)(2); and

WHEREAS, the Village desires to add an amendment to Section 93.11(D) to match current Village practices regarding special use permit ordinances; and

WHEREAS, the President and Board of Trustees have determined it to be in the best interest of the Village to amend the Village Code; and

NOW THEREFORE BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION 1: Incorporation. That the recitals above shall be and are hereby incorporated as Section 1 as if restated herein.

SECTION 2: Amendments. That the Village Code is hereby amended as follows, with additions underlined and deletions struck through:

AMENDMENT ONE:

Section 93.11(B)(3) of the Village Code, entitled “Noise; Prohibited noises; Audio, musical, and similar equipment” is hereby amended as follows:

Section 93.11 NOISE.

* * *

(B) *Prohibited noises.*

* * *

(3) *Audio, musical, and similar equipment.*

(a) It is unlawful to play, use, operate, or permit to be played or operated, in any building or on any public or private premises any radio, phonograph, microphone, musical instrument, television, loudspeaker,

sound amplifier, or similar equipment in such a manner as to disturb the peace, quiet, or comfort of neighboring residents, except as described in conjunction with a village-permitted special event, permit, or block party.

(b) 1. In all zoning districts, the operation of any radio, phonograph, microphone, musical instrument, television, loudspeaker, sound amplifier, commercial music amplification or reproduction equipment or similar equipment between the hours of 10:30 p.m. and 7:00 a.m. Sunday through Thursday, and between the hours of ~~midnight~~ 11:00 p.m. and 7:00 a.m. Friday and Saturday, in such a manner as to be plainly audible more than 50 feet beyond the property line of the premises from which the noise is emanating, shall be *prima facie* evidence of a violation of this section.

2. For the purposes of this section, PLAINLY AUDIBLE means any sound which clearly can be heard, by unimpaired auditory senses based upon a direct line of sight of 50 feet or more. However, words or phrases need not be discernable. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

(c) No person shall cause or permit to be emanated or emitted from any such device any lewd, obscene, profane, or indecent language or sounds, or any false representation of any matter, product, or project advertised thereby, the sale of which is prohibited by law, ordinance, or statute.

(d) It is prohibited to play, use, operate, or permit to be played, used, or operated any radio, television, musical instrument, phonograph, loudspeaker, sound amplifier, or similar equipment for producing sound which is audible upon the public streets of the village for the purpose of commercial advertising or of attracting the attention of the public to any building or structure except when a permit has been first procured from the Village Administrator as required by this code.

AMENDMENT TWO:

Section 93.11(D) of the Village Code, entitled "Noise; Application for special permit" is hereby amended as follows:

Section 93.11 NOISE.

* * *

(D) *Application for special permit.*

(1) Applications for a special permit for relief from the noise restrictions designated in this section on the basis of undue hardship may be made to the Village Administrator or by a special use permit ordinance by the Village Board of Trustees. Any permit granted hereunder shall contain all

conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective.

(2) Permit issuance shall be provided if the following conditions are found:

(a) The additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with this section; or

(b) The activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with other divisions of this section; or

(c) The Village Board of Trustees has issued a special use permit with the conditions granted to the property owner; or

~~(e)~~ **(d)** No other reasonable alternative is available to the applicant.

(3) The Village Administrator **or Village Board of Trustees** may prescribe any conditions or requirements ~~he or she~~ **they** deem necessary to minimize the adverse effects upon the community or the surrounding community or the surrounding neighborhood.

AMENDMENT THREE:

Section 93.11 of the Village Code, entitled "Noise; Prohibited noises" is hereby amended by removing Section 93.11(E) in its entirety as follows:

Section 93.11 NOISE.

* * *

~~(E) Prohibited noises:~~

~~(1) Noise measurement. Sound level measurements for this division (E) shall be made with a properly calibrated sound level meter Type 2 or better using the A-weighted network in accordance and conforming with the noise measurement standards, promulgated by the American National Standards Institute and Testing Procedures (ANSI) for measurement of sound levels on an averaged A-weighted sound pressure level which is exceeded 10% of the time in any measurement period designated as dBA.~~

~~(2) Noise limitation. No person or business shall cause, allow or permit the emission of sound within the village that exceeds 65 dBA, except between 6:00 p.m. and 11:00 p.m. on Friday and Saturday that exceeds 75dBA, when measured 25 feet or more from the property line of private property or noise source if not on private property.~~

SECTION 3: Continuation. That all provisions of the Village Code not amended herein shall remain in full force and effect.

SECTION 4: Severability. That if any Section, paragraph or provision of this Ordinance shall be held to be invalid and unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 5: Repeal. That all ordinances, resolutions, motions or parts thereof in conflict with this Ordinance shall be hereby repealed.

SECTION 6: Effect. Upon its adoption, approval and publication in pamphlet form as provided by law, this ordinance shall be in full force commencing January 1, 2024.

PASSED this 7th day of August 2023 pursuant to a roll call vote as follows:

AYES: Mahony, Kunze, Brittin, Saviano and Sauder

NAYES: Ø

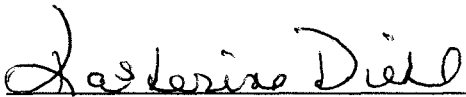
ABSENT: Treiber

APPROVED by me this 7th of August 2023.



Jeffrey Lynam, Village President

ATTEST:



Katherine Diehl, Village Clerk