

ORDINANCE NO. 2007- 22

AN ORDINANCE AMENDING SECTION 509.12 OF THE KENT CODIFIED ORDINANCES STYLED UNLAWFUL NOISE.

WHEREAS, the City wishes to increase the penalties of Section 509.12 of its codified ordinances in an effort to reduce the number of violations.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, at least a majority (5) of all members elected thereto concurring:

SECTION 1. That Section 509.12 of the Kent Codified Ordinances be amended to read as is shown in Exhibit A, attached hereto and made a part hereof.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall take effect and be in force from and after the earliest date allowed by law.

PASSED: 3/7/07
DATE

PRESIDENT PRO TEM

ATTEST: _____
ACTING CLERK OF COUNCIL

I hereby certify that Ordinance No. 2007- 22 was duly enacted this 7th day of March, 2007, by the Council of the City of Kent, Ohio

ACTING CLERK OF COUNCIL

EXHIBIT A

509.12 UNLAWFUL NOISE (Amended Kent ordinance)

- (a) UNLAWFUL NOISE - PROHIBITED. It is unlawful for any owner, occupant, agent or persons in possession or control of any structure, lot, thing or building, premises or vehicle to make, continue or cause to be made or continued, or permit to be made, any excessive, unnecessary, or unusually loud noise or any noise which disturbs, annoys, injures or endangers the comfort, repose or health, peace or safety of persons of ordinary sensibilities within the City. (Ord. 2002-130. Passed 12-11-02)

- (b) UNLAWFUL NOISE - ENUMERATED. The following acts, among others, are declared to be loud, disturbing, injurious and unnecessary and unlawful noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:
 - (1) Horns and Signal Devices. The sounding of any horn or signal device on any automobile, motorcycle, bus or train, or any other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or, if in motion, only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun; the creation by means of such signal devices of any unreasonably loud or harsh sounds; and the sounding of any signal device for any unreasonable or unnecessary period of time.
 - (2) Radio, Stereo, Musical Instruments. The playing of any radio, stereo, television set, amplified or unamplified musical instruments, loudspeaker, tape recorder, or other electronic sound-producing devices, in such a manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel, hospital or other type of residence, or of any persons in the vicinity. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible on a property or in a dwelling unit other than that in which it is located, shall be prima facie evidence of a violation of this section.
 - (3) Loud Noises or Disturbances. Yelling, shouting, hooting or the making of any other loud noises on the public streets, or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel, hospital or other type of residence, or in any office or of any persons in the vicinity.
 - (4) Animal Noises. The keeping of any animal, which by causing frequent or long continued noise shall disturb the comfort or repose of any person.
 - (5) Whistle or Siren. The blowing of any whistles or sirens, except to give notice of the time to begin or stop work or as a warning of fire or danger.
 - (6) Engine Exhaust. The discharge into the open air of the exhaust of any engine, or internal combustion engine, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.
 - (7) Noisy Advertising. No person shall, by ringing a bell or gong, or by using a phonograph or other instrument for producing or reproducing sounds, or by using loud or boisterous language or by any unusual noise or means whatever, advertise goods, wares, or merchandise for sale, or advertise any show, theater, exhibition, or entertainment.
 - (8) Noisy Machinery. No person shall maintain, run, or operate any steam, gas, gasoline, or other engine, boiler, press, machine, or other apparatus so constructed or operated as to make any unnecessary noise, to the annoyance and discomfort of the people of the City, except in the course of making an emergency repair and for weather necessitated activities.

- (9) Noise-producing Instruments. The use of any device, apparatus, radio, ticker or other noise-making and noise-emitting device for general advertising purposes, or for the purpose of soliciting trade or attracting attention to any wares, good, merchandise, instrument or device offered for sale is prohibited.
- (c) **SOUND GENERATED BY DEVICES OR INSTRUMENTS** It is prima facie unlawful for a person to generate or permit to be generated sound by the above described devices or instruments in the following circumstances:
- (1) On private property between the hours of 9:00 p.m. and 8:00 a.m. of the following day in a residential area where the sound is audible past the property line of the property on which the source of the sound is located; or
 - (2) On a street, highway or in the public right-of-way where the sound is audible thirty (30) feet from the device generating the sound. Persons in possession of a current parade permit, assemblage permit, or a current loud-speaker permit are exempt from the provisions of this sub-paragraph.
 - (3) By conducting an unduly large gathering at a private residence or in a private residential area which generates excessive noise at any time.
- (d) No person being the owner, or person in possession of a premises for person in control of the premises by reason of employment, agency, or otherwise, whether such ownership, possession or control is exclusive or joint, shall permit a violation of this section.
- (e) **WARNING AND ALARM DEVICES** Warning and alarm devices which have the purpose of signaling unsafe or dangerous situations or calling for police are exempted from the prohibitions of this section when used for such purposes and are in proper working order.
- (f) **AGRICULTURAL ACTIVITIES** Agricultural activities conducted within an agricultural district as authorized in Chapter 929 of the Ohio Revised Code, shall be exempted from the prohibitions of this section when the activities are not in conflict with federal, state or local laws or are conducted in accordance with generally accepted agricultural practices.
- (g) **OUTDOOR PERFORMANCES** The use, production or presentation outdoors in a residential neighborhood, by a live band of any make-up, or the use of outdoor amplification or amplification intended directly or indirectly to be heard outside of the structure where the event is being held.
- (g h) **EXEMPTIONS** Events officially sponsored and/or approved by the City of Kent, such as festivals, fireworks, parades, etc., **activities that are essential to the proper performance work-related duties of the officers and employees of the City**, and events official sponsored by governmental educational institutions and the Kent Board of Education such as sporting events, marching bands, etc., shall be exempt from the prohibitions of this section. (Ord. 1997-69. Passed 10-1-97.)
- (i) **Retaliation.** No person shall direct a verbal, physical or electronic act against the person, family or property of any individual who complains of or witnesses a violation of the Unlawful Noise regulations for the purpose of intimidating or retaliating against that person for the exercise of the right to complain or testify to a violation of this Code.
- (j) **VIOLATION PENALTY**
- (1) Whoever violates this section **except section (i)** is guilty of generating unreasonable noise ~~and a minor~~ **an unclassified misdemeanor, punishable by a fine of up to \$1,000 and up to thirty (30) days in jail.** If the offender persists in generating, or permitting to be generated, unreasonable noise after reasonable warning or request to desist, ~~is guilty of a misdemeanor of the fourth degree.~~ **the penalty shall include a minimum fine of \$500.**

- (2) Whoever violates Section (i) herein, is guilty of an unclassified misdemeanor, punishable by a fine of at least \$500 and not exceeding \$1,000 and up to thirty (30) days in jail.**