

ORDINANCE # 375A

AN ORDINANCE TO AMEND
ORDINANCE NO. 375

ADOPTED BY THE
CITY COUNCIL OF THE
CITY OF SUMNER, ILLINOIS

THIS 9th DAY OF September, 2008

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BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL of the City of Sumner, Lawrence County, Illinois, that Ordinance No. 375 of the Revised Code of Ordinances of the City of Sumner, Lawrence County, Illinois, entitled "An Ordinance Concerning Disorderly Conduct", shall be amended as follows and known as "An Ordinance Concerning Disorderly Conduct and Noise Abatement":

IT IS THEREFORE ORDAINED AS FOLLOWS:

I. Purpose:

This article is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet of the citizens of the city through the reduction, control and prevention of unreasonably loud and raucous sounds, or any noise that unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity. Nothing in this article shall be construed as preventing the lawful exercise of right of free speech protected by the Constitutions of the United States or the State of Illinois.

II. Scope:

This article applies to the control of all sound originating within the jurisdictional limits of the City of Sumner, Illinois.

III. Definitions:

When used in this article:

1. *Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.
2. *Emergency work* means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.
3. *Emergency related sounds* means any type of sound rendered on an intermittent, emergency basis, including but not limited to sounds associated with snow removal, flood water removal, and/or storm debris removal, emergency generators that are used during electrical storms, as well as alarms and other emergency warning sounds.

4. *Noise* means sounds associated with the repairs of vehicles or engines, music or the operation of mechanical equipment other than vehicles, or any other sound, especially of a loud, harsh kind, which may be heard seventy-five (75) feet beyond the property line of the property from which the sounds originate.

5. *Noise sensitive area* includes, but is not limited to, the land on which a school, skilled nursing facility, nursing home, church, public library, or similar institution is located and the area within two hundred fifty (250) feet of a school, skilled nursing facility, nursing home, church, public library or similar institution.

6. *Person* means any individual, firm, association, partnership, joint venture or corporation.

7. *Public right-of-way* means any street, avenue, boulevard, highway, sidewalk, alley or similar place normally accessible to the public that is owned or controlled by a government entity.

8. *Public space* means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

9. *Residential area* means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the city's zoning ordinance.

IV. General Prohibitions:

(a) No person shall make, continue, or cause to be made or continued, the following:

- (1) Any unreasonably loud or raucous noise; or
- (2) Any noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City of Sumner; or
- (3) Any noise which is so harsh, prolonged, unnatural or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

(b) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:

- (1) The proximity of the sound to sleeping facilities, whether residential or commercial;

(2) The land use, nature and zoning of the area from which the sound emanates and the area where it is received or perceived;

(3) The time of day or night the sound occurs;

(4) The duration of the sound; and

(5) Whether the sound is recurrent, intermittent or constant.

(c) In all residential areas within the city limits, no electronically amplified sound may be emitted from a property such that it may be heard seventy-five (75) feet beyond the property line of the property from which said sound originates.

(d) In all residential areas, and all business areas immediately adjacent to residential areas, within the city limits, no noise as defined may be emitted from a property between the hours of 10:00 p.m. and 6:00 a.m.

(e) No person shall commit disorderly conduct and a person commits disorderly conduct when he knowingly:

(1) Commits any act in such an unreasonable manner as to provoke, make or aid in making a breach of the peace;

(2) Commits or makes any unreasonable or offensive act, utterance, gesture or display which, under the circumstances, creates a clear and present danger of a breach of the peace or imminent threat of violence;

(3) Fails to obey a lawful order of dispersal by a person known by him to be a peace officer under circumstances where three (3) or more persons are committing or appear to be committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm, serious inconvenience or alarm;

(4) Assembles with three (3) or more persons for the purpose of using force or violence to disturb the public peace;

(5) Beggars or solicits funds on the public ways, except as otherwise permitted by city ordinance;

(6) Appears in any public place and is manifestly under the influence of alcohol, narcotics or other drug not therapeutically administered, to the degree that he may endanger himself or other persons or property, or alarm or disturb other persons in his vicinity;

(7) Transmits in any manner to the fire department a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;

(8) Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place;

(9) Transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed;

(10) Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it.

V. Noises Prohibited:

The following acts are declared to be per se violations of this article. This list does not constitute an exclusive list.

(1) *Unreasonable noises:* The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of residences or which will not detrimentally affect the operators of other places of business are exempted from this provision.

(2) *Non-emergency signaling devices:* Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, seasonal contribution solicitors, or by the city for traffic control purposes are exempt from the operation of this provision.

(3) *Emergency signaling devices:* The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsection a. below. Local, state, and federal governments are exempt from this prohibition.

a. Testing of an emergency signaling device shall occur between 6:00 a.m. and 10:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(4) *Radios, televisions, boom boxes, karaoke machines, phonographs, stereos, musical instruments and similar devices:* The use or operation of a radio, television, boom box, karaoke machine, stereo, musical instrument or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet and comfort of neighbors and passers-by, or is plainly audible at a distance of seventy-five (75) feet from any person in a residential, commercial, industrial area or public space. The use or operation of a radio, television, boom box, karaoke machine, stereo, musical instrument or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet and comfort of neighbors in

residential or noise sensitive areas, including multi-family or single-family dwellings. This subsection shall not apply to violations of 5/12-611 of the Illinois Vehicle Code.

(5) *Loudspeakers, amplifiers, public address systems and similar devices:* The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system or other device for producing or reproducing sound between the hours of 10:00 p.m. and 6:00 a.m. of the following day, in the following areas:

a. Within or adjacent to residential or noise-sensitive areas;

b. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous. This shall not apply to any public performance, gathering or parade.

(6) *Yelling, shouting and similar activities:* Yelling, shouting, hooting, whistling or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 6:00 a.m. of the following day, or at any time or place so as to unreasonably disturb the quiet, comfort or repose of reasonable persons of ordinary sensitivities.

(7) *Animals and birds:* Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird.

(8) *Loading or unloading vehicle, merchandise, materials and equipment:* The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle, merchandise, materials and equipment at a place of business or residence between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

(9) *Construction or repair of buildings, excavation of streets and highways:* The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 6:00 a.m. and 10:00 p.m. Local, state, and federal governments are exempt from this prohibition. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the following shall apply:

a. The Chief of Police, or his designee, may issue written permission, upon application, if he determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings between the hours of 10:00 p.m. and 6:00 a.m. of the following day, will not be impaired, and if he further determines that loss or inconvenience would not result to a party in interest. The written permission shall grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.

b. The Chief of Police, or his designee, may issue written permission, upon application, if he determines that the public health and safety, as affected by loud and raucous noise caused by construction or excavation of roadways and sidewalks between the hours of 10:00 p.m. and 6:00 a.m. of the following day, will not be impaired, and if he

further determines that loss or inconvenience would not result to a party in interest. The written permission shall grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.

(10) *Noise sensitive areas--schools, churches, skilled nursing facilities, nursing homes and similar institutions:* The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which unreasonably disturbs the persons in these institutions.

(11) *Blowers, domestic power tools, toys, sports equipment and similar devices:* In residential or noise sensitive areas, between the hours of 10:00 p.m. and 6:00 a.m. of the following day, the operation of any noise-creating blower, power fan, or any internal combustion engine, domestic power tools, toys, sports equipment and similar devices, the operation of which causes noise due to the explosion of operating gases, fuels or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates. This subsection shall not apply to snow blowers and other snow removal machinery.

(12) *Commercial establishments.* Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 6:00 a.m. of the following day which is plainly audible at a distance of seventy-five (75) feet from any residential property.

(13) *Vehicle or motorboat repairs and testing.* Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance at a distance of seventy-five (75) feet from where the sound emanates.

VI. Exemptions:

Sounds caused by the following are exempt from the prohibitions set out in section IV above, and are in addition to the exemptions specifically set forth in section V above:

(1) Repairs of utility structures, which are damaged, in disrepair or out of service and such condition, pose a clear and immediate danger to life, health or significant loss of property.

(2) Sirens, whistles or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity or imminent danger, provided that the prohibition(s) in subsection V (3) continues to apply.

(3) Repairs or excavations of bridges, streets or highways by or on behalf of the City of Sumner, the State of Illinois, or the federal government, between the hours of 10:00 p.m. and 6:00 a.m. of the following day, when public welfare and convenience renders it impractical to perform the work between 6:00 a.m. and 10:00 p.m.

(4) Outdoor school and playground activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.

(5) Other outdoor events. Outdoor gatherings, public dances, shows, parades, festivals and other similar outdoor events.

(6) Any event that is sponsored by and directly controlled by the City or its designee.

(7) Outdoor church activities that cannot be heard from a distance of more than seventy-five (75) feet beyond the church property boundaries between 10:00 p.m. and 6:00 a.m. of the following day, except that a church may sound chapel bells periodically so long as each said ringing does not continue for an unreasonable amount of time.

VII. Enforcement:

(a) The chief of police, or his designees, will have primary responsibility for the enforcement of the disorderly conduct and noise regulations herein. Nothing in this article shall prevent the police chief, or his designees, from obtaining voluntary compliance by way of warning, notice or education.

(b) If a person's conduct would otherwise violate this article and consists of any of the following: 1) speech or communication protected by the Constitution of the United States or the State of Illinois; 2) of a gathering with others to hear or observe speech or communication protected by the Constitution of the United States or the State of Illinois; 3) or of a gathering with others to lawfully picket or otherwise express, in a non-violent manner, a position on a social, economic, political or religious questions, then the person must be ordered to, and have the opportunity to, move, disperse or otherwise remedy the violation prior to arrest or a citation being issued.

VII. Penalties:

(a) A violation of the provision of this article is punishable pursuant to Ordinance No. 472A – Fines. However, this subsection shall not be construed as requiring the City of Sumner Police Department to cite a person for violation of this article if, in its discretion, the department determines that it is in the best interest of the community to utilize other lawful means to gain compliance.

(b) Each occurrence of a violation of this article or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

VIII. Severability:

A determination of the invalidity or unconstitutionality of any clause, sentence,

paragraph, section or part of this article, by a court of competent jurisdiction, shall not affect the validity of the remaining parts of this article.

Upon passage and approval, this Amendment to the Ordinance shall take effect and be effective ten days after publication as provided by law.

Adopted by the City Council of the City of Sumner, Illinois, at a regular meeting on the 9th day of September 2008.

Betty L. Brian
MAYOR

ATTEST:

Bonnie Piper
CITY CLERK

STATE OF ILLINOIS)
)
COUNTY OF LAWRENCE)

ss:

CERTIFICATE

I, BLANCHE PIPER, certify that I am the duly elected and acting municipal clerk of the City of Sumner, Lawrence County, Illinois.

I further certify that on September 9, 2008, the corporate Authorities of such municipality passed and approved Amendment to Ordinance entitled "**An Ordinance Concerning Disorderly Conduct**", which provided by its terms that it should be published in pamphlet form.

The pamphlet form of said Amendment to Ordinance, including the Amended Ordinance and a cover sheet thereof was prepared, and a copy of such Amendment to Ordinance was posted in the Municipal Building, commencing on the 9th day of September, 2008, and continuing for at least ten (10) days thereafter. Copies of such Amendment to Ordinance were also available for public inspection upon request in the office of the municipal Clerk.

DATED at Sumner, Illinois, this 9th day of September, 2008.

(SEAL)

Blanche Piper
CITY CLERK