

## ORDINANCE 2025-07

### ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 134, "NUISANCES" OF THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH TO UPDATE THE BOROUGH'S REGULATIONS RELATING TO NOISE AND SOUND, INCLUDING THE USE OF COMMERCIAL CONSTRUCTION ACTIVITIES ON SUNDAYS

**WHEREAS**, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

**WHEREAS**, the Borough of Kenilworth ("Borough") regulates activities, which are determined to be nuisances, through Chapter 134 of the Borough Code; and

**WHEREAS**, the Borough prohibits the emission of sound or noise, or the use of sound or noise producing devices, which disturb the peace, quiet and comfort of the citizens of the Borough through pursuant to Chapter 134, Sections 2, 3, 4, and 7 of the Borough Code; and

**WHEREAS**, the provisions of Chapter 134, Sections 2, 3, 4, and 7 should be amended to clarify what types and levels of noises and sounds, and times, are determined to be unreasonable and, thus, "nuisances" pursuant to the Borough Code; and

**WHEREAS**, prohibiting commercial construction activities on Sundays is no longer practical; and

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey as follows:

**Note:** Additions are shown in **bold and underlined** and deletions are shown as ~~strikethrough~~.

**SECTION 1.** The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

**SECTION 2.** Chapter 134 "Nuisances," Section 1 "Word usage" of the Borough Code shall be amended as follows:

The word "person," as used herein, shall, wherever appropriate in connection with the context, include "corporation," "partnership," "association," "club," "society" or any other form of association, **business** or organization and individual and shall include the plural. The masculine pronoun shall include the feminine.

**PLAINLY AUDIBLE - Sound that can be detected by a person using his or her unaided hearing faculties. The detection of sound includes but is not limited to hearing the underlying bass in a song, hearing music without being able to determine the song being played, or hearing voices without being able to determine the words being said.**

**CONSTRUCTION - Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.**

**COMMERCIAL CONSTRUCTION - Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures in any area designated as a Commercial Property, used for Commercial Purposes or zoned for Commercial Use.**

**SECTION 3.** Chapter 134 "Nuisances," Section 2 "Noise or sound disturbing to neighboring inhabitants" of the Borough Code shall be amended as follows:

It is hereby declared to be a nuisance and it shall be unlawful ~~and no~~ for any person shall to make, cause, suffer or permit to be made or caused, upon any premises owned, occupied or controlled by ~~him~~ them or upon any public street, alley or thoroughfare in the Borough of Kenilworth, any noise or sound, by means of the human voice ~~or by any other means or method, such as yelling, screaming, hooting, hollering, singing, and/or arguing,~~ in such a manner as to disturb the peace, quiet, tranquility and comfort of the neighboring inhabitants, that is Plainly Audible at a distance of fifty (50) feet or more into neighboring residential properties, during the following hours:

- (1) Sunday through Thursday from 9:00 p.m. to 8:00 a.m.:**
- (2) Friday and Saturday from 11:00 p.m. to 8:00 a.m.:**

**If the noise is Plainly Audible at a distance of fifty (50) feet or more into a neighboring residential properties the noise shall be *prima facie* evidence of a violation of the provisions of this Chapter.**

**SECTION 4.** Chapter 134 "Nuisances," Section 3 "Use of sound-production and sound-reproduction devices restricted" of the Borough Code shall be amended as follows:

**It is hereby declared to be a nuisance and** it shall be unlawful ~~and no~~ for any person to shall play, use or operate, or permit to be played, used or operated, any radio, stereo, television, PA system, musical instrument, and/or any type of sound transmission device, any radio receiving set, musical instrument, phonograph or other machine or device for the production or reproduction of sound or otherwise generate any type of noise in such manner as to disturb the peace, quiet, tranquility and comfort of the neighboring inhabitants that is Plainly Audible at a distance of fifty (50) feet or more into neighboring residential properties, during the following hours:

- (1) Sunday through Thursday from 9:00 p.m. to 8:00 a.m.:**
- (2) Friday and Saturday from 11:00 p.m. to 8:00 a.m.:**

**If the noise is Plainly Audible at a distance of fifty (50) feet or more into neighboring residential properties, the noise shall be *prima facie* evidence of a violation of the provisions of this Chapter.**

**SECTION 5.** Chapter 134 “Nuisances,” Section 4 “Excessive or unreasonable noise prohibited; lawn and garden equipment” of the Borough Code shall be amended as follows:

~~A. It shall be unlawful and no person shall, within the Borough of Kenilworth, make or continue, or cause to be permitted, made or continued, any unreasonable or excessive noise which shall disturb the comfort, rest and repose of any person or persons being in his, her or their place of abode or at any public or private meeting or at church services.~~

A. The provisions of ~~Subsection A~~ **this Chapter** ~~above~~ notwithstanding, it shall be unlawful for any person to operate or cause to allow to be operated any gas-powered lawn or garden equipment, ~~to include but not be limited~~ **including but not limited** to lawn mowers, leaf blowers, **snow blowers** and vacuums, mulchers and shredders, trimmers, etc., in a residential area or within 200 feet of a residential area, **except as permitted by the provisions of Subsection B**, ~~on the following days and time periods~~

**B. The operation of equipment described in Subsection A is permitted during the following days and times:**

- (1) **Monday through Saturday between sunset and 7:00 a.m. and 8:00 p.m.**
- (2) **Saturdays and Sundays between sunset and 8:00 a.m. and 7:00 p.m.**
- (3) **Nothing within the provisions of this chapter prohibits the use of gas-powered lawn, garden, or snow removal equipment for weather related and/or other emergencies.**

**SECTION 6.** Chapter 134 “Nuisances,” Section 7 “Use of heavy equipment; commercial construction activity restricted” of the Borough Code shall be amended as follows:

A. It shall be unlawful for any person to **perform Construction and demolition activity** ~~operate or use, or cause or permit to be operated or used, any type of construction heavy equipment which shall make any sound or noise that is Plainly Audible at a distance of fifty (50) feet or more into neighboring residential properties, except as permitted by the provisions of Subsection B.~~ ~~make any excessively loud noise or ground tremors on the~~

**B. Construction and demolition activity is permitted during the following days and times:**

- (1) Monday through Friday between sunset and 7:00 a.m. **and 6:00 p.m.**
- (2) Saturday between sunset and **8:00 a.m. and 6:00 p.m.**
- (3) Sunday at any time, **between 9:00 a.m. and 4:00 p.m.**
- (4) **Nothing within the provisions of this chapter prohibits the performance of emergency Construction and demolition activities for the safety and/or health of persons and/or properties.**

~~C. It shall be unlawful for any person to engage in, conduct, perform or cause to be performed any type of Commercial Construction activity in the Borough of Kenilworth in a residential zone or within 200 feet of a residential zone on a Sunday in such a manner or~~

~~way as to cause or create an excessive or unreasonable noise or nuisance as those terms are defined in §§ 134-2, 134-3, 134-4, 134-5, 134-6 and 134-8 of this chapter.~~

**SECTION 7.** Chapter 134 "Nuisances," Section 8 "Excessive noise in connection with loading and unloading prohibited" of the Borough Code shall be amended as follows:

- A. It shall be unlawful and no person shall, within the Borough of Kenilworth, create any excessive noises in connection with the loading or unloading of any vehicles or the opening or destruction of bales, boxes or containers, shall make any **sound or noise that is Plainly Audible at a distance of fifty (50) feet or more into neighboring residential properties, except as permitted by the provisions of Subsection B.** between the hours of 9:00 p.m. and 7:00 a.m.
- B. **Loading and/or unloading of any vehicles and/or the opening and/or destruction of bales, boxes and/or containers is permitted during the following days and times:**
  - (1) **Monday through Friday between 7:00 a.m. and 6:00 p.m.**
  - (2) **Saturday between 8:00 a.m. and 6:00 p.m.**
  - (3) **Sunday between 9:00 a.m. and 4:00 p.m.**
  - (4) **Nothing within the provisions of this chapter prohibits the performance of emergency loading and/or unloading of any vehicles and/or the emergency opening and/or destruction of bales, boxes and/or containers for the safety and/or health of persons and/or properties.**

**SECTION 8.** Chapter 134 "Nuisances," Section 9 "Disturbance of peace by Animals" of the Borough Code shall be amended as follows:

- A. It shall be unlawful and no person shall, within the Borough of Kenilworth, keep or harbor any dog or **any** other animal which shall disturb any resident or residents in the neighborhood, by excessive barking, whining, howling or other unnecessary noises **that are Plainly Audible at a distance of fifty (50) feet or more into neighboring residential properties, for a period of time in excess of five (5) minutes, during the following hours:**
  - (1) **Sunday through Thursday from 9:00 p.m. to 8:00 a.m.;**
  - (2) **Friday and Saturday from 11:00 p.m. to 8:00 a.m.;**
- B. **Notwithstanding the provisions of Subsection A above, no dog or any other animal which vocalizes for a period of thirty (30) minutes or more without interruption shall be permitted to remain outdoors at any other time.**

**If the noise is Plainly Audible at a distance of fifty (50) feet or more into neighboring residential properties, the noise shall be *prima facie* evidence of a violation of the provisions of this Chapter.**

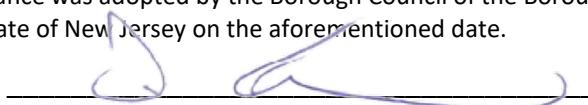
**SECTION 9.** If any section, paragraph, subdivision, sentence, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, sentence, clause, or provision so adjudged and the remainder of this Ordinance shall

remain valid and effective.

**SECTION 10.** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

**SECTION 11.** This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

Linda Karlovitch, Mayor

INTRODUCTION						COUNCILPERSON	FINAL ADOPTION				
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.
		X				PATRICK BOYLE	X		X		
		X				JOSEPH FINISTRELLA			X		
		X				TONI GIORDANO PICERNO		X	X		
		X				WILLIAM MAURO			X		
X		X				DOUGLAS PIPER			X		
	X	X				SAVINO SCORESE			X		
Introduced: Nov. 5, 2025			I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.								
Final Adoption: Dec. 3, 2025			 Laura Reinertsen, Borough Clerk								

