

**PUBLIC HEALTH NUISANCE ORDINANCE  
KENDALL COUNTY, ILLINOIS**

No. 05-47

**Pertaining to refuse disposal, open burning, and public health nuisances within the  
County of Kendall, Illinois**

**WHEREAS** pursuant to Illinois Compiled Statutes, Chapter 55, Section 5/5-1052, the Kendall County Board finds it necessary to adopt an ordinance regulating the storage and handling of refuse, open burning, and other activities detrimental to the public health, welfare, and safety of the inhabitants of the County;

**NOW THEREFORE BE IT ORDAINED** by the Board of Kendall County that the following rules and regulations within this ordinance be hereby adopted for all unincorporated areas of Kendall County:

**INCORPORATED OR REFERENCED MATERIALS:** Latest version of the Environmental Protection Act (415 ILCS 5)

**SECTION 1: DEFINITIONS**

**Agricultural Operation** – any operation devoted to a bona fide production of crops, animal, or fowl; including but not limited to the production of fruits and vegetables of all kinds; meat, dairy, poultry, and fish products; nuts, tobacco, nursery and floral products, and the production and harvest of products of silviculture activity.

**Enforcement Officer** - means that person or persons designated by the Kendall County Board and the Kendall County Board of Health to enforce this Ordinance.

**Garbage** – any accumulation of waste resulting from the handling, processing, preparation, cooking, and consumption of food or produce.

**Health Authority** – the Director of Environmental Health of Kendall County or his/her designated agent.

**IEPA** – Illinois Environmental Protection Agency

**Noxious** – Detrimental to one's health.

**Public Health Nuisance** – any condition considered harmful to person(s) or property, or which may be hazardous to the public health. A public health nuisance is one that has far reaching effects. It has the ability to affect the health, safety, or welfare of the public in general.

Refuse – all solid wastes, excluding bodily wastes, including garbage, rubbish, dead animals, abandoned automobiles, discarded appliances, and solid manufacturing and industrial wastes.

Rubbish – combustible and non-combustible waste, except garbage, including but not limited to rags, old clothes, scrap metal, glass, cement, paper, raw (untreated) scrap lumber, card board, and similar materials.

Stagnant Water – standing, motionless water, devoid of natural mosquito predators and parasites, that persists for seven days or more.

Vermin – collectively noxious, troublesome and disease-transmitting small animals such as rodents and insects such as cockroaches, flies, lice, mosquitoes, etc.

Yard Waste – any waste generated as the result of tree trimming, lawn mowing, gardening, leaf raking, and other yard activities and consisting of branches, brush, grass clippings, leaves, sod, hedge trimmings and other plant waste from yard and garden sources.

## **SECTION 2: REFUSE – STORAGE AND DISPOSAL**

- A. It shall be unlawful to cause, or allow to cause, the dumping of any refuse on any public or private land, unless such dumping occurs at an IEPA permitted disposal site.
- B. It shall be unlawful to collect or accumulate refuse, offal, animal carcasses, tires, abandoned vehicles, and other materials which could potentially be a harborage for mosquitoes, rodents, or other vermin, or which may impose a physical hazard to the public, with the exception of normal storage of manure or machinery on a farm for agricultural purposes.

## **SECTION 3: OPEN BURNING/INCINERATION**

- A. Open burning of garbage, as herein defined, is prohibited except at those facilities which have been issued a permit to incinerate garbage by the IEPA, and only when such burning is done in a manner which complies with all rules adopted by the IEPA for lawful burning.
- B. The open burning of leather, rubber, carpets, furniture, plastic, tires, and all other toxic materials as defined by the IEPA is prohibited at all times in the County except at facilities which have been issued a permit to burn such material by the IEPA and only when the burning at said facility is done in a manner which complies with all rules adopted by the IEPA for the lawful burning of such material as defined by the IEPA.
- C. In the areas where burning is permitted, open burning of yard waste is only permitted on the property which it was generated, subject to the following conditions:

1. Atmospheric conditions allow for ready dispersal of contaminants.
2. Open burning is prohibited on "Code Red" or "Ozone Action" alert days as determined by the IEPA.
3. The burning does not create visibility hazards on roadways, tracks, or airfields.
4. Burning is not done within 20 feet of any building or structure.
5. Burning is supervised until the fire is extinguished, and a hose or fire extinguisher is readily available.
6. The material to be burned is clean and dry.
7. The material does not contain varnish, paint, finishes, or other chemicals which would cause toxic emissions when burned, as per Section III (B) herein.

#### **SECTION 4: DECLARED PUBLIC HEALTH NUISANCES**

The following, except in conjunction with standard farming practices, and standard road work practices on county and township roads, are hereby declared general nuisances when affecting the health and well being of persons residing within Kendall County or adversely affecting the property of county residents.

- A. To cause or allow to cause the deposit of any animal carcass, offal, or other noxious or potentially hazardous material in any lake, pond, stream, well, common sewer, waterway, street or public highway.
- B. To cause or permit the pollution of any well, cistern, spring, underground water source, stream, lake, canal or other body of water by sewage or industrial wastes, or any other substance considered hazardous to the public health.
- C. All buildings, walls, or other structures which have been damaged by fire or have become dilapidated, rundown, or decayed and are so situated as to endanger the safety of the public or provide a possible harborage for rodents, insects, and other vermin.
- D. Dense smoke, vapors, gas, dust, soot, cinders, or other airborne particles, or offensive and lingering odors in unreasonable or toxic quantities.
- E. To maintain any kennel, stable, barn, coop, pen, yard, or other place where animals, including pets, are kept in an unsanitary condition which leads to noxious conditions or provides a harborage for insects and other vermin.
- F. To cause or allow for the impoundment and stagnation of water which produces offensive odors, harbor vermin, or promote the breeding of disease causing vermin in residential areas of the county.

## **SECTION 5: RIGHT TO FARM**

In order to limit the circumstances under which agricultural operations may be deemed to be a nuisance, especially when nonagricultural land uses are initiated near existing agricultural operations, no agricultural operation or any of its appurtenances shall be considered a nuisance, public or private, if such operations are conducted in accordance with existing best management practices and comply with existing laws and regulations of the State of Illinois (Farm Nuisance Suit Act, 740ILCS 70/) and local ordinances. The exemptions specified in this section shall not apply whenever a nuisance results from the negligent or improper operation of any agricultural operation or its appurtenances, nor shall these exemptions supercede any restrictions or requirements of farming operations set forth in any other county regulations.

## **SECTION 6: ENFORCEMENT AND PENALTIES**

- A. Authorization to enter premises – The Enforcement Officer is hereby authorized to make the necessary inspections to obtain compliance with this ordinance. For the purpose of making such inspections, the enforcement officer is hereby authorized to request entry to any property at any reasonable time upon reasonable notice, for the purpose of determining compliance with this ordinance. Refusal of right to entry shall be cause for the enforcement officer to seek the permission of the court for right of entry.
- B. Notice to Abate – Upon investigation of the nuisance complaint by the enforcement officer, if he/she determines that a nuisance does exist, he/she shall issue a written notice to abate the nuisance condition within a reasonable amount of time to be determined by the Health Authority. A follow-up inspection will then be made in an effort to ensure that compliance has been achieved. Depending on the nature and conditions of the violation(s) and/or responsible party, a series of follow-up inspections may be necessary to achieve total compliance. However, a final date by which all violations are to be fully resolved shall be established and adhered to.

If it is determined that the condition constitutes an immediate and serious threat to the health and safety of the population, the enforcement officer may approach the court for an immediate abatement order.

- C. Failure to Abate Condition – Any person, firm or corporation who violates any of the provisions of this ordinance shall be guilty of an offense punishable by a fine not to exceed \$500 with each week the violation remains uncorrected constituting a separate offense; which penalties shall be assessed in accordance with the terms

and provisions of the applicable ordinances and codes established by the County Board regarding the creation of a Code Hearing Unit charged with the enforcement and administrative adjudication of violations to the provisions of this and all other applicable codes and ordinances of the County unless otherwise provided by law.

**SECTION 7: ANNUAL REVIEW OF THE PUBLIC HEALTH NUISANCE ORDINANCE**

A. In an effort to evaluate the efficacy of the Kendall County Public Health Nuisance Ordinance, the Kendall County Health Department shall prepare and present to the Kendall County Board no later than the first regular board meeting of each calendar year a report describing the previous year's public health nuisance complaint and investigation activity. Said report shall include yet not be limited to the numbers and types of public health nuisance complaints received and investigated by the Health Department, and the number of complaints resulting in legal action taken by means of the Kendall County Code Hearing Unit Ordinance and/or the Kendall County State's Attorney's Office.


**PUBLIC HEALTH NUISANCE ORDINANCE, KENDALL COUNTY ILLINOIS,  
APPROVED AND RECOMMENDED BY THE KENDALL COUNTY BOARD OF  
HEALTH THIS 16<sup>TH</sup> DAY OF August 2005.**

  
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President, Kendall County Board of Health

**PUBLIC HEALTH NUISANCE ORDINANCE, KENDALL COUNTY ILLINOIS,  
APPROVED AND ADOPTED BY THE KENDALL COUNTY BOARD THIS 16<sup>TH</sup>  
DAY OF AUGUST 2005.**

  
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Chairman, Kendall County Board

Ayes - 7  
Nays - 2  
Abstain - 0

Attest:  
  
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Kendall County Clerk