



RESOLUTION NO. 2018-023

Board of Trustees, Liberty Township
Butler County, Ohio

**RESOLUTION RESCINDING PREVIOUS NOISE REGULATIONS,
ESTABLISHING NEW NOISE REGULATIONS WITHIN LIBERTY TOWNSHIP,
AND DISPENSING WITH THE SECOND READING**

RESOLVED by the Board of Township Trustees of Liberty Township, Butler County, Ohio that

WHEREAS, Ohio Revised Code § 505.17(A) authorizes a board of township trustees to adopt regulations and orders carrying criminal penalties that are necessary to control passenger car, motorcycle, and internal combustion engine noise on streets or highways under the jurisdiction of the township; and,

WHEREAS, Ohio Revised Code § 505.172(B) authorizes a board of township trustees to adopt regulations and orders carrying criminal penalties that are necessary to control noise within the unincorporated territory of the township that is generated at any premises to which a "D Permit" has been issued by the Ohio Division of Liquor Control or that is generated within any area zoned for residential use; and,

WHEREAS, Ohio Revised Code § 504.04 authorizes a board of township trustees of a limited home rule township to adopt regulations and orders that are necessary to control noise elsewhere and from other sources not described above within the unincorporated territory of the township; and,

WHEREAS, it is the opinion of the Liberty Township Board of Trustees that unnecessary noise is detrimental to the public health and safety of the Township's residents and constitutes a public nuisance; and,

WHEREAS, the Liberty Township Board of Trustees recognizes that it did previously enact similar noise regulations under Resolution No. 2002-027; and,

WHEREAS, it is the intent of this Resolution to rescind Resolution No. 2002-027 in favor of new noise regulations contained exclusively within this Resolution; and,

WHEREAS, it is the intent of this Resolution to prohibit noise that is unnecessary within the Township as described herein.

THEREFORE, BE IT RESOLVED, by the Board of Township Trustees of Liberty Township, Butler County, Ohio:

SECTION 1: Definitions. As used in this Resolution, the term “noise” means any sound, vibration, or oscillation in air pressure. The term “plainly audible” means noise produced by any source that is perceptible by a person of normal hearing ability. The term “amplified noise” means noise generated with the aid of technology such as a speaker or other equipment intended to increase, augment, or enhance the original source of the noise. The term “dBA” shall mean decibels, as measured on the “A” scale of a standard sound level meter meeting the applicable requirements for a type 2 sound level meter as defined in American National Standards Institute Standard S1.4—1983, or the most recent revision thereof. The term “daytime” refers to the time between the hours of 7:00 A.M. and 10:00 P.M. and the term “nighttime” refers to the time between the hours of 10:00 P.M. and 7:00 A.M.

SECTION 2: Certain Noises Prohibited Pursuant to Ohio Revised Code §§ 505.17(A) and 4513.221 Noise generated by passenger cars, motorcycles, or internal combustion engines shall be subject to the following maximum noise levels when operated on streets, roads, or highways under the jurisdiction of Liberty Township:

- (A) For passenger cars:
 - (i) When operated at a speed of 35 miles per hour or less, 70 dBA;
 - (ii) When operated at a speed of more than 35 miles per hour, 79 dBA;

- (B) For motorcycles:
 - (i) When operated at a speed of 35 miles per hour or less, 82 dBA;
 - (ii) When operated at a speed of more than 35 miles per hour, 86 dBA.

For purposes of this Section, noise levels will be measured based on a distance of not less than fifty feet from the center of the line of travel. The Township will post signs giving notice of this regulation on all such streets or highways as the Township deems appropriate.

SECTION 3: Certain Noises Prohibited Pursuant to Ohio Revised Code § 505.172(B). No person in the unincorporated territory of Liberty Township, Butler County, Ohio shall make or permit any noise which by reason of volume, pitch, frequency, intensity, duration, vibration, or nature annoys or disturbs the comfort, peace, or health of a person of ordinary sensibilities, and which is generated at any premises to which

a D permit has been issued by the Ohio Division of Liquor Control or is generated within any area that is zoned for residential use.

SECTION 4: Certain Noises Prohibited Pursuant to Ohio Revised Code § 504.04. In all other unincorporated areas of Liberty Township not described in the preceding Sections of this Resolution, no person shall make or permit any noise which by reason of volume, pitch, frequency, intensity, duration, vibration, or nature annoys or disturbs the comfort, peace, or health of a person of ordinary sensibilities.

SECTION 5: Prima Facie Evidence and Determination of Violation. Amplified noise in excess of 75 dBA during the daytime or 55 dBA during the nighttime when measured at the boundary line of the property from which the noise is generated or at any other location on a property other than the property from which the noise is generated shall constitute prima facie evidence of a violation of this Resolution. Any Noise Performance Standards contained in the Liberty Township Zoning Resolution may be enforced under the terms of this Resolution. In addition to the prima facie standards set forth above, a citing police officer or court may consider the following factors when determining whether a noise is of such character as to unreasonably disturb the comfort, peace, or health of a person of ordinary sensibility:

- (A) The area and source from which the noise originates;
- (B) Complaints of neighbors regarding the noise;
- (C) Time of day at which the noise takes place;
- (D) The intensity and duration of the noise;
- (E) The type of noise produced; and
- (F) The alternative means available without excessive noise.

SECTION 6: Exemptions. The provisions of this Resolution shall not apply to the following:

- (A) Normal and customary traffic noise;
- (B) Any law enforcement motor vehicle equipped with any communication device necessary to the performance of law enforcement duties or to any emergency vehicle

equipped with any communication device necessary to the performance of any emergency procedures;

- (C) Noise made by a horn or other warning device required or permitted by state law, when used in accordance with state law;
- (D) Any person engaging in activities described in Ohio Revised Code § 1.61 (Titled: "Agriculture defined") if the noise is attributed to an activity also described in Section 1.61;
- (E) Any person who engages in coal mining and reclamation operations, as defined in Ohio Revised Code § 1513.01(B), or surface mining, as defined in Ohio Revised Code § 1514.01(A), if the noise is attributed to coal mining and reclamation or surface mining activities; and
- (F) Noise resulting from the drilling, completion, operation, maintenance, or construction of any crude oil or natural gas wells or pipelines or any appurtenances to those wells or pipelines or from the distribution, transportation, gathering, or storage of crude oil or natural gas.
- (G) Noise resulting from customary waste or garbage collection services during the daytime.
- (H) Normal and customary noise occurring on school properties, including sports, band, and other extracurricular activities.

SECTION 7: Penalty. Violations of Sections 2 or 3 of this Resolution may be prosecuted as criminal violations as allowed under the Ohio Revised Code, which may include fines or jail time. Any fines levied and collected pursuant to this Resolution shall be paid into the Township's general revenue fund. Pursuant to Section 504.05 of the Ohio Revised Code, the first violation of Section 4 of this Resolution will result in a \$500 civil fine pursuant and each subsequent violation will result in a \$1,000 civil fine. The Township reserves the right to pursue any other remedies available to it with regard to any violation of Sections 2, 3, or 4 of this Resolution, which remedies may include pursuing injunctive relief in addition to or as an alternative to the criminal and civil penalties noted above.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon such soonest date as permitted by law.

Trustee Schramm moved to approve the resolution. Trustee Maticic seconded the motion. Upon call of the roll, the vote resulted as follows:

Trustee Schramm, yes
Trustee Maticic, yes
Trustee Farrell, yes

Adopted: Tuesday, January 2, 2018

Tom Farrell, President

Steve Schramm, Vice President

Christine Maticic, Trustee

AUTHENTICATION

This is to certify that this resolution was duly passed, and filed with the Liberty Township Fiscal Officer this 2nd day of January, 2018.

Pam Quinlisk
Fiscal Officer

APPROVED AS TO FORM:

Scott D. Phillips, Law Director