

RESOLUTION FOR CONTROL OF NOISE

WHEREAS, the Board of Trustees of Liberty Township, Trumbull County, Ohio, has determined that excessively loud noise from certain sound amplification devices and other sources in areas within Liberty Township zoned for residential use, serves no public purpose, and constitutes a nuisance and is detrimental to the public health, welfare, safety, and quality of life within Liberty Township; and

WHEREAS, the Board of Trustees has determined that excessive noise generated from premises to which a D Permit has been issued by the Division of Liquor Control, serves no public purpose, and constitutes a nuisance and is detrimental to the public health, welfare, safety, and quality of life within Liberty Township; and

WHEREAS, Ohio Revised Code Section 505.172 authorizes Boards of Township Trustees to adopt regulations and orders 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 Division of Liquor Control or that is generated within any areas zoned for residential use; and

WHEREAS, the Board of Trustees has determined that noise and sound emanating from warning and alarm devices; from emergency vehicles when responding to an emergency call or operating in time of emergency; from the normal use of churches, schools, athletic fields, civic and cultural centers, public auditoriums; from parades for which a permit or other permission is granted by the government agency with jurisdiction over the same; are typically of such a nature, character, quality, duration, and frequency that they are not a nuisance, are not detrimental to the public health, welfare, safety, and quality of life within Liberty Township, and do serve a public purpose, and, therefore, the same should not be subject to the regulations set forth herein below, and

WHEREAS, Revised Code Section 505.17 authorizes Boards of Township Trustees to make such regulations and orders as are necessary to control passenger car, motorcycle, and internal combustion engine noise, as permitted under Revised Code Section 4513.211; and

WHEREAS, Revised Code Section 4513.221(E)(1), (2), and (3) authorizes Board of Township Trustees to regulate noise from passenger cars, motorcycles, or other devices using internal combustion engines in the unincorporated area of the township by requiring said engines to be equipped and operated with a factory installed or equivalent muffler; and

WHEREAS, Revised code Section 4513.221(E)(4) authorizes Board of township Trustees to regulate noise from passenger cars, motorcycles, or other devices using internal combustion engines in the unincorporated area of the township by prohibiting racing the motor of any vehicle using an internal combustion engine in such a manner that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation; and

WHEREAS, the Board of Trustees of Liberty Township, Trumbull County, Ohio, has received complaints from citizens residing along streets and roadways traveled by trucks with regard to loud noises emitted by trucks using diesel engine retarders known as "Jake brakes," which reduce the trucks' rate of speed, but cause the trucks' exhaust systems to emit loud, cracking or chattering noises unusual to their normal operations; and

WHEREAS, such residents have complained that these noise emissions have occurred at all times of the day and night, and the Board of Trustees finds that the noise generated by such "Jake brakes" constitutes a nuisance and is detrimental to the public health, welfare, safety, and quality of life within Liberty Township;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OR LIBERTY TOWNSHIP, TRUMBULL COUNTY, OHIO THAT:

1. No person shall generate or permit to be generated unreasonable noise or loud sound that is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of a radio, phonograph, television, tape player, loudspeaker, CD player, DVD player, computer, loudspeaker, digital tape or disc, bullhorn, musical instrument amplifier, or any other sound amplifying device.
 - (A) It is prima facie unlawful for any person to generate or permit to be generated sound by the above described devices or instruments in the following circumstances:
 - (i) On private or public property in an area zoned for residential use, regardless of existing nonconforming uses or variances, where the sound is plainly audible more than 80 feet from the property line of the property on which the source of the sound is located;
 - (ii) On a street, highway, or in the public right of way where sound is plainly audible 80 feet from the device generating the sound;
 - (iii) From premises located outside of an area zoned for residential use to which a D permit has been issued by the Division of Liquor Control, where the sound is plainly audible more than 80 feet from the property line of the said premises, without regard to whether the said premises is adjacent to a district which is zoned for residential use.

- (B) No person, being the owner, or person in possession of a premises, or 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 resolution.
 - (C) The following uses and activities shall be exempt from the regulations and controls of this resolution:
 - (i) noise and sound from and warning and alarm devices, and automobile horns while in lawful use;
 - (ii) noise and sound from emergency vehicles when responding to an emergency call or operating in time of emergency or when the warning devices thereon are being tested;
 - (iii) noise and sound from the normal use of churches, schools, athletic fields, civic and cultural centers, and public auditoriums;
 - (iv) noise and sound from parades for which a permit or other permission is granted by the government agency with jurisdiction over the same.
2. "Plainly Audible," as used herein, means any sound that can be clearly heard by a person using his or her normal faculties, even though such person may not be able to discern the title or lyrics of the musical composition which is the subject of the violation.
3. The Board of Trustees further hereby determines that it is necessary to regulate noise from passenger cars, motorcycles, or other devices using internal combustion engines, in the unincorporated area of the township in the following ways:
- (A) No person shall operate or cause to be operated any motor vehicle, agricultural tractor, motorcycle, all-purpose vehicle, or snowmobile not equipped with a factory-installed muffler or equivalent muffler in good working order and in constant operation.
 - (B) No person shall remove or render inoperative or cause to be removed or rendered inoperative, any muffler, other than for purposes of maintenance, repair, or replacement.
 - (C) No person shall discharge into the open air the exhausts of any stationary or portable internal combustion engine except through a factory-installed muffler or equivalent muffler in good working order and in constant operation.

- (D) No person shall race the motor of any vehicle described in this section 3 of this resolution in such a manner that the exhaust system emits a loud, cracking, or chattering noise unusual to its normal operation.

Provided, nevertheless, the regulations adopted under this section 3 of this resolution shall not apply to commercial racetrack operations.

4. This Board further hereby determines that the use of an engine retarder (including, but not limited to, so-called "Jake brakes") on a motor vehicle causes the motor vehicle's motor to race in such a manner as to cause its exhaust system to emit a loud, cracking, or chattering noise unusual to its normal operation, and by this regulation hereby prohibits such use within the unincorporated area of the Township.
5. Whoever violates this resolution is guilty of a minor misdemeanor, and all fines collected hereunder shall be paid into the Township General Fund.
6. Signs conforming to O.R.C. Section 4511.09, giving notice of these regulations, shall be prominently displayed to the extent required by O.R.C. Section 505.17©.
7. This resolution (a) shall be posted by the Township Clerk in five conspicuous public places in the township for thirty days before becoming effective, and (b) shall be published in a newspaper of general circulation in the township for three consecutive weeks. This resolution shall become effective upon the completion of the last of these events.