

**RESOLUTION NO. 2018 05 22 01**

The Board of Township Trustees of Harrison Township, Licking County, Ohio, met in regular session on the 22<sup>nd</sup> day of May, 2018, with the following members present:

Eric Smith

Mark Van Buren

Ray Foor

Ray Foor moved for the adoption of the following Resolution:

**WHEREAS**, it is the opinion of the Board that unnecessary and excessive noise generated from premises to which a D permit has been issued by the division of liquor control and unnecessary and excessive noise generated in residentially zoned areas of the Township is detrimental to the public health and safety and constitutes a public nuisance; and,

**WHEREAS**, the Board also recognizes that certain levels of noise are unavoidable; and,

**WHEREAS**, Section 505.172 of the Ohio Revised Code authorizes the Board to adopt regulations 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 area zoned for residential use.

**NOW, THEREFORE, BE IT RESOLVED:**

That the Board of Township Trustees of Harrison Township, Licking County, Ohio, hereby adopts, pursuant to Ohio Revised Code Section 505.172(B), "THE HARRISON TOWNSHIP NOISE REGULATION" (a true copy of the Harrison Township Noise Regulation is attached hereto as Exhibit 'A' and incorporated herein as if fully rewritten).

**BE IT FURTHER RESOLVED:** "THE HARRISON TOWNSHIP NOISE REGULATION" shall take effect and be in force as of the 22<sup>nd</sup> day of May, 2018.

**BE IT FURTHER RESOLVED:** that the Fiscal Officer is hereby directed to certify a copy of this Resolution along with a copy of "THE HARRISON TOWNSHIP NOISE REGULATION" to the Licking County Sheriff's Office, the Newark City Law Director's Office, and to the Licking County Prosecutor's Office.

**BE IT FURTHER RESOLVED:** that the Fiscal Officer is hereby directed to post this Resolution and a copy of "THE HARRISON TOWNSHIP NOISE REGULATION" at the Township Hall, and at the other usual places for posting such public notices within the Township, for no less than thirty days.

Mark Van Buren seconded the Motion, and the roll being called upon its adoption, the vote resulted as follows:

YEA: Eric Smith

Mark Van Buren

Ray Foor

NAY: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Dated this 22<sup>nd</sup> day of May, 2018.

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Carolyn I. Elder  
Harrison Township Fiscal Officer

**CERTIFICATION**

I hereby certify that the foregoing is a true and accurate copy of the Resolution of the Board of Township Trustees of Harrison Township, Licking County, Ohio, adopted on the 22<sup>nd</sup> day of May, 2018, at its regular meeting.

Dated this 22<sup>nd</sup> day of May, 2018.

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Carolyn I. Elder  
Harrison Township Fiscal Officer

Exhibit

‘A’

# THE HARRISON TOWNSHIP NOISE CONTROL REGULATION

## Ohio Revised Code Section 505.172

In accordance with Ohio Revised Code Section 505.172 and Resolution Number 2018 05 22 01 of the Board of Harrison Township Trustees, adopted on the 22<sup>nd</sup> day of May, 2018, all premises to which a D permit has been issued by the State of Ohio Division of Liquor Control and all areas zoned “residential” within the unincorporated territory of the Township shall be subject to the following noise control regulations.

### **Section 1. Definitions**

All terms and words used in this Regulation that are not specifically defined herein or within Ohio Revised Code Section 505.172 shall be given their ordinary meaning.

**Plainly Audible** – Any noise or sound that can be clearly heard by a person using normal and unaided hearing faculties.

**Private Construction Activities** – Activities related to the building of structures, additions to structures, or the renovation, remodeling, repair or maintenance thereof.

### **Section 2. Certain Noise Prohibited**

- A. No person in the unincorporated territory of Harrison Township shall make on any premises to which a D permit has been issued by the State of Ohio Division of Liquor Control, or on any public or private property that is within an area zoned as a “residential district” under the Township’s Zoning Resolution, any unreasonable noise or loud sound which, by reason of volume, pitch, frequency, intensity, or duration is likely to inconvenience, annoy, or disturb the health, peace and comfort of a person of ordinary sensibilities who is not a resident of the property from which the noise or sound emanates and is plainly audible at a distance of 200 feet or more from the source of the unreasonable noise or loud sound.
- B. It is prima facie unlawful for a person to generate, or permit to be generated, noise or sound on the properties described in Section 2(A) between the hours of 12:00 midnight and 6:00 A.M. of the same day, when the sound is plainly audible at a distance of 200 feet or more from the source of the noise or sound.
- C. No person, being the owner, or person in lawful 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 Section.

### **Section 3. Examples of Noises**

The following, which does not constitute an exhaustive list, is an illustration of the noises and sounds that may be determined to be violations of Section 2 of this Regulation.

A. Horns; Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle; or a creation of an unreasonably loud or harsh sound by means of

any such signaling or horn; or the sounding of any horn or signaling device for any unnecessary and unreasonable length of time.

B. Radios, Phonographs, Etc. The use or operation of any radio, phonograph, television, tape recorder, loudspeaker, cassette or compact disc player or any other machine or device for the producing or reproducing of sound or amplifying sound.

C. Yelling, Shouting. Yelling, shouting, hooting, whistling, or singing.

D. Musical Instruments. The use of any drum or other musical instrument or device with or without electronic amplification.

D. Internal Combustion Engines, Motor Vehicles, or Other Power Equipment.

E. Gunfire.

F. Fireworks; Firecrackers.

#### **Section 4. Exemptions**

The provisions of this Regulation shall not apply to the following:

A. The emission of noise or sound made by a horn or other warning device required or permitted by state law, when used in accordance with state law.

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. The emission of noise or sound for the purpose of alerting persons to the existence of an emergency or for the performance of emergency work.

D. Organized school related programs, activities, or parades, or other public programs, activities or events if conducted between the hours of 6:00 A.M. and 12:00 midnight, and in compliance with all other applicable laws, resolutions, and permits.

E. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.

F. Agricultural activities as defined in Ohio Revised Code Section 1.61.

G. Any person who engages in coal mining and reclamation operations as defined in division B of Section 1513.01 of the Ohio Revised Code or surface mining as defined in division A of Section 1514.01 of the Ohio Revised Code is exempt from the provisions of this Regulation if the noise is attributed to coal mining and reclamation or surface mining activities.

H. 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 is exempt from the provisions of this Regulation.

J. Noise generated from the normal operation of shooting ranges, if the owner, operator, or user substantially complies with the noise rules adopted by the Chief of the Ohio Division of Wildlife in accordance with Section 1531.10 of the Ohio Revised Code, and all other applicable laws, resolutions and permits.

### **Section 5: Incidental Noise**

Nothing in this Regulation shall be applied or construed to prohibit incidental noises produced by construction, repairs, or the maintenance of houses, outbuildings, accessory buildings, yards or other private construction activities between the hours of 6:00 A.M. and 12:00 midnight.

### **Section 6. Enforcement**

A. Violations of any provision of this Regulation shall be enforced by the Office of the Licking County Sheriff or any other appropriate law enforcement agency having jurisdiction in a manner consistent with the Sheriff's or other law enforcement agency's policy for misdemeanor offenses of the second degree.

B. The Board of Township Trustees may seek a civil injunction against a person who violates this Regulation if there is reasonable belief that the noise causes ongoing and substantial or material harm that would be irreparable if an injunction were not issued.

### **Section 7. Law Enforcement Determination of Source**

Any law enforcement personnel who hears a sound that is plainly audible, shall be entitled to measure the sound according to the following standards:

A. The primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid. No sound measuring device shall be required.

B. The officer must have a direct line of sight and hearing to the source of the noise or sound so that the officer can readily identify the offending person(s) and the distance involved.

C. The officer shall not be required to determine any particular words or phrases being produced or, for example, the name of any song or artist producing the sound. The detection of a noise, sound, or rhythmic bass reverberating type sound is sufficient to constitute a "plainly audible" sound.

### **Section 9. Penalty**

Pursuant to Division (E) of Section 505.172 of the Ohio Revised Code, whoever violates this Regulation shall be guilty of a misdemeanor of the second degree. Fines levied and collected pursuant to this Regulation shall be paid into the Township's General Revenue Fund.

### **Section 10. Private Civil Action**

Any person allegedly aggrieved by another person's violation of this Regulation may seek in a civil action a declaratory judgment, an injunction, or other appropriate relief against the other person for committing an act or practice that violates this Regulation.

### **Section 11. Other Remedies**

No provision of this Regulation shall be construed to impair or prohibit any common law or statutory cause of action that any person may have for injuries or damages arising from any violation of this Regulation.

### **Section 12. Severability**

In the event that a court of competent jurisdiction declares a section of this Regulation to be invalid and unenforceable, the remaining Sections of this Regulation shall remain in full force and effect and shall be applied and enforced without reference to or reliance upon the Section declared to be invalid and unenforceable.

### **Section 14. Effective Date**

This Regulation shall take effect and be in force as of the 22<sup>nd</sup> day of May, 2018.