
**Resolution To Regulate Noise Within The Unincorporated Territory Of
Wayne Township, Champaign County, Ohio
Pursuant To Ohio Revised Code Section 505.172**

The **Board of Trustees** of Wayne Township, in Champaign County Ohio met in regular session on the 2nd day of August, 2021, at the Wayne Township Hall, Cable, Ohio with the following members present:

Trustee Glenn Gregg Trustee Doug Doty Trustee Max Perry

Mr. Max Perry moved to approve the following resolution to regulate noise in Wayne Township, Champaign County, Ohio.

WHEREAS, it is the opinion of the Wayne Township Board of Trustees (the “Board”) that unnecessary noise in residential 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, it is the opinion of the Board that the elimination of noise beyond that which is essential to everyday living is beneficial to all residents of the Township; and

WHEREAS, it is the intent of the Board that this Resolution prohibit noise that is of a harassing nature, excessive, or unnecessary in unincorporated areas of the Township zoned primarily for residential use; and

WHEREAS, Section 505.172 of the Ohio Revised Code authorizes a board 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, regardless of when such premises came into existence and operation, or that is generated within any area zoned primarily for residential use; and

WHEREAS, Section 505.172(D)(1) of the Ohio Revised Code authorizes a board of township trustees to adopt regulations and orders that are necessary to control noise within the unincorporated territory of the township that is generated by any business or industry in existence and operating on October 20, 1999, and to any new operation or expansion of that business or industry that results in substantially increased noise levels from those generated by the business or industry on that date.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of Wayne Township, Champaign County, Ohio, that:

The following regulations shall henceforth apply with regard to noise:

(A) DEFINITIONS

Permitted Hunting or Target Shooting – Hunting or target shooting by an individual, or individuals, including land owners, on designated public hunting lands, or having the written permission of a private landowners, with that individual, or individuals, having also secured the proper license(s) from the Ohio Department of Natural Resources, with such hunting occurring during the permitted season(s) as designated by the Ohio Department of Natural Resources Division of Wildlife, unless said individual, or individuals, is or are hunting on land that he, she or they own; or is a qualified tenant or manager of land that he or she rents and whose annual income is primarily derived from agricultural production conducted on said land; or are grandchildren, under the age of eighteen (18), hunting on land owned by their grandparent(s).

Plainly Audible – As used in this Resolution, plainly audible means any noise or sound produced by any source that can be clearly heard by a person using normal hearing faculties.

Zoned Primarily for Residential Use – Zoning Districts zoned R-1 (Low Density Residential) or R-2 (Medium Density Residential).

(B) CERTAIN NOISE PROHIBITED

No person in the unincorporated territory of Wayne Township shall make and no landowner or lawful occupant of land shall permit at any premises to which a D permit has been issued by the division of liquor control or that is zoned for residential use, the making of any noise or sound, which by reason of volume, pitch, frequency, intensity, duration, or nature harasses, annoys or disturbs the comfort, peace, or health of a person of ordinary sensibilities and not a resident of the property from which the noise or sound emanates. The noise or sound must be plainly audible at a distance of fifty (50) feet or more from the property line of the property from which the noise emanates.

These regulations apply to any business or industry in existence and operating on October 20, 1999, and to any new operation or expansion of such business or industry that result in substantially increased noise levels from those generated by that business or industry on that date. Notwithstanding the foregoing, these regulations apply to any premises to which a D permit has been issued by the division of liquor control regardless of whether the premises was in existence and operating on October 20, 1999, or whether it came into existence and operation after that date.

(C) EXAMPLES OF NOISES

The following noises or sounds, which constitute a non-exclusive list, may be considered a violation of this Resolution if they violate division (B) of this Resolution:

1. Horns and Signaling Devices - The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any public street, public road or public place; a creation by means of any such signaling unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable length of time. This shall not apply to the use of any such signaling device as a warning of danger.
2. Radios, Phonographs, Electronics, etc. - The use or operation of any radio, phonograph, television, tape recorder, loudspeaker, cassette player, compact disc play, MP3 player or any other machine or device for the producing or reproducing of sound or amplifying sound with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or on the property from which such machine or device is operated, and who are voluntary listeners thereto.
3. Yelling, Shouting, Verbalization - Excessive and harassing yelling, shouting, hooting, whistling or singing.
4. Musical Instruments - The use of any drum or musical instrument or device with or without electronic amplification.
5. Internal Combustion Engines or Other Power Equipment or Power Tools - The operation of any internal combustion engine or other piece of power equipment or power tools, including the use of power mowers, trimmers, chainsaws or tillers during the hours of 10:00 p.m to 7:00 a.m., but excluding generators used during power outages or other related emergency situations.
6. Dog Kennels - Sounds emanating from any dog kennel kept on any premises to which this Resolution is applicable, unless such kennel is a permitted use pursuant to the Wayne Township Zoning Resolution or is otherwise permitted by the Wayne Township Board of Zoning Appeals.
7. Firearms, explosives and similar devices - Except as otherwise provided for in Section (G)(9), noise emanating from any premises to which this Resolution is applicable resulting from the repetitive use of firearms, explosives and similar devices, where such noise is occurring for an unreasonably long period of time under the circumstances then existing, except as specifically exempted herein.

(D) STANDARD OF PROOF

It shall be a prima facie violation of division (B) of this Resolution when the noise can be heard at a distance of *fifty (50)* feet or more from the property line of the property where the noise or sounds emanates.

(E) NOISE FROM MOTOR VEHICLES

No person while operating or occupying a motor vehicle within the unincorporated territory of Wayne Township within any area zoned for residential use, or at any premises to which a D permit has been issued by the division of liquor control, shall operate or amplify the noise or sound produced by a radio, tape player, compact disc player, MP3 player, or other sound making device or instrument from within the motor vehicle so that the noise or sound is plainly audible at a distance of fifty (50) feet or more from the motor vehicle.

(G) ENFORCEMENT: DETERMINATION OF SOURCE

Any law enforcement officer as that term is defined by Section 505.172(A) of the Ohio Revised Code, including but not limited to Champaign County Sheriff Deputies who hears a sound that is plainly audible as defined herein, shall be entitled to measure the sound according to the following standards:

- 1) 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 hearing aid.
- 2) Regarding violations of division (E) of this Resolution, the officer must have a direct line of sight and hearing to the motor vehicle producing the noise or sound so that he or she can readily identify the offending motor vehicle and the distance involved.
- 3) The officer need not determine any particular words or phrases being produced, or the name of any song or artist producing any sound. The detection of a noise, sound or rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.
- 4) Any motor vehicle from which the sound is produced must be located (stopped, standing or moving) within the unincorporated area of the Township, in an area zoned for residential use or on any premises to which a D permit has been issued by the division of liquor control. Parking lots and driveways within these areas are included.

(F) EXEMPTIONS

The provisions of this resolution shall not apply to:

- 1) 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;
- 2) Any noise or sound made by a horn or other warning device required or permitted by state law, when used in accordance with state law;
- 3) Any person engaging in activities described in Section 1.61 of the Ohio Revised Code (Titled: "Agriculture defined"), if the noise is attributable to such activities.
- 4) Any person engaging 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, if the noise is attributable to such activities.

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- 5) 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.
- 6) Incidental noise resulting from repairs or maintenance of houses or yards between the hours of 7:00 a.m. and 10:00 p.m. Monday through Saturday, and between 10:00 a.m. and 10:00 p.m. on Sundays unless such repairs and/or maintenance is related to an emergency.
- 7) Noise resulting from organized school-related events such as sporting events, parades or other school sanctioned programs.
- 8) Noise resulting from civic and neighborhood events that are authorized by the Board or its designee, such as block parties and church-sponsored events. This exemption shall only apply during the approved hours of the event.
- 9) Permitted hunting or target shooting, as defined herein.
- 10) Noise resulting from infrequent gatherings at a residential property, including, but not limited to, gatherings for purposes of a graduation, wedding or family party, assuming the noise level is reasonable and such gatherings are not habitual in nature.
- 11) Dog kennels established as a permitted use pursuant to the Wayne Township Zoning Resolution or that are otherwise permitted or authorized by the Wayne Township Board of Zoning Appeals.
- 12) Incidental noise resulting from construction operations between the hours of 7:00 a.m. and 10:00 p.m. Monday through Saturday, and between 10:00 a.m. and 10:00 p.m. on Sundays.

(G) PENALTY

Pursuant to division (E) of Section 505.172 of the Ohio Revised Code, whomever violates divisions (B) or (E) of this Resolution shall be guilty of a misdemeanor of the second degree and subject to a fine and imprisonment pursuant to any applicable sections of Title 29 of the Ohio Revised Code. Fines levied and collected pursuant to this Resolution shall be paid into the Township general revenue fund.

Pursuant to division (G) of Section 505.172 of the Ohio Revised Code, a law enforcement officer having jurisdiction within the Township and having reasonable cause to believe that any premises to which a D permit has been issued by the division of liquor control has violated this Resolution and, as a result of the violation, has caused, is causing, or is about to cause substantial and material harm, the law enforcement officer may issue an order that the premises cease and desist from the activity violating this Resolution. Any cease and desist order shall be issued in accordance with the requirements of Ohio Revised Code Section 505.172.

(H) CIVIL ACTION

Pursuant to division (F) of Section 505.172 of the Ohio Revised Code, any person aggrieved by another person's violation of this Resolution 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 Resolution. In addition, the Board may also seek in a civil action an injunction against each person that commits an act or practice that violates this Resolution. A court involved in any civil action concerning a violation of this Resolution may award to the prevailing party reasonable attorneys' fees limited to the work reasonably performed.

(I) OTHER REMEDIES

Nothing herein shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person or the Township, for any injury or damage arising from any violation of this Resolution or from other law.

BE IT FURTHER RESOLVED, it is found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements including, without limitation, Section 121.22 of the Revised Code.

This Resolution shall become effective immediately upon its passage.

Mr. Doug Doty seconded the Resolution and the roll being called upon its adoption the vote resulted as follows:

Glenn Gregg - **YES**

Doug Doty - **YES**

Max Perry – **YES**

Adopted August 2, 2021



Susan Helterbran Fiscal Officer

THE STATE OF OHIO, Champaign **COUNTY**, ss:

I, Susan Helterbran, Fiscal Officer of the Board of Trustees of Wayne Township in Champaign County Ohio, and in whose custody the Files, Journals and Records of said Board are required by the Laws of the State of Ohio to be kept, do hereby certify that the foregoing

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is taken and copied from the original Resolution now on file with said Board, that the foregoing Resolution has been compared by me with the said original and that the same is a true and correct copy thereof.

WITNESS my signature, this 2nd day of August, 2021.



Susan Helterbran, Fiscal Officer
