

**BOARD OF TOWNSHIP TRUSTEES
PERRY TOWNSHIP
FRANKLIN COUNTY, OHIO**

The Board of Township Trustees (the "Board") of Perry Township (the "Township"), Franklin County, Ohio, met in regular session on July 15, 2013, at 7:00 p.m. at 7125 Sawmill Drive, Dublin, Ohio 43016, with the following members present:

Chet Chaney

Andy English

James Roper

Mr. Chet Chaney introduced the following resolution in writing:

PERRY TOWNSHIP LIMITED HOME RESOLUTION NO. 141-13

RESOLUTION ADOPTING NOISE CONTROL REGULATIONS

WHEREAS, the Township adopted a limited home rule form of government pursuant to Ohio Revised Code Chapter 504; and

WHEREAS, the Board, pursuant to Ohio Revised Code 504.04, has the authority to exercise all powers of local self-government within the unincorporated area of the township; and

WHEREAS, it is the opinion of the Perry Township Board of Trustees (the "Board") that unnecessary noise in unincorporated areas of the Township is detrimental to the public health, safety, and welfare and further 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 and unnecessary within the unincorporated territory of the Township; and

WHEREAS, pursuant to the Township's limited home rule authority pursuant to Ohio Revised Code Chapter 504, a Board of Township Trustees is permitted to adopt regulations and orders that are necessary to control noise within the unincorporated territory of the Township for the general health, safety and welfare of the general public.

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

The following regulations shall henceforth apply with regard to noise:

(A) DEFINITIONS

Canidae – The biological family of carnivorous and omnivorous mammals that includes domestic dogs, wolves, foxes, jackals, and coyotes, and many other lesser known extant and extinct dog-like mammals.

Law Enforcement Officer – Any law enforcement officer, including a sheriff, deputy sheriff, constable, police officer of the Township or joint township police district, marshal, deputy marshal, or municipal police officer.

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 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.

(B) CERTAIN NOISE PROHIBITED

No person in the unincorporated territory of Perry Township shall make and no landowner or lawful occupant of land shall permit at any premises, 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 one hundred (100) feet or more from the property from which the noise emanates.

(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 or public place; a creation by means of 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 player, MP3 player, or any other machine or device for the producing or reproducing of sound or amplifying sound with the 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 drums, musical instruments or devices with or without electronic amplification.
- (5) Power Equipment. The operation of power equipment, including the use of power mowers, trimmers, chain saws, tillers or other similar devices during the hours of 11:00 P.M. to 7:00 A.M., but excluding generators used during power outages or other related emergency situations.
- (6) Dogs and Kennels. Sounds (i.e. barking, howling or yelping) emanating from any dog, member of the Canidae family, or any dog kennel kept on any premises to which this Resolution is applicable, unless such kennel is a permitted use pursuant to the Perry Township Zoning Resolution or is otherwise permitted by the Perry 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 one hundred (100) feet or more from 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 Perry Township, 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 one hundred (100) feet or more from the motor vehicle.

(F) ENFORCEMENT: DETERMINATION OF SOURCE

Any law enforcement officer as defined herein, 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 the officer 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. Parking lots and driveways within these areas are included.

(G) 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.
- (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 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 Board 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 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 Perry Township Zoning Resolution or that are otherwise permitted or authorized by the Perry Township Board of Zoning Appeals.
- (12) Incidental noise resulting from construction operations between the hours of 7:00 A.M. and dusk Monday through Saturday, and between 10:00 A.M. and dusk on Sundays.

(H) PENALTY

- (1) Any violation of divisions (B) or (E) of this Resolution shall constitute an unclassified civil fine punishable according to the civil fine schedule as follows:

1 st Violation:	\$50.00
2 nd Violation:	\$100.00
3 rd and subsequent Violations:	\$250.00

- (2) If a citation is warranted, the peace officer serving the Township pursuant to Section 504.16 of the Ohio Revised Code shall issue such citation to any person violating this Resolution. The officer shall complete the citation by identifying the violation charged and by indicating the date, time, and place of the violation charged. The officer shall sign the citation and without necessary delay file the original citation with the court having jurisdiction over the violation. A copy of a citation issued pursuant to this section shall be served pursuant to the Ohio Rules of Civil Procedure upon the person who violated this Resolution. The issuance of a citation shall not prohibit the issuance of additional citations, in the event such violation is continued or repeated. The citation shall be the limited home rule citation previously adopted by the Township and shall be in accordance with all of the following:
- a) Advise the person upon whom it is served that the person must answer in relation to the violation charged in the citation within fourteen days after the citation is served upon the person;
 - b) Indicate the allowable answers that may be made and that the person will be afforded a court hearing if the person denies in the answer that the person committed the violation;
 - c) Specify that the answer must be made in person or by mail with the Township Fiscal Officer;
 - d) Indicate the amount of the fine that may be imposed for the violation.
- (3) An answer to a citation shall be made within fourteen (14) days after the citation is served upon the person and shall be in one of the following forms:
- a) An admission that the person committed the violation, by payment of any fine arising from the violation. Payment of a fine shall be payable to the Fiscal Officer of the Township and deposited by the Fiscal Officer into the Township general fund.
 - b) A denial that the person committed the violation.

Whenever a person pays a fine pursuant this section or whenever a person answers by denying the violation or does not submit payment of the fine within the time required under this section, the Township Fiscal Officer shall notify the court having jurisdiction over the violation. The court having jurisdiction over the matter shall proceed in accordance with the provisions of Section 504.07(B) of the Ohio Revised Code. All fines collected under this Resolution shall be deposited into the Township general fund.

(I) OTHER REMEDIES

Nothing herein shall be construed to impair any common law or statutory cause of actions, or legal remedies available under Ohio Revised Code Chapter 504 therefrom, of any person or the Township, for any injury or damage arising from other law.

(J) 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 limitations, Section 121.22 of the Ohio Revised Code.

Following its introduction, the resolution was read by the Township Fiscal Officer by title only.

Mr. Chet Chaney moved to dispense with the requirement that this resolution be read on two separate days and hereby authorizes the adoption of this resolution upon its first reading and the motion was seconded by Mr. James Roper. Roll was called on the question of dispensing with the second reading and the results were:

Vote Record:	Yea	Nay
Mr. <u>James Roper</u>	<u>X</u>	___
Mr. <u>Andy English</u>	<u>X</u>	___

Mr. Chet Chaney x

Mr. Chet Chaney moved the adoption of the resolution and the motion was seconded by Mr. James Roper. Roll was called on the question of adoption and the results were:

Vote Record: Yea Nay

Mr. James Roper X

Mr. Andy English X

Mr. Chet Chaney X

Having received a majority vote of the Board, the resolution was adopted as a nonemergency measure to become effective thirty (30) days after filing with the Township Fiscal Officer.

First Reading: July 15, 2013

Second Reading: Dispensed with

Effective: July 15, 2013

Adopted: July 15, 2013

Attest: Michele Elliott
Michele Elliott, Fiscal Officer

**BOARD OF TOWNSHIP TRUSTEES
PERRY TOWNSHIP
FRANKLIN COUNTY, OHIO**

Chet T. Chaney
Chet Chaney, Township Trustee

Andy English
Andy English, Township Trustee

James Roper
James Roper, Township Trustee

APPROVED AS TO FORM:

[Signature] 25 July 13
Township Law Director
Ron O'Brien, Prosecuting Attorney
Franklin County, Ohio
Ass. 3rd Prosecuting Attorney

CERTIFICATION

The undersigned Fiscal Officer of the Board of Township Trustees of Perry Township, Franklin County, Ohio hereby certifies that the foregoing is a true and exact copy of a resolution duly passed by the Board of Township Trustees of said Township and filed with the Township Fiscal Officer on July 15, 2013.



Michele Elliott, Fiscal Officer
Perry Township, Franklin County, Ohio

CERTIFICATE OF PUBLICATION

I, Michele Elliott, Fiscal Officer of Perry Township, Ohio do hereby certify that a summary of this resolution was published in the newspapers listed below on the dates listed below:

Columbus Dispatch July 22, 2013

Columbus Dispatch July 29, 2013



Michele Elliott, Fiscal Officer
Perry Township, Franklin County, Ohio