

**MONCLOVA TOWNSHIP BOARD OF TRUSTEES**

RESOLUTION NO. 07032017-02

RESOLUTION TO AMEND AND FULLY RESTATE RESOLUTION 91905-5  
AND 020209-2 FOR NOISE CONTROL IN MONCLOVA TOWNSHIP

Trustee Lang moved that the following be adopted as a Resolution of the Board of Trustees:

**WHEREAS**, on September 19, 2005, the Board of Trustees of Monclova Township adopted Resolution No. 91905-5, regulating noise in the unincorporated portions of the Township ("the Noise Resolution") and on February 2, 2009, adopted Resolution No. 020209-2 amending the Noise Resolution to incorporate certain exceptions to the regulation; and

**WHEREAS**, the Ohio Revised Code Section 505.172 allows 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 Ohio Division of Liquor Control or that is generated within any areas zoned for residential use; and

**WHEREAS**, Ohio Revised Code Section 505.172 has been amended since Monclova Township Trustees approved the Noise Resolution, therefore the Board of Trustees declare there is a need for an amendment to the Noise Control Resolution in Monclova Township;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Trustees of Monclova Township, Lucas County, Ohio, do hereby adopt an amended Noise Control Resolution for the Township as follows:

SECTION I. Definitions

All definitions and terminology used in this Resolution not defined below shall be in conformance with the applicable publications of the American National Standards Institute (ANSI) or its successor body. As used in this Resolution:

A. Commercial Area

Any non-residential area, which includes offices, general commercial, retail, mercantile, trade or manufacturing areas. Also, any parcel or real property located within a business district.

B. D Permit

A category of permits issued to liquor establishments by the State of Ohio Division of Liquor Control.

C. Noise Disturbance

Any unreasonable sound which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any person of ordinary sensitivities in the area of the noise.

D. Permitted Hunting or Target Shooting

Hunting or target shooting by an individual, or individuals, on designated public hunting lands, or having the written permission of a private landowner, with that individual, or individuals, having also secured the proper license(s) by the Ohio Department of Natural Resources and while hunting within the permitted season(s) as designated by the Ohio Department of Natural Resources - Division of Wildlife, unless said individual, or individuals are hunting on land that they own; or a qualified tenant or manager on land that they rent 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).

E. Residential Area

Any Single-Family, Two Family, Multi-Family or other designated residential area.

SECTION 2. Noise Disturbances Prohibited

A. Noise Disturbances Prohibited

At any premises to which a D Permit has been issued by the Ohio Division of Liquor Control or any property zoned for residential use no person, owner, occupant, employee, or person in charge of any premises shall allow, permit, make, continue, or cause to be made or continued, any loud, unnecessary or unreasonable noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of ordinary sensitivities in the area of the noise.

1. In determining whether a noise is of such character as to unreasonably disturb the peace and quiet of the neighborhood, a court shall consider the following factors:

- (a) Complaints of neighbors regarding the noise
- (b) Time of day at which the noise takes place
- (c) The intensity and duration of the noise
- (d) The type of noise produced
- (e) The alternative means available without excessive noise

B. Sound Amplifying Devices on Private Property

At any premises to which a D Permit has been issued by the Ohio Division of Liquor Control or any property zoned for residential use no person, owner, occupant, employee, or person in charge of any premises shall allow, permit, make, continue, or cause to be generated or permit to be generated unreasonable noise or loud sound which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of a radio, phonograph, television, tape player, compact disc player, loud speaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument.

1. It is prima facie unlawful for a person to generate or permit to be generated sound by the above described devices or instruments in the following circumstances:

- (a) On any premises to which a D Permit has been issued by the Ohio Department of Liquor Control or any property zoned for residential use where the sound is plainly audible more than fifty (50) feet from the property line of the property on which the source of the sound is located.

This Resolution applies to noise being specifically generated from a premise with a D Permit issued by the Ohio Department of Liquor Control.

SECTION 3. Enforcement

Violation of any provision of this Resolution shall be enforced by the appropriate Law Enforcement Agency in a manner consistent with that Law Enforcement Agencies policy for misdemeanor offences as are consistent with this Resolution and Section 7 Penalty.

SECTION 4. Other Remedies

No provision of this Resolution shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this Resolution or from other law.

## SECTION 5. Exceptions

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

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work.
- B. Parades or other public programs, activities or events authorized by the Monclova Township Board of Trustees or their designated representative.
- C. Agricultural activities as defined in the Ohio Revised Code, Section 1.61, are exempt from the provisions of this Resolution.
- D. 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 1514.0 I of the Ohio Revised Code, 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 Resolution.
- E. Private construction activities, except between the hours of 11:00 p.m. and 7:00 a.m. E.S.T., 11:00 p.m. and 6:30 a.m. D.S.T., and Sundays before 10:00 a.m.
- F. Permitted hunting or target shooting.
- G. Noises resulting from public highway construction activities.

## SECTION 6. Applicability

Nothing in this Resolution shall be construed to permit conduct prohibited by any other statute, resolution, or regulation or to prohibit the enforcement thereof.

## SECTION 7. Penalty

- A. Whoever violates any regulation or order adopted under division (B) of this section is guilty of a misdemeanor of the second degree. Fines levied and collected under this section shall be paid into the township general revenue fund as authorized by the Ohio Revised Code Section 505.172, which sentence upon an offender may include fines in an amount not more than seven hundred fifty dollars (\$750.00) and not more than ninety days jail term.
- B. Nothing in this Resolution shall prevent law enforcement officers with jurisdiction in Monclova Township from issuing an order to cease and desist from the activity violating this Resolution, or any other statutory enforcement authority at such officers' disposal.
- C. Any person allegedly aggrieved by another person's violation of a regulation or order adopted under this Resolution may seek, in a civil action, a declaratory judgment (or), and injunction, or other appropriate relief against another person for committing the act or practice that violates this Resolution or order. The court involved in the civil action may award to the prevailing party (a) reasonable attorney's fees limited to the work reasonably performed.

SECTION 8. This Board hereby finds and determines that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in open meetings of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal actions were taken in meetings open to the public, in compliance with all legal requirements, including (without implied limitation) Ohio Revised Code Section 121.22, except as otherwise permitted thereby.

Trustee Craig seconded the adoption of the Resolution; and the roll was called on the question of the adoption; resulting as follows:

Barbara S. Lang, yes.    Brian D. Craig, yes.    Charles V. Hoecherl, yes.

ATTEST:

I certify that this is a true and accurate copy of Resolution No. 07032017-02 passed in the regular meeting of the Board of Trustees, as aforesaid.



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Gavin S. Pike, Township Fiscal Officer