

RES#10-083

NIMISHILLEN TOWNSHIP RESOLUTION REGARDING NOISE CONTROL REGULATIONS

The Nimishillen Township Trustees met in regular session on the 8th day of April, 2010, with the following members present.

MICHAEL L. LYNCH, PRESIDENT

LISA R. SHAFER, VICE PRESIDENT

ALLEN E. GRESS, TRUSTEE

LISA R. SHAFER moved for the adoption of the following resolution.

WHEREAS, it is the opinion of the Nimishillen Township Board of Trustees that unnecessary and excessive noise in residential areas of this township is detrimental to the public health and safety; and

WHEREAS, the township has experienced problems with excessive noise near local taverns and liquor establishments that have been issued a D license by the division of liquor control and that this is likewise detrimental to the public health and safety; and

WHEREAS, it is the intent of the Nimishillen Township Board of Trustees to prohibit noise that is unnecessary in residential areas of this township; and

WHEREAS, R.C. 505.172 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 or that is generated within any areas zoned for residential use.

NOW THEREFORE BE IT RESOLVED

A. DEFINITIONS

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 with ordinary hearing abilities.

B. CERTAIN NOISES PROHIBITED

Within the unincorporated territory of Nimishillen Township, at any premises to which a D permit has been issued by the Division of Liquor Control or within any areas zoned for residential use, no person shall make, and no landowner or lawful occupant of such premises or area shall permit the making of, any noise or sound, which by reason of volume, pitch, frequency, intensity, duration, or nature 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 NOISE

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, 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 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. Music. The playing of or permitting to be played on the premises of at any premises to which a D permit has been issued by the Division of Liquor Control, including but not limited to instruments, radios, television, tape recorders, loudspeaker, cassette or compact disc players or any other machine or device for the producing or reproducing of sound or amplifying sound which disturbs the quiet, comfort or repose of neighboring inhabitants between the hours of 11:00 p.m. and 7:00 a.m. on weekdays and 1:00 a.m. and 7:00 a.m. on weekends.

3. Yelling. Yelling, shouting, screaming, or singing on the public streets or at any time or place so as to annoy or disturb the peace and quiet of other persons.

4. Internal combustion engines or other power equipment. The operation of any internal combustion engine or other piece of power equipment between the hours of 9:00 p.m. and 7:00 a.m.

D. 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 from where the noise or sound emanates.

E. NOISE FROM MOTOR VEHICLES.

No person while operating or occupying a motor vehicle within the unincorporated territory of Nimishillen 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, 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. LAW ENFORCEMENT DETERMINATION OF SOURCE

Any law enforcement personnel 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 microphone or hearing aid.

2. Regarding 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 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 or artist of any song. 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 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.

G. PENALTY - Pursuant to R.C. 505.172(E), any person who violates this Resolution 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. Each day that a violation continues shall be considered a separate offense.

ALLEN E. GRESS seconded the motion, and the voting followed:

LISA R. SHAFER - YES

ALLEN E. GRESS - YES

MICHAEL L. LYNCH - YES

CERTIFICATE

STATE OF OHIO, SARK COUNTY

I, Barry Evans, the undersigned Fiscal Officer of Nimishillen Township, Stark County, Ohio, certify the foregoing Resolution No. 10-083 is taken and copied from the record of the proceedings of the township, and that it has been compared by me with the resolution on the record and is a true copy.

DATE: _____

Barry L. Evans, Fiscal Officer