

# ROSS TOWNSHIP NOISE ABATEMENT POLICY

## I. NOISE GENERATED IN THE UNINCORPORATED AREAS OF THE TOWNSHIP WHICH ARE ZONED FOR RESIDENTIAL USE

### A. Noise Emanating from Motor Vehicles:

#### 1. Actions Prohibited:

No person owning, operating or occupying a motor vehicle in any unincorporated area of Ross Township zoned for residential use shall generate or permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible at a distance of fifty feet (50'). The fifty-foot distance is to be measured in a straight line from the motor vehicle.

#### 2. Exceptions:

- a. The lawful use of a motor vehicle home shall not violate this section.
- b. Noises and sounds emanating from public safety vehicles while on emergency runs shall not violate this section.
- c. Noises and sounds emanating from motor vehicles lawfully participating in parades for which the necessary permits and/or Township approval have been obtained shall not violate this section.
- d. Noises and sounds emanating from motor vehicles lawfully participating in school or other public events for which the necessary permits and/or Township approval have been obtained shall not violate this section.

#### 3. Defined Terms:

- a. "Motor vehicle" means any vehicle, including a passenger car, motorcycle, motorized bicycle, van, truck, trailer, semi-trailer, mobile home and recreational vehicle, that is propelled or drawn by power other than muscular power or power collected from overhead trolley wires.
- b. "Plainly audible" means any sound produced by a mechanical or electronic sound making device or instrument that can be heard by a reasonable person using his normal hearing faculties. The person need not determine with particularity the type of sound, the words, phrases, or lyrics heard, and the detection of a rhythmic bass or other reverberating type sound is sufficient to constitute plainly audible sound.
- c. "Public safety vehicle" means any vehicle, including a passenger car, truck, motorcycle, ambulance, and fire truck and apparatus, that is operated by a member of a fire department, police department, or ambulance service operated by a municipal corporation or a political subdivision of the State of Ohio or a private company with whom a municipal corporation, a political subdivision of the State of Ohio, a hospital, or other health care facility has contracted for the transportation and care of residents of Ross Township.

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## **B. Noise Emanating from Vehicles Operating Off-Road:**

### **1. Actions Prohibited:**

No person owning or operating a vehicle which is operating off-road in any unincorporated area of Ross Township zoned for residential use shall generate or permit to be generated by means of a combustion engine, radio, tape or disc player, loudspeaker or any other sound amplifying device or by any horn any noise or sound which is plainly audible at a distance of fifty feet (50'). The fifty-foot distance is to be measured in a straight line from the vehicle.

### **2. Exceptions:**

- a. The lawful use of a vehicle horn shall not violate this section.
- b. Noises and sounds emanating from public safety vehicles while on emergency runs shall not violate this section.
- c. Noises and sound emanating from vehicles lawfully participating in parades for which the necessary permits and/or Township approval have been obtained shall not violate this section.
- d. Noises and sounds emanating from vehicles lawfully participating in school or other public events for which the necessary permits and/or Township approval have been obtained shall not violate this section.

### **3. Defined Terms:**

- a. "Operating an off road" means the operation of a vehicle on other than a roadway, street, alley, or highway dedicated and open to the public.
- b. For purposes of Section 1 (B), "plainly audible" means any sound produced by a combustion engine, mechanical, electronic sound making device, or instrument that can be heard by a person using his normal hearing faculties. The person need not determine with particularity the type of sound, the words, phrases, or lyrics heard, and the detection of a rhythmic bass or other reverberating type sound is sufficient to constitute plainly audible sound.
- c. "Public safety vehicle" means any vehicle, including an all-terrain vehicle and fire apparatus, that is operated by a member of a fire department, police department, or ambulance service operated by a municipal corporation or a political subdivision of the State of Ohio or a private company with whom a municipal corporation, a political subdivision of the State of Ohio, a hospital, or other health care facility has contracted for the transportation and care of residents of Ross Township.
- d. "Vehicle" means any vehicle, including a mini-bicycle, go-cart, dirt bicycle, motorcycle, motorized bicycle, and all-terrain vehicle, that is propelled or drawn by power other than muscular power or power collected from overhead trolley wires.

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## C. Noise Emanating from Single Family Dwelling:

### 1. Actions Prohibited:

No person owning or occupying a single family dwelling in any unincorporated area of Ross Township zoned for residential use shall generate or permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible at a distance of one hundred and fifty feet (150') between the hours of 11:00 p.m. and 6:00 a.m. Sunday through Thursday and 12:30 a.m. and 6:00 a.m. Friday and Saturday. At all other times, such persons shall not generate or permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible at a distance of one hundred and fifty feet (150') which noise or sound continues for a period of time in excess of three (3) hours or which resumes for any period of time within forty-eight (48) hours after the person owning or occupying the single family dwelling has been warned and requested by a Ross Township police officer to stop generating or permitting to be generated such noise from the single family dwelling. The one-hundred-and-fifty-foot distance shall generally be measured in a straight line from any outside wall of the single-family dwelling. However, in cases where the noise or sound is generated by means of any of the above-listed sound amplifying devices or musical instruments which are located outside the single family dwelling, the one hundred and fifty-foot distance shall be measured in a straight line from the device or instrument emanating the sound or noise.

### 2. Exceptions:

- a. The lawful use of a home security system shall not violate this section.
- b. Noises and sounds emanating from single family dwellings caused by public safety personnel and/or apparatus while on emergency runs shall not violate this section.

### 3. Defined Terms:

- a. "Single family dwelling" means privately owned, single family residential housing.
- b. "Plainly audible" means any sound produced by a mechanical or electronic sound making device or instrument that can be heard by a reasonable person using his normal hearing faculties. The person need not determine with particularity the type of sound, the words, phrases, or lyrics heard, and the detection of a rhythmic bass or other reverberating type sound is sufficient to constitute plainly audible sound.

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## **D. Noise Emanating from Multi-Family Dwelling:**

### **1. Actions Prohibited:**

No person owning or occupying a multi-family dwelling in any unincorporated area of Ross Township zoned for residential use shall generate or permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible at a distance of one hundred and fifty feet (150') between the hours of 11:00 p.m. and 6:00 a.m. Sunday through Thursday and 12:30 a.m. and 6:00 a.m. Friday and Saturday. At all other times, such persons shall not generate or permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible at a distance of one hundred and fifty feet (150') which noise or sound continues for a period of time in excess of three (3) hours or which resumes for any period of time within forty-eight (48) hours after the person owning or occupying the multi-family dwelling has been warned and requested by a Ross Township police officer to stop generating or permitting to be generated such noise from the multi-family dwelling. The one-hundred-and-fifty-foot distance shall generally be measured in a straight line from the property line closest to the area from which the noise is emanating from the multi-family dwelling. However, in cases where the noise or sound is generated by means of any of the above-listed sound amplifying devices or musical instruments which are located outside the multi-family dwelling, the one-hundred-and-fifty-foot distance shall be measured in a straight line from the device or instrument emanating the sound or noise.

### **2. Exceptions:**

- a. The lawful use of a building security system shall not violate this section.
- b. Noises and sounds emanating from multi-family dwellings caused by public safety personnel and/or apparatus while on emergency runs shall not violate this section.

### **3. Defined Terms:**

- a. "Multi-family dwelling" means multiple unit rental residential property that is privately owned, including condominiums and apartments.
- b. "Plainly audible" means any sound produced by a mechanical or electronic sound making device or instrument that can be heard by a reasonable person using his normal hearing faculties. The person need not determine with particularity the type of sound, the words, phrases, or lyrics heard, and the detection of a rhythmic bass or other reverberating type sound is sufficient to constitute plainly audible

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## **E. Noise Emanating from Businesses:**

### **1. Actions Prohibited:**

No person owning, managing, or being responsible for a business located in any unincorporated area of Ross Township zoned for residential use shall generate or knowingly permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible at a distance of one hundred and fifty feet (150') between the hours of 11:00 p.m. and 6:00 a.m. Sunday through Thursday and 12:30 a.m. and 6:00 a.m. Friday and Saturday. At all other times, such persons shall not generate or permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible at a distance of one hundred and fifty feet (150') which noise or sound continues for a period of time in excess of three (3) hours or which resumes for any period of time within forty-eight (48) hours after the person owning, managing or being responsible for the business has been warned and requested by a Ross Township police officer to stop generating or permitting to be generated such noise from the business. The one-hundred-and-fifty-foot distance shall generally be measured in a straight line from any outside wall of the building in which the business is located. However, in cases where the noise or sound is generated by means of any of the above- listed sound amplifying devices or musical instruments which are located outside the business, the one-hundred-and-fifty-foot distance shall be measured in a straight line from the device or instrument emanating the sound or noise.

### **2. Exceptions:**

- a. The lawful use of building security systems shall not violate this section.
- b. Noises and sounds emanating from businesses caused by public safety personnel and/or apparatus while on emergency runs shall not violate this section.
- c. Noises and sounds emanating from businesses lawfully participating in school or other public events for which the necessary permits and/or Township approval have been obtained shall not violate this section.
- d. Noises emanating from, and attributable to, any agricultural activity described in Section 1.61 of the Ohio Revised Code shall not violate this section.
- e. Noises emanating from, and/or attributable to, any coal mining and reclamation activity as defined in Section 1513.01(B) of the Ohio Revised Code shall not violate this section.
- f. Noises emanating from, and/or attributable to, any surface mining and

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reclamation activity as defined in Section 1514.01(A) of the Ohio Revised Code shall not violate this section.

- g. Noises emanating from, and attributable to, 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 shall not violate this section.
- h. Noises emanating from businesses, other than businesses operating at any premises to which a D permit has been issued by the division of liquor control, which were existing and operating on September 29, 2011 shall not violate this section, except that this section shall apply to any new operation or expansion of that business that results in substantially increased noise levels from those generated by that business on October 20, 1999.

### **3. Defined Terms:**

- a. "Business" means a commercial enterprise of any sort, including corporations, partnerships, unincorporated entities, proprietorships, joint ventures and enterprises, whether it be for profit or not for profit. The term "business" as used in Section I (D) of this Resolution does not include commercial entities operating at any premises to which a D permit has been issued by the division of liquor control or any operations of the State of Ohio, its agencies, a municipal corporation, Ross Township, or other political subdivision of the State of Ohio.
- b. "Knowingly" means that a person, regardless of his purpose, acted when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist. Awareness may be inferred where objective manifestations indicate that the person involved acted with such awareness.
- c. "Plainly audible" means any sound produced by a mechanical or electronic sound making device or instrument that can be heard by a reasonable person using his normal hearing faculties. The person need not determine with particularity the type of sound, the words, phrases, or lyrics heard, and the detection of a rhythmic bass or other reverberating type sound is sufficient to constitute plainly audible sound.

## **II. NOISE WITHIN THE UNINCORPORATED AREA OF THE TOWNSHIP THAT IS GENERATED AT ANY PREMISES TO WHICH A "D PERMIT" HAS BEEN ISSUED BY THE DIVISION OF LIQUOR CONTROL**

### **A. Noise Emanating from Businesses to Which a "D Permit" Has Been Issued by The Division of Liquor Control:**

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## 1. Actions Prohibited:

No person owning, managing or being responsible for a business to which a D Permit has been issued by the Division of Liquor Control shall generate or knowingly permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible in any unincorporated area of Ross Township at a distance of one hundred and fifty feet (150') between the hours of 11:00 p.m. and 6:00 a.m. Sunday through Thursday and 12:30 a.m. and 6:00 a.m. Friday and Saturday. At all other times, such persons shall not generate or permit to be generated by means of a radio, phonograph, television, tape or disc player, loudspeaker or any other sound amplifying device or by any horn, drum, piano, or other musical or percussion instrument any noise or sound which is plainly audible at a distance of one hundred and fifty feet (150') which noise or sound continues for a period of time in excess of three (3) hours or which resumes for any period of time within forty-eight (48) hours after the person owning, managing or being responsible for such business has been warned and requested by a Ross Township police officer to stop generating or permitting to be generated such noise from the business to which a D Permit has been issued by the Division of Liquor Control. The one-hundred-and-fifty-foot distance shall generally be measured in a straight line from any outside wall of the building in which the business is located. However, in cases where the noise or sound is generated by means of any of the above-listed sound amplifying devices or musical instruments which are located outside the business, the one-hundred-and-fifty-foot distance shall be measured in a straight line from the device or instrument emanating the sound or noise.

## 2. Defined Terms:

- a. For purposes of Section II (A), "business" means a commercial enterprise of any sort, including corporations, partnerships, unincorporated entities, proprietorships, joint ventures and enterprises, whether it be for profit or not for profit, which is operating at any premises to which a D Permit has been issued by the Division of Liquor Control. The term "business" as used in Section II(A) of this Resolution does not include any operations of the State of Ohio, its agencies, a municipal corporation, Ross Township, or other political subdivision of the State of Ohio.
- b. "Knowingly" means that a person, regardless of his purpose, acted when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist. Awareness may be inferred where objective manifestations indicate that the person involved acted with such awareness.

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- c. "Plainly audible" means any sound produced by a mechanical or electronic sound making device or instrument that can be heard by a reasonable person using his normal hearing faculties. The person need not determine with particularity the type of sound, the words, phrases, or lyrics heard, and the detection of a rhythmic bass or other reverberating type sound is sufficient to constitute plainly audible sound.

## III. GENERAL PROVISIONS APPLYING TO ENTIRE RESOLUTION

### A. **Significance of Headings/Captions:**

The sections, captions and headings contained in this Resolution are for convenience of reference only and in no way shall be used to construe or modify the provisions set forth in this Resolution.

### B. **Severability:**

If any tenant or provision of this Resolution, or the application thereto to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Resolution, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Resolution shall be valid and enforced to the fullest extent permitted by law.

### C. **Definitions Limited:**

The definitions contained herein are intended to define only the terms and phrases contained in this Resolution and are not to be applied to define or interpret those terms and phrases in other resolutions adopted by the Board of Trustees of Ross Township.

### D. **Penalties:**

#### 1. Offense Level and Fine:

Pursuant to Section 515.172(D) of the Ohio Revised Code, whoever violates any of the foregoing provisions is guilty of a misdemeanor of the second degree and any fines levied and collected as a result of violations of this Resolution shall be paid into the Township's general revenue fund.

#### 2. Private Injunctive Relief:

Pursuant to Section 515.172(E) of the Ohio Revised Code, any person allegedly aggrieved by another person's violation of a provision of this Resolution may seek in a civil action a declaratory judgment, an injunction, or other appropriate relief against the other person for committing the act or practice that violates the resolution. The court involved in the civil action may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.