

RESOLUTION G2022-90

RESOLUTION AMENDING RESOLUTION G-9604 RESOLUTION PROHIBITING NOISE IN THE TOWNSHIP, A FOURTH DEGREE MISDEMEANOR

WHEREAS, the Board of Trustees of Symmes Township, Hamilton County, Ohio, enacted Resolution G-9604 prohibiting excessive noise and sound;

WHEREAS, the Board of Trustees of Symmes Township have determined that the penalty section provided in Resolution G-9604 has led to some problems in enforcing the prohibition and convicting those individuals who violate the Resolution; and

WHEREAS, the Board of Trustees of Symmes Township has determined that excessively loud noise in areas within Symmes Township constitutes a nuisance and is detrimental to the public health, welfare, safety, and quality of life within Symmes Township; and

WHEREAS, the Board of Trustees of Symmes Township desires to expand the current types of noise regulated; and

WHEREAS, Ohio Revised Code Section 504.04 provides for the exercise of all powers of local self-government within the unincorporated area of the township; and

WHEREAS, ORC Section 505.172 authorizes the Symmes Township Board of Trustees to adopt regulations and orders that are necessary to control noise within the unincorporated areas of Symmes 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 and to assess penalties to control such nuisances.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Symmes Township, Hamilton County, Ohio:

Section 1. No person, firm, or corporation shall operate, cause to be operated, or permit to be operated any general noise generated from gatherings or parties, radio, phonograph, television, tape player, loud speaker or PA system, CD player, smartphone, lawn/landscaping equipment, vehicle repair equipment, or any other instrument, machine or device in such a manner and to be of such intensity and duration as to create unreasonable noise or loud sound and which causes inconvenience and annoyance to persons or ordinary sensibilities. It shall be prima facie unlawful for a person, firm, or corporation to operate, cause to be operated, or permit to be generated sound by the above-described devices or by any other means under the following circumstances:

- A. No person, firm, or corporation by any means, shall between the hours of 11:00 p.m. and 7:00 a.m. make, resume, continue or cause, or permit any noise of such a character, intensity, and duration as to unreasonably disturb the peace and quiet of the community or to be detrimental to the life or health of any individuals.
- B. Any construction work on property within hearing distance of property used for residential purposes shall not take place between the hours of 11:00 p.m. and 7:00 a.m. "Construction work" shall be defined as any type of work which requires a building permit. This Resolution shall not apply to any construction work performed by the Township for the health, safety, and welfare of the people of Symmes Township.
- C. No person, being the owner, or person in possession of a motor vehicle with a device described above shall cause or permit any noise emanating from the motor vehicle which plainly audible at a distance of fifty (50) feet from the motor vehicle. The lawful use of a motor vehicle horn shall not be a violation of this Resolution.

Section 2.

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

- A. Complaints of neighbors regarding the noise;
- B. The time of the day at which the noise takes place;
- C. The intensity and duration of the noise;
- D. The type of noise produced;
- E. The alternate means available without excessive noise.

Section 3.

It shall be presumed to be a violation of this Resolution if notice to cease and desist producing a noise has been given to any person and that person continues to make, cause, or permit a noise of similar intensity and duration.

Section 4.

The following uses and activities shall be exempt from noise level regulations:

- A. Noises of safety signals, warning devices, and emergency pressure relief valves;
- B. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.
- C. Noises resulting from any work made necessary to restore property to a safe condition or work required to protect persons or property from an imminent exposure to danger;
- D. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the Township;
- E. Any aircraft operated in conformity with, or pursuant to, federal law,

- federal air regulations, and air traffic control instruction;
- F. Noises resulting from the normal use of churches, schools, athletic fields, parks, and auditoriums.

Section 5. For the purpose of this Resolution, a request to desist means actual notice of the disturbance by an officer or Township official to the offender or to an employee or representative of the offender. Once such a request to desist is made, it shall continue to be effective for the purposes of this Resolution beyond the immediate time period in which it is given and is effective even if the noise disturbs persons other than the person who makes the request to desist.

Section 6. Whoever violates this resolution is guilty of a fourth-degree misdemeanor subject to a fine not to exceed Two Hundred Fifty Dollars (\$250.00) plus court costs. On each and every subsequent violation within two-years from the first notice, a fine of not more than five hundred (\$500.00) shall be imposed.

- A. In addition to the imposition of the fine as set forth above, the Board of Township Trustees may authorize the Township Law Director to file for injunctive relief, file a lien upon property of a violator and take such other actions for the collection of an unpaid money judgement, all in accordance with Section 504.8 of the Ohio Revised Code.
- B. This Resolution is not intended to regulate engine noise of motor vehicles, which may be regulated pursuant to Section 505.17 of the Ohio Revised Code.

Section 7. Finds and determines that all formal action 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 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 limitation) Ohio revised Code Section 121.22, except as otherwise permitted thereby.

Section 8. Upon majority vote does hereby 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.

Section 9. This Resolution shall take effect and be enforced from and after the earliest period allowed by law.

ADOPTED JULY 12, 2022 – RESOLUTION G2022-83

Vote Record: Ms. Leis ____ Mr. Beck ____ Mr. Bryant ____

BOARD OF TRUSTEES:

Jodie L. Leis, President

Philip J. Beck, Trustee

Kenneth N. Bryant, Trustee

ATTEST:

Joseph C. Grossi, Fiscal Officer

APPROVED AS TO FORM:

Jeff Forbes, Law Director