

First Reading: September 2, 2008
Second Reading: Dispensed

RESOLUTION NO. 2008-271

**BOARD OF TRUSTEES, DEERFIELD TOWNSHIP
WARREN COUNTY, OHIO**

RESOLUTION RESCINDING PREVIOUS RESOLUTION PROHIBITING EXCESSIVE NOISE, ESTABLISHING NEW RESOLUTION PROHIBITING EXCESSIVE NOISE IN DEERFIELD TOWNSHIP, AND DISPENSING WITH THE SECOND READING

RESOLVED by the Board of Trustees of Deerfield Township, Warren County, Ohio, that:

WHEREAS, the Board of Trustees recognizes that it did previously enact similar excessive noise regulations under Resolution No. 2004-101;

WHEREAS, it is the intent of this Resolution to rescind Resolution No. 2004-101 in favor of new excessive noise regulations contained exclusively within this Resolution;

WHEREAS, the Board of Trustees recognizes that the making, creation, or maintenance of loud, unnecessary, unnatural, or unusual noises, including noises which are prolonged, unusual, and unnatural in their time, place, and use, are a detriment to the public health, comfort, convenience, safety, and welfare of the Township; and

WHEREAS, in order to preserve the public peace and tranquility within the Township, it is necessary to enact certain controls to discourage and prohibit unnecessary, unreasonable, excessive, and at times health-damaging noises;

NOW THEREFORE BE IT RESOLVED, by the Board of Trustees of Deerfield Township, Warren County, Ohio:

SECTION 1: Resolution 2004-101 is hereby rescinded and replaced by this Resolution upon this Resolution's effective date.

SECTION 2: Definitions.

For purposes of this Resolution, the following terms shall be defined as follows:

A. "Agricultural" has the same definition as set forth in Ohio Revised Code § 519.01.

B. "Decibel" means a unit for measuring the intensity of a sound, equal to twenty times the common logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals. Decibel is denoted as "dB." An A-weighted filter, constructed in accordance with the specifications of the American National Standards Institute which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this Resolution. All decibel (dB) measurements shall be expressed in dB(A) to reflect the use of this A-weighted filter.

C. "Loud or raucous noise" means any noise or sound that emanates in such manner and/or volume and is of such intensity, character, and duration to be offensive or disturbing to a person of ordinary sensibilities.

D. "Motor Vehicle" means not only motor vehicles, but also includes emergency vehicles, public safety vehicles, school buses, commercial tractor, agricultural tractor, truck, bus, and trailer as defined in Ohio Revised Code § 4511.01.

E. "Person" means the owner, operator of a motor vehicle, person in possession of premises, person in control of premises by reason of employment, agency, or otherwise, whether such ownership, possession, or control is exclusive or joint, or person operating or otherwise in control or possession of a sound-generating or sound-amplifying device or other tool, machinery, equipment, or instrument producing the sound or noise in question.

F. "Sound" means any kind or type of humanly audible stimulus, and with respect to musical sound, includes not only the vocalized word, but also includes the musical treble and bass components of such music and the audible response produced by either of those components.

G. "Sound generating or sound amplifying device" means any radio, television, phonograph, tape player, record player, loudspeaker, stereo system speaker, music player, digital tape player, disc player, audio system, musical instrument, or any machine or device which produces sound received through or from any form of broadcast, or any form of machine or device which reproduces sound which is recorded on any medium.

SECTION 3:

No owner or operator of a motor vehicle or person in the physical control of a motor vehicle shall play, cause to be played, or permit to be played any sound-generating or sound-amplifying device located within or upon such motor vehicle at such a level, volume, frequency, or intensity that the sound emitted from the motor vehicle can be heard by a person of ordinary sensibilities at a distance of 100 feet or more. In emitting such sounds, words or phrases need not be discernable, and the motor vehicle may be stopped, standing, parked, or moving on a street, highway, alley, parking lot, or driveway.

SECTION 4:

No person shall make, generate, permit, or allow to be made any unreasonably loud and/or raucous noise or sound in such a manner or at such volume as to annoy or disturb the quiet, comfort, or repose of a person of ordinary sensibilities. It shall be a *prima facie* case that this section is being violated if any one or more of the following occur:

A. Between the consecutive hours of 10:00 p.m. and 7:00 a.m. in any twenty-four hour period, if the sound exceeds 50 dB(A) beyond the property line of the real property from which the source of the sound emanates. In enforcing this section, the enforcing officer shall make a good faith effort to determine the property line without the need to formally survey the property in question.

B. Between the consecutive hours of 7:00 a.m. and 10:00 p.m. in any twenty-four hour period if the sound exceeds seventy 70 dB(A) beyond the property line of the real property from which the source of the sound emanates. In enforcing this section, the enforcing officer shall make a good faith effort to determine the property line without the need to formally survey the property in question.

SECTION 5:

The following uses and activities shall be exempt from the noise level regulation set forth herein:

- A. Noises of warning and alarm devices, safety signals and emergency pressure relief valves.
- B. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in times of emergency.
- C. Noises resulting from any emergency 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. Noises resulting from government-authorized special events, except the noise shall not exceed any limitation established in the authorization.
- E. Noises resulting from the normal use of special events of churches, schools, athletic fields, parks and auditoriums.
- F. Power tools, landscaping and yard maintenance equipment, and construction equipment being operated between the consecutive hours of 7:00 a.m. and 10:00 p.m. in any twenty-four hour period.
- G. Any power tools, vehicles, or equipment being used for agricultural purposes. In order to qualify for this exception, the tools, vehicles or equipment generating the sound or noise must be in use in furtherance of the agricultural operation.
- H. Pursuant to Ohio Revised Code § 504.04(B)(6), noises resulting from the possession or use of firearms.

SECTION 6:

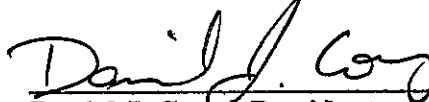
Whoever violates this section is guilty of generating an unreasonable noise and shall be fined no more than \$100.00. If the offender persists in generating or permitting to be generated unreasonable noise, after reasonable warning or request to desist, the offender shall be fined up to \$200.00. On a second occurrence within one year after the first occurrence, such person shall be fined up to \$200.00. On the third and each subsequent occurrence thereafter within one year after the first occurrence, such person shall be fined up to \$500.00.

BE IT FURTHER RESOLVED THAT by a majority vote, the Board of Trustees hereby dispenses with the requirement that this Resolution be read on two separate days and authorizes its passage upon its first reading. This Resolution shall be effective on the earliest date permitted by law.

VOTE RECORD:

Mr. Corey Y Mr. Romano Y Mr. Patterson Y

PASSED at the meeting of the Board of Trustees this 2nd day of September, 2008.



Daniel J. Corey, President




Christopher Romano, Vice President



Pete Patterson, Trustee

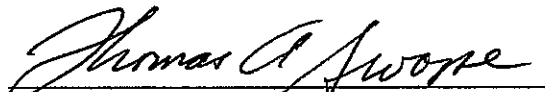
AUTHENTICATION

This is to certify that this Resolution was duly passed and filed with the Deerfield Township, Warren County, Ohio Fiscal Officer this 2nd day of September, 2008.



John R. Wahle, Fiscal Officer
Deerfield Township, Warren County, Ohio

APPROVED AS TO FORM:



Thomas A. Swope, Law Director

First Reading: November 16, 2004
Second Reading: December 7, 2004

RESOLUTION NO. 2004 - 101

**A RESOLUTION PROHIBITING EXCESSIVE NOISE
IN DEERFIELD TOWNSHIP**

WHEREAS, the Board of Township Trustees of Deerfield Township recognizes that the making, creation or maintenance of loud, unnecessary, unnatural or unusual noises, including noises which are prolonged, unusual and unnatural in their time, place and use, are a detriment to the public health, comfort, convenience, safety and welfare of Deerfield Township; and

WHEREAS, to preserve the public peace and tranquility within the Township, it is necessary to enact certain controls to discourage and prohibit unnecessary, unreasonable, excessive, and at times health damaging noises,

NOW THEREFORE, BE IT RESOLVED by the Board of Township Trustees of Deerfield Township, State of Ohio:

SECTION 1.

Definitions: For purposes of this section, the following terms shall be defined as follows:

- A. "Agricultural" has the same definition as set forth in Section 519.01 of the Ohio Revised Code or its successor.
- B. "Decibel" means a unit for measuring the intensity of a sound, equal to twenty (20) times the common logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals. Decibel is denoted as "dB". An A-weighted filter, constructed in accordance with the specifications of the American National Standards Institute which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by the Resolution. All decibel (dB) measurements shall be expressed in dB(A) to reflect the use of this A-weighted filter."
- C. "Loud or raucous noise" means any noise or sound that emanates in such manner and/or volume and is of such intensity, character and duration to be offensive or disturbing to a person of ordinary sensibilities.
- D. "Motor Vehicle" means not only motor vehicles, but also includes emergency vehicles, public safety vehicles, school buses, commercial

tractor, agricultural tractor, truck, bus and trailer as defined in ORC § 4511.01 or its successor.

E. "Person" means the owner, operator of a motor vehicle, person in possession of premises, person in control of premises by reason of employment, agency or otherwise, whether such ownership, possession or control is exclusive or joint, or person operating or otherwise in control or possession of a sound generating or sound amplifying device or other tool, machinery, equipment or instrument producing the sound or noise in question.

E. "Sound" means any kind or type of humanly audible stimulus, and with respect to musical sound, includes not only the vocalized word, but also includes the musical treble and bass components of such music and the audible response produced by either of these components.

F. "Sound generating or sound amplifying device" means any radio, television, phonograph, tape player, record player, loudspeaker, stereo system speaker, music player, digital tape player, disc player, audio system, musical instrument, or any machine or device which produces sound received through or from any form of broadcast, or any form of machine or device which reproduces sound which is recorded on any medium.

SECTION 2.

No owner or operator of a motor vehicle or person in the physical control of a motor vehicle shall play, cause to be played, or permit to be played, any sound generating or sound amplifying device located within or upon such motor vehicle at such a level, volume, frequency or intensity that the sound emitted from the motor vehicle can be heard by a person of ordinary sensibilities at a distance of one hundred (100) feet or more. In emitting such sounds, words or phrases need not be discernable, and the motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.

SECTION 3.

No person shall make, generate, permit, or allow to be made any unreasonably loud and or raucous noise or sound in such a manner or at such volume as to annoy or disturb the quiet, comfort, or repose of a person of ordinary sensibilities. It shall be a *prima facie* case that this section is being violated if any one or more of the following occur:

A. Between the consecutive hours of 10:00 p.m. and 7:00 a.m. in any twenty-four (24) hour period, if the sound exceeds fifty (50) dB(A) beyond the property line of the real property from which the source of the sound emanates. In enforcing this section, the enforcing officer shall

make a good faith effort to determine the property line without the need to formally survey the property in question.

B. Between the consecutive hours of 7:00 A.M. and 10:00 P.M. in any twenty-four (24) hour period if the sound exceeds seventy (70) dB(A) beyond the property line of the real property from which the source of the sound emanates.

SECTION 4.

The following uses and activities shall be exempt from the noise level regulation set forth herein:

A. Noises of warning and alarm devices, safety signals 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 emergency 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. Noises resulting from government-authorized special events, except the noise shall not exceed any limitation established in the authorization.

E. Noises resulting from the normal use or special events of churches, schools, athletic fields, parks and auditoriums.

F. Power tools, landscaping and yard maintenance equipment, and construction equipment being operated between the consecutive hours of 7:00 a.m. and 10:00 p.m. in any twenty-four (24) hour period.

G. Any power tools, vehicles or equipment being used for agricultural purposes. In order to qualify for this exception, the tools, vehicles or equipment generating the sound or noise must be in use in furtherance of the agricultural operation.

H. Pursuant to Ohio Revised Code 504.04(B)(6), noises resulting from the possession or use of firearms.

SECTION 5.

Whoever violates this section is guilty of generating an unreasonable noise and shall be fined up to one hundred dollars (\$100.00). If the offender persists in generating or permitting to be generated unreasonable noise, after reasonable warning or request to desist, the offender shall be fined up

to two hundred dollars (\$200.00). On a second offense within one year after the first offense, such person shall be fined up to two hundred dollars (\$200.00). On the third and each subsequent offense thereafter within one year after the first offense, such person shall be fined up to five hundred dollars (\$500.00).

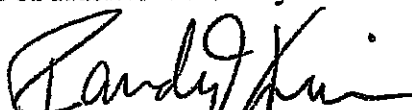
SECTION 6. This Resolution shall replace Resolution _____, which is hereby repealed.

SECTION 7. This Resolution shall be in full force and effect from and after its passage.

VOTE RECORD:

Mr. Kuvin Y Ms. Reed N Mr. Speidel Y

PASSED at the meeting of the Board of Trustees this 7th day of December, 2004.



Randy Kuvin, President



Barbara W. Reed, Vice President



Lee Speidel, Trustee

AUTHENTICATION

This is to certify that this Resolution was duly passed and filed with the Deerfield Township Clerk, this 7th day of December, 2004.



Kristin L. Kern-Spickerman, Clerk
Deerfield Township, Ohio

APPROVED AS TO FORM



R. Douglas Miller, Law Director