NOISE CONTROL RESOLUTION

Resolution No. 14-044 - July 17, 2014

Pleasant Township Trustees hereby resolve to adopt regulations and orders that are necessary to control noise within the unincorporated territory of Pleasant 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 the Pleasant Township Trustees declare there is a need for a Noise Control resolution in Pleasant Township;

Now, therefore, be it resolved by the Board of Trustees of Pleasant Township, Fairfield County, Ohio, that we, on behalf of its residents, do hereby adopt a Noise Control Resolution for the Township as follows:

Section 1 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 is so defined. 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 and 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 licenses by the Ohio Department of Natural Resources—Division of Wildlife unless said individual or individuals is/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-, Two-, or Multi-Family and any other designated residential area are so. defined.

Sections II Noise Disturbances Prohibited

A. Noise Disturbances

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.

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 durations 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.

It is prima facie unlawful for a person to generate or permit to generate or permit to be generated sound by the above described devices or instruments 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 shall also include use of objects usually employed for other purposes when used for the sole purpose of generating noise.

This Resolution shall not apply to noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.

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

Section III 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 Agency's policy for minor misdemeanor offenses.

Section IV Other Remedies

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

Section V 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 any emergency or for the performance of emergency work.

B. Organized school-related program activities or parades or other public programs, activities or events authorized by the Pleasant 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 1514.01 of the Ohio Revised Code, noise resulting from the drilling, completion, operation, maintenance, or construction of any crude oil or natural gas well or pipeline or any appurtenances to said well or pipeline 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 PM and 7:00 AM EST, 11:00 PM and 6:30 AM DST and Sundays before 10:00 AM.

F. Permitted hunting and target shooting.

Section VI 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 VII Penalty

A. Whoever violates any regulation or order adopted under this Resolution is guilty of a minor misdemeanor. Fines levied and collected under this Resolution shall be paid into the Township General Revenue Fund.

B. 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 and/or 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 reasonable attorney's fees limited to the work reasonably performed.

Motion by: Ms Moellendick **Seconded by:** Mr Horn

That the Resolution be adopted was carried by the following vote:

YEAS: 2 **NAYS:** 1 **ABSTENTIONS:** _____

Adopted: July 17, 2014

Pleasant Township Board of Trustees

James M. Snyder, Fiscal Officer