

BOARD OF TRUSTEES
KARL B. SCHULTZ
KENDAL A. TRACY
MARY MAKLEY WOLFF

FISCAL OFFICER
ERIC C. FERRY

ADMINISTRATOR
JEFFREY A. WRIGHT



MIAMI TOWNSHIP

6101 MELIER DRIVE • MILFORD, OH 45150-2189

ADMINISTRATION
248-3725
248-3730 (FAX)
COMMUNITY DEVELOPMENT
248-3731
SERVICE DEPARTMENT
248-3728
POLICE DEPARTMENT
248-3721
FIRE/EMS
248-3700
PARKS / RECREATION
248-3727

RESOLUTION 2018 - 52

The Board of Trustees of Miami Township, Clermont County, Ohio met in regular session at the Miami Township Civic Building on October 16, 2018 with the following members present: Mary Makley Wolff, Karl Schultz and Ken Tracy.

A motion was made to adopt the following Resolution:

RESOLUTION ESTABLISHING STANDARDS FOR THE REGULATION OF NOISE AND DECLARING AN EMERGENCY

WHEREAS, the Board of Trustees of Miami Township (the "Board") has received numerous complaints about noise in Miami Township (the "Township") that led to the adoption of a Resolution regulating noise; and

WHEREAS, the Board is empowered by Ohio Revised Code Sections 505.172 and 504.04 to control noise within the Township and exercise all powers of local government not in conflict with general law of the State of Ohio and to establish local police, sanitary and other regulations; and

WHEREAS, the Board passed Resolution 2003-25 (as amended) to regulate noise in Miami Township; and

WHEREAS, the Board also passed Resolution 2001-01, Resolution 2003-48, Resolution 2004-12 and Resolution 2004-39 related to the regulation of noise in the Township; and

WHEREAS, the Board now seeks to revise the standards that regulate noise in Miami Township.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Miami Township, Clermont County, Ohio by authority of Sections 505.172 and 504.04 of the Ohio Revised Code, as follows:

SECTION 1: No person shall generate or permit to be generated noise or loud sound which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of live performance, radio, phonograph, television, tape player, compact disc player, computer, loudspeaker, or any other sound amplifying device, or by operation of a motorized vehicle, machinery or equipment with an internal combustion engine, including but not limited to, trucks, passenger cars, motorcycles, dirt bikes, or all terrain vehicles when the sound emanating therefrom is plainly audible from the

complainants' property ("point of measurement"). It is *prima facie* unlawful for a person to generate or permit to be generated sound by the above described devices, instruments or means in the following circumstances:

- a) Received on all residential property where the sound is determined to exceed 65 decibels (dba) for a duration of 30 continuous seconds between the hours of 7:00 a.m. and 10:00 p.m. and 50 decibels (dba) between the hours of 10:00 p.m. and 7:00 a.m. as measured by a law enforcement officer from the point of measurement using a decibel recorder that has been calibrated to ensure accuracy.
- b) Received on all commercial property where the sound is determined to exceed 70 decibels (dba) for a duration of 30 continuous seconds between the hours of 7:00 a.m. and 10:00 p.m. and 60 decibels (dba) between the hours of 10:00 p.m. and 7:00 a.m. as measured by a law enforcement officer from the point of measurement using a decibel recorder that has been calibrated to ensure accuracy.
- c) Received on all industrial property where the sound is determined to exceed 75 decibels (dba) for a duration of 30 continuous seconds between the hours of 7:00 a.m. and 10:00 p.m. and 70 decibels (dba) between the hours of 10:00 p.m. and 7:00 a.m. as measured by a law enforcement officer from the point of measurement using a decibel recorder that has been calibrated to ensure accuracy.
- d) Received on a street, highway or in the public right-of-way where the sound is plainly audible approximately 150 feet from the device generating the sound in violation of the levels set forth in Section 1(a), 1(b) and 1(c) herein.
- e) Persons in possession of a current Township issued public assemblage permit are exempt from the provisions of this Resolution, but shall be limited to the time specified in the public assemblage permit.
- f) Any events or other activities sponsored by the Township are exempt from the provisions of this Resolution.
- g) All collection of solid waste, refuse and garbage within the limits of the Township shall be limited to the hours of 6:00 a.m. to 7:00 p.m. The Township Administrator, upon receipt of a written request, may set alternative time limits for specific streets, businesses or areas if the Administrator determines that waste collection within the permitted times poses a safety hazard on streets in the Township. In determining if a safety hazard exists, the Administrator shall consider whether the collection is on (a) a street with high traffic counts; (b) a street with a posted speed limit of 55 mph; (c) a street in which the geometric design creates a line of site obstruction; (d) a demonstrated conflict with school buses, or (e) other factors determined by the Administrator to pose a safety hazard.

SECTION 2: No person, being the owner, tenant or person in possession of a premises or person in control of the premises by reason of employment, agency or otherwise whether such ownership, possession or control is exclusive or joint, shall permit a violation

of this Resolution. A “person” for purposes of enforcement of this Resolution shall include any corporate entity.

- SECTION 3: The provisions of this Resolution shall not apply to any law enforcement motor vehicle in the performance of law enforcement duties or to any emergency vehicle in the performance of any emergency procedures. Furthermore, the provisions of this Resolution do not apply to the noise made by a horn, siren or other warning device required or permitted by state or federal law. Furthermore, the provisions of this Resolution shall not apply to the noise made by any motorized equipment that is used in the reasonable performance of the usual and customary maintenance or other activities associated with road work, repairs or maintenance, parks and recreation facilities, schools, churches, cemeteries and golf courses.
- SECTION 4: Persons involved in lawful and temporary construction project may apply for exceptions from Section 1 if approved by the Township Administrator or Chief of Police.
- SECTION 5: The provisions of this Resolution shall not apply to equipment being used to mow or cut lawns or being used for the maintenance and care of lawns or landscaping.
- SECTION 6: The provisions of this Resolution shall not apply to any person or entity engaged in coaling 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.
- SECTION 7: All agricultural activities as defined in Section 1.61 of the Ohio Revised Code shall be exempt from this Resolution.
- SECTION 8: Any and all complaints under this Resolution shall be made in writing and signed by the complainant or law enforcement officer. A warning may be issued for a first offense or based on the facts and circumstances present. All violations issued under this Resolution shall be cited to Clermont County Municipal Court and prosecuted by the Township Law Director.
- SECTION 9: As used in this section, “plainly audible” means any sound produced by any means in Section 1 herein when the sound emanating therefrom can be clearly heard by a person using their normal hearing faculties, at the point of measurement. The officer or person must be able to determine with a reasonable degree of certainty and hear the source that is producing the sound so that the officer or person can readily identify the offending person and the distance involved.
- SECTION 10: Consistent with Section 505.172 of the Ohio Revised Code, any violation of this Resolution shall be a misdemeanor of the second degree subject to a fine of no less than \$150.00. Each violation thereafter shall be subject to a fine of \$500.00 for the second violation, and \$750.00 for each violation thereafter. Fines levied and collected under this Resolution shall be paid into the Township General Revenue Fund.

SECTION 11: This Resolution is declared to be an emergency measure necessary for the preservation of the health, safety and well-being of the residents of the Township for the reason that it is needed to ensure quality of life through the regulation of noise in the Township.

SECTION 12: This Resolution shall replace and supersede Resolution 2001-01, Resolution 2003-25 (as amended), Resolution 2003-48, Resolution 2004-12 and Resolution 2004-39.

SECTION 13: That this Board hereby finds and determines that all formal actions relative to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of its Committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

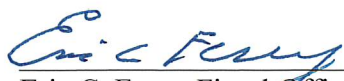
SECTION 14: This Resolution shall take effect upon passage.

This motion was seconded and the resolution was unanimously adopted.

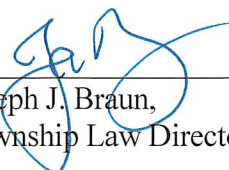
First Reading:	<u>October 16, 2018</u>
Second Reading:	<u>Dispensed with</u>
Effective:	<u>October 16, 2018</u>

Resolution 2018-52 adopted October 16, 2018

ATTEST:


Eric C. Ferry, Fiscal Officer

APPROVED AS TO FORM:


Joseph J. Braun,
Township Law Director

CERTIFICATION

I, Eric C. Ferry, Fiscal Officer of Miami Township, do hereby certify that the foregoing is taken and copied from the Record of the Proceedings of Miami Township; that the same has been compared by me with the Resolution of said Record and that it is a true and correct copy thereof.


Eric C. Ferry, Fiscal Officer