

POLAND TOWNSHIP

RESOLUTION NO.

24-17

**A RESOLUTION TO REGULATE NOISE WITHIN THE UNINCORPORATED TERRITORY
OF POLAND TOWNSHIP, MAHONING COUNTY, OHIO
PURSUANT TO OHIO REVISED CODE SECTION 505.172**

The Poland Township Board of Trustees, Mahoning County, Ohio **met** in Regular Session at the Poland Township Government **Center** on **the** 12th day of June, 2024, with the following members present: Edward Kempers, Eric Ungaro, and **Joanne Wollet**.

Motion **was** made by Trustee
UNGARO

to approve **the** following
Resolution:

PREAMBLE

WHEREAS, it is the opinion of **the** Poland Township Board of Trustees (the Board) that unnecessary noise 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 in **the** unincorporated areas Poland Township, Mahoning County, Ohio (**the** "Township") is detrimental to the public health, safety and welfare of residents and constitutes a public nuisance; and

WHEREAS, the Board also recognizes **that** certain levels of noise are unavoidable; and

WHEREAS, it is the opinion of the Board that **the** elimination of noise beyond that which is essential to everyday living is **beneficial** to all residents of the Township; and

WHEREAS, it is the intent of this Resolution to prohibit **noise** that is unnecessary in any premises to which a D permit has been **issued** by **the** Ohio Division of Liquor Control or any areas zoned for residential use in the unincorporated areas of the Township; and

WHEREAS, Section 505.172 of the Ohio Revised Code **authorizes** a board of township-trustees to adopt regulations and orders that are necessary to control noise within the unincorporated territory of a 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 area **zoned** for residential use, and

WHEREAS, the Board believes it is in the best interest of the residents of the Township to adopt regulations and orders to govern and control noise in the Township.

BE IT RESOLVED by the Board of Trustees of Poland Township, Mahoning County, Ohio, that:

(A)

DEFINITIONS

Plainly Audible - As **used** in **this** Resolution, Plainly Audible means any noise or sound produced by any source that can be clearly heard by a person using normal hearing faculties.

(B)

CERTAIN NOISE PROHIBITED

No

person in the unincorporated territory of Poland Township shall make and no landowner or lawful occupant of land shall permit at any premises **to** which a D permit has been issued by the Division of Liquor Control or that is **zoned** for residential use, the making of any noise or sound, which by reason of volume, pitch, frequency, intensity, duration, or nature annoys or disturbs **the** comfort, peace, or health of a person of ordinary sensibilities and not a resident of **the** property from which the noise or sound emanates. **The** noise or sound must **be** Plainly Audible at a distance of one hundred (100) feet or more from the property from which the noise emanates.

(C

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EXAMPLES OF NOISES

The following noises or sounds, which constitute a non-exclusive list, may be considered a violation of **this** Resolution if **they** violate division (B) of this Resolution:

(D)

1.

2.

Horns and/or Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any public street or public place; a creation by means of any such signaling unreasonably of any such signaling unreasonably loud **or** harsh sound; and the sounding of any such device for any unnecessary and unreasonable length time. This shall not apply to the use of any such signaling device as a warning of danger. Radios and/or Phonographs: Etc. **The** use or operation of any radio, phonograph, television, tape recorder, loudspeaker, cassette or compact disc player or any other machine or device for the producing or reproducing of sound or amplifying sound with louder volume that is necessary for convenient hearing for **the** person or persons who are in the room, vehicle, or on the property in which such machine or device is operated and who are voluntary listeners thereto.

3. Yelling and/or Shouting. Yelling, shouting, hooting, whistling, or singing.

4. Musical Instruments. The use of any drum or other musical instrument or device with **or** without electronic

amplification.

5. Internal Combustion Engines or Other Power Equipment. The operation of any internal combustion engine or other piece of power equipment during the hours of 11:00 **P.M.** to 7:00 A.M., but excluding generators (during power outages) or other related emergency situations.

6. Fireworks. Noise from fireworks outside the dates and times permitted by Section 3743.45 of the Ohio Revised Code is prohibited

EVIDENCE

It shall be a prima facie violation of division (B) of this Resolution **when** the noise can be heard at a distance of one hundred (100) feet or more from the property where the noise or sound emanates.

(E)

NOISE FROM MOTOR VEHICLES

No person while operating **or** occupying a motor **vehicle** within the unincorporated territory of Poland Township within any area zoned for residential use, or at any premises **to which** a D permit **has** been issued by the Ohio Division of Liquor Control, shall operate or amplify the noise **or** sound produced by a radio, tape player, or other sound making device or instrument from within the motor vehicle **so that the noise or sound is Plainly Audible at a distance of one hundred (100) feet or more** from the motor vehicle.

(F)

OFFICIAL USE EXEMPTIONS

The provisions of this Resolution shall not apply:

(G)

1. To any law enforcement motor vehicle equipped with any communication device

necessary to the performance of law enforcement duties or to any emergency vehicle equipped with any communication **device** necessary to the performance of any emergency procedures.

2. To the noise or sound made by a horn or other warning device required or permitted by

state law, when used in accordance with state law.

LAW ENFORCEMENT DETERMINATION OF SOURCE

Any law enforcement officer as that term is defined by Section 505.172 of the Ohio Revised Code, including but not limited to Poland Township Patrol Officers, are hereby granted the authority to enforce this Resolution. Any law enforcement officers, who hear a sound that is Plainly Audible as defined herein, shall be entitled to measure the sound according to **the** following standards:

1. The primary means of detection shall **be** by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device (i.e. a hearing aid).

(H)

2. Regarding division (E) of this Resolution, the officer must have a direct line of sight and hearing to the motor vehicle producing the noise or sound so that **he** can readily identify the offending motor vehicle and the distance involved.
3. The officer need not determine any particular words or phrases being produced or **the** name of any song or artist producing the sound. The detection **of** a noise, sound, or rhythmic bass reverberating type sound is sufficient to constitute a Plainly Audible sound.
4. Any motor vehicle from which the sound is produced must be located (stopped, standing, or moving) within the unincorporated area of the township in an area zoned for residential use or any premises to which a D permit has been issued by **the** Division of Liquor Control. Parking lots and driveways are included.

EXEMPTIONS

1. Any person engaging in activities described in Section 1.61 of the Ohio Revised Code (Titled: "Agriculture defined") is exempt from the provisions of this Resolution if **the noise is** attributed to an activity described in section 1.61 of the Ohio Revised Code.
2. 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, is exempt from **the** provisions of this Resolution if the noise is attributed to coal mining and reclamation or surface mining activities.

3. Noise resulting from the 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 is exempt from the provisions of this Resolution.

4. Nothing in this Resolution shall be deemed to prohibit incidental noise such as that **as is** made by construction operations, repairs, or maintenance of houses **or** yards.

5. Noise resulting from organized school-related events such as sporting events, parades **or** other school sanctioned programs is exempt from the provisions of this Resolution.

6. Noise resulting from permitted hunting and trapping by individuals, on designated public hunting lands, with **the** proper license required by the Ohio Department of Natural Resources, or having the written permission of a private landowner, are exempt from the provisions of this Resolution.

7.

(I)

Noise resulting from civic and neighborhood events that are authorized by the Board of Poland Township Trustees or its designee, such as block parties and church-sponsored events, are exempt from the provisions of this Resolution. This exemption shall only be in place during the approved hours of **the** event as determined by the Board of Trustees, in their sole and absolute discretion.

PENALTY

Pursuant to Section 505.172 of the Ohio Revised Code, whosoever violates divisions (B) or (E) of this Resolution shall be guilty of a misdemeanor of the second degree. Fines levied and collected pursuant to this Resolution shall be paid into the Poland Township general revenue fund.

CIVIL ACTION

(J)
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Pursuant to Section 505.172 of **the** Ohio Revised Code, any person aggrieved by another person's violation of this regulation may **seek** in a civil action a declaratory judgment, an injunction, or other appropriate relief against the other person for committing an act or practice that violates this Resolution. In addition, the Board of Trustees may also **seek** in a civil action an injunction against each person that commits an act or practice that violates this Resolution. A court involved in any civil action concerning a violation of this Resolution may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.

(K) **CEASE AND DESIST**

Pursuant of Section 505.172 of **the** Ohio **Revised Code**, a **law enforcement** officer having jurisdiction within the Township and having **reasonable cause** that any premises to which a D permit has been issued by **the** Division of Liquor Control has violated this Resolution and, as a result of **this** violation, **has** caused, is causing, or is about to cause substantial and **material** harm, the law enforcement officer **may** issue an order that **the** premises **cease and desist** from the activity violating this Resolution. Any **cease and desist** order **shall** be **issued in** accordance with the requirements of Section 505.172 of the Ohio Revised Code.

(L)

ADOPTION

All formal actions of this Board concerning and relating to the passage of this Resolution **were** adopted in an open meeting of **the** Board, and all deliberations of the Board and of any of its committees that resulted in such formal action **were** in meetings open **to the** public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Trustee **WOUBT**

adoption, the vote resulted as **follows**:

seconded the Resolution and **the** roll being called upon
its

AYE

NAY

Mr. Kempers

Mr. Ungaro

Ms. Wollet

BY ORDER OF THE POLAND TOWNSHIP BOARD OF TRUSTEES, MAHONING COUNTY,

OHIO:

Edward Kempets

Erie
Ungaro

Wine Wount

Joanne Wollet

ADOPTED the 12th day of June, 2024

Paul J. **Canter**
Fiscal Officer