

Resolution No. 5/12/03

WHEREAS, Amherst Township is an increasingly urbanized township and complaints of noise disturbances are increasing due to increased population density,

WHEREAS, the Sheriff's Department has requested legislative aid in handling and resolving those complaints,

WHEREAS, per O.R.C. 505.172, "a board of township trustees may adopt regulations and orders that are necessary to control noise within the unincorporated territory of the 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",

WHEREAS, the Board of Trustees of Amherst Township deems that such regulation is necessary to preserve the public health, safety, welfare, and peace and to ensure the enjoyment of property rights,

WHEREAS, it is hereby found and determined that all formal actions of this board concerning and relating to the passage of this resolution were adopted in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code,

NOW THEREFORE BE IT RESOLVED by the Board of Trustees of Amherst Township, Lorain County, Ohio, the following resolution:

NOISE CONTROL RESOLUTION

- I. No person shall make, generate, cause or permit to be made, generated, or caused any noise disturbance within any area zoned for residential use or at any premises to which a D permit has been issued by the division of liquor control within the unincorporated territory of Amherst Township.
- II. Definitions.
The following terms and phrases are defined as used in this resolution.
 - A. Plainly Audible – Any sound which clearly can be heard by normal, unimpaired, auditory senses. Words and phrases need not be discernible and said sound shall include bass reverberations.
 - B. Sound System – Any radio, television, stereo, "boom box", tape player, compact disc player, loud speaker, megaphone, or other electronic devices used for the amplification or conveyance of human voice, music, or other sound.

- III. Noise disturbances in violation of this resolution shall include but are not limited to the following:
- A. Any sound or noise which causes annoyance, inconvenience, or disturbance to a person of ordinary sensibilities.
 - B. On private property, any sound or noise which is likely to cause annoyance, inconvenience, or disturbance to a person of ordinary sensibilities by means of a sound system, musical instruments, or a sound system in a motor vehicle on said property, which is plainly audible to a person standing at a distance of fifty (50) feet or more from the source of said sound or noise. Musical instruments include but are not limited to drums, guitars, pianos, and organs.
 - C. On public right-of-ways, parks, parking lots and other public places, any sound or noise which is likely to cause annoyance, inconvenience, or disturbance to a person of ordinary sensibilities by means of a sound system or a sound system in a motor vehicle which is plainly audible to a person standing at a distance of fifty (50) feet or more from the source of said sound or noise.
 - D. On private property, any sound or noise which is likely to cause annoyance, inconvenience, or disturbance to a person of ordinary sensibilities by means of the off-road operation of a motor vehicle or motor vehicles which is plainly audible to a person standing at a distance of fifty (50) feet or more from the property line of the property from where the sound or noise is generated. Motor vehicles include but are not limited to motorcycles, all-terrain vehicles (ATV's), snowmobiles, automobiles, and trucks. Noise or sound from the off-road operation of a motor vehicle engaged in construction, maintenance, or repair of the property is not included.
 - E. On private property, any sound or noise which is likely to cause annoyance, inconvenience, or disturbance to a person of ordinary sensibilities by means of the off-road operation of a motor vehicle or motor vehicles engaged in the construction, maintenance, or repair of property between the hours of 10:00 p.m. and 7:00 a.m. the following day, except when that construction maintenance, or repair is of an emergency nature or snow removal, which is plainly audible to a person standing at a distance of fifty (50) feet or more from the property line of the property from where the noise or sound originates.
 - F. Any sound or noise generated between the hours of 10:00 p.m. and 7:00 a.m. the following day by means of:
 - 1.) The operation of power or manual tools including but not limited to hammers, saws, drills, sanders, grinders, and wrenches, except in emergencies,
 - 2.) The operation of power lawn tools including but not limited to lawnmowers, trimmers, and chainsaws, except in emergencies or snow removal,
 - 3.) The handling of construction materials, except in emergencies, that is plainly audible to a person standing at a distance of fifty (50) feet or more from the source of the noise or sound.

- G. The repeated sounding of any horn, bell, or other signal or warning device on any motor vehicle, except as a danger or warning signal.
 - H. Any noise or sound caused by the racing motor of a motor vehicle, agriculture tractor, motorcycle, all purpose vehicle, snowmobiles, motorcycle, or all-terrain vehicle (ATV), in such a manner that the exhaust system emits a loud, cracking or chattering noise or sound unusual to its normal operation.
- IV. Any law enforcement officer or person who hears a sound or noise that is plainly audible as herein described shall be entitled to measure the sound according to the following standards.
- A. The primary means of detection shall be by means of the officer's or person's ordinary auditory senses, so long as the officer's/person's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid.
 - B. The officer or person must have a direct line of sight and hearing to the source that is producing the sound so that the officer or person can readily identify the offending person and the distance involved.
- V. Exemptions
- A. Agriculture – any person who engages in any of the activities described in Section 1.61 of the Ohio Revised Code is exempt from regulation or order adopted under this resolution.
 - B. 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 regulation or order adopted under this resolution.
 - C. With the exception of any business operating at any premises to which a D permit has been issued by the division of liquor control, no regulation or order adopted under this resolution shall apply to any business or industry in existence and operating on the effective date of this resolution, except that a regulation or order so adopted shall apply to any new operation or expansion of that business or industry that results in substantially increased noise levels from those generated by that business or industry on the effective date of this resolution.
 - D. The following are also exempt from regulation and order under this resolution.
 - 1.) Emergency and public safety officials, employees, and vehicles acting in discharge of their duties.
 - 2.) Township, County, State, and Federal officials, employees, and vehicles acting in discharge of their duties.
 - 3.) Public utilities and refuse companies and their employees acting in discharge of their duties.
 - 4.) Any activity or event that is approved by the Board of Trustees.
 - 5.) Non-commercial public speaking and public assembly activities conducted on public space or public right-of-way.

6.) Contractors performing maintenance, repair, and construction on township, county, and state roads.

VI. The effective date of this resolution shall be June 1, 2003.

VII. Whoever violates this resolution shall be guilty of a minor misdemeanor. Fines levied and collected under this resolution shall be paid to the township general revenue fund.

Motion: Urig

Second: Lynch

Roll Call: Lynch – yes

Urig – yes

Abraham – absent