

**DANBURY TOWNSHIP BOARD OF TRUSTEES
OTTAWA COUNTY, OHIO**

Resolution # 011007-1

**A RESOLUTION TO CONTROL NOISE WITHIN THE
UNINCORPORATED TERRITORY OF DANBURY TOWNSHIP**

Under continuing law a board of township trustees may adopt regulations and orders that are necessary to control noise within the township's unincorporated territory that is generated at any premises to which a D liquor permit has been issued or that is generated within any areas zoned for residential use. Therefore, this resolution is adopted, with appropriate changes made by H.B. 385 that became effective September 21, 2006, to control noise within the township's unincorporated territory that is generated at any premises to which a D liquor permit has been issued regardless of whether the premises was in existence and operating on October 20, 1999 or whether it came into existence and operation after that date or that is generated within any areas zoned for residential use that is generated by any business or industry in existence and operating on October 20, 1999 (except those exempt under section 505.172 of the Ohio Revised Code) and in any D permit premises regardless of whether the premises was in existence and operating on October 20, 1999 or whether it came into existence and operation after that date.

BE IT RESOLVED by the Township Trustees of Danbury Township:

1. This resolution applies to the unincorporated territory of the Township and is adopted pursuant to the authority granted in Ohio Revised Code Section 505.172.
2. This resolution applies to noise of any kind generated at any premises to which a D liquor permit has been issued by the Division of Liquor Control regardless of whether the premises was in existence and operating on the effective date of the last amendment to the law (October 20, 1999) or whether it came into existence and operation after that date. This resolution also applies to any other business or industry in existence and operating on that date (except those exempt under section 505.172 of the Ohio Revised Code).
3. No person shall do any of the following:
 - a. Operate or permit the operation of any sound amplification system or device, musical instrument, human voice or any kind of noise emanating from or generated by motor vehicles, exclusive of emergency and police vehicles, which can be heard outside the boundaries of said premises from a distance of one hundred (100) feet or more.

8. 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. Any law enforcement personnel who hears a sound that is plainly audible 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 ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device such as a microphone or hearing aid.
 - b. In the case of a motor vehicle 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.
 - c. The officer need not determine any particular words or phrases being produced or the name of any song or the artist producing the sound. The detection of a noise, sound, or rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.
 - d. 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 on any premises to which a D permit has been issued by the Division of Liquor Control including parking lots and driveways.
9. Whoever violates this resolution adopted under division (A) of section 505.172 of the Ohio Revised Code is guilty of a minor misdemeanor. Fines levied and collected under this section shall be paid into the township general revenue fund. Each time the resolution is violated will constitute a minor misdemeanor. Law enforcement officers may issue a cease and desist order in accordance with section 505.172 of the Ohio Revised Code.
10. Any person allegedly aggrieved by another person's violation of this resolution adopted under division (A) of section 505.172 of the Ohio Revised Code may seek in a civil action, a declaratory judgment, an injunction, or other appropriate relief against the other person for committing the act or practice that violates this resolution. The court involved in the civil action may award to the prevailing party reasonable attorneys' fees limited to the work reasonably performed.
11. The Board of Township Trustees may seek in a civil action an injunction against each person that commits an act or practice that violates this resolution.
12. That the foregoing regulations and orders are necessary for the preservation of peace and good order of the community.

13. No citation or complaint may be made under this resolution unless one of the following applies:

- a. The noise is generated on a Friday, Saturday, Sunday, national holiday, or day prior to a national holiday between the hours of 11 p.m. and 7 a.m., and/or exceeds 65 decibels.
- b. The noise is generated on a Friday, Saturday, Sunday, national holiday, or day prior to a national holiday between the hours of 7 a.m. and 11 p.m. and/or exceeds 75 decibels.
- c. The noise is generated on any other day between the hours of 10 p.m. and 7 a.m. and/or exceeds 65 decibels.
- d. The noise is generated on any other day between the hours of 7 a.m. and 10 p.m. and exceeds 75 decibels.

Ms. Rozak moved to adopt the Resolution. Second by Mr. Hirt. Vote resulted as follows: Mr. Hirt-yes; Mr. Englebeck-yes; Ms. Rozak-yes. Motion carried.

CERTIFICATE

State of Ohio, Ottawa County

I, the undersigned Fiscal Officer of Danbury Township, Ottawa County, Ohio, certify that the foregoing is taken and copied from the Record of the Proceedings of said Board for a regular meeting held January 10, 2007; that it has been compared by me with the Resolution on said Records and that it is a true and correct copy thereof.

Date: _____

Rhonda I. Botti, Fiscal Officer