

1 Noise

**HALL LAW FIRM**

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July 20, 2010

Mr. Ty Hauritz, Esq.  
Canton Municipal Prosecutor's Office  
218 Cleveland Avenue South  
Canton OH 44702

Chief Rick Perez  
Stark County Sheriff Department  
4800 Atlantic Boulevard  
Canton OH 44702

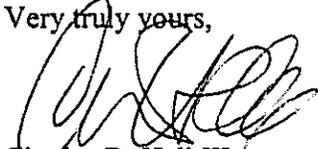
RE: Canton Township Noise Control Ordinance

Dear Mr. Hauritz and Chief Deputy Perez:

Enclosed is a copy of the nuisance noise resolution adopted by the Canton Township Board of Trustees on July 13, 2010. This Resolution is specifically authorized by Ohio Revised Code section 505.172. Pursuant to RC 505.172(E) a violation of this Resolution is a second degree misdemeanor.

If you have any questions or concerns do not hesitate to contact me.

Very truly yours,



Charles D. Hall III

CDH:ch  
Enclosure

**RESOLUTION NO: 07-01-10**

**A resolution to control and regulate nuisance noise conditions within all residential districts, or upon any residential premises, of the unincorporated areas of Canton Township, Stark County, or upon any premises to which a "D" liquor permit has been issued by the Division of Liquor Control, and to make same a misdemeanor criminal offense pursuant to ORC 505.172.**

The Board of Trustees of Canton Township, Stark County, Ohio met in a Regular Meeting on the 13<sup>th</sup> day of July, 2010, at 7:00 P.M., with the following members present:

Christopher B. Nichols

William C. Smith

James A. Wilcox

Mr. Smith moved the adoption of the following resolution:

WHEREAS, on June 3, 2008 the Canton Township Board of Trustees, pursuant to the authority of Ohio Revised Code section 955.221, previously adopted Resolution 06-01-08, a resolution to regulate and control nuisance conditions created by barking dogs; and,

WHEREAS, on June 3, 2008 the Canton Township Board of Trustees, pursuant to the authority of Ohio Revised Code sections 505.17 and 4513.221, previously adopted Resolution 06-02-08, a resolution to control loud noises from motor vehicles; and,

WHEREAS, residents have complained and request a general noise nuisance resolution to control nuisances caused by loud noises within any residential zone or on any property used as a residence within the unincorporated areas of Canton Township, Stark County, Ohio; and,

WHEREAS, it is the opinion of the Canton Township Board of Trustees that unnecessary and excessive noise on any residential property within Canton Township, Stark County, is detrimental to the public health, safety and welfare; and,

WHEREAS, it is the intent of the Canton Township Board of Trustees to regulate, limit and control noise that causes a nuisance or disturbance to persons residing within Canton Township, Stark County; and,

WHEREAS, Ohio Revised Code section 505.172 specifically authorizes a board of township trustees to adopt regulations and orders that are necessary to regulate, limit and control noise within the unincorporated areas of the township that is generated within any areas zoned or used for residential purposes, and or from any premises to which a "D" liquor permit has been issued by the Ohio Division of Liquor control; and

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NOW, THEREFORE, BE IT RESOLVED by the Canton Township Board of Trustees, Stark County, as follows:

**A. DEFINITIONS:**

Plainly Audible. As used within this resolution, plainly audible means any noise or sound produced by any source that can be clearly heard by a person with ordinary hearing abilities.

**B. NOISES PROHIBITED:** Within all residential districts, or upon any residential premises, of the unincorporated areas of Canton Township, Stark County, or upon any premises to which a "D" liquor permit has been issued by the Division of Liquor Control, no person shall make, and no landowner or occupant of such premises or areas shall permit the making of, any noise or sound, which by reason of volume, pitch, frequency, intensity, duration, or nature annoys or disturbs the comfort, peace, quiet enjoyment 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 shall be plainly audible at a distance of one hundred (100) feet or more from the property from which the noise emanates.

**C. EXAMPLES OF PROHIBITED NOISE:**

1. Horns, bells, whistles, or other signaling devices. The sounding of any horn, bell, whistle, or other signaling devices on any motor vehicle, construction vehicle or any motorized transportation or off-road equipment, on any public street or private property; a creation by means of such signaling is unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary or unreasonable length of time. This section shall not apply to the use of any horn, bell, whistle, or other signaling devices as a danger warning.
2. Music: The playing of or permitting to be played, including but not limited to musical instruments, radios, televisions, any other type of sound transmitting device (i.e., digital reproduction, compact disc, cassette, players or other machine or device for the producing or reproducing of or amplifying of sounds), that disturbs the quiet, comfort or repose of neighboring inhabitants between the hours of 11:00 p.m. and 7:00 a.m. on Sunday through Thursday, inclusive and the hours of 12:00 a.m. (midnight) and 7:00 a.m. on Friday and Saturday, inclusive.
3. Voice: Yelling, shouting, screaming, singing on or at any time or place so as to annoy or disturb the peace and quiet of any other person.
4. Engines or power equipment: No engine, internal combustion engine, or power equipment, that is in violation of this Resolution, may be operated between the hours of 11:00 p.m. and 7:00 a.m.

**D. PRIMA FACIE VIOLATION:** It shall be a prima facie violation of section B of this resolution when the noise can be heard at a distance of one hundred (100) feet or more from the property from which the noise or sound emanates.

**E. NOISE FROM MOTOR VEHICLES:** No person while operating or occupying any motor vehicle within the unincorporated areas of Canton Township that are zoned as a residential district or used as a residential property or at any premises to which a D permit has been issued by the division of liquor control shall operate the motor vehicle, its audio devices (radio, cassette player, CD player, DVD player, or other similar sound generating device) so that the noise or sound is plainly audible at a distance of one hundred feet or more from the motor vehicle.

**F. LAW ENFORCEMENT DETERMINATION OF SOURCE.** Any law enforcement personnel who hear a sound that is plainly audible as define herein shall be entitle to measure the sound according to the following standards:

1. The primary means of detection shall be by means of the officers' ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device such as a microphone or hearing aid.
2. Regarding section 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 word or phrase being produced or the name or artist of any song; the detection of the noise, sound, or rhythm or beat reverberating type sound shall be sufficient to constitute a plainly audible sound.
4. Any motor vehicle from which the sound is produced must be located within the unincorporated area of Canton Township and in an area zoned as a residential district, used as a residential property or at any premises to which a D permit has been issued by the division of liquor.

**G. PENALTY.** Pursuant or RC 505.172(E) whoever violates this resolution is guilty of a misdemeanor of the second degree (M2). Fines levied and collected under this section shall be paid into the township general revenue fund.

BE IT FURTHER RESOLVED, that the Canton Township Fiscal Officer, as the records custodian for the Canton Township Board of Trustees is hereby directed and instructed to send a certified copy of this resolution to the Clerk of the Canton Municipal Court and to the City of Canton Municipal Prosecuting Attorney.

BE IT FURTHER RESOLVED, that the Canton Township Fiscal Officer, as the records custodian for the Canton Township Board of Trustees is hereby directed and instructed to send a certified copy of this resolution to the Stark County Sheriff as the chief law enforcement officer of Canton Township, Stark County.

Mr. Nichols seconded the motion and upon roll call, the vote resulted as follows:

WILLIAM C. SMITH	<u>YES</u>
CHRISTOPHER B. NICHOLS	<u>YES</u>
JAMES A. WILCOX	<u>YES</u>

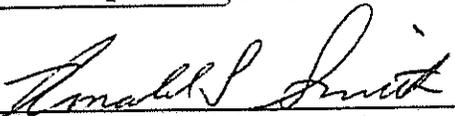
ADOPTED: July 13, 2010.

CERTIFICATE OF CLERK

State of Ohio            )  
                                   )  
 County of Stark        )        ss:

I, Ronald L Smith, Fiscal Officer and Clerk of the Board of Trustees of Canton Township, Stark County, Ohio, in whose custody and control the files and records of said Board are required by the laws of the State of Ohio to be kept, do hereby certify that the foregoing is taken and copied from the original resolution now on file, and that the foregoing has been compared by me with said original resolution, and that the same is a true and correct copy thereof.

WITNESS my signature this 13th day of July, 2010.

  
 \_\_\_\_\_  
 Ronald L. Smith, Fiscal Officer and  
 Clerk of the Board of Trustees of  
 Canton Township, Stark County, Ohio

Approved as to form and legal sufficiency by Charles D. Hall III, Additional Legal Counsel to the Canton Township Board of Trustees.

 7/13/2010  
 \_\_\_\_\_  
 Charles D. Hall III (0017316)

IN THE CANTON MUNICIPAL COURT  
STARK COUNTY, OHIO

STATE OF OHIO ex rel  
CANTON TOWNSHIP

CASE NO.: \_\_\_\_\_

VS.

\_\_\_\_\_  
NAME

\_\_\_\_\_  
ADDRESS

COMPLAINT  
EXCESSIVE NOISE IN A RESIDENTIAL AREA, ON A RESIDENTIAL PREMISES  
OR ON AN ESTABLISHMENT THAT HAS BEEN ISSUED A CLASS D LIQUOR PERMIT  
CANTON TOWNSHIP ZONING RESOLUTION 2010-07-13

Before me, \_\_\_\_\_, a Notary Public / Law Enforcement Officer, personally came  
\_\_\_\_\_ of the Stark County Sheriff's Office, who being duly sworn according to law,  
deposes and states that he has knowledge that the above named individual is in violation of Canton Township  
Resolution 2010-07-13 in the Township of Canton, Stark County, Ohio, and is the individual who did violate Canton  
Township Resolution No. 2010-07-13, which states in pertinent part, as follows;

NOISES PROHIBITED: Within all residential districts, or upon any residential premises, of the  
unincorporated areas of Canton Township, Stark County, or upon any premises to which a "D" liquor  
permit has been issued by the Division of Liquor Control, no person shall make, and no landowner or  
occupant of such premises or areas shall permit the making of , any noise or sound, which by reason of  
volume, pitch, frequency, intensity, duration, or nature annoys or disturbs the comfort, peace, quiet  
enjoyment 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 shall be plainly audible at a distance of one hundred (100) feet  
or more from the property from which the noise emanates.

Said person is in violation of said Resolution, to wit:

In violation of Canton Township Resolution 2010-07-13 and Ohio Revised Code Section 505.172.

Signed \_\_\_\_\_  
Address \_\_\_\_\_

\_\_\_\_\_  
Telephone \_\_\_\_\_

Sworn to and signed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public / Law Enforcement Officer

\_\_\_\_\_  
Notary Public Expiration Date