THE VILLAGE COUNCIL OF

ROCHESTER, OHIO

ORDINANCE NO. \_\_\_\_\_\_\_ INTRODUCED BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AN ORDINANCE ENTITLED:

UNREASONABLE NOISE AND LOUD SOUNDS

WHEREAS: Under Ohio Revised Code §715.49, the Village of Rochester has been granted the statutory authority to prevent noise and disturbance, so as to preserve the peace and good order, and protect the property of the Village and its inhabitants; and

WHEREAS: The Village has received complaints of unreasonable noise and loud sounds which disturb the peace and good order of the Village and impact the quiet enjoyment of property of the Village and its inhabitants; and

WHEREAS: It is therefore necessary to amend the Codified Ordinances of the Village of Rochester to provide for this Ordinance; and

WHEREAS: Council desires to provide for this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ROCHESTER, COUNTY OF LORAIN AND STATE OF OHIO, THAT:

The Codified Ordinances of the Village of Rochester are hereby amended to include:

UNREASONABLE NOISE AND LOUD SOUNDS

Article I.

1. No person shall generate or permit to be generated unreasonable noise or loud sound which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of:
	1. A radio, television, loudspeaker or any other sound amplifying device; or
	2. by any horn, drum, piano or other musical or percussion instrument; or
	3. by any signaling devices on any automobile, motorcycle or other vehicle for unnecessary reasons or for an unreasonable amount of time unless using the signaling device as a warning of danger; or
	4. The operation of any internal combustion engine or other piece of power equipment, excluding lawn mowers, garden tractors, trimmers, generators, chain saws or tillers operated between the hours of 8:00 a.m. and 9:00 p.m.
	5. Persons disturbing the good order and quiet of the Village by clamors or noises, by intoxication, drunkenness, fighting, quarrelling, wrangling, committing assault, assault and battery, using or using obscene language to the annoyance of Village inhabitants not located on the property from which the noise emanates.
2. It is prima facie unlawful for a person to generate or permit to be generated sound by the above described devices, instruments, vehicles or power equipment or behaviors in the following circumstances:
	1. On private property between the hours of 9:00 p.m. and 8:00 a.m. of the following day, regardless of existing nonconforming use or variance, where the sound is plainly audible more than one hundred (100) feet from the property line of the property on which the source of the sound is located;
	2. On a street, highway or in the public right-of-way where the sound is plainly audible one hundred (100) feet from the device generating the sound. Persons in possession of a current parade permit or a current loudspeaker permit are exempt from the provisions of this subsection.
	3. For the purposes of this Ordinance, “plainly audible” means any sound or noise produced by any source that can be clearly heard by a person using normal hearing faculties.
3. No person, being the owner, 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 Ordinance.
4. Whoever violates this Ordinance is guilty of generating unreasonable noise and a minor misdemeanor. If the offender persists in generating or permitting to be generated unreasonable noise after reasonable warning or request to desist, generating unreasonable noise is a misdemeanor of the fourth degree.
5. In any violation of this Ordinance involving sound equipment in a motor vehicle, both the sound equipment and the motor vehicle are hereby deemed contraband and subject to seizure and forfeiture under Ohio Revised Code §§ 2933.41 through 2933.43.
6. Exemptions.
	1. Law enforcement motor vehicles equipped with communication devices necessary to the performance of law enforcement duties or any emergency vehicles equipped with communication devices necessary to the performance of emergency procedures are exempted from the provisions of this Ordinance.
	2. Warning and alarm devices which have the purpose of signaling unsafe or dangerous situations or calling for police are exempted from the prohibitions of this Ordinance when used for such purposes.
	3. Any person engaging in activities described in Ohio Revised Code §§1.61 and 519.01 (agricultural activities), so long as the noise is attributed to activities described therein.
	4. Noise resulting from the drilling, completion, operation, maintenance or construction of gas wells or pipelines to those wells are exempted from the provisions of this Ordinance.
	5. Noise resulting from organized school-related events, parades or other Village civic programs or church sponsored events are exempt from the provisions of this Ordinance during the approved hours for the event, as communicated in advance by the event organizer to the Lorain County Sheriff’s Department.
	6. Noise resulting from permitted hunting and trapping by individuals on permitted properties with proper licensing from the Ohio Department of Natural Resources are exempt from the provisions of this Ordinance.
	7. Duly authorized shooting ranges, as defined by Ohio Revised Code §1533.83, during normal operating hours, so long as the shooting range is in compliance with Ohio Administrative Code provisions adopted by the Ohio Division of Wildlife pursuant to Ohio Revised Code § 1533.84.
7. Enforcement.
	1. Any law enforcement officer with jurisdiction within the Village, including, but not limited to, the Lorain County Sheriff’s Department and the Ohio State Patrol, is hereby granted the authority to enforce this Ordinance. Any such law enforcement officer who hears a plainly audible sound, as defined herein, in violation of this Ordinance, shall be entitled to measure the sound by means of the officer’s ordinary auditory senses.

Article II: This Ordinance shall supersede all previously adopted Ordinances in direct conflict herewith.

Article III: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

THEREFORE, provided this Ordinance receives the affirmative vote of a majority of all members elected to Council, it shall take effect and be in force 30 days after its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

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PRESIDENT OF COUNCIL MAYOR

DATE PASSED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE APPROVED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 First reading \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Second reading \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTEST: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Third reading \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

YEAS:

NAYS: