

ORDINANCE 2022-30

AN ORDINANCE ADOPTING SECTION 648.10 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF COMMERCIAL POINT RELATED TO NOISE AND REPEALING SECTION 5 OF APPENDIX A: LOCAL REGULATIONS OF THE CODIFIED ORDINANCES OF THE VILLAGE OF COMMERCIAL POINT.

WHEREAS, the Village Council has been made aware of excessive noise levels within the Village.

WHEREAS, the Village Council determined that excessive and unreasonable noise levels within the Village limits is detrimental to the convenience, safety, health and welfare and enjoyment of the citizens of the Village.

WHEREAS, every person and resident of the Village is entitled to an environment in which disturbing, unreasonable, or excessive noise is not detrimental to their health, life or enjoyment of their property.

WHEREAS, it is within the power of the Village Council to enact legislation regulating the noise level in the Village so as to preserve, protect and promote public health, safety, and welfare and the peace and quiet of the inhabitants of the Village, and to foster the convenience and enjoyment of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, PICKAWAY COUNTY, OHIO THAT:

SECTION 1. Adopt Section 648.10 of the Codified Ordinances of the Village of Commercial Point. Section 648.10, as shown in Exhibit A (which is incorporated herein by reference), is hereby accepted and adopted into the Codified Ordinances of the Village of Commercial Point.

SECTION 2. Repeal Section 5 of Appendix A: Local Regulations of the Codified Ordinances of the Village of Commercial Point. Section 5 of Appendix A: Local Regulations of the Codified Ordinances of the Village of Commercial Point, as shown in Exhibit B (which is incorporated herein by reference) is repealed and replaced by Section 648.10, as shown in Exhibit A (and incorporated herein by reference).

SECTION 3. Open Meetings Certification. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other 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.

SECTION 4. Effective Date. This Ordinance shall take effect at the earliest date allowed by law.

Vote on Passage of the Ordinance:

Motion by: Ryan Mitchem

2<sup>nd</sup>: Audrea Ratliff

Roll Call:

Yes Nancy Geiger

Yes Ryan Mitchem

Yes Audrea Ratliff

Yes Ross Crego

Yes Stacey Plybon

N/A Laura Wolfe

Adopted this 21<sup>st</sup> day of November, 2022.

Allan D. Goldhardt  
Allan D. Goldhardt, Mayor

Wendy Hastings  
Wendy Hastings, Fiscal Officer

Approved as to Form:

\_\_\_\_\_  
Joshua Cartee, Village Solicitor

**ORDINANCE 2022-30**  
**Exhibit A**

**§ 648.10 NOISE.**

(a) Definitions. The following words and phrases when used in this chapter shall have the meanings herein described:

- (1) "Amplified sound" means any sound augmented by any electronic means that increases the sound level or volume.
- (2) "Business establishment" means any commercial establishment, including establishments that are required to obtain a Liquor Permit Premise.
- (3) "Dwelling unit", also known as a "residence" means one or more rooms connected together and containing sleeping facilities, which facilities are occupied, whether or not fit for temporary or overnight rental by one or more persons, and as defined in Ohio R.C. 2909.01(c) as an "occupied structure".
- (4) "Live music" means any sound comprised of instrumental music, song, or a combination of instrumental music and song, produced in whole or in part by a singer vocalizing or by a musician playing a musical instrument on the same premises as the sound source.
- (5) "Person(s)" means any individual, association of individuals, business or legal entity.
- (6) "Plainly audible sound" means any sound for which the information content of the sound is unambiguously communicated to the listener, including (without limitation) understandable words, comprehensible musical rhythms, beat or cadence, bells, horns, whistles, or other unreasonably loud noises.
- (7) "Receiving property" means any lot, parcel of land, public space, institution or dwelling unit onto which sound, not originating therefrom, travels.
- (8) "Recorded music" means any sound comprised of instrumental music or song, or combination hereof, produced and generated by a speaker, loudspeaker, radio, television, tape deck, recorder player, compact disc player, jukebox, or other sound-producing device.
- (9) "Sound source" means the place from which amplified sound emanates without limitation to a speaker, loudspeaker, or any other sound-producing instrument or person.

(b) Unreasonably Loud Noise.

- (1) No person shall knowingly or recklessly cause any amplified sound, live music, recorded music, or other noise to cross real property boundaries at such a volume as to:
  - A. Disrupt the normal daily activities, including, but not limited to sleeping, studying, and dining of persons within a residence or disrupt the normal daily activities, including, but not limited to, work of persons within a place of business;
  - B. Noise shall be presumed "unreasonably loud" if uninvited noise is plainly audible at a residential receiving property, or part thereof, greater than 100 feet away from the property line of the sound source.
- (2) No person shall knowingly or recklessly cause an uninvited or disruptive level of plainly audible sound, amplified sounds, live music, recorded music, or other noise, at a volume that causes actual interference with a person's peaceful enjoyment of a residence or the peace and good order of the community.
  - A. A disruptive or uninvited level of amplified sound, live or recorded music, or other noise is any unreasonably loud or disturbing noise of a character, intensity, raucousness or direction as to be detrimental to the life, health or welfare of any person, whether on a steady or intermittent basis. At all times, amplified sound, live music, recorded music, or other noise that is plainly audible and that meets either of the following criteria is prohibited:
    1. Noise that is unreasonably loud or disturbing; or

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**Exhibit A (continued)**

2. Noise that crosses real property boundaries and interferes with the peace, comfort, or enjoyment of persons residing in a dwelling unit or a residence or a person located at a receiving property.

B. In addition to the criteria set forth in division (b)(2)A. of this section, additional restrictions shall be placed on business establishments which serve alcoholic beverages for consumption on premises. Because it is reasonable that quieter standards are expected during nighttime hours, between the hours of 10:00 p.m. and 7:00 a.m. from Sundays through Thursdays, inclusive, and between the hours of 11:30 p.m. and 7:00 a.m. on Fridays and Saturdays, owners and operators of such business be contained entirely within the real property boundaries of the establishment or within the soundproof area located on the premises of the establishment.

(c) Special Events/Outdoor Concerts.

(1) No person, business or organization shall knowingly or recklessly hold a special event without first obtaining a special event permit pursuant to Chapter 1135.

(2) No person, owner or sponsor of an special event, as defined in Section 1135.09 of the Codified Ordinances, shall fail or refuse to lower or reduce the level, intensity or power of any loudspeaker or any other device or equipment to amplify or enhance the sound from an outdoor concert when directed to do so by the Chief of Police or his or her designee.

(d) Responsibility for Compliance; Complaint Procedures.

(1) For purposes of this section, any person(s) owning or having responsibility for management of a business or who is in control of a residential premise, and/or however temporarily; any paid performer or disc jockey producing amplified sound, live music, recorded music, or other plainly audible sound upon any business or residential premises or any person having control of volume knobs or levels; and the business as named on the special use permit or special event permit and/or the person controlling the residential premise, shall be jointly and severally liable for compliance with this section and shall be responsible for any violations of this section.

(2) Complaints under this section may be made by telephone contact with the Village of Commercial Point Division of Police. The complainant shall identify himself or herself by name, address and telephone number and shall identify the general direction or vicinity of the apparent sound source, but shall not be required to meet personally with the investigating officer to sign a written complaint or otherwise participate in the investigation of the complaint. The investigating officer is authorized to verify information provided by the complainant. This provision provides no right of entry except as is to the public generally, or except as is provided by law.

(e) Additional Sound Limitations.

(1) No person shall, on any public sidewalk, street, highway, park or other public property, or in any vehicle located on any public street or property, use, operate or play any radio, phonograph, stereo set, tape or CD player, television, sound amplifier, or other electronic audio device which produces or reproduces amplified sound, recorded music, or other plainly audible sound, at a level which is plainly audible at a distance of more than 25 feet or more from the sound source. This provision shall not apply to live music.

A. This section does not apply to any of the following circumstances:

1. The sound amplification system of the motor vehicle is being operated to request medical or vehicular assistance or to warn others of a hazardous road condition.
2. The motor vehicle is an emergency vehicle or public safety vehicle and is on an emergency run.
3. The motor vehicle is owned and operated by the State, a political subdivision, or a public utility.
4. The motor vehicle is participating in a parade for which the sponsors of the parade have obtained the proper permits from all political subdivisions with which the parade is held.

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**Exhibit A (continued)**

(2) The provisions of this division are in addition to the regulations of division (b) of this section. Compliance with division (b) of this section shall not constitute a defense or excuse for violation of any of the divisions of this section.

(3) Under this chapter, the measurements of distance from a sound source to a receiving property shall be measured in a straight line from the property line of the property on which the sound source is located to the property line of the receiving property or if the sound source is within a walled and roofed structure, the measurement shall be taken from the exterior of that structure, and if one or more open doors or windows are present, from any of such open doors or windows, at the point closest to the receiving property in a straight line to the property line of the receiving property.

(f) Exceptions. The following shall not constitute a violation under this section:

(1) Emergency sirens and related apparatus used solely for public purposes;

(2) Domestic power tools. Sound levels produced from any hand or mechanically powered saw, sander, drill, grinder, lawn-garden tool or reasonably similar tool, provided, however, that the use:

A. Must be only between 7:00 a.m. and 10:00 p.m. Sunday through Thursday or 7:00 a.m. and 11:30 p.m. Friday and Saturday;

B. Must be in a non-business enterprise; and

C. Must produce a sound level that is not deemed unreasonably loud under the circumstances.

(3) Noise generated in the case of emergency or necessity to repair or protect a property owner's or tenant's property, by domestic power tools, or otherwise.

(g) Enforcement and Penalties.

(1) Investigation of and enforcement of this section shall commence upon the complaint of any affected property owner, tenant or other person, as provided in division (d)(2), and lessee and lessor may pursue civil remedies pursuant to the lease and the Ohio Revised Code.

(2) Whoever violates this section is guilty of:

A. A minor misdemeanor for the first offense; fine not to exceed one hundred dollars (\$120.00);

B. A misdemeanor of the fourth degree for the second offense within 12 months; the fine not to exceed two hundred fifty dollars (\$250.00) and/or 30 days in jail;

C. A misdemeanor of the third degree for the third offense within 12 months (or second or multiple offense within 30 days); fine not to exceed five hundred dollars (\$500.00) and/or 60 days in jail.

(3) If any person, owner or sponsor of an special event violates division (c) of this section, that person, owner or sponsor shall be guilty of a minor misdemeanor for the first violation, a misdemeanor of the fourth degree for the second violation in the same year, a misdemeanor of the third degree for the third violation in the same year, and a misdemeanor of the first degree for every further violation in the same year.

ORDINANCE 2022-30  
Exhibit B

SECTION 5 OF APPENDIX A: LOCAL REGULATIONS

~~§ 5 NOISE.~~

~~(a) Regulating noise levels.~~

~~(1) Definitions. For the purposes of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~**COMMERCIAL AREA.** Any office building, local retail, and business districts as set forth in the Village Zoning Code.~~

~~**CONSTRUCTION.** Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or on public or private right-of-way, structures, utilities, or similar property.~~

~~**DEMOLITION.** Any dismantling or intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.~~

~~**EMERGENCY.** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.~~

~~**EMERGENCY WORK.** Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.~~

~~**LIGHT MOTOR VEHICLE.** Any automobile, van, motorcycle, motor driven vehicle, motor scooter, dune buggy, snowmobile, all-terrain vehicles, go-carts, mini-bikes or trucks with gross vehicular weight of less than 8,000 pounds.~~

~~**MODIFIED EXHAUST SYSTEM.** An exhaust system in which the original noise abatement devices have been physically altered causing them to be less effective in reducing noise or the original noise abatement devices have either been removed or replaced by noise abatement devices which are not as effective in reducing noise as the original devices, or devices have been added to the original noise abatement devices, such that noise levels are increased.~~

~~**MOTOR VEHICLE.** Every vehicle defined as a motor vehicle in the Ohio Revised Code.~~

~~**MOTORCYCLE.** Every vehicle defined as a motorcycle in the Ohio Revised Code.~~

~~**MOTORIZED BIKE.** Every vehicle defined as a motorized bike in the Ohio Revised Code.~~

~~**NOISE.** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.~~

~~**NOISE DISTURBANCE.** Any sound which endangers or injures the safety or health of humans or animals; annoys or disturbs a reasonable person of normal sensitivity; or endangers or injures personal or real property.~~

~~**PERSON.** Any individual, association, partnership or corporation and includes any officer, employee, department, agency, or instrumentality of a state or any political subdivision of a state.~~

~~**PLACE OF PUBLIC ENTERTAINMENT.** Any commercial facility open to the general public for purposes of entertainment.~~

~~**POWERED MODEL VEHICLE.** Any self-propelled airborne, waterborne, or land borne plane, vessel or vehicle which is not designed, to carry persons, including, but not limited to, any model airplane, boat, car or rocket.~~

~~**PUBLIC RIGHT-OF-WAY.** Any street, avenue, boulevard, highway, sidewalk or alley~~

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**Exhibit B (continued)**

~~**REAL PROPERTY BOUNDARY.** An imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person.~~

~~**RESIDENTIAL AREA.** Single family, two family and multi-family zoning district classifications.~~

~~**SOUND.** An oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and refraction of that medium. The description of SOUND may include any characteristic of such sound, including duration, intensity and frequency.~~

~~(2) **Noise disturbances prohibited.** In addition to the specific prohibitions outlined in this division, no person shall unreasonably make, continue or cause to be made, continued or permitted, any noise disturbance. This division shall not apply to non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way.~~

~~(3) **Specific prohibitions.** The following acts and the causing or permitting thereof, are declared to be in violation of this division.~~

~~A. **Construction.**~~

~~1. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work between the hours of 7:00 p.m. and 7:00 a.m. Monday through Saturday, or between the hours of 7:00 p.m. and 7:00 a.m. on Sundays or nationally recognized holidays so that the sound therefrom creates a noise disturbance across a residential real property boundary, except for emergency work of public service utilities or by special variance.~~

~~2. This division shall not apply to the use of domestic power tools subject to division (3)B. below.~~

~~B. **Domestic power tools.** Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawn mower, or other similar device used outdoors, other than powered snow removal equipment, outdoors between the hours of 9:00 p.m. and 7:00 a.m. or on Sundays or nationally recognized holidays between the hours of 9:00 p.m. and 9:00 a.m.~~

~~C. **Explosives, firearms and similar devices.** The using or firing of explosives, firearms or similar devices which create impulsive sound so as to cause a noise disturbance across a residential real property boundary or on a public space or right-of-way, without first obtaining a special variance.~~

~~D. **Loading and unloading materials.** Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 9:00 p.m. and 7:00 a.m., or on Sundays or nationally recognized holidays before the hour of 9:00 a.m. in such a manner as to cause a noise disturbance across residential real property boundary.~~

~~E. **Loudspeakers/public address system.**~~

~~1. Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom on a public right-of-way or public space for commercial purpose.~~

~~2. Using, operating or permitting for any non-commercial purpose any loudspeaker, public address system, mobile sound vehicle or similar device between the hours of 9:00 p.m. and 7:00 a.m., or on Sunday before the hour of 9:00 a.m., such that the sound therefrom creates a noise disturbance across a residential real property boundary.~~

~~F. **Powered model vehicles.** Operating or permitting the operation of a powered model vehicle or vehicles so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 9:00 p.m. and 7:00 a.m.~~

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**Exhibit B (continued)**

~~G. *Vehicle or motorboat repairs and testing.* Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle, motorized bicycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary.~~

~~(4) *Light motor vehicles.*~~

~~A. No person shall operate a motor vehicle which causes excessive noise level, as a result of a defective or modified exhaust system, as a result of an unnecessary rapid acceleration, deceleration, engine revving, tire squealing, or as the result of the operation of audible devices such as, but not limited to, radios, phonographs and tape players.~~

~~B. For purposes of this division, noise shall be measured at a distance of at least 50 feet from the closest approach of the vehicle at any suitable site.~~

~~(5) *Special variances.*~~

~~A. The Mayor or his or her designated representative shall have the authority, consistent with this division, to grant special variances.~~

~~B. Any person seeking a special variance pursuant to this division shall file an application with the Mayor or his or her representative. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on the other persons. Notice of an application for a special variance shall be given by the Mayor or his or her representative to persons who frequent the area of the sound or activity and who may be adversely affected by the granting of the variance. Any individual who claims to be adversely affected by allowance of the special variance may file a statement which the Mayor or his or her representative containing any information to support his or her claim.~~

~~C. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variances shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any conditions of the special variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted.~~

~~D. Application for extension of time limits specified in special variances or for modification of any other substantial conditions shall be treated like applications for initial special variances.~~

~~E. The Mayor or his or her designated representative may issue guidelines approved by Council defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.~~

~~F. Enforcement of this division shall be stayed as to any person filing an application for a special variance pursuant to this division, until such time as the application is acted upon by the Mayor or his or her designated representative.~~

~~(6) *Notice of violation.* Violation of any provision of this division shall be cause for a notice of violation to be issued by the village law enforcement officer or health department official.~~

~~(7) *Other remedies.* No provision of this division shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this division or from other law.~~

~~(8) *Exceptions.* The provisions of this chapter shall not apply to the following:~~

~~A. The emission of sound for the purpose of alerting persons to the existence of any emergency, or for the performance of emergency work; or~~

**ORDINANCE 2022-30**  
**Exhibit B (continued)**

~~B. Organized school related programs, activities or parades or other public programs, activities or events authorized by the Mayor or his or her designated representative, or by Village Council.~~

~~(9) Applicability. Nothing in this division shall be construed to permit conduct prohibited by any other statute, ordinance or regulation or to prohibit the enforcement thereof.~~

~~(10) Penalty.~~

~~A. Whoever violates any provision of this division is guilty of a minor misdemeanor.~~

~~B. If the offender has previously been convicted of violating any provision of this division, then the offender shall be guilty of a misdemeanor of the fourth degree.~~

~~C. When the offense is continuous or repetitious in nature, then each day that the violation continues or is repeated shall be deemed a repetition of the offense and shall be punished as a separate distinct offense.~~

~~(b) Anti noise pollution.~~

~~(1) Notwithstanding any other provisions of law and in addition thereto, no person shall willfully make or continue, or cause to be made or continued, any loud, unnecessary, and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.~~

~~(2) The standard which may be considered in determining whether a violation of the provisions of this division exists may include, but not be limited to the following:~~

~~A. The level of the noise;~~

~~B. Whether the nature of the noise is usual or unusual;~~

~~C. Whether the origin of the noise is natural or unnatural;~~

~~D. The level and intensity of the background noise;~~

~~E. The proximity of the noise to residential sleeping facilities;~~

~~F. The nature and zoning of the area within which the noise emanates;~~

~~G. The density of the inhabitation of the area within which the noise emanates;~~

~~H. The time of the day and night the noise occurs;~~

~~I. The duration of the noise;~~

~~J. Whether the noise is recurrent, intermittent, or constant; and~~

~~K. Whether the noise is produced by a commercial or noncommercial activity.~~

~~(3) Whoever violates division (b)(1) of this section shall be fined not less than twenty-five dollars (\$25.00) and no more than five hundred dollars (\$500.00).~~

(Ord. 1700.17, passed 4-6-1987; Am. Ord. 01-12, passed 10-1-2001; Am. Ord. 4-18, passed 9-7-2004; Am. Ord. 2008-10, passed 7-7-2008)