

ORDINANCE NO. 04-2024

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES, CHAPTER 509.10, EXCESSIVE NOISE, OF PART FIVE OF THE GENERAL OFFENSES CODE

WHEREAS, the Village of Plain City Codified Ordinances Chapter 509.10 sets forth the regulations and procedures for determining excessive noises and processing excessive noise complaints within the Village of Plain City; and

WHEREAS, in accordance with the direction provided by Council, comprehensive updates to the provisions of Chapter 509.10 have been proposed by staff and are incorporated herein in the form of Exhibit A; and

WHEREAS, the Village Council has determined the need to amend Chapter 509.10, in accordance with Exhibit A, which is attached hereto and incorporated herein.

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Plain City, Ohio, a majority of the members elected or appointed thereto concurring, as follows:

Section 1. Council hereby amends Codified Ordinances Chapter 509.10, as presented, which said amendment is attached hereto and incorporated herein as Exhibit A; the language being removed is ~~struck~~ and the language being added is in **red** and underlined.

Section 2. It is found 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 that resulted in this 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 3. This Ordinance shall be effective from and after the earliest period provided by law.

Passed: March 11, 2024

Attest: Austin Duvier
Clerk of Council

Jody Carney
Mayor

First reading: February 26, 2024

Vote: ___ yea ___ nay ___ abstain

Second reading: March 11, 2024

Vote: 5 yea 0 nay 0 abstain

Certificate of Publication

The undersigned, being Clerk of Council of the Village of Plain City, hereby certifies that the foregoing was published by posting for 15 days as required by law and in accordance with Section 4.15 of the Codified Ordinances. The posting was done from March 12, 2024 to March 27, 2024 at the Office of the Clerk of Council located at 800 Village Boulevard; all being in the Village of Plain City, Ohio and the Village of Plain City Website at www.plain-city.com.

Date: March 12, 2024

Austin Duvier
Clerk of Council

ORDINANCE 04-2024 EXHIBIT A

CHAPTER 509.10

Excessive Noise

509.10 EXCESSIVE NOISE.

(a) **General Definitions.** As used in this Section, the term "noise" means any sound, vibration, or oscillation in air pressure. The term "plainly audible" means noise produced by any source that is perceptible by a person of normal hearing ability. The term "dBA" shall mean decibels, as measured on the "A" scale of a standard sound level meter meeting the applicable requirements for a type 2 sound level meter as defined in American National Standards Institute Standard S1.4-1983, or the most recent revision thereof. The term "dBC" shall mean decibels, as measured on the "C" scale of a standard sound level meter meeting the applicable requirements for a type 2 sound level meter as defined in the American National Standards Institute Standard S1.4-1983, or the most revision thereof. The term "sound level meter" means an instrument certified to meet or exceed ANSI standards which includes an omnidirectional microphone, an amplifier, an output meter, and frequency weighting network(s) used for the measurement of sound levels. The term "slow read function" means that the time weighting setting of the sound level meter is set to measure sound levels using a one-second time constant. No person shall generate or permit to be generated noise or loud sound from any source, for an unnecessary or unreasonable length of time, which is plainly audible and likely to cause inconvenience or annoyance to persons of ordinary sensibilities. It is prima facie unlawful for a person to generate or permit to be generated sound as described above in the following circumstances:

- (1) On all property between the hours of 9:00 p.m. and 7:00 a.m. on Sunday through Thursday and between the hours of 11 p.m. and 7 a.m. on Friday and Saturday, in all zoning districts as set forth in the Zoning Ordinance of the Village, regardless of any existing nonconforming use or variance, where the sound is plainly audible;
- (2) On a street, highway or in the public right-of-way where the sound is plainly audible.

(b) **Certain Noises Prohibited.** No person shall generate or permit to be generated noise or loud sound from any source, for an unnecessary or unreasonable length of time in accordance with 509.10(g), Noise Control Regulations, and to include Table 1. As used in this section, "plainly audible" means any sound produced that can be clearly heard by a person using his normal hearing faculties, at a distance of 50 feet or more from the source of the noise or loud sound.

(c) 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 section.

(d) Any and all complaints under this section shall be made in writing and signed by the complainant or a law enforcement officer.

(e) ~~Any law enforcement officer or person who hears a sound that is plainly audible as defined herein shall be entitled to measure the sound according to the following standards:~~

~~(1) 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 or person's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid;~~

~~(2) The officer or person must be able to reasonably identify the source that is producing the sound so that the officer or person can readily identify the offending person and the distance involved; and~~

~~(3) The officer or person need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute plainly audible sound.~~

(f) ~~(e)~~ Exemptions to section (a) ~~(b)~~ include the following:

(1) Sound emanating from scheduled events conducted, sponsored or permitted by the Village or schools;

(2) Construction operations occurring between the hours of 7:00 a.m. and 9:00 p.m., provided that all equipment is operated within the manufacturer's specifications and/or with all standard manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition;

(3) Construction operations conducted by the Village as approved by the Village Administrator and/or Village Council;

(4) The loading and/or unloading of waste receptacles between the hours of 7:00 a.m. and 9:00 p.m.;

(5) The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures. Furthermore, the provisions of this section do not apply to the noise made by a horn, siren or other warning device required or permitted by state law.

(6) Noise of safety signals, warning devices, emergency pressure valves, the Village clock tower and church bells;

(7) Persons in possession of a current parade permit ~~are exempt from the provisions of this subsection.~~

(8) Home maintenance equipment to include, but not limited to, lawnmowers, hedge trimmers, air compressors, chain saws, and other similar equipment for home use. The exclusion for such equipment is limited to the hours of 7:00 a.m. and 9:00 p.m.

(9) Noise of emergency work authorized by the Village.

(10) Village sponsored event in a Village Park.

(f) Decibel level readings shall be determined through the use of a calibrated sound level meter, as defined in 509.10(a), in the slow read function. Measurements shall be taken over a length of time not less than two (2) minutes and no greater than ten (10) minutes. The sound levels shall be measured during the production of the noise from a point at or up to fifty (50) feet beyond the property line of the property from which the noise is being produced.

(g) Noise Control Regulations. No person shall operate, cause to be operated, or permit on public or private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth in Table 1 at the emanating property that aligns with the land use category.

TABLE 1. SOUND LEVELS BY EMANATING LAND USE CATEGORY

<u>Emanating Land Use Category</u>	<u>Time</u>	<u>At a sustained length of time between 2 and 10 minutes (dBA)</u>	<u>At a sustained length of time between 2 and 10 minutes (dBC)</u>
<u>Residential Districts</u>	<u>11 p.m. - 7 a.m.</u>	<u>60</u>	<u>70</u>
	<u>7 a.m. - 11 p.m.</u>	<u>60</u>	<u>70</u>
<u>Business Districts</u>	<u>11 p.m. - 7 a.m.</u>	<u>70</u>	<u>80</u>
	<u>7 a.m. - 11 p.m.</u>	<u>90</u>	<u>100</u>
<u>Mixed Use</u>	<u>11 p.m. - 7 a.m. (Fri.-Sat.)</u>	<u>70</u>	<u>80</u>
	<u>7 a.m. - 11 p.m. (Fri.-Sat.)</u>	<u>75</u>	<u>85</u>
<u>Industrial Districts</u>	<u>All times</u>	<u>75</u>	<u>85</u>

(h) Any emission of noise from any stationary noise device in excess of the limitations established by this section shall be deemed and is declared to be a public nuisance.

(i) In any criminal prosecution for a violation of this section the court may admit evidence of a noise level as tested by any sound level meter which meets or exceeds the American National Standards Institute (ANSI) specifications for Type II equipment.

(g) (j) Except as otherwise provided in this section, whoever violates this section is guilty of generating unreasonable noise, a minor misdemeanor. If within 12 months of the offense, the offender has been convicted of or pleaded guilty to one violation of this section, whoever violates this section is guilty of a fourth-degree misdemeanor. If within 12 months of the offense, the offender has been convicted of or pleaded guilty to two or more

violations of this section, whoever violates this section is guilty of a third-degree misdemeanor.