

ORDINANCE NO. 594

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING CHAPTER 8.28 OF THE MUNICIPAL CODE

WHEREAS, Chapter 8.28 of the Brisbane Municipal Code sets forth the City of Brisbane's Noise Control provisions to protect citizens from excessive, unnecessary and unreasonable noises in the community;

WHEREAS, the City Council finds that under the current the Noise Control provisions, police officers investigating noise complaints are taken from other duties for an unnecessarily protracted period of time;

WHEREAS, the City Council finds that noises that are a typical part of daily life at any given time of day should be properly considered background noises for purposes of determining whether a noise violation has occurred; and

WHEREAS, the City Council finds that exceptionally loud noises should be prohibited even if such noises do not repeat or continue for any specified period of time.

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Chapter 8.28 of the Municipal Code is amended to read as follows:

§ 8.28.20 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

A. "Ambient noise" means the all-encompassing noise associated with a given environment, usually being a composite of sounds from many sources, near and far. Local ambient is the noise level obtained when the noise level is averaged over a period of ten (10) minutes without inclusion of noise from exceptional isolated identifiable sources at the location and time of day near that at which a comparison is to be made, and when the noise source at issue is silent. However, for purposes of this chapter, in no case shall the local ambient be considered or determined to be less than:

1. Thirty-five (35) dBA for interior noise in Section 8.28.030;

Forty-five (45) dBA in all other sections of this chapter.

If the local ambient is largely composed of noise produced by other individual identifiable sources which would otherwise be operating continuously during the ten minute measurement period and contributing significantly to the ambient sound level, determination of the local ambient shall be accomplished with these separate identifiable noise sources silent but only to the extent that such separate identifiable noises do not typically occur at the particular location and time of day.

- B. "Commercial purpose" means and includes the use, operation or maintenance of any sound-amplifying equipment for the purpose of advertising any business, any goods or any services or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage or customers to or for any performance, show, entertainment, exhibition or event or for the purpose of demonstrating such sound equipment.
- C. "dBA" means the decibel measurement that is a logarithmic indication of the ratio between the acoustic energy present at a given location and the lowest amount of acoustic energy audible to sensitive human ears and weighted by frequency to account for characteristics of human hearing, as set forth in the American National Standards Institute Standard S1.1, "Acoustic Technology," paragraph 2.9, or successor reference.
- D. "Decibel" means a unit which is one-tenth of a dimensionless unit for expressing the ratio of two values of a power, the number of those dimensionless units being the logarithm to the base ten of the power ratio.
- E. "Emergencies" means essential activities necessary to restore, preserve, protect or save lives or property from imminent danger, loss or harm.
- F. "Noise level" means the maximum continuous noise level, sound level or repetitive peak level produced by a source or group of sources as measured with a precision sound level meter using the "A" weighting scale, and the meter response function set to "slow."
- G. "Noncommercial purpose" means the use, operation or maintenance of any sound equipment for other than a commercial purpose. The term "noncommercial purpose" means and includes, but shall not be limited to, philanthropic, political, patriotic and charitable purposes.
- H. "Type 2 general purpose sound level meter" means a device for measuring sound levels in decibel units within the performance specifications in the American National

Standards Institute Standard S1.4, "Specification for Sound Level Meters" or successor reference.

- I. "Property plane" means a vertical plane, including the property line, which determines the property boundaries in space of the parcel of property over or from which the sound in question is audibly transmitted.
- J. "Receiver" means a person or persons who question the level of sound transmitted from an identifiable source.
- K. "Sound-amplifying equipment" means any machine or device for the amplification of the human voice, music or any other sound. This does not include standard automobile radios, stereos, or other sound-amplifying equipment installed in the vehicle when used or heard only by the occupants of the vehicle in which the vehicular sound-amplifying equipment is installed. The term "sound-amplifying equipment," as used in this chapter, shall not include warning devices on authorized emergency vehicles or horns or other warning devices of any vehicle used only for traffic safety purposes.
- L. "Vehicle" means any device by which any person or property may be propelled, moved, driven or drawn upon a public street or highway or on any private property.

§ 8.28.030 Noise levels for residential zoning districts.

- A. No person shall cause, produce, suffer or allow to be produced by any machine, animal or device or any combination of same, in a single-family residential zoning district, a noise level more than ten (10) dBA above the local ambient to any receiver for a cumulative period of more than ten (10) minutes in any hour, a noise level more than twenty (20) dBA above the local ambient to any receiver for a cumulative period of more than three (3) minutes in any hour, or a noise level more than thirty (30) dBA above the local ambient to any receiver.
- B. No person shall cause, produce, suffer or allow to be produced by any machine, animal or device or any combination of same, in a multi-family residential zoning district, a noise level more than ten (10) dBA above the local ambient three (3) feet from any wall, floor or ceiling inside any dwelling unit on the same property, except within the dwelling unit in which the noise source or sources may be located to any receiver for a cumulative period of more than ten (10) minutes in any hour, a noise level more than twenty (20) dBA above the local ambient to any receiver for a cumulative period of more than three (3) minutes in any hour, or a noise level more than thirty (30) dBA above the local ambient to any receiver.

§ 8.28.040 Noise level for commercial and industrial zoning districts.

No person shall cause, produce, suffer or allow to be produced by any machine, animal or device or any combination of same, in any commercial or industrial zoning district, a noise level more than ten (10) dBA above the local ambient to any receiver for a cumulative period of more than ten (10) minutes in any hour, a noise level more than twenty (20) dBA above the local ambient to any receiver for a cumulative period of more than three (3) minutes in any hour, or a noise level more than thirty (30) dBA above the local ambient to any receiver.

§ 8.28.070 Amplified Sound

- A. It shall be unlawful for any person, other than personnel of law enforcement or governmental agencies, to install, use or operate within the city a loudspeaker or sound-amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in or upon any street, alley, sidewalk, park or public property or any open space generally available to the public, without first filing a registration statement and obtaining approval thereof as set forth in this section.
- B. Every user of sound-amplifying equipment shall file a registration statement with the

planning director fifteen (15) days prior to the date on which the sound-amplifying equipment is intended to be used, which statement shall contain the following information:

1. The name, address and telephone number of both the owner and the user of the sound equipment; the date or dates proposed and the hours of operation;
 2. The maximum sound-producing power of the sound-amplifying equipment which shall include the wattage to be used, the volume in decibels of sound to be produced, the approximate distance for which sound will be audible from the sound-amplifying equipment and a general description of the sound amplifying equipment to be used;
 3. The license and motor number if a sound truck is to be used;
 4. Whether such equipment will be used for commercial or noncommercial purposes.
- C. The planning director shall return to the applicant an approved certified copy of the registration statement unless he/she finds that:
1. The conditions of the motor vehicle movement are such that in the opinion of the planning director, use of the equipment would constitute a detriment to traffic safety; or
 2. The conditions of pedestrian movement are such that use of the equipment would constitute a detriment to traffic safety; or
 3. The registration statement required reveals that the applicant would violate the provisions of this chapter or any other provision of this code or any other ordinance of the city.
- D. In the event the registration statement is disapproved, the planning director shall endorse upon the statement his/her reason for disapproval and return it forthwith to the applicant.
- E. Prior to the issuance of the registration statement, the applicant shall pay to the city a fee together with a deposit in such amounts as established from time to time by resolution of the city council. Such portion of the deposit as is not used or expended by the city in defraying the cost of monitoring noise produced by such activity or otherwise enforcing this chapter, shall be returned to the applicant at the expiration of such permit.
- F. The commercial and noncommercial use of sound-amplifying equipment shall be subject to the following regulations:
1. The only sounds permitted shall be either music or human speech or both.

2. Except on Sundays and legal holidays, the operation of sound amplifying equipment shall only occur between the hours of eight (8:00) a.m. and seven (7:00) p.m. On Sundays and legal holidays, the operation of sound-amplifying equipment for commercial purposes shall only occur between the hours of nine (9:00) a.m. and four (4:00) p.m., with no time limitation as to noncommercial amplification other than as may be required by F 5 of this subsection.
 3. The noise level emanating from sound-amplifying equipment shall not exceed fifteen (15) dBA above the local ambient to any receiver.
 4. Sound-amplifying equipment shall not be operated within two hundred feet of any church, school or hospital.
 5. In all events the volume of sound and the hours of operation shall be so controlled that the sound will not be unreasonably loud, raucous, jarring, disturbing or a nuisance to reasonable persons of normal sensitivity within the area of audibility.
- G. When the amplified sound is to be conducted in a public park, the provisions of Section 8.28.060 of this code shall also be applicable, the noise level standards of Section 8.28.060 having precedence over the standards set forth in subsection F of this section. Application for a group use permit of public park facilities under applicable Parks and Recreation Department guidelines and policies shall also constitute the registration statement required under this section.

Terry O'Connell, Mayor

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the 19th day of March, 2015 by the following vote:

AYES: Councilmembers Conway, Lentz, Liu, Miller, and Mayor O'Connell

NOES: None

ABSENT: None

Sheri Marie Spediacci, City Clerk