

City of Brisbane

Agenda Report

To: City Council via City Manager
From: Administrative Assistant and Deputy City Manager
Subject: Approval of Park Use Permit
Date: July 23, 2012

Purpose:

Review Community Park application from Brisbane resident, Sue Cochran, requesting use of the Community Park on Saturday September 15, 2012 from 3:30-9:30pm, for her 50th birthday party.

Recommendation:

Approve application for the use of the Community Park for a party larger than 100 people. (Attachment 1).

Background:

Ms. Cochran came forward with a Community Park application anticipating over 100 people. The Community Park policy states that applications for 100 or more persons must be approved by the City Council. The application is for picnic area #1 (which includes a BBQ for guests use) and the gazebo.

Discussion:

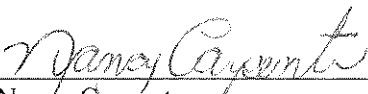
Ms. Cochran plans on inviting the whole town through posting flyers, brisnet and word of mouth. She has requested permission for a DJ to provide music in the gazebo, a signed noise ordinance is attached (Attachment 2). Other activities will include games, dancing, volleyball and a Zumba class

Ms. Cochran plans on being available at the City Council meeting to answer questions pertaining to safety issues, cleanup & recycling, noise control and other related issues.

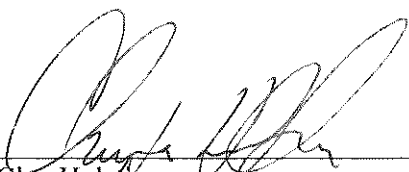
Fiscal Impact:

None.

Attachments:



Nancy Carpenter
Administrative Assistant



Clay Holstine
City Manager

COMMUNITY PARK DAY USE PERMIT APPLICATION

Recycling Encouraged — Use Designated Containers in the Park

BRISBANE PARKS & RECREATION DEPARTMENT
 50 PARK PLACE, BRISBANE, CA 94005
 FOR RESERVATIONS 415 / 508-2140
 NON-EMERGENCY CITY ASSISTANCE 415 / 467-1212

1. **RESERVATION REQUEST**
 Contact Person/Organization: Sue Cochran Construction Today's Date: 6/19/12
 Primary Phone: _____ Secondary Phone: _____
 (please circle: cell / home / work) (please circle: cell / home / work)
 Address: Sierra Point Rd City: Brisbane State: CA Zip: 94005
 E-Mail: _____ CDL#: _____

2. **EVENT** (circle all that applies)
 Picnic Area(s): (1) 2 3 4 Tables: (A) (B) (C) (D) Grassy Area(s): East West Gazebo
 Date: Sat, Sept. 15th Day of Week: Saturday
 Starting Time: (include time for set-up) 3:30pm Ending Time: (include time for clean up) 9:30pm
 Number attending under 18 years old: lots 18 - 20 years: lots 21+ years: lots
I am inviting the whole town !!

3. **Describe your event** Include nature of event and specific description of use of park.
50th birthday party for Sue Cochran + Nancy Brazil
 Please check boxes that apply to your event: fun games, a live band, dancing
 Jump House* Alcohol Amplified Music Volleyball/Badminton Net Piñatas Barbeque
 *generator needed for jump house, power not provided Zumba Class at 4pm.

4. **NOTICE:** This is a legal document which limits our liability, please read carefully! By Signing this document you state that (1) you assume all risk of injuries from participation in this activity, (2) you release the City of Brisbane, its officers, employees, agents, and servants from all liability arising out of your participation in this activity. I. **ASSUMPTION OF RISK:** I voluntarily participate in the activity described in the Brisbane Community Park Use Permit, fully aware of the dangers and risks involved and knowing that the City of Brisbane does not guarantee the construction, condition, or safety of the facilities or the equipment, not the supervision of the activity by its officers, employees, agents, and servants. I expressly assume the risk of all loss, damage or injury from my participation in or presence at the said activity. II. **RELEASE OF LIABILITY:** In consideration for the opportunity to participate in this activity and the services provided by the City of Brisbane, I (on behalf of myself, my heirs, assigns, and legal representatives) release the City of Brisbane, its officers, employees, agents, and servants from any liability arising out of my participation in or presence at the described activity in the Brisbane Community Park Day Use Permit. I expressly absolve the City of Brisbane, its officers, employees, agents, and servants of liability for their negligence.
 Applicant's Signature: Sue Cochran

OFFICE USE ONLY

<p>Application Received: Date: <u>6-19-12</u> By: <u>M Coxworth</u></p> <p>Application Approved: Date: _____ By: _____</p> <p>Jump House Approved: Date: _____ By: _____</p>	<p>Fees: Tables: \$ _____ Grass Area: \$ _____ Gazebo: \$ _____ Gazebo Dep: \$ _____ Total Fees: \$ _____ Cr Card / Cash / Ck# _____ Issued: Police: _____ Attendant: _____</p>
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City of San Diego, California - Title 8 - HEALTH AND SAFETY Chapter 8.28 - NOISE CONTROL

Chapter 8.28 - NOISE CONTROL Sections:

- 8.28.010 - Declaration of policy
- 8.28.020 - Definitions
- 8.28.030 - Noise levels for residential zoning districts
- 8.28.040 - Noise level for commercial and industrial zoning districts
- 8.28.050 - Exemptions
- 8.28.060 - Construction activities
- 8.28.070 - Amplified sound
- 8.28.080 - Exception permits
- 8.28.090 - Excessive noise- Standards to determine violation
- 8.28.100 - Violations- Enforcement- Penalties

8.28.010- Declaration of policy.

It is declared to be the policy of the city that the peace, health, safety and welfare of its citizens require protection from excessive, unnecessary and unreasonable noises from any and all sources in the community subject to its police power. It is the intention of the city to control the adverse effects of such noise sources on the citizens under any condition of use, especially those conditions of use which have the most severe impact upon any person or neighborhood.

(Ord. 2305 (page 1) 1997)

8.28.020- 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 fifteen minutes without inclusion of noise from 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;
 2. 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 fifteen 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.
- 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. "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.
- D. "Emergencies" means essential activities necessary to restore, preserve, protect or save lives or property from imminent danger, loss or harm.
- E. "Noise level" means the maximum continuous 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."
- F. "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.

- G. "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.
- H. "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.
- I. "Receiver" means a person or persons who question the level of sound transmitted from an identifiable source.
- J. "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.
- K. "Sound level," expressed in decibels (dB), means 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 given in the American National Standards Institute Standard S1.1, "Acoustic Technology," paragraph 2.9, or successor reference. All references to dB in this chapter utilize the A-level weighted scale, abbreviated dBA, measured as set forth in this chapter.
- 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) dB above the local ambient to any receiver for a cumulative period of more than fifteen (15) minutes in any hour, or a noise level more than twenty (20) dB above the local ambient to any receiver for a cumulative period of more than three (3) minutes in any hour.
- 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) dB 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 fifteen (15) minutes in any hour, or a noise level more than twenty (20) dB above the local ambient to any receiver for a cumulative period of more than three (3) minutes in any hour.

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) dB above the local ambient to any receiver for a cumulative period of more than fifteen (15) minutes in any hour, or a noise level more than twenty (20) dB above the local ambient to any receiver for a cumulative period of more than three (3) minutes in any hour.

8.28.050- Exemptions.

The following are exempted from the noise level restrictions set out in Sections 8.28.030 and 8.28.040:

- A. Emergencies;
- B. School bands, school athletic and school entertainment events;
- C. Activities conducted on parks, public play grounds and school grounds provided such parks, playgrounds and school grounds are owned and operated by a public entity;
- D. Any activity to the extent regulation thereof has been preempted by state or federal law.

(Ord. 33- § 1(part). 1977)

8.28.060- Construction activities.

Except as set forth in Section 8.28.050A, notwithstanding any other provision of this chapter, construction shall be allowed only between the hours of seven (7:00) a.m. and seven (7:00) p.m. on weekdays and nine (9:00) a.m. to seven (7:00) p.m. on weekends and holidays. Construction, alteration or repair activities which are authorized by a valid city permit shall be allowed if they meet at least one of the following noise limitations:

- A. No individual piece of equipment shall produce a noise level exceeding eighty-three (83) dBA at a distance of twenty-five (25) feet from the source thereof. If the device or other source is housed within a structure on the property, the measurement shall be made outside the structure, but at a distance as close to the equipment or source as possible.
- B. The noise level at any point outside of the property plane of the project shall not exceed eighty-six (86) dBA.

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 sound level emanating from sound-amplifying equipment shall not exceed fifteen (15) decibels above the ambient base noise level.
 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 under Section 8.28.020 of this code shall also constitute the registration statement required under this section.

8.28.080- Exception permits.

If the applicant demonstrates to the satisfaction of the planning director that immediate compliance with the requirements of this chapter would be impractical or unreasonable, the planning director may issue a permit to allow exception from any or all of the provisions contained in this chapter, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be of as short duration as possible and shall be conditioned by a schedule for compliance and details of methods thereof in appropriate cases.

8.28.090- Excessive noise-Standards to determine violation.

- A. Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person to wilfully make or continue or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area.
- B. The standards which shall be considered in determining whether a violation of this section exists shall include, but not be limited to, the following:
1. The level of the noise;
 2. Whether the nature of the noise is unusual;
 3. Whether the origin of the noise is natural or unnatural;
 4. The level of the background noise, if any;
 5. The proximity of the noise to residential sleeping facilities;
 6. The nature and zoning of the area within which the noise emanates or to which it is transmitted;
 7. The density of the inhabitation of the area within which the noise emanates or to which it is transmitted;
 8. The time of the day or night the noise occurs;
 9. The duration of the noise;
 10. Whether the noise is recurrent, intermittent or constant; and
 11. Whether the noise is produced by a commercial or noncommercial activity.

8.28.100- Violations-Enforcement-Penalties.

- A. The violation of any provision contained in this chapter shall constitute an infraction and a public nuisance.
- B. It shall be the duty of all public safety officers, and public works supervisors and the planning director to enforce the provisions of this chapter. Any permit or license of any type issued by any department or officer of the city, issued in conflict with the provisions of this title, is to be null and void.
- C. Any person, whether as principal agent, employee or otherwise, violating or causing the violation of any provision of this chapter is guilty of a misdemeanor. A separate offense shall have been committed for each and every day during which a violation of any portion of this chapter persists.
- D. In addition to the penalties set forth for misdemeanor offenses and the procedures for nuisance abatement, any noise level and its source in violation of any of the provisions of this chapter may be summarily abated, which may include, but is not limited to, removal, dismantlement and taking into custody the source of such noise, and in this regard, the confiscation of any machine or device used to violate any of the provisions of this chapter is authorized to be held for use as evidence in any proceeding that may be brought for such violation.

(Ord. 332 § 1(p)(1), 1987)

Julie Cochran

7/16/12