

City of Brisbane
Agenda Report

TO: Mayor and City Council

FROM: City Attorney, Police Commander,
Director of Community Development

SUBJECT: Review of Noise Ordinance

DATE: For Council Meeting on March 2, 2009

City Council Goals:

To preserve and enhance livability and diversity of neighborhoods.

Purpose:

To determine whether there is a need for amendment of the City's noise ordinance to establish a "quiet time".

Recommendation:

It is recommended that the City continue to work with the operator of the 23 Club to monitor the noise impacts from night-time entertainment and respond to impacts found to be excessive by enforcement of the existing ordinance and implementation of additional mitigation measures.

Background and Discussion:

A proposal has been submitted to the City by Ron Mann, who resides adjacent to the 23 Club, to adopt a "quiet time" ordinance that would impose new noise levels upon the entire City during the hours of 10 p.m. and 7 a.m. seven days a week. A copy of the materials distributed by Mr. Mann to the City Council is attached for your reference.

Mr. Mann has previously complained about noise impacts from the 23 Club and staff has attempted to address these complaints by working with the operator of the Club to implement various mitigation measures. Aside from this localized issue, which may still need further attention, there has been no demonstrated need for adoption of a city-wide ordinance that would significantly impact the entire community. Consequently, staff does not feel that the adoption of a general amendment to the noise ordinance is warranted at this time.

It should also be noted that other sources of noise have been handled through the use permit process, such as night operations in Crocker Park. Through the granting of a use permit, hours of operation can be regulated and other conditions imposed that would apply only to the specific activity identified as a potential noise disturbance. Staff feels that such a case by case approach is a more effective way to handle individual noise problems.

Fiscal Impact:

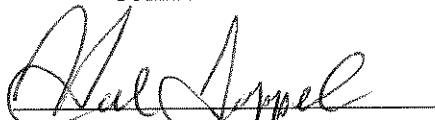
None

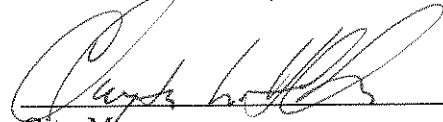
Measure of Success:

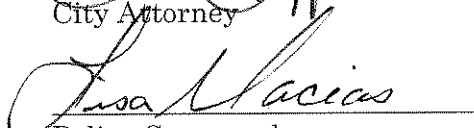
Not applicable

Attachments:

Communication from Ron Mann to City Council dated December 16, 2008


City Attorney


City Manager


Police Commander


Director of Community Development

LETTER FROM RON MANN

Date: December 16, 2008

To: Brisbane City Council

From: Ron Mann, 248 Mariposa St., Brisbane, CA

Subject: Request for a “Quiet Time” Noise Ordinance

PROPOSAL

This is a request for the City of Brisbane to adopt a “quiet time” ordinance that would reduce the acceptable level of noise between the hours of 10 pm and 7 am, seven days a week. The counties of San Mateo and Santa Clara, along with many cities throughout America, already have such ordinances in effect. (Attachment a)

ISSUE/PROBLEM

Since I moved to Brisbane eight weeks ago, my normal nighttime sleep patterns have been disturbed 4 nights a week (Tuesday, Thursday, Friday, and Saturday) by loud music from one of my neighbors. The neighbor’s music is audible inside in our home despite our double-paned windows, insulated panels and drapes, and a “white noise” compact disc (CD). The disturbance usually begins around 10:30 pm and does not end until 1 or 2 am. As a result, it is extremely difficult for me to fall asleep before 3 or 4 am. This cycle of sleep deprivation has the effect of permanent jet lag in that I am awake at night (when I should be sleeping), and sleepy by mid-afternoon, and generally exhausted all day.

FACTS

1. Currently, Brisbane only has timed noise restrictions on construction work – 7 am to 7pm. Aside from construction noise, all other noise levels that are legal at 2 pm are also legal at 2 am when most people are sleeping. The same chain saw that would be legal in the afternoon is also completely legal in the middle of the night. (Attachment b)

2. In San Mateo County the legal daytime noise level is 55 db. At 10 pm, the legal decibel level is lowered by 5 db, and then reduced **another** 5 db (for a total of 10 db reduction) “for simple tone noises, consisting primarily of speech or music, or for recurring or intermittent impulsive noises.” (Attachment a, Table 1 in San Mateo County handouts.)
3. The National Sleep Foundation has also found that “Noises at levels as low as 40 decibels or as high as 70 decibels generally keep us awake.”
http://www.sleepfoundation.org/site/c.huIXKjM0IxF/b.4813263/k.9987/Jet_Lag_and_Sleep.htm
4. The National Sleep Foundation recognizes the effects of jet lag on individuals:

“Now, studies have shown that jet lag actually results from an imbalance in our body's natural "biological clock" caused by traveling to different time zones. Basically, our bodies work on a 24-hour cycle called "circadian rhythms." These rhythms are measured by the distinct rise and fall of body temperature, plasma levels of certain hormones and other biological conditions.” For the entire article go to:

http://www.sleepfoundation.org/site/c.huIXKjM0IxF/b.4813263/k.9987/Jet_Lag_and_Sleep.htm

Also see the handouts concerning how lack of regular sleep/jet lag affects a person. (Attachment c)

5. As recently as April 2008, the City of Tacoma, Washington, adopted an ordinance that not only uses decibels but distance (50 feet from the source) to determine the level of prohibited noise. (Attachment d)

CONCLUSION

Sleep deprivation is a serious health issue, and the City of Brisbane could improve the community's standard of living by adding a "Quiet Time" provision to its noise ordinance.

I very much appreciate your consideration of this request.

Ron Mann

Request for Quiet Time Noise Ordinance

Addendum:

Since the Brisbane City Council will be dealing with a lot of information concerning decibels it is important that we are all on the same page concerning decibel meters and how they are used for measurements.

Regarding the meters themselves, all of the good meters have both FAST (for normal measurements) and SLOW (for checking average level of fluctuating noise) settings. They should also have frequency weighting options of "A" (for general sound level measurements) and "C" (for checking the low-frequency content of the noise). This is very important because it will show how much low-frequency noise is present at any time.

A good example is this past Saturday night. The ambient noise level at our property line was the usual 42-45 dbs. At 1 am it measured 55 db (with the meter set on Fast and A), but sounded much louder. By changing the meter to the "C" setting, the number quickly rose to the low 65 db, meaning there was a great deal of low-frequency, or "pounding bass" present in the sound – something the ear hears but only the "C" setting measures. Since we are dealing with a quality of life issue I feel this is important to consider in coming up with a new law.

And finally there is the question of where the measurements are taken. The more you get into the laws adopted by other communities, the more options you find but generally they boil down to three basic positions for measurements: INSIDE, at the OUTSIDE WALL and at the neighbor's PROPERTY LINE. All have pros and cons associated with them but the bottom line is what does one hear on their own property. Therefore I would request that this be kept in mind as the council decides what it wants to do in this matter with my ultimate request being that any sound clearly audible at another's property line after 10 pm be declared too loud. It's not only the issue of sound and the ability to sleep but there is also the secondary issue of imposing one's will/taste on their neighbor.

Excerpts from the San Mateo County Code-Title 4: Sanitation and Health; Chapter 4.88: Noise Control

The entire code (all ten pages) may be found at:

<http://municipalcodes.lexisnexis.com/codes/sanmateo/>

4.88.110 “Exterior noise” defined.

Noise which impacts the area outside the outermost walls of any dwelling unit. (Prior code § 4930; Ord. 2803, 10/19/82)

4.88.220 “Noise disturbance” defined.

Any sound which (1) endangers or injures the safety or health of human beings or (2) annoys or disturbs persons of normal sensitivities, or (3) endangers or injures personal or real property, or (4) violates the factors set forth in section 4.88.380 of this chapter, or (5) violates the quantitative standards set forth in section 4.88.360 and section 4.88.370. (Prior code § 4941; Ord. 2803, 10/19/82)

e) Interior noise levels shall be measured within the affected dwelling unit at a point at least four feet from the wall, ceiling, or floor nearest the noise source, with windows in the normal seasonal configuration. The microphone location and room configuration shall be described. (Prior code § 4952; Ord. 2803, 10/19/82)

4.88.330 Exterior noise standards.

It is unlawful for any person at any location within the unincorporated area of the County to create any noise, or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person which causes the exterior noise level when measured at any single or multiple family residence, school, hospital, church, public library situated in either the incorporated or unincorporated area to exceed the noise level standards as set forth in Table I following:

Table I
Receiving Land use: Single or Multiple Family Residence,
School, Hospital, Church, or Public Library Properties.
NOISE LEVEL STANDARDS, dBA

Category	Cumulative Number of Minutes in any one hour time period	Daytime 7 A.M.--10 P.M.	Nighttime 10 P.M.--7 A.M.
1	30	55	50
2	15	60	55
3	5	65	60
4	1	70	65
5	0	75	70

- a) In the event the measured background noise level exceeds the applicable noise level standard in any category above, the applicable standard shall be adjusted in five (5) dBA increments so as to encompass the background noise level.
- b) Each of the noise level standards specified above shall be reduced by 5 dBA for simple tone noises, consisting primarily of speech or music, or for recurring or intermittent impulsive noises.
- c) If the intruding noise source is continuous and cannot reasonably be stopped for a period of time whereby the background noise level can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards in Table I. (Prior code § 4953; Ord. 2803, 10/19/82)

4.88.340 Interior noise standards.

No person shall, at any location within the unincorporated area of the County operate, or cause to be operated within a dwelling unit, any source of sound, or create, or allow the creation of, any noise which causes the noise level when measured inside a receiving dwelling unit with windows in their normal seasonal configuration to exceed the following noise level standards as set forth in Table II following:

Table II
Interior Noise Level Standards - Dwelling Unit
NOISE LEVEL STANDARDS, dBA

Category	Cumulative Number of Minutes in any one hour time period	Daytime 7 A.M.--10 P.M.	Nighttime 10 P.M.--7 A.M.
1	5	45	40
2	1	50	45
3	0	55	50

- a) In the event the measured background noise level exceeds the applicable noise level standard in any category above, the applicable standard shall be adjusted in five (5) dBA increments so to encompass the background noise level.
- b) Each of the noise level standards specified above shall be reduced by 5 dBA for simple tone noises, noises consisting primarily of speech or music, or for recurring or intermittent impulsive noises.
- c) If the intruding noise source is continuous and cannot reasonably be stopped for a period of time whereby the background noise level can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards in Table II. (Prior code § 4954; Ord. 2803, 10/19/82)

4.88.350 General noise regulation.

Notwithstanding any other provision of this ordinance, it shall be unlawful for any person to willfully or negligently make or continue, or cause to be made or continued any unreasonably loud, unnecessary, or unusual noise which disturbs the peace and quiet of any neighborhood or which causes any discomfort or annoyance to any person of normal sensitivity residing in the area.

4.88.460 Misdemeanors.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The provisions of this chapter shall not be construed as permitting conduct not proscribed herein and shall not affect the enforceability of any other applicable provisions of law. (Prior code § 4968; Ord. 2803, 10/19/82)

4.88.470 Responsibility.

The primary responsibility for the enforcement of the provisions of this chapter shall be with the Health Officer. The Sheriff may also enforce the provisions of this chapter in his area of responsibility as described in the interdepartmental noise enforcement responsibility and procedure document established under section 4.88.310 of this chapter. (Prior code § 4969; Ord. 2803, 10/19/82)

SANTA CLARA COUNTY CODE & Municipal Code Corporation, 1998.

Sec. B11-153. Interior noise standards.

(a) Maximum permissible dwelling interior sound levels:

The interior noise standards for multifamily residential dwellings as presented in Table B11-153 will apply, unless otherwise specifically indicated, within all dwellings.

TABLE B11-153

Allowable Interior Noise Level (dBA)

Multifamily dwelling

10:00 p.m.--7:00 a.m. (35)

7:00 a.m.--10:00 p.m. (45)

(2) No person will operate or cause to be operated within a dwelling unit any source of sound or allow creation of any noise which causes the noise level when measured inside a neighboring receiving dwelling unit to exceed:

a. The noise standard as specified in Table B11-153 for a cumulative period of more than five minutes in any hour; or

b. The noise standard plus five dB for a cumulative period of more than one minute in any hour; or

c. The noise standard plus ten dB or the maximum measured ambient, for any period of time.

(3) If the measured ambient level exceeds that permissible within any of the noise limit categories above, the allowable noise exposure standard will be increased in five-dB increments in each category as appropriate to reflect the ambient noise level.

(b) Correction for character of sound. In the event the alleged offensive noise contains a steady, audible tone such as a whine, screech or hum, or contains music or speech conveying information content, the standard limits set forth in Table B11-153 will be reduced by five dB.

(Ord. No. NS-517.72, § 2, 4-15-03)

From Washington DC:

DC residents have the right to peace and quiet. (And it's the law!)

If the Illegal Noise is Waking You Up or Keeping You Awake, Here's What You Can Do:

1. pre-7am and post-9pm noise is generally *illegal*. DC residents have the right to a full night's sleep.

2. New: Call 311: If it's loud enough to bother you, it's probably illegal. The police can cite the noise maker and fine them. The operators who handle the 311 center are professional and will send out the next available police officer.

Q: Does the City have any noise restrictions?

A: Yes there are, although there are several exemptions. The City Council has enacted a noise ordinance that states "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..." Normally, noise is limited to 10db above the ambient noise level for any 15 minute period and 20db for any 3 minute period. Construction activities can go as high as 86db above the ambient noise level, but are restricted between 7 am - 7 pm, M-F, and 9 am - 7 pm on the weekends. For more information about noise limits please give us a call.

Sleep deprivation as bad as alcohol impairment, study suggests

September 20, 2000_Web posted at: 1:50 PM EDT (1750 GMT)

From staff and wire reports

LONDON (CNN) -- Night owls take note: new research offers yet another reason to get more sleep. In a study published this week in the **British Journal of Occupational and Environmental Medicine**, researchers in Australia and New Zealand report that *sleep deprivation can have some of the same hazardous effects as being drunk.*

Getting less than 6 hours a night can affect coordination, reaction time and judgment, they said, posing "a very serious risk."

Drivers are especially vulnerable, the researchers warned. They found that people who drive after being awake for 17 to 19 hours performed worse than those with a blood alcohol level of .05 percent. That's the legal limit for drunk driving in most western European countries, though most U.S. states set their blood alcohol limits at .1 percent and a few at .08 percent.

The study said 16 to 60 percent of road accidents involve sleep deprivation. The researchers said countries with drunk driving laws should consider similar restrictions against sleep-deprived driving.

The **British Medical Association** warned that there are other problems associated with sleep deprivation beyond impaired motor skills. *People who get too little sleep may have higher levels of stress, anxiety and depression, and may take unnecessary risks.*

And the dangers aren't limited to drivers. People who work long shifts or night shifts, such as medical personnel or other emergency workers, may also have troubles.

Reuters contributed to this report.

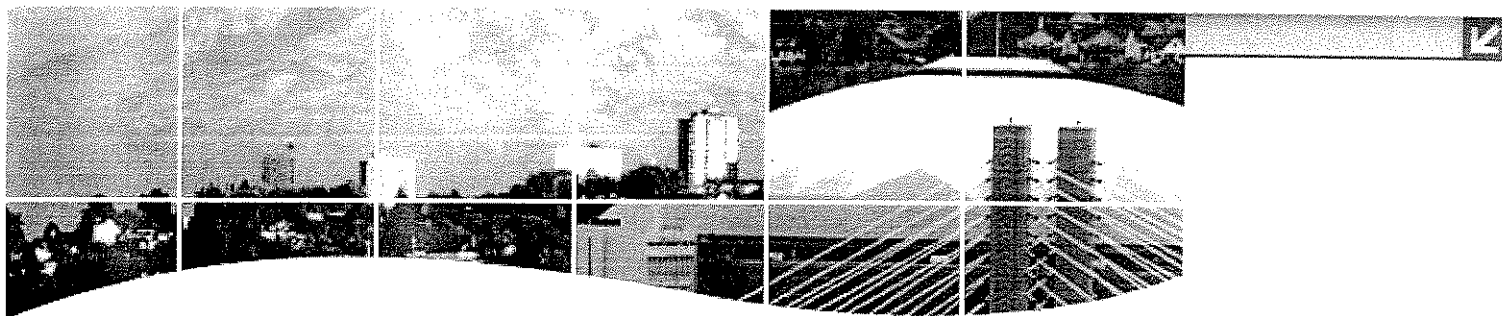
Jet lag, also **jetlag** or **jet-lag**, is a *physiological condition* which is a *consequence of alterations to circadian rhythms*; it is *classified as one of the circadian rhythm sleep disorders*. Jet lag results from rapid transmeridian travel, as on a jet plane.

The condition of jet lag may last many days, and a *recovery rate of "one day per time zone" is often mentioned as a fair guideline*.

When traveling across a number of time zones, the body clock will be out of sync with the destination time, as it experiences daylight and darkness contrary to the rhythms to which it has grown accustomed: *the body's natural pattern is upset, as the rhythms that dictate times for eating, sleeping, hormone regulation and body temperature variations no longer correspond to the environment nor to each other in some cases*. To the degree that the body cannot immediately realign these rhythms, it is jet lagged.

The **symptoms** of jet lag can be quite varied and may include the following:[1]

- 0. Loss of appetite, nausea, digestive problems
- 0. Headache, sinus irritation
- 0. Fatigue, irregular sleep patterns, insomnia
- 0. Disorientation, grogginess, irritability
- Mild depression

City of
Tacoma[Emergency Information](#)
[Neighborhoods](#)[Frequently called](#)
[Privacy Policy](#)[Site map](#) [Search](#) 

News

[RSS Feed / What is RSS?](#)

FOR IMMEDIATE RELEASE

April 1, 2008

MEDIA CONTACTS

Lisa Wojtanowicz, Public Works, lwoitano@cityoftacoma.org, (253) 591-5267Karrie Spitzer, Community Relations, karrie.spitzer@cityoftacoma.org, (253) 591-5790

New noise ordinance goes into effect April 2

Beginning April 2, 2008, a new, comprehensive noise ordinance will go into effect for Tacoma. The noise ordinance was created to help regulate noise levels that exceed the recommended day and night time levels that are considered disruptive to the health and welfare of the community.

The noise ordinance will prohibit the following:

• General prohibitions

The general prohibitions limit night time noise from any source to be no more than five decibels above the background noise levels and day time noise is limited to no more than ten decibels above background noise levels.

• Commercial music

Sound levels associated with commercial music cannot be more than six decibels above background noise levels as measured within a dwelling. In addition, commercial music cannot be plainly audible from a distance of 100 feet or more from the property line of business.

• Construction

The ordinance limits construction hours from 7 a.m. to 9 p.m. on weekdays, and from 9 a.m. to 9 p.m. on weekends and federal holidays.

• Public disturbance noise

Music from instruments, stereos, or car stereos that is plainly audible 50 feet from the source, or any sound that is plainly audible within any dwelling unit that is not the source of the sound, is prohibited.

Frequent, repetitive or continuous sounds such as horn honking (except for emergency purposes) or revving engines is also prohibited.

- [Make Tacoma Safe & Clean](#)
- [2009-2010 Preliminary Biennial Budget](#)
- [Documents](#)
- [Newsletters](#)
- [News Releases and Advisories](#)
- [TV Tacoma](#)

Online Services

- ▶ [City Calendar](#)
- ▶ [MyTacoma](#)
- ▶ [govME: GIS Maps, Docs, Permitting](#)
- ▶ [Pay a utility bill or request a service](#)

LETTER FROM 23 CLUB MANGER

To whom it may concern

We've been operating this club since 5/07/07 we've carried on the tradition of having rockabilly and country music, we put in a sound booth and elaborate sound system. We rebuilt the stage with sound proofing to prevent sound from going thru the back walls of the structure. We went along with no sound complaints until about May of 2008, apparently a neighbor living across from the front of the club, I realized it was because of the awning being temporarily removed from the front door was allowing sound to bounce thru the front doors and off the entranceway of the club, so when we finally got the new awning back in place the complaints seemed to go away.

Then we started to get complaints form a neighbor living in a house near our back yard, we found out they just rented the house, we bought sound panels and hung them from the ceiling to catch bouncing sound waves, we hung fire proof sound drapes around the stage and throughout the club, the complaints kept coming, I sound insulated the ceiling of the stage and other areas, we still kept getting complaints, I purchased a digital sound meter, I started measuring ambient sound readings in the front and rear of building, I was reading between 60 and 65 decibels, then when we had bands I measured 25feet from rear of the building approx 72 to 75 decibels which is within the 20 db safe range. One evening the complaining neighbors came to club and meet with me and Debbie, the seemed to be very nice people and explained that it was the bass they had a problem with, and I did readjust the stationary amplifiers to a higher hertz level, bringing them from delivering 250 hertz up to 500 hertz which has a lot less thump to the music and constantly monitoring the sound levels outside the building to keep us in the safe zone, but still the complaints keep coming. As you can see we are trying to resolve this sound problem, But I get the feeling that no matter what we do these complainers will never be happy at any cost to us. We are now going to install a chamber door set up in the rear of the building so that there will be 2 exit doors, one approx 8 feet in front of the other so that one will be closed at all times while one maybe momentarily open for entrance or exit. We also have in our plans to pump insulation into the rear wall of the building to help sound proof it. Everything we've done thus far has been very expensive and I can only move on these upgrades as we can afford them.

I hope this letter gives better insight on the ongoing problems of sound at the 23 club.

 2/07/09
Lionel Chartrand
General Manager