

ORDINANCE NO. OR06-11

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
CHAPTER 58, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE II.,
UNLAWFUL NOISES, SECTION 58-42, EXCESSIVE NOISES,
CHAPTER 78, SOLID WASTE, ARTICLE II., COLLECTION, SECTION 78-33 (a),
PRIVATE HAULING AND COLLECTION OF GARBAGE PROHIBITED,
CHAPTER 106, ZONING, ARTICLE II, GENERAL PROVISIONS, SECTION 106-47,
USE RESTRICTIONS, ARTICLE IV, ZONING DISTRICTS, SECTIONS 106-90 (d), 106-
94 (d), 106-95 (d), 106-96 (d), 106-97 (d), 106-98 (d) & (f), 106-99 (d), 106-100 (d),
AS IT RELATES TO MISCELLANEOUS ZONING CODECHANGES
IN THE CITY OF BRILLION, CALUMET COUNTY, WISCONSIN**

The Common Council of the City of Brillion do ordain as follows:

SECTION 1. Chapter 58, Offenses and Miscellaneous Provisions, Article II, Unlawful Noises, Section 58-42, Chapter 78, Solid Waste, Article II, Collection, Section 78-33 (a), Chapter 106, Zoning, Article II, General Provisions, Section 106-47, Use Restrictions, Article IV, Zoning Districts, Sections 106-90 (d), 106-94 (d), 106-95 (d), 106-96 (d), 106-97 (d), 106-98 (d) & (f), 106-99 (d), 106-100 (c) , are hereby amended and added as follows:

Sec. 58-42. Excessive noise.

The following acts among others are declared to be loud or disturbing noises in violation of this article, but such enumeration shall not be deemed to be exclusive:

- (a) The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place except as a danger warning; the creation by means of any such signaling device of any unreasonably loud and raucous sound; the sounding of any such device for an unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- (b) The operation of a vehicle in such manner as to cause excessive noise levels as a result of a defective or modified exhaust system, or as a result of unnecessary rapid acceleration, deceleration, revving or tire squealing of a vehicle, or operation of audio devices at an excessive level.
- (c) Using, operating or permitting to be played, used or operated, any audio device, musical instrument, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated and who is a voluntary listener. The operation of any such audio device, musical instrument, or other machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this article.
- (d) Playing, using, operating or permitting to be played, used or operated, any audio device, musical instrument, loudspeaker, sound amplifier, or other machine or device for the

producing or reproducing of sound that is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

- (e) Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence or of any person in the vicinity.
- (f) In areas zoned other than R1-H, R1-M, R1-L, R-MH, R-2, or R-3, the blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.
- (g) The discharge into the open air of the exhaust of any diesel engine, stationary internal combustion engine, motorboat, motor vehicle, lawnmower or other similar device, except through a muffler or other device that will effectively prevent loud or explosive noises. The operation between the hours of 11:00 p.m. and 7:00 a.m. of any piledriver, power-driven shovel, pneumatic hammer, derrick, power- or electric-driven hoist or similar appliance, the use of which is attended by loud or unusual noise.
- (h) The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers, outside of areas zoned commercial or industrial.
- (i) The erection (including excavating), demolition, alteration or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector. The permit may be granted for a period not to exceed three days or less while the emergency continues and may be renewed for periods of three days or less while the emergency continues. If the building inspector shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building, within the hours of 6:00 p.m. and 7:00 a.m., and further determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.
- (j) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

Sec. 78-33. Private hauling and collection of garbage prohibited.

- (a) No person, other than the city and its agents or licensed contractors, shall collect or transport any garbage over the city streets in single-family (R1-H, R1-M, and R1-L) and two-family (R-2) zoned districts.

Sec. 106-47. Use restrictions.

The following use restrictions and regulations shall apply:

- (a) Principal uses. Only those principal uses specified for a district, their essential services, and the uses described in this section shall be permitted in that district.

- (b) Accessory uses and structures. Accessory uses and structures are permitted in any district as follows: the principal structure is present; (ii) the principal structure is under construction; or (iii) upon public hearing and approval by the city plan commission, if the city plan commission believes, in its sole discretion taking into consideration the land use plan intended by these articles and under other applicable law, that the principal structure shall be built within five years of the date of the commencement of such accessory use or structure. Any approval of an accessory use or structure by the city plan commission as provided in (iii) above shall likewise include reasonable provisions, conditions, and/or enforcement to insure that the principal structure is ultimately built as indicated.
- (c) Conditional uses. Conditional uses and their accessory uses are considered as special uses requiring review, public hearing and approval by the city plan commission in accordance with article V of this chapter. Any development within 500 feet of the existing or proposed rights-of-way, an interstate highway and controlled access traffic ways and within 1,500 feet of their existing or proposed turning lane rights-of-way shall be deemed to be conditional uses. Such development shall be specifically reviewed and approved by the city plan commission as provided in article V of this chapter.
- (d) Home occupations and professional home offices. Home occupations and professional home offices are permitted accessory uses in any residential district not requiring a building permit, provided that:
- (1) The use of the residential dwelling for the home occupation or professional home office shall be clearly incident and subordinate to its residential use and shall not occupy more than 25 percent of the floor area of one floor.
 - (2) No home occupation or professional home office shall be located in or conducted in an accessory structure.
 - (3) No person other than members of the family residing on the premises shall be employed or engaged in such home occupation or professional home office.
 - (4) Home occupations shall use only household equipment and no stock in trade shall be kept or sold except that made on the premises.
 - (5) No traffic shall be generated by the home occupation or professional home office in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation or use shall be provided off the street and other than in the required street yard.
 - (6) No outdoor storage of equipment or product shall be permitted.
 - (7) Home occupations, which comply with the conditions set forth in this section, may include, but are not limited to, babysitting, canning, crafts, desktop publishing and other computer services, dressmaking, laundering, millinery, piano teaching and word processing.
 - (8) Home occupations shall not include auto body or engine repair, barbering, beauty shops, construction trades, dance studios, photographic studios or real estate brokerages.
- (e) Unclassified or unspecified uses. Unclassified or unspecified uses may be permitted by the city plan commission, provided that such uses are similar in character to the principal uses permitted in the district.

- (f) Temporary uses. Temporary uses, such as real estate sales or rental field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted for a period of up to one year by the city plan commission. Temporary use permits may be renewed if the plan commission deems such renewal appropriate. Additional temporary conditional use permits are set forth in section 106-129 and may be permitted as set forth in that section.
- (g) Pets. Pets are permitted, provided that the number of household pets is in accordance with chapter 10 concerning limitation on number of animals, limitations per lot in any residential district or agricultural district.
- (1) Household pets shall include dogs, cats, rabbits and other small animals housed inside or outside of a residential dwelling. Very small animals kept indoors at all times, such as hamsters, gerbils, white mice, parakeets and canaries, tropical fish and small lizards, are not subject to the three animal per lot limit.
 - (2) Exotic pets shall include pygmy goats, nonpoisonous snakes, deodorized skunks, ferrets, parrots and other small exotic animals except potbellied pigs. Only two exotic pets shall be allowed per lot and shall be included in the three pets per lot limit.
 - (3) Exotic pets kept outdoors shall require a conditional use permit for all residential districts and agricultural districts. The city plan commission, as provided in article V of this chapter, shall specifically review the following items when making their determination:
 - a. Type of exotic pet.
 - b. Location and size of lot.
 - c. Type of fenced-in enclosure and house for the exotic pet.
 - d. Method of pet waste disposal.
 - e. A certificate of purebred registration.
 - f. A health certificate and certificate of required shots.
 - g. The exotic pet shall [not] be hazardous, harmful, offensive or otherwise adverse to the health, welfare, environment or value of the neighborhood or the community.
 - (4) The keeping of livestock such as potbellied pigs, cattle, horses, donkeys, mules, burros, llamas, sheep, hogs, goats and other farm animals is prohibited in any residential district.
 - (5) The keeping of poultry or fowl such as chickens, pigeons, roosters, ducks, guinea hens, geese, turkeys, peacocks and game birds is only permitted in the agricultural district.
 - (6) The keeping of bears, lions, tigers, leopards, monkeys, wolves, foxes, poisonous snakes and reptiles or other dangerous animals is prohibited in the city. In the event of a dispute over whether an animal is dangerous, the city council shall make a determination after review and public hearing.

Sec. 106-90. A-1 agricultural district.

- (d) Conditional uses. For conditional uses in the A-1 district see section 106-122.

Sec. 106-94. C-1 commercial district-downtown.

(d) Conditional uses. For conditional uses in the C-1 district see section 106-124.

Sec. 106-95. C-2 commercial district-highway.

(d) Conditional uses. For conditional uses in the C-2 district see section 106-124.

Sec. 106-96. I-1 light industrial district.

(d) Conditional uses. For conditional uses in the I-1 district see section 106-125.

Sec. 106-97. I-2 heavy industrial district.

(d) Conditional uses. For conditional uses in the I-2 district see section 106-125.

Sec. 106-98. ID institutional district.

(d) Conditional uses. For conditional uses in the ID district see section 106-126.

(f) Building height and area.

- (1) Principal and accessory building heights shall be reviewed and approved by the city plan commission.
- (2) Residential uses permitted in the I-D district shall comply with the building area requirements of the R1-M single-family residential medium density district.

Sec. 106-99. PD park district.

(d) Conditional uses. For conditional uses in the PD district see section 106-126.

Sec. 106-100. CD conservancy district.

(c) Conditional uses. For conditional uses in the CD district see section 106-128.

SECTION II: This ordinance shall take effect upon passage and publication as required by law.

Ordinance Number OR06-11 introduced and its adoption moved by Alderperson Unbehaun; and seconded by Alderperson Edinger.

Upon a pole vote thereon, the result was as follows:

 9 Votes Cast
 9 Votes Yes
 0 Votes No

The Mayor declared Ordinance Number OR06-11 adopted, approved and signed the same this 26th day of June, 2006.

Gerald Sonnabend
Mayor

Attested:

Lori M. Gosz, CMC
City Administrator/Clerk-Treasurer