

Gold Coast City Council



Local Law No. 19

(Control of Party House Noise) 2013

This and the following 6 pages is a certified copy of
Local Law No. 19 (Control of Party House Noise) 2013
made, in accordance with the provisions of the *Local Government Act 2009*,
by Gold Coast City Council by resolution dated the 26 March 2013.

Dale Dickson
Chief Executive Officer

Gold Coast City Council Local Law No. 19 (Control of Party House Noise) 2013

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 19 (Control of Party House Noise) 2013*.

2 Object

The object of this local law is to —

- (a) ensure that excessive noise is not regularly emitted from a residential property which is made available for short term rental accommodation purposes; and
- (b) balance the rights of —
 - (i) the owner of a residential property which is made available for short term rental accommodation purposes; and
 - (ii) the occupiers of premises which adjoin, or are located in the vicinity of, the residential property which is made available for short term rental accommodation purposes; and
- (c) protect the environment and public health, safety and amenity within the local government area, and in particular, premises which adjoin, or are located in the vicinity of, residential property which is made available for short term rental accommodation purposes; and
- (d) make the owner of a residential property liable to a penalty if —
 - (i) the residential property is made available for short term rental accommodation purposes; and
 - (ii) whilst the residential property is occupied by 1 or more tenants, excessive noise is regularly emitted from the property.

3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

4 Relationship to other laws

This local law is—

- (a) in addition to, and does not derogate from, laws regulating land use planning and development assessment; and
- (b) to be read with *Local Law No. 3 (Administration) 2008*.

Part 2 Excessive noise emission from residential property available for short term rental accommodation

5 Meaning of owner

The *owner* of a residential property—

- (a) means each of —
 - (i) if the residential property is on freehold land — the registered proprietor of the freehold land; and
 - (ii) the person who, for the time being, is entitled to receive the rent for the residential property or would be entitled to receive the rent for the residential property if it were let to a tenant at a rent; and
- (b) includes—
 - (i) a tenant of the residential property if the tenant has a right of exclusive occupation of the property under a lease; and
 - (ii) another person specified as an owner in a subordinate local law.

6 Meaning of residential property

A *residential property* is—

- (a) a property of a type that would ordinarily be used, or intended to be used, as a place of residence or mainly as a place of residence; and
- (b) another property specified as a residential property in a subordinate local law.

7 Meaning of noise abatement direction

A *noise abatement direction* is a direction given to a person by a police officer under the *Police Powers and Responsibilities Act 2000*, section 581(3).

8 Meaning of short term rental accommodation purposes

A residential property is made available for *short term rental accommodation purposes* if the residential property is available for rent, let, hire or the like (however described) for a period of occupation of less than 42 days at any 1 time.

9 Meaning of regularly emitted

Excessive noise is *regularly emitted* from a residential property which is made available for short term rental accommodation purposes if the excessive noise is emitted from the property—

- (a) more than 2 times during a 12 month period; or
- (b) with another frequency that is specified in a subordinate local law of not less than 3 times during a 12 month period.

10 Owner's liability for excessive noise from residential property available for short term rental accommodation

- (1) The owner of a residential property which is made available for short term rental accommodation purposes must not permit or allow excessive noise to be regularly emitted from the residential property.

Maximum penalty — 200 penalty units.

- (2) For the avoidance of doubt—
 - (a) the owner of a residential property which is made available for short term rental accommodation purposes commits an offence under subsection (1) if, whilst the residential property is occupied by 1 or more tenants, excessive noise is regularly emitted from the property; and
 - (b) the owner of a residential property which is not made available for short term rental accommodation purposes does not commit an offence under subsection (1) if excessive noise is regularly emitted from the property.

11 Evidence of a contravention of section 10

In a proceeding about a contravention of section 10—

- (a) a noise abatement direction given to a person at a residential property is evidence of excessive noise being emitted from the property; and
- (b) a copy of information recorded in the register of enforcement acts under the Police Powers and Responsibilities Act 2000 about the giving of a noise abatement direction is evidence of the matters stated in it.

12 Evidence about a noise abatement direction

- (1) Despite section 11, a defendant may, with the leave of the court, require the local government prosecuting an offence under section 10 to call any person involved in the giving of a noise abatement direction to give evidence at the hearing.
- (2) The court may give leave only if the court is satisfied that—
 - (a) an irregularity may exist in relation to the information or the giving of the noise abatement direction; or
 - (b) it is in the interests of justice that the person be called to give evidence.

13 Police commissioner to give Information

- (1) The chief executive officer of the local government may ask the police commissioner to give the chief executive officer information about a noise abatement direction given to a person in the local government area.
- (2) The police commissioner must comply with a request given under subsection (1).

Part 3 Subordinate local laws

14 Subordinate local laws

The local government may, in a subordinate local law, specify—

- (a) a thing as a structure pursuant to the schedule (Dictionary) of this local law; and
- (b) a thing as a vehicle pursuant to the schedule (Dictionary) of this local law; and
- (c) a person as an owner of residential property pursuant to section 5 (Meaning of *owner*) of this local law; and

- (d) a property as a residential property pursuant to section 6 (Meaning of ***residential property***) of this local law; and
- (e) the frequency with which excessive noise may be emitted from a residential property before the excessive noise is regularly emitted from the residential property pursuant to section 9 (Meaning of ***regularly emitted***) of this local law.

Schedule Dictionary

Section 3

chief executive officer see *Local Government Act 2009*, schedule 4.

occupier, of premises, means the person who has the control or management of the premises.

owner, of a residential property, see section 5.

noise abatement direction see section 7.

premises means any road, land, water, building, structure, vehicle or boat and includes any part thereof.

regularly emitted see section 9.

residential property see section 6.

short term rental accommodation purposes see section 8.

structure has the meaning given in the *Local Government Act 2009* and includes a structure as defined in the *Building Act 1975* and any other thing specified in a subordinate local law.

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes anything specified as a vehicle in a subordinate local law.