

1 [Police Code - Regulating the Use of Amplified Sound on Unenclosed Tour Buses and
Establishing Fee]

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3 **Ordinance amending San Francisco Police Code Sections 46, 2901, 2916, and 2922, and**
4 **adding Section 2913, to: 1) clarify that the definition of "Sound Truck" in Section 46**
5 **does not include unenclosed tour buses; 2) clarify that the noise restrictions imposed**
6 **by Article 29 do not apply to the City and County of San Francisco; 3) prohibit the use**
7 **of amplified sound systems on unenclosed tour buses unless such systems have been**
8 **certified by the San Francisco Department of Public Health as not being audible from a**
9 **distance of 50 or more feet from the vehicle or contain volume limiting electronics to**
10 **meet that requirement; 4) adding a reporting requirement for the Department of Public**
11 **Health; 5) adding fees for the Department of Public Health approval and issuance of a**
12 **Certificate of Authorization to Operate Electronically Amplified Sound on Unenclosed**
13 **Tour Bus; 6) authorize the Department of Public Health and the Police Department to**
14 **enforce the requirements of Section 2913; 7) clarify that Article 29 should not be**
15 **construed to conflict with Federal or State laws; and 8) adopt findings, including**
16 **environmental findings.**

17 NOTE: Additions are *single-underline italics Times New Roman*;
18 deletions are *strike-through italics Times New Roman*.
19 Board amendment additions are double-underlined;
20 Board amendment deletions are ~~strike-through normal~~.

21 Be it ordained by the People of the City and County of San Francisco:

22 Section 1. Findings.

23 a. The Board of Supervisors finds that in order to protect public health, it is and has
24 been the policy of San Francisco to prevent unwanted, excessive and avoidable noise.

1 b. There are a number of sightseeing bus operators in San Francisco who use
2 amplified sound on unenclosed tour buses to communicate with their passengers as the
3 buses travel along regular routes throughout the day. At excessive volumes, this amplified
4 sound disturbs people in their homes and on the streets along the sightseeing bus route. The
5 number of unenclosed tour buses in San Francisco has increased substantially in recent
6 years.

7 c. The routes for most unenclosed tour buses include popular tourist destinations,
8 which disproportionately impact a select group of local residences along the route. These
9 unenclosed tour buses are typically operated eight hours per day, seven days per week.

10 d. The San Francisco Department of Public Health has observed that unenclosed
11 tour buses frequently exceed the California Vehicle Code standard for amplified sound in
12 multiple areas of San Francisco, particularly near tourist attractions. These noise violations
13 have a disproportionate impact due to the repetitive nature of tour bus scheduling and routing.
14 The continuous and routine nature of these noise violations requires a more directed and
15 systemic approach than could be accomplished with standard motor vehicle enforcement
16 methods by the San Francisco Police Department.

17 e. Environmental Findings. The Planning Department has determined that the
18 actions contemplated in this Ordinance are in compliance with the California Environmental
19 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is
20 on file with the Clerk of the Board of Supervisors in File No. _____ and is
21 incorporated herein by reference.

22 Section 2. The San Francisco Police Code is hereby amended by amending Sections
23 46, 2901, 2916, and 2922, and adding a new Section 2913 to read as follows:

1 **SEC. 46. DEFINITIONS.**

2 (a) "Sound Truck." The words "sound truck" as used in this Code shall mean any
3 motor vehicle, horse drawn vehicle or other means of conveyance, having mounted thereon,
4 attached thereto or carrying any sound amplifying equipment, except that an "Unenclosed Tour
5 Bus" as defined in Section 2913 of this Code shall not be considered a "sound truck" for purposes of
6 this Article.

7 (b) "Sound Amplifying Equipment." The words "sound amplifying equipment" as
8 used in this Code, shall mean any machine or device for the reproduction or amplification of
9 the human voice, music or other sound. "Sound amplifying equipment" shall not be construed
10 as including standard automobile radios, television receiving sets or mobile radio telephone
11 equipment or other mechanical sound or voice-reproducing devices when used and heard
12 only by occupants of the vehicle in which installed, or warning devices on authorized
13 emergency vehicles or horns or other warning devices on other vehicles used only for traffic
14 safety purposes.

15 **SEC. 2901. DEFINITIONS.**

16 (a) "Ambient" means the lowest sound level repeating itself during a minimum ten-
17 minute period as measured with a type 1, precision sound level meter, using slow response
18 and "A " weighting. The minimum sound level shall be determined with the noise source at
19 issue silent, and in the same location as the measurement of the noise level of the source or
20 sources at issue. However, for purposes of this chapter, in no case shall the ambient be
21 considered or determined to be less than: (1) Thirty-five dBA for interior residential noise, and
22 (2) Forty-five dBA in all other locations. If a significant portion of the ambient is produced by
23 one or more individual identifiable sources of noise that contribute cumulatively to the sound
24 level and may be operating continuously during the minimum ten-minute measurement period,
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1 determination of the ambient shall be accomplished with these separate identifiable noise
2 sources silent or otherwise removed or subtracted from the measured ambient sound level.

3 (b) "Director" means the Director or department head of any City department having
4 administrative or enforcement responsibilities under this Article or any other provision of the
5 Municipal Code regarding noise control, as well as his or her designee.

6 (c) "Dwelling Unit" means (1) a dwelling space consisting of essentially complete
7 independent living facilities for one or more persons, including, for example, permanent
8 provisions for living and sleeping; (2) a room in group housing, even if such room lacks private
9 cooking facilities and private plumbing facilities, such as rooms in senior citizen housing,
10 single room occupancy or residential hotels, dorms, hostels, or shelters; or, (3) a
11 housekeeping room as defined in the Housing Code.

12 (d) "Emergency work" means work made necessary to restore property to a safe
13 condition following a public calamity or work required to protect persons or property from an
14 imminent exposure to danger or work by private or public utilities when restoring utility service.
15 This term shall not include testing of emergency equipment.

16 (e) "Fixed source" means a machine or device capable of creating a noise level at
17 the property upon which it is regularly located, including but not limited to: industrial and
18 commercial process machinery and equipment, pumps, fans, air-conditioning apparatus or
19 refrigeration machines.

20 (f) "Low frequency ambient" means the lowest sound level repeating itself during a
21 ten-minute period as measured with a sound level meter, using slow response and "C"
22 weighting. The minimum sound level shall be determined with the music or entertainment
23 noise source at issue silent, and in the same location as the measurement of the noise level
24 of the source or sources at issue. However, for purposes of this chapter, in no case shall the
25 local ambient be considered or determined to be less than: (1) Forty-five dBC for interior

1 residential noise, and (2) Fifty-five dBC in all other locations. If a significant portion of the
2 ambient is produced by one or more individual identifiable sources that would otherwise be
3 operating continuously during the minimum ten-minute measurement period, determination of
4 the low-frequency ambient shall be accomplished with these separate identifiable noise
5 sources silent or otherwise removed or subtracted from the measured ambient sound.

6 (g) "Noise level" means the maximum continuous sound level or repetitive peak
7 sound level, produced by a source or group of sources as measured with a sound level meter.
8 In order to measure a noise level, the controls of the sound level meter should be arranged to
9 the setting appropriate to the type of noise being measured. For example, the settings should
10 be slow response for continuous noise sources and fast response for noises with rapid onset
11 and decline.

12 (h) "Person" means a person, firm, association, copartnership, joint venture,
13 corporation, or any entity, public or private in nature, but shall not include the City and County of
14 San Francisco.

15 (i) "Place of Entertainment" has the same meaning as the term is defined in San
16 Francisco Police Code Section 1060.

17 (j) "Powered construction equipment" means any tools, machinery, or equipment
18 used in connection with construction operations which can be driven by energy in any form
19 other than manpower, including all types of motor vehicles when used in the construction
20 process of any construction site, regardless of whether such construction site be located on-
21 highway or off-highway, and further including all helicopters or other aircraft when used in the
22 construction process except as may be preempted for regulation by State or Federal law.

23 (k) "Property plane" means a vertical plane including the property line that
24 determines the property boundaries in space.

1 (l) "Public Property " means property leased or owned by a governmental entity, to
2 which the public or a substantial group of persons has access, including but not limited to any
3 street, highway, parking lot, plaza, transportation facility, school, place of amusement, park, or
4 playground located within the City and County of San Francisco.

5 (m) "Residential Property" means any property that has at least one dwelling unit
6 and has been approved for human habitation by the City and County of San Francisco.

7 (n) "Sound level," expressed in decibels (dB), means a logarithmic indication of the
8 ratio between the acoustic energy present at a given location and the lowest amount of
9 acoustic energy audible to sensitive human ears and weighted by frequency to account for
10 characteristics of human hearing, as given in the American National Standards Institute
11 Standard S1.1, "Acoustic Terminology," paragraph 2.9, or successor reference. All references
12 to dB in this chapter refer to the A-level or C-level weighting scale, abbreviated dBA or dBC,
13 measured as set forth in this section.

14 **SEC. 2913. USE OF AMPLIFIED SOUND ON UNENCLOSED TOUR BUSES.**

15 (a) For purposes of this Section, "Unenclosed Tour Bus" shall mean a privately-owned
16 passenger vehicle for hire with a capacity of nine or more passengers, including the driver, that:

17 (1) is used primarily for the conveyance of passengers over the public streets, for the
18 purpose of visiting or viewing places of interest; and

19 (2) lacks either a permanently attached solid roof covering all seating areas of the vehicle
20 or permanently attached side panels, which with any doors or windows closed, fully enclose the sides of
21 the vehicle.

22 (b) Effective June 1, 2012, it shall be a violation of this Section for any Person to operate an
23 Unenclosed Tour Bus using electronically amplified sound to communicate with passengers without
24 having received authorization from the Director of the Department of Public Health or his or her
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1 designee ("Director of Public Health") that the sound system is in compliance with the requirements of
2 this Section.

3 (c) The Director of Public Health may approve the electronically amplified sound system on
4 an Unenclosed Tour Bus and issue a Certificate of Authorization to Operate Electronically Amplified
5 Sound on Unenclosed Tour Buses ("Certificate") where the Director of Public Health determines that
6 either:

7 (1) At maximum volume and without modification, the sound system is not audible at a
8 distance of 50 or more feet outside the vehicle with the vehicle windows open and any operable or
9 removable roof or side panels opened or removed; or

10 (2) The sound system includes volume limiting technology, which in its default mode
11 prevents the sound system from being heard at a distance of 50 or more feet outside the vehicle. Such a
12 system may include an override mode for use in emergencies.

13 (d) Following a hearing, the Director of Public Health may suspend or revoke a Certificate
14 for any violation of this Section. The Director of Public Health may base such action on 1) the
15 Director of Public Health's determination that the Certificate holder has violated this Section; or 2) a
16 citation from the San Francisco Police Department for any violation of this Section or California
17 Vehicle Code Section 27007, or any successor provisions. A Certificate holder may appeal the
18 suspension or revocation of a Certificate to the Board of Appeals.

19 (e) The Owner or Operator of the Unenclosed Tour Bus shall post the Certificate in a
20 clearly visible location on the exterior of the vehicle.

21 (f) The Director of Public Health shall review the compliance history of each approved
22 Unenclosed Tour Bus and reinspect the Unenclosed Tour Bus annually, and upon any change in
23 ownership, and if found in compliance with this Section and any implementing regulations, the Director
24 of Public Health may reissue the Certificate.

1 (g) The Director of Public Health shall report to the Board of Supervisors one year from the
2 effective date of this ordinance and every two years thereafter:

3 (1) the number of Certificates issued to Unenclosed Tour Buses;

4 (2) the number of complaints received by the Director of Public Health regarding Unenclosed
5 Tour Buses; and

6 (3) the effectiveness of the Department of Public Health's program to regulate amplified sound
7 from Unenclosed Tour Buses and any suggested changes to the program.

8 (h) Decisions by the Director of Public Health regarding the issuance or reissuance of
9 Certificates may be appealed to the Board of Appeals.

10 (i) The fee for the initial application to obtain a Certificate and for each yearly renewal
11 shall be \$394, payable to the Director of Public Health. The initial application fee shall be due at the
12 time of application. The annual fee to renew the Certificate shall be due on July 1.

13 Beginning with fiscal year 2013-2014, fees set forth in this Section may be adjusted each year,
14 without further action by the Board of Supervisors, as set forth in this Section.

15 Not later than April 1, the Director of Public Health shall report to the Controller the revenues
16 generated by the fees for the prior fiscal year and the prior fiscal year's costs of operation, as well as
17 any other information that the Controller determines appropriate to the performance of the duties set
18 forth in this Section.

19 Not later than May 15, the Controller shall determine whether the current fees have produced
20 or are projected to produce revenues sufficient to support the costs of providing the services for which
21 the fees are assessed and that the fees will not produce revenue that is significantly more than the costs
22 of providing the services for which the fees are assessed.

23 The Controller shall, if necessary, adjust the fees upward or downward for the upcoming fiscal
24 year as appropriate to ensure that the program recovers the costs of operation without producing
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1 revenue which is significantly more than such costs. The adjusted rates shall become operative on
2 July 1.

3 (j) The requirements of this Section shall not apply to an Unenclosed Tour Bus equipped
4 with and using electronically amplified sound to communicate with passengers where all non-
5 emergency communications through the system are audible to passengers only through technology
6 designed to make such communications audible only to the individual listener, such as individual
7 headsets or headphones.

8 (k) The noise standards set forth in Section 2909 shall not apply to Unenclosed Tour Buses.

9 **SEC. 2916. ENFORCEMENT**

10 The Director of Public Health may enforce the provisions of Section 2904, 2909, 2912
11 and 2913 of this Article.

12 The Department of Building Inspection may enforce the provisions of Sections 2907
13 and 2908 of this Article insofar as said provisions relate to construction operations conducted
14 on private property under appropriate permits issued pursuant to the San Francisco Building
15 Code, Housing Code, Electrical Code and Plumbing Code. Insofar as these provisions relate
16 to construction operations conducted on publicly-owned property subject to the police power
17 of the City and County of San Francisco, the Department of Public Works may enforce the
18 provisions of Sections 2907 and 2908 of this Article. The Executive Director of the
19 Entertainment Commission may enforce noise standards associated with licensed Places of
20 Entertainment.

21 The Chief of Police or his or her designee ("Chief of Police") shall also enforce the provisions of
22 Section 2913. The Chief of Police shall make law enforcement activities related to Unenclosed Tour
23 Buses under Section 2913 a priority for one year after the effective date of the ordinance enacting that
24 Section.

1 The Chief of Police may enforce the provisions of this Article that relate to noise
2 created by humans or any other noise source not specifically assigned or designated to
3 another Department or Agency.

4 **SEC. 2922. PREEMPTION**

5 In adopting this Article, the Board of Supervisors does not intend to regulate or affect
6 the rights or authority of the State to do those things that are required, directed, or expressly
7 authorized by Federal or State law. Further, in adopting this Article, the Board of Supervisors
8 does not intend to prohibit that which is prohibited by Federal or State law. This Article shall be
9 construed so as not to conflict with applicable federal or state laws, rules, or regulations. Nothing in
10 this Article shall authorize any City agency or department to impose any duties or obligations in
11 conflict with limitations on municipal authority established by state or federal law at the time such
12 agency or department action is taken.

13 Section 3. Effective Date. This ordinance shall become effective 30 days from the
14 date of passage.

15 Section 4. In enacting this Ordinance, the Board intends to amend only those words,
16 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,
17 or any other constituent part of the Police Code that are explicitly shown in this legislation as
18 additions, deletions, Board amendment additions, and Board amendment deletions in
19 accordance with the "Note" that appears under the official title of the legislation.

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21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 CECILIA T. MANGOBA
25 Deputy City Attorney