

1 [Police Code - Noise Permits for Construction at Night]

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3 **Ordinance amending the Police Code to clarify factors that Public Works and the**
4 **Department of Building Inspection must consider in evaluating special permits to**
5 **exceed ambient noise levels during night time construction, and to prohibit Public**
6 **Works from issuing such permits for projects in certain residential areas (outside the**
7 **area bounded by Pine, Taylor, Market, 8th, Folsom, Fremont, and Front Streets)**
8 **covered by the Municipal Transportation Agency's Holiday Moratorium on issuance of**
9 **daytime special traffic permits; and affirming the Planning Department's determination**
10 **under the California Environmental Quality Act.**

11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
12 **Additions to Codes** are in *single-underline italics Times New Roman font*.
13 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
14 **Board amendment additions** are in double-underlined Arial font.
15 **Board amendment deletions** are in ~~strikethrough Arial font~~.
16 **Asterisks (* * * *)** indicate the omission of unchanged Code
17 subsections or parts of tables.

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

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18 Section 1. The Planning Department has determined that the actions contemplated in
19 this ordinance comply with the California Environmental Quality Act (California Public
20 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
21 Board of Supervisors in File No. 170869 and is incorporated herein by reference. The Board
22 affirms this determination.

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24 Section 2. The Police Code is hereby amended by revising Section 2908, to read as
25 follows:

1 **SEC. 2908. CONSTRUCTION WORK AT NIGHT.**

2 (a) It shall be unlawful for any person, between the hours of 8:00 p.m. of any day
3 and 7:00 a.m. of the following day to erect, construct, demolish, excavate for, alter, or repair
4 any building or structure if the noise level created thereby is in excess of the ambient noise
5 level by 5 dBA at the nearest property plane, unless a special permit therefor has been
6 applied for and granted by the Director of Public Works or the Director of Building Inspection.

7 (b) In granting such special permit, the Director of Public Works or the Director of
8 Building Inspection shall consider:

9 (1) if construction noise in the vicinity of the proposed work site would be less
10 objectionable at night than during daytime because of different population levels or different
11 neighboring activities;

12 (2) if obstruction and interference with traffic, particularly on streets of major
13 importance, would be less objectionable at night than during daytime;

14 (3) if the kind of work to be performed emits noises at such a low level as to
15 not cause significant disturbance in the vicinity of the work site;

16 (4) if the neighborhood of the proposed work site is primarily residential in
17 character wherein sleep could be disturbed, the Director of Public Works or Director of Building
18 Inspection shall deny the permit unless the Director determines in written findings that at least one of
19 the following factors applies:

20 (A) ~~if~~ great economic hardship would occur if the work were spread
21 over a longer time~~s~~;

22 (B) ~~if~~ the work will abate or prevent hazard to life or property; or, and

23 (C) ~~if~~ the proposed night work is in the general public interest.

24 (c) Notwithstanding subsection (b), the Director of Public Works shall not issue a special
25 permit where:

1 (1) the Municipal Transportation Agency has denied the applicant a special traffic
2 permit to perform work between the hours of 7 a.m. to 10 p.m. because of that agency's Holiday
3 Moratorium;

4 (2) the work is outside the area bounded by Pine Street, Taylor Street, Market Street,
5 8th Street, Folsom Street, Fremont Street, and Front Street; and,

6 (3) the work would be located on a block with any residential uses.

7 (d) The Director of Public Works or the Director of Building Inspection shall
8 prescribe such conditions, working times, types of construction equipment to be used, and
9 permissible noise emissions, as required in the public interest.

10 (e) The provisions of this Section 2908 shall not be applicable to emergency work.

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12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.

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1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

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9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: _____
12 ROBB KAPLA
13 Deputy City Attorney

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