

Amendment of the Whole
October 23, 2008

FILE NO. 081119

ORDINANCE NO.

1 [Noise Control Ordinance.]

2

3 **Ordinance amending the San Francisco Police Code by amending Sections 49, 2900,**
4 **2901, 2902, 2904, 2907, 2908, 2909, 2910, 2912, 2916, 2917, and 2918, repealing Sections**
5 **2903, 2906, 2911, 2913, 2914, 2915, and 2918, and adding new Sections 2912, 2920,**
6 **2922, 2924, and 2926, to revise the City's noise control regulations, add administrative**
7 **penalties, and create a noise task force.**

8 Note: Additions are single-underline italics Times New Roman;
9 deletions are ~~strikethrough italics Times New Roman~~.
10 Board amendment additions are double underlined.
11 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. The San Francisco Police Code is hereby amended by amending Sections
14 49, 2900, 2901, 2902, 2904, 2907, 2908, 2909, 2910, 2912, 2916, 2917, and 2918, repealing
15 Sections 2903, 2906, 2911, 2913, 2914, 2915, and 2918, and adding new Sections 2912,
16 2920, 2922, 2924, and 2926, to read as follows:

17 **SEC. 49. UNNECESSARY NOISE, AUTHORIZED EMERGENCY VEHICLES.**

18 Except as provided in Sections 43, 45, 46, 47.1, 47.2, and 48 of this Code, and to
19 amplifying equipment used in authorized emergency vehicles as defined in the California
20 Vehicle Code, it shall be unlawful for any person to use, operate, maintain, or permit to be
21 played, used or operated any radio or television receiving set, musical instrument,
22 phonograph, juke box, broadcasting equipment or other machine or device for the producing,
23 reproducing or amplification of sound or human voice in such manner as to produce raucous
24 noises or in such manner so as to disturb the peace, quiet and comfort of persons in the
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1 neighbor-hood or with volume louder than is necessary for convenient hearing for the person
2 or persons for whom said machine, instrument or device is operated.

3 The operation of any such set, instrument, phonograph, juke box, broadcasting
4 equipment, machine or device between the hours of 10:00 p.m. and 7:00 a.m., in such a
5 manner as to be plainly audible at a distance of 50 feet from the property line of the property
6 from whence the sound is emitted, shall be prima facie evidence of a violation of this Section.

7 The operation of any such set, instrument, phonograph, juke box, broadcasting
8 equipment, machine or device at any time in such a manner as to cause a noise level in
9 excess of the standards set forth in Article 29 of this Code~~ambient noise level by more than~~
10 ~~five decibels (5 dBA), as those terms are defined in Section 2901 of this Code, when~~
11 ~~measured at the nearest property line of the property from whence the sound is emitted or, in~~
12 ~~the case of multiple-family residential buildings, when measured anywhere in one dwelling~~
13 ~~unit with respect to a noise emanating from another dwelling unit or from common space in~~
14 ~~the same building,~~ shall be prima facie evidence of a violation of this Section.

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16 **SEC. 2900. DECLARATION OF POLICY.**

17 It is hereby declared to be the policy of the City and County to prohibit unnecessary,
18 excessive and offensive noises from all sources subject to its police power. Above certain
19 levels noise is detrimental to the health and welfare of the citizenry and in the public interest
20 shall be systematically proscribed.

21 (a) Building on decades of scientific research, the World Health Organization and
22 the U.S. Environmental Protection Agency have determined that persistent exposure to
23 elevated levels of community noise is responsible for public health problems including, but not
24 limited to: compromised speech, persistent annoyance, sleep disturbance, physiological and

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1 psychological stress, heart disease, high blood pressure, colitis, ulcers, depression, and
2 feelings of helplessness.

3 (b) The General Plan for San Francisco identifies noise as a serious environmental
4 pollutant that must be managed and mitigated through the planning and development
5 process. But given our dense urban environment, San Francisco has a significant challenge
6 in protecting public health from the adverse effects of community noise arising from diverse
7 sources such as transportation, construction, mechanical equipment, entertainment, and
8 human and animal behavior.

9 (c) In order to protect public health, it is hereby declared to be the policy of San
10 Francisco to prohibit unwanted, excessive, and avoidable noise. It shall be the policy of San
11 Francisco to maintain noise levels in areas with existing healthful and acceptable levels of
12 noise and to reduce noise levels, through all practicable means, in those areas of San
13 Francisco where noise levels are above acceptable levels as defined by the World Health
14 Organization's Guidelines on Community Noise.

15 (d) It shall be the goal of the noise task force described in this Article to determine if
16 there are additional adverse and avoidable noise sources not covered in this statute that
17 warrant regulation and to report to the Board of Supervisors and recommend amendments to
18 this Article over the next three years. In addition, the noise task force shall develop inter-
19 departmental mechanisms for the efficient disposition and any enforcement required in
20 response to noise complaints.

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22 **SEC. 2901. DEFINITIONS.**

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1 *As used in this Article, unless the context otherwise clearly indicates, the words and phrases set*
2 *forth in Sections 2901.1 through 2901.14 inclusive, hereof, shall have the meaning respectively*
3 *ascribed to them in said sections.*

4 (a) "Ambient" means the lowest sound level repeating itself during a minimum ~~ten~~fifteen-
5 minute period as measured with a type 1, precision sound level meter, using slow response and "A"
6 weighting. The minimum sound level shall be determined with the noise source at issue silent, and in
7 the same location as the measurement of the noise level of the source or sources at issue. However, for
8 purposes of this chapter, in no case shall the ambient be considered or determined to be less than: (1)
9 Thirty-five dBA for interior residential noise, and (2) Forty-five dBA in all other locations. If a
10 significant portion of the ambient is produced by one or more individual identifiable sources of noise
11 that contribute cumulatively to the sound level and may be operating continuously during the minimum
12 ~~ten~~fifteen-minute measurement period, determination of the ambient shall be accomplished with these

13 separate identifiable noise sources silent or otherwise removed or subtracted from the measured
14 ambient sound level.

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

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

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

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

8 (f) "Low frequency ambient" means the lowest sound level repeating itself during a
9 ~~ten~~fifteen-minute period as measured with a sound level meter, using slow response and "C"
10 weighting. The minimum sound level shall be determined with the music or entertainment noise source
11 at issue silent, and in the same location as the measurement of the noise level of the source or sources
12 at issue. However, for purposes of this chapter, in no case shall the local ambient be considered or
13 determined to be less than: (1) Forty-five dBC for interior residential noise, and (2) Fifty-five dBC in
14 all other locations. If a significant portion of the ambient is produced by one or more individual
15 identifiable sources that would otherwise be operating continuously during the minimum ~~ten~~fifteen-
16 minute measurement period, determination of the low-frequency ambient shall be accomplished with
17 these separate identifiable noise sources silent or otherwise removed or subtracted from the measured
18 ambient sound.

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

1 (h) "Person" means a person, firm, association, copartnership, joint venture, corporation,
2 or any entity, public or private in nature.

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

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

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

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

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

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

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~~SEC. 2901.1. SOUND LEVEL (NOISE LEVEL).~~

~~Sound level (noise level) in decibels is the level measured on the A weighted scale as defined in the American National Standard S 1.4 1971.~~

~~SEC. 2901.2. AMBIENT NOISE.~~

~~Ambient noise is the all encompassing noise associated with a given environment, being a composite of sounds from many sources, near and far. For the purpose of this Code, ambient noise level is the average over 15 minutes excluding random or intermittent noises and the alleged offensive noise at the location and time of day at which a comparison with an alleged offensive noise is to be made.~~

~~Averaging may be done by instrumental analysis in accordance with American National Standard S.13 1971, or may be done manually as follows:~~

~~(1) Observe a sound level meter for five seconds and record the best estimate of central tendency of the indicator needle, and the highest and lowest indications.~~

~~(2) Repeat the observations as many times as necessary to provide that observations be made at the beginning and at the end of the 15 minute averaging period and that there shall be at least as many additional observations as there are decibels between the lowest low indication and the highest high indication.~~

~~(3) Calculate the arithmetical average of the observed central tendency indications.~~

~~SEC. 2901.3. DECIBEL.~~

~~The decibel is a unit of measure of sound (noise) level relative to a standard reference sound on a logarithmic scale. The decibel level of a given sound is determined as 20 times the logarithm to the~~

1 *base 10 of the ratio of the pressure in micronewtons per square meter of the sound being measured to*
2 *the standard reference sound pressure of 20 micronewtons per square meter (0.0002 microbar).*

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4 **~~SEC. 2901.4. NONSTATIONARY SOURCES.~~**

5 *A machine or device capable of being moved from place to place for occasional or temporary*
6 *use at a given location including, but not limited to, powered lawn mowers, chain saws, bulldozers and*
7 *pile drivers.*

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9 **~~SEC. 2901.5. FIXED SOURCE.~~**

10 *A machine or device capable of creating a noise level at the property upon which it is regularly*
11 *located, including but not limited to: industrial and commercial process machinery and equipment,*
12 *pumps, fans, air conditioning apparatus or refrigeration machines.*

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14 **~~SEC. 2901.6. EMERGENCY WORK.~~**

15 *Emergency work shall mean work made necessary to restore property to a safe condition*
16 *following a public calamity or work required to protect persons or property from an imminent exposure*
17 *to danger or work by private or public utilities when restoring utility service.*

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19 **~~SEC. 2901.7. PERSON.~~**

20 *Person shall mean a person, firm, association, copartnership, joint venture, corporation, or any*
21 *entity, public or private in nature.*

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23 **~~SEC. 2901.8. MOTOR VEHICLES.~~**

1 *Motor vehicles shall include any and all self propelled vehicles as defined in California Vehicle*
2 *Code, including all on highway type motor vehicles subject to registration under said Code, all off-*
3 *highway type motor vehicles subject to identification under said Code, and all motor vehicles exempted*
4 *under said Code; excepting on highway type motor vehicles when transporting any person or property*
5 *on a public street or highway as defined in said Code, and all types of motor vehicles when used in any*
6 *other manner, the regulation of which has been preempted by California State Law.*

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8 **~~SEC. 2901.9. COMMERCIAL PURPOSE.~~**

9 *Commercial purpose shall mean and include the use, operation, or maintenance of any sound*
10 *amplifying equipment for the purpose of advertising any business, or any goods, or any services, or for*
11 *the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage or*
12 *customers to or for any performance, show, entertainment, exhibition, or event, or for the purpose of*
13 *demonstrating any such sound equipment.*

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15 **~~SEC. 2901.10. NONCOMMERCIAL PURPOSE.~~**

16 *Noncommercial purpose shall mean the use, operation, or maintenance of any sound equipment*
17 *for other than a commercial purpose. "Noncommercial purpose" shall mean and include, but shall not*
18 *be limited to, philanthropic, political, patriotic, and charitable purposes.*

19
20 **~~SEC. 2901.11. UNNECESSARY, EXCESSIVE, OR OFFENSIVE NOISE.~~**

21 *Unnecessary, excessive, or offensive noise shall mean any sound or noise conflicting with the*
22 *criteria, standards, or levels set forth in this Article for permissible noises. In the absence of specific*
23 *maximum noise levels, a noise level which exceeds the ambient noise level by 5 DBA or more, when*
24 *measured at the nearest property line or, in the case of multiple family residential buildings, when*

1 ~~measured anywhere in one dwelling unit with respect to a noise emanating from another dwelling unit~~
2 ~~or from common space in the same building, shall be deemed a prima facie violation of this Article.~~

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4 **~~SEC. 2901.12. POWERED CONSTRUCTION EQUIPMENT.~~**

5 ~~Any tools, machinery, or equipment used in connection with construction operations which can~~
6 ~~be driven by energy in any form other than manpower, including all types of motor vehicles when used~~
7 ~~in the construction process of any construction site, regardless of whether such construction site be~~
8 ~~located on highway or off highway, and further including all helicopters or other aircraft when used in~~
9 ~~the construction process except as may be preempted for regulation by State or Federal law.~~

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11 **~~SEC. 2901.13. POWERED MODEL VEHICLES.~~**

12 ~~Airborne, waterborne, or landborne vehicles of any kind or size which are not designed for~~
13 ~~carrying persons or property, and which can be driven by energy in any form other than manpower or~~
14 ~~windpower.~~

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16 **~~SEC. 2901.14. ZONING DISTRICTS.~~**

17 ~~Zoning Districts shall be as defined and described in Part II, Chapter II of the San Francisco~~
18 ~~Municipal Code (City Planning Code).~~

19
20 **SEC. 2902. NOISE LEVEL MEASUREMENT.**

21 A person measuring the outside noise level shall take measurements with the microphone not
22 less than four feet above the ground, at least four and one-half feet distant from walls or similar large
23 reflecting surfaces, and protected from the effects of wind noises and other extraneous sounds by the
24 use of appropriate windscreens. A person measuring the inside noise level measurements shall take

1 measurements with the microphone at least three feet distant from any wall, and the average
2 measurement of at least three microphone positions throughout the room shall be used to determine the
3 inside noise level measurement.

4 ~~*For the purpose of enforcement of the provisions of this Article, noise level shall be measured*~~
5 ~~*on the A weighted scale with a sound level meter satisfying at least the applicable requirements for*~~
6 ~~*Type 1 sound level meters as defined in American National Standard S1.4 1971 or the most recent*~~
7 ~~*revisions thereof. The meter shall be set for slow response speed, except that for impulse noises or*~~
8 ~~*rapidly varying sound levels, fast response speed may be used. Prior to each measurement, the meter*~~
9 ~~*shall be verified, and adjusted to ±0.3 decibel by means of an acoustical calibrator.*~~

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11 **~~SEC. 2903. SCHOOLS, HOSPITALS, AND CHURCHES.~~**

12 ~~*It shall be unlawful for any person to create any unnecessary, excessive or offensive noise on*~~
13 ~~*any street, sidewalk, or public place adjacent to any school, institution of learning, or church while any*~~
14 ~~*of the same is in use, or adjacent to any hospital at any time, provided conspicuous signs are displayed*~~
15 ~~*in such streets, sidewalk or public place indicating the presence of a school, institution of learning,*~~
16 ~~*church or hospital.*~~

17

18 **SEC. 2904. WASTE DISPOSAL SERVICES.**

19 It shall be unlawful for any person authorized to engage in waste removal, collection, or
20 disposal services or recycling removal or garbage-collection services to provide such services so
21 as to create an unnecessary amount of noise, in the judgment of the Director of Public Health
22 ~~*or his authorized representative.*~~ For the purpose of this Section ~~*or Section 2915,*~~ noise emitted by
23 equipment shall not be deemed unnecessary or without justification if the person engaged in
24 such services has, to the extent the Director of Public Health has judged reasonably feasible ~~*in*~~

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1 ~~the judgment of the Director~~, incorporated available sound-deadening devices into equipment
2 used in rendering those services.

3 Notwithstanding the foregoing, it shall be unlawful for any person authorized to engage
4 in waste removal, collection, or disposal services, or recycling removal or garbage-collection
5 services to operate hydraulic compaction or mechanical processing systems on any truck-mounted
6 waste, recycling, ~~or~~ garbage loading ~~and/or~~ compacting equipment or similar mechanical
7 device ~~in any manner~~ so as to create mechanical or hydraulic noise ~~any noise~~ exceeding 75 dBA
8 ~~the following levels~~ when measured at a distance of 50 feet from the equipment. ~~This maximum~~
9 ~~noise level does not apply to the noise associated with crushing, impacting, dropping, or moving~~
10 ~~garbage on the truck, but only to the truck's mechanical processing system. All other waste disposal or~~
11 ~~collection noises are subject to the Director of Public Health's judgment as described in this Section.~~

- 12 (a) ~~On and after a date six months after the effective date of this Article..... 80 DBA~~
- 13 (b) ~~On and after a date 66 months after the effective date of this Article..... 75 DBA~~
- 14 ~~unless said person has filed an Application for Variance in accordance with the provisions of~~
15 ~~this Article.~~

16
17 **~~SEC. 2906. MOTOR VEHICLES, OFF-HIGHWAY USE.~~**

18 ~~Except as otherwise provided for in this Article, it shall be unlawful to operate any motor~~
19 ~~vehicle of any type on any site not located on a public street or highway as defined in the California~~
20 ~~Vehicle Code, in any manner so as to emit noise in excess of the following levels:~~

- 21 (a) ~~In Zoning Districts P, when measured at a distance of 50 from the vehicle:~~
 - 22 (1) ~~Any type of motor vehicle with a manufacturer's gross vehicle weight rating of 6,000 pounds~~
23 ~~or more, and any combination of vehicle, as defined in the California Vehicle Code.... 82 DBA.~~

1 ~~(2) Any motorcycle other than a motor driven cycle, as defined in the California Vehicle~~
2 ~~Code.... 77 DBA.~~

3 ~~(3) Any other on highway type motor vehicle except motor driven cycles, as defined in the~~
4 ~~California Vehicle Code, and any combination of vehicles towed by such motor vehicles.... 74 DBA.~~

5 ~~(4) Any off highway type motor vehicle with a manufacturer's gross vehicle weight rating of less~~
6 ~~than 6,000 pounds; and any motor driven cycle, all as defined in the California Vehicle Code, and any~~
7 ~~other motor vehicle which may be exempt from said Code.... 70 DBA.~~

8 ~~Nothing in this Section shall apply to authorized emergency vehicles when being used in~~
9 ~~emergency situations.~~

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11 **SEC. 2907. CONSTRUCTION EQUIPMENT.**

12 ~~(a) Except as provided for in Subsections (c), (d) and (e) hereof, on and after a date six months~~
13 ~~after the effective date of this Article, it shall be unlawful for any person, including the City and County~~
14 ~~of San Francisco, to operate any powered construction equipment, regardless of age or date of~~
15 ~~acquisition, if the operation of such equipment emits noise at a level in excess of 85 DBA when~~
16 ~~measured at a distance of 100 feet from such equipment, or an equivalent sound level at some other~~
17 ~~convenient distance.~~

18 ~~(a) (b) Except as provided for in Subsections (b), (c), and (d) and (e) hereof, on and after~~
19 ~~a date forty two months after the effective date of this Article, it shall be unlawful for any person,~~
20 ~~including the City and County of San Francisco, to operate any powered construction equipment,~~
21 ~~regardless of age or date of acquisition, if the operation of such equipment emits noise at a level~~
22 ~~in excess of 80 dBA when measured at a distance of 100 feet from such equipment, or an~~
23 ~~equivalent sound level at some other convenient distance.~~

1 ~~(b) (e)~~ The provisions of Subsections (a) ~~and (b)~~ of this Section shall not be applicable
2 to impact tools and equipment, provided that ~~on and after a date six months after the effective date~~
3 ~~of this Article, that~~ such impact tools and equipment shall have intake and exhaust mufflers
4 recommended by the manufacturers thereof and approved by the Director of Public Works or
5 the Director of Building Inspection as best accomplishing maximum noise attenuation, and that
6 pavement breakers and jackhammers shall also be equipped with acoustically attenuating
7 shields or shrouds recommended by the manufacturers thereof and approved by the Director
8 of Public Works or the Director of Building Inspection as best accomplishing maximum noise
9 attenuation. ~~In the absence of manufacturer's recommendations, the Director of Public Works may~~
10 ~~prescribe such means of accomplishing maximum noise attenuation as he deems to be in the public~~
11 ~~interest.~~

12 ~~(c) (d)~~ The provisions of Subsections (a) ~~and (b)~~ of this Section shall not be applicable
13 to construction equipment used in connection with emergency work.

14 ~~(d) (e)~~ ~~For the period ending 24 months after the effective date of this Article, any helicopter or~~
15 ~~other aircraft used in the construction process may exceed the noise limits set forth in Subsections (a)~~
16 ~~and (b) hereof; provided, however, that any such equipment- Helicopters shall not be used for~~
17 ~~construction purposes for more than two hours in any single day or more than four hours in any~~
18 ~~single week, , and provided, further, that such equipment shall not be used at any time within 600 feet~~
19 ~~of any hospital or within 600 feet of any school or other educational institution while the same is being~~
20 ~~used for school purposes or within 600 feet of any church while the same is being used for religious~~
21 ~~purposes.~~

22 ~~On and after a date 24 months after the effective date of this Article, it shall be unlawful for any~~
23 ~~person, including the City and County of San Francisco, to operate a helicopter or other aircraft in the~~
24 ~~construction process, regardless of age or date of acquisition, if the operation of such equipment emits~~
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1 ~~noise at a level in excess of 85 dBA when measured at a distance of 100 feet from such equipment, or~~
2 ~~an equivalent sound level at some other convenient distance.~~

3
4 **SEC. 2908. CONSTRUCTION WORK AT NIGHT.**

5 It shall be unlawful for any person, between the hours of 8:00 p.m. of any day and 7:00
6 a.m. of the following day to erect, construct, demolish, excavate for, alter or repair any
7 building or structure if the noise level created thereby is in excess of the ambient noise level
8 by 5 dBA at the nearest property plane line, unless a special permit therefor has been applied
9 for and granted by the Director of Public Works or the Director of Building Inspection. In granting
10 such special permit the Director of Public Works or the Director of Building Inspection shall
11 consider: if construction noise in the vicinity of the proposed work site would be less
12 objectionable at night than during daytime because of different population levels or different
13 neighboring activities; if obstruction and interference with traffic, particularly on streets of
14 major importance, would be less objectionable at night than during daytime; if the kind of
15 work to be performed emits noises at such a low level as to not cause significant disturbance
16 in the vicinity of the work site; if the neighborhood of the proposed work site is primarily
17 residential in character wherein sleep could be disturbed; if great economic hardship would
18 occur if the work were spread over a longer time; if the work will abate or prevent hazard to
19 life or property; and if the proposed night work is in the general public interest; ~~and he the~~ The
20 Director of Public Works or the Director of Building Inspection shall prescribe such conditions,
21 working times, types of construction equipment to be used, and permissible noise emissions,
22 as ~~he deems to be~~ required in the public interest.

23 The provisions of this Section shall not be applicable to emergency work ~~provided that~~
24 ~~the Director of Public Works shall be notified of such emergency work forthwith.~~

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2 **SEC. 2909. ~~FIXED SOURCE~~ NOISE LIMITS LEVEL.**

3 **(a) Residential Property Noise Limits.**

4 (1) No person shall produce or allow to be produced by any machine, or device,
5 music or entertainment or any combination of same, on residential property over which the person has
6 ownership or control, a noise level more than five dBA above the ambient at any point outside of the
7 property plane.

8 (2) No person shall produce or allow to be produced by any machine, or device,
9 music or entertainment or any combination of same, on multi-unit residential property over which the
10 person has ownership or control, a noise level more than five dBA above the local ambient three feet
11 from any wall, floor, or ceiling inside any dwelling unit on the same property, when the windows and
12 doors of the dwelling unit are closed, except within the dwelling unit in which the noise source or
13 sources may be located.

14 **(b) Commercial And Industrial Property Noise Limits.**

15 No person shall produce or allow to be produced by any machine or device, music or
16 entertainment or any combination of same, on commercial or industrial property over which the person
17 has ownership or control, a noise level more than eight dBA above the local ambient at any point
18 outside of the property plane. With respect to noise generated from a licensed Place of Entertainment,
19 in addition to the above dBA criteria a secondary low frequency dBC criteria shall apply to the
20 definition above. No noise or music associated with a licensed Place of Entertainment shall exceed the
21 low frequency ambient noise level defined in Section 2901(f) by more than 8 dBC.

22 **(c) Public Property Noise Limits.**

23 No person shall produce or allow to be produced by any machine or device, or any combination
24 of same, on public property, a noise level more than ten dBA above the local ambient at a distance of
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1 twenty-five feet or more, unless the machine or device is being operated to serve or maintain the
2 property or as otherwise provided in this Article.

3 **(d) Fixed Residential Interior Noise Limits.**

4 In order to prevent sleep disturbance, protect public health and prevent the acoustical
5 environment from progressive deterioration due to the increasing use and influence of mechanical
6 equipment, no fixed noise source may cause the noise level measured inside any sleeping or living room
7 in any dwelling unit located on residential property to exceed 45 dBA between the hours of 10:00 p.m.
8 to 7:00 a.m. or 55 dBA between the hours of 7:00 a.m. to 10:00 p.m. with windows open except where
9 building ventilation is achieved through mechanical systems that allow windows to remain closed.

10 **(e) Noise Caused By Activities Subject To Permits From the City and County of San**
11 **Francisco.**

12 None of the noise limits set forth in this Section apply to activity for which the City and County
13 of San Francisco has issued a permit that contains noise limit provisions that are different from those
14 set forth in this Article.

15 ~~(a) Except as provided for in subsection (b) hereof, in Zoning Districts R 1 D, R 1, R 2, R 3, R~~
16 ~~3.5, R 4, R 5, R 3 C, R 3.5 C, R 4 C and R 5 C, on and after a date six months after the effective date~~
17 ~~of this article, in Zoning Districts C 1, C 2, C 3 O, C 3 R, C 3 G, C 3 S, and C M, on and after a date~~
18 ~~twelve months after the effective date of this Article, and in Zoning Districts M 1 and M 2, on and after~~
19 ~~a date twenty four months after the effective date of this Article, it shall be unlawful for any person to~~
20 ~~operate any fixed machinery or equipment, or similar mechanical device in any manner so as to create~~
21 ~~any noise which would cause the noise level measured at the property line of the property affected by~~
22 ~~noise emission. Noise limits shall not exceed the following:~~

<i>Zoning District</i>	<i>Time Period</i>	<i>Sound Level — dBA</i>
<i>R 1 D, R 1</i>	<i>10 p.m. — 7 a.m.</i>	<i>50</i>

1	R-2	7 a.m. 10 p.m.	55
2	R-3, R3.5, R-4	10 p.m. 7 a.m.	55
3	R-5, R-3-C, R-3.5-C	7 a.m. 10 p.m.	60
4	R-4-C, R-5-C		
5	C-1, C-2, C-3-0	10 p.m. 7 a.m.	60
6	C-3-R, C-3-G	7 a.m. 10 p.m.	70
7	M-1	Anytime	70
8	M-2	Anytime	75

9 *unless said person has filed an Application for Variance in accordance with the provisions of this*
10 *Article.*

11 *If the measurement location is on a boundary between two Zoning Districts, the lower sound*
12 *level shall apply.*

13 *On a boundary between a Zoning District wherein C-1 or C-2 uses are permitted and a*
14 *Residential Zoning District, or on any property line in a residential zoning district, wherein C-1 or C-2*
15 *uses are permitted, if the fixed source noise is emitted by refrigeration and ancillary equipment existing*
16 *on the effective date of this Article in a retail business establishment, for a period of 24 months after the*
17 *effective date of this Article the noise level caused by such equipment may exceed the levels set forth*
18 *herein for the Residential Zoning District, but may not exceed 70 dBA at any hour of the day or night;*
19 *provided, that no such fixed source may cause the noise level measured inside any sleeping or living*
20 *room in any dwelling unit in any Zoning District to exceed 45 dBA between the hours of 10:00 p.m. to*
21 *7:00 a.m., nor 55 dBA between the hours of 10:00 p.m. to 7:00 a.m., nor 55 dBA between the hours of*
22 *7:00 a.m. to 10:00 p.m.*

23 *(b) The provisions of Subsection (a) of this Section shall not be applicable to any emergency*
24 *signaling devices required by law; nor to any standby equipment operated only in emergency*
25

1 *situations, provided that such standby equipment shall not emit noise at a level in excess of 75 dBA*
2 *when measured at the property line of the property whereon it is located.*

3
4 **SEC. 2910. VARIANCES. ~~VARIANCE BOARD; ESTABLISHMENT; FUNCTIONS;~~**
5 **~~STANDARDS; PROCEDURES.~~**

6 *The Directors of Public Health, Public Works, ~~or Building Inspection,~~ or the Entertainment*
7 *Commission, or the Chief of Police may grant variances to noise regulations, depending upon*
8 *whether the request pertains to the over which they have jurisdiction of a Department pursuant*
9 *to Section 2916. All administrative decisions granting or denying variances are appealable to the San*
10 *Francisco Board of Appeals.*

11 *There is hereby created a Variance Board consisting of five members; one shall be qualified by*
12 *training and experience in the field of acoustics or acoustical engineering; one shall be qualified by*
13 *training, experience, and registration in the field of mechanical engineering; one shall be qualified by*
14 *training, experience, and licensing in the field of architecture or civil engineering; one shall be a*
15 *physician qualified in the field of physiological effects of noise; and one shall be a qualified*
16 *audiometrist. Its functions shall be to evaluate all applications for variance from the requirements of*
17 *this Article with respect to noises emitted from truck mounted waste or garbage loading and/or*
18 *compacting equipment, and from fixed sources, and to grant said variances with respect to time for*
19 *compliance, subject to such terms, conditions and requirements as it may deem reasonable to achieving*
20 *compliance with the provisions of this Article. Each such variance shall set forth in detail the approved*
21 *method of achieving compliance and a time schedule for its accomplishment. In determining the*
22 *reasonableness of the terms of any proposed variance, said Board shall consider the magnitude of*
23 *nuisance caused by the offensive noise, the uses of property within the area of impingement by the*
24 *noise, the time factors related to study, design, financing and construction of remedial work, the*
25

1 ~~economic factors related to age and useful life of equipment, and the general public interest and~~
2 ~~welfare. Any variance granted by said Board shall be by resolution and shall be transmitted to the~~
3 ~~Director of Public Health for enforcement.~~

4
5 **~~SEC. 2911. APPOINTMENT; TERM; COMPENSATION; CHAIRMAN; RULES; EX-OFFICIO~~**
6 **~~MEMBERS.~~**

7 ~~Members of the Variance Board shall be appointed by the Director of Public Health, subject to~~
8 ~~approval of the Chief Administrative Officer, and shall serve at the pleasure of the Director of Public~~
9 ~~Health for a term not in excess of five years. Members shall be compensated from filing fees as~~
10 ~~provided for in Section 2913 hereof, and said compensation shall be at the rate of 50 per half day or~~
11 ~~fraction thereof per member for each meeting attended. The Variance Board shall elect a Chairman~~
12 ~~from among its members, who shall serve for a term of one year. Said Board shall adopt reasonable~~
13 ~~rules and regulations for its own procedures in carrying out its functions under the provisions of this~~
14 ~~Article.~~

15 ~~The Chief of the Bureau of Environmental Health, Department of Public Health, shall be an ex-~~
16 ~~officio member of the Variance Board, to serve without vote or compensation and shall act as Secretary~~
17 ~~of said Board.~~

18
19 **~~SEC. 2912. ALTERNATE MEMBERS; MEETINGS.~~**

20 ~~In the event a member of the Variance Board, for any valid reason, is unable to attend meetings~~
21 ~~or discharge his duties as a member of said Board for a period in excess of 60 consecutive days, the~~
22 ~~Director of Public Health may, with the approval of the Chief Administrative Officer, appoint another~~
23 ~~similarly qualified person as alternate member to serve in his place until such time as the permanent~~
24 ~~member can resume active participation in the work of said Board. Such alternate member shall,~~

1 ~~during the time he serves on said Board, have all the rights, duties and privileges, and he shall be~~
2 ~~compensated, all as provided herein for the permanent member in whose place he is serving. Meetings~~
3 ~~of the Variance Board shall be held at the call of the Secretary and at such times and locations as said~~
4 ~~Board shall determine. All such meetings shall be open to the public.~~

5
6 **SEC. 2912. ADDITIONAL RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC**
7 **HEALTH AND THE DEPARTMENT OF BUILDING INSPECTION.**

8 (a) The Department of Public Health shall designate a Noise Prevention and Control
9 Officer to coordinate the responsibilities of the Department of Public Health under this Article and the
10 Health Code with respect to noise.

11 (b) The Department of Public Health may monitor the noise complaint response by all City
12 agencies charged with regulating noise under this Article. City Departments and Agencies charged
13 with responsibility for responding to noise complaints shall cooperate and share information with the
14 Department of Public Health in tracking and monitoring complaint responses.

15 (c) At least every two years the Department of Public Health shall make recommendations
16 to the Planning Commission for noise assessment and prevention in land use planning or
17 environmental review.

18 (d) The Department of Public Health may investigate and take enforcement action on any
19 noise complaint resulting in human health impacts. The Director of the Department of Public Health
20 shall be the sole determiner of what constitutes a human health impact with respect to noise.

21 (e) The Department of Building Inspection shall send acoustical reports submitted with
22 each building permit to the Department of Public Health within 15 days of the date the building permit
23 applicant submits the acoustical report to the Department of Building Inspection.

1 **~~SEC. 2913. APPLICATION; FILING FEES.~~**

2 ~~The owner or operator of a truck mounted waste or garbage loading and/or compacting~~
3 ~~equipment item or a fixed source which emits noise exceeding the limits set forth in Section 2904 and in~~
4 ~~Section 2909 hereof may file an application with the Director of Public Health for a variance wherein~~
5 ~~said owner or operator shall set forth all actions taken to comply with said limits, the reasons why~~
6 ~~immediate compliance cannot be achieved, a proposed method of achieving compliance, and a~~
7 ~~proposed time schedule for its accomplishment. Said application shall be accompanied by a fee in the~~
8 ~~amount of \$75; provided, however, that in the event that consideration and action by the Variance~~
9 ~~Board on an Application for Variance shall require time in excess of one hour, the application fee shall~~
10 ~~be increased by \$100 for each hour or fraction thereof of additional time. A separate application shall~~
11 ~~be filed for each additional item or fixed source; provided, however, that several truck mounted waste~~
12 ~~or garbage loading and/or compacting equipment items under common ownership or several fixed~~
13 ~~sources on a single property having identical noise problems may be combined into one application~~
14 ~~upon receipt of said application and fee, the Director of Public Health shall refer it to the Variance~~
15 ~~Board for action thereon in accordance with the provisions of this Article~~

16
17 **~~SEC. 2914. POWERED MODEL VEHICLES.~~**

18 ~~It shall be unlawful for any person to operate any powered model vehicle in any manner so as~~
19 ~~to emit noise in excess of the following levels:~~

20 ~~(a) In Zoning Districts P and in street and highway rights of way when measured at a distance~~
21 ~~of 50 feet from the vehicle.~~

22 ~~(1) On and after a date six months after the effective date of this Article.... 85 dBA~~

23 ~~(2) On and after a date 42 months after the effective date of this Article.... 80 dBA.~~

1 ***(b) In other Zoning Districts, on and after a date six months after the effective date of this***
 2 ***Article, when measured at the nearest property line of the property whereon the powered model vehicle***
 3 ***is located:***

<i>Zoning District</i>	<i>Time Period</i>	<i>Sound Level — dBA</i>
<i>R-1-D, R-1</i>	<i>10 P.M. — 7 A.M.</i>	<i>50</i>
<i>R-2</i>	<i>7 A.M. — 10 P.M.</i>	<i>55</i>
<i>R-3, R-3.5, R-4</i>	<i>10 P.M. — 7 A.M.</i>	<i>55</i>
<i>R-5, R-3-C, R-3.5-C</i>	<i>7 A.M. — 10 P.M.</i>	<i>60</i>
<i>R-4-C, R-5-C</i>		
<i>C-1, C-2, C-3-0</i>	<i>10 P.M. — 7 A.M.</i>	<i>60</i>
<i>C-3-R, C-3-G</i>	<i>7 A.M. — 10 P.M.</i>	<i>70</i>
<i>C-3-SR, C-M</i>		
<i>M-1</i>	<i>Anytime</i>	<i>70</i>
<i>M-2</i>	<i>Anytime</i>	<i>75</i>

16 ***SEC. 2915. GENERAL NOISE REGULATIONS.***

17 ***Notwithstanding any other provision of this Article, and in addition thereto, it shall be unlawful***
 18 ***for any person without justification to make or continue, or cause or permit to be made or continued,***
 19 ***any unnecessary, excessive, or offensive noise, as defined in Section 2901.11, and including vocal or***
 20 ***instrumental music and related sounds, whether live or reproduced mechanically by radio, television,***
 21 ***stereo or otherwise, and which disturbs the peace or quiet of any neighborhood or which causes***
 22 ***discomfort or annoyance of any reasonable person of normal sensitivity residing or working in the***
 23 ***area.***

1 *The criteria which shall be considered in determining whether a violation of the provisions of*
2 *this Section exist shall include, but not be limited to, the following:*

- 3 *(a) The volume of the noise, music or related sound;*
- 4 *(b) The intensity of the noise, music or related sound;*
- 5 *(c) The continuousness or repetitive nature of the noise, music or related sound;*
- 6 *(d) Whether the nature of the noise is usual or unusual for the area in which it occurs;*
- 7 *(e) Whether the origin of the noise, music or related sound is natural or unnatural to the area in*
8 *which it occurs;*
- 9 *(f) The volume and intensity of the background noise or sound, if any;*
- 10 *(g) The proximity of the noise, music or related sound to residential sleeping facilities;*
- 11 *(h) The proximity to offices, places of business or other areas where work is known to be*
12 *carried on of the noise, music or related sound;*
- 13 *(i) The nature and zoning of the area within which the noise, music or related sound emanates;*
- 14 *(j) The density of the inhabitation of the area within which the noise, music or related sound*
15 *emanates;*
- 16 *(k) The time of day or night the noise, music or related sound occurs, and the relationship of the*
17 *time to the normal activities of the area in which it occurs;*
- 18 *(l) The duration of the noise, music or related sound;*
- 19 *(m) Whether the noise, music or related sound is recurrent, intermittent, or constant;*
- 20 *(n) Whether the noise, music or related sound is produced by a commercial or a noncommercial*
21 *activity.*

22
23 **SEC. 2916. ENFORCEMENT.**
24
25

1 The Director of Public Health may enforce the ~~The~~ provisions of Section 2904, ~~and Sections~~
2 2909, ~~and 2912 through 2913, inclusive~~ of this Article ~~shall be enforced by the Director of Public~~
3 ~~Health.~~

4 The Department of Building Inspection may enforce the ~~The~~ provisions of Sections 2907 and
5 2908 of this Article ~~shall be enforced by the Superintendent of Building Inspection, Department of~~
6 ~~Public Works,~~ insofar as said provisions relate to construction operations conducted on private
7 property under appropriate permits issued pursuant to the San Francisco Building Code,
8 Housing Code, Electrical Code and Plumbing Code, ~~;~~ Insofar as these provisions relate to
9 ~~construction operations conducted on publicly-owned property subject to the police power of the City~~
10 ~~and County of San Francisco, the Department of Public Works may enforce the provisions of Sections~~
11 ~~2907 and 2908 of this Article. of said section shall be enforced by the Bureau of Engineering,~~
12 ~~Department of Public Works, insofar as said provisions relate to construction operations conducted on~~
13 ~~publicly owned property subject to the police power of the City and County of San Francisco. The~~
14 ~~Executive Director of the Entertainment Commission may enforce noise standards associated with~~
15 ~~licensed Places of Entertainment.~~

16 ~~Except as set forth hereinabove,~~ The Chief of Police may enforce the provisions of this Article
17 ~~that relate to noise created by humans or any other noise source not specifically assigned or designated~~
18 ~~to another Department or Agency shall be enforced by the Chief of Police.~~

19
20 **SEC. 2917. VIOLATIONS; ~~MISDEMEANORS.~~**

21 (a) Criminal Penalties. Any person violating any of the provisions of this Article shall
22 be deemed guilty of an infraction ~~a misdemeanor~~ and upon conviction thereof, shall be fined in
23 an amount not exceeding (1) \$100 for a first violation of this Article; (2) \$200 for a second violation
24 of this Article; and (3) up to \$300 for each additional violation of this Article within one year of the
25

1 date of a second or subsequent violation \$500 or be imprisoned in the County Jail for a period not
2 exceeding six months, or by both such fine and imprisonment. Each day such violation is committed
3 or permitted to continue shall constitute a separate offense and shall be punishable as such.

4 (b) **Administrative Penalties.** Administrative penalties shall be assessed and collected by
5 the Departments specified in Section 2916 in accordance with San Francisco Administrative Code
6 Chapter 100.

7
8 **SEC. 2918. CITY AGENCY NOISE TASK FORCE SEVERABILITY.**

9 (a) **Membership.**

10 (1) **Voting Members.** The Director of Public Health shall convene and coordinate
11 an interdepartmental task force for the purpose of coordinating and evaluating enforcement of this
12 Article and recommending to the Planning Department necessary changes in the General Plan to
13 address, maintain, and improve the acoustical quality of the San Francisco environment. The task
14 force shall be comprised of one representative from each of the following City departments: the
15 Department of Public Health, the Department of Public Works, the Department of Building Inspection,
16 the Planning Department, the Police Department, the Entertainment Commission, and Animal Care
17 and Control. The members of the task force shall be appointed by their respective Department
18 Directors.

19 (2) **Non-Voting Members.** The Task Force shall invite other City departments, such
20 as the Fire Department, the 311 Customer Service Center, and the Municipal Railway, to send a
21 representative to sit as a non-voting member of the task force with respect to vehicle noise, and
22 community representatives when the Director of Public Health deems necessary additional expertise,
23 resources, or other assistance.

1 **(b) Meetings.** *The task force shall meet on a regular basis and exchange information*
2 *regarding noise abatement matters including but not limited to: motor vehicle noise control,*
3 *coordination of complaint response, animal noise control, implementation of building codes related to*
4 *acoustical insulation of new residential construction, oversight of complaints regarding entertainment*
5 *noise, implementation of General Plan Policies related to noise, environmental review, maintenance*
6 *and upgrades to noise control ordinance as needed, and coordination of noise abatement activities that*
7 *involve more than one department. Upon the Director of Public Health's request, the Task Force shall*
8 *provide consultation services and assistance to the Director of Public Health for the purpose of*
9 *facilitating coordinated implementation of the duties imposed on the Director of Public Health by this*
10 *ordinance.*

11 **(c) Reporting.** *The Director of Public Health shall report to the Board of Supervisors every*
12 *year for three years with respect to progress and findings of the Task Force and any necessary changes*
13 *in the Regulation of Noise Ordinance, Article 29, San Francisco Police Code, that may be required to*
14 *maintain and improve the acoustical environment of San Francisco. At the end of three years, the task*
15 *force shall sunset unless continued by the Board of Supervisors.*

16 ~~*If any provision, clause, sentence, or paragraph of this Article, or the application thereof to any*~~
17 ~~*person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or*~~
18 ~~*application of the provisions of this Article which can be given effect without the invalid provisions or*~~
19 ~~*application and, to this end, the provisions of this Article are hereby declared to be severable.*~~

20
21 **SEC. 2920. AUTHORITY TO ADOPT RULES AND REGULATIONS.**

22 *The Director of Public Health may issue and amend rules, regulations, standards, guidelines, or*
23 *conditions to implement and enforce this Article.*

1 **SEC. 2922. PREEMPTION.**

2 *In adopting this Article, the Board of Supervisors does not intend to regulate or affect the rights*
3 *or authority of the State to do those things that are required, directed, or expressly authorized by*
4 *Federal or State law. Further, in adopting this Article, the Board of Supervisors does not intend to*
5 *prohibit that which is prohibited by Federal or State law.*

6
7 **SEC. 2924. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.**

8 *In undertaking the adoption and enforcement of this Article, the City is assuming an*
9 *undertaking only to promote the general welfare. The City does not intend to impose the type of*
10 *obligation that would allow a person to sue for money damages for an injury that the person claims to*
11 *suffer as a result of a City officer or employee taking or failing to take an action with respect to any*
12 *matter covered by this Article.*

13
14 **SEC. 2926. SEVERABILITY.**

15 *If any of the provisions of this Article or the application thereof to any person or circumstance*
16 *is held invalid, the remainder of this Article, including the application of such part or provisions to*
17 *persons or circumstances other than those to which it is held invalid, shall not be affected thereby and*
18 *shall continue in full force and effect. To this end, the provisions of this Article are severable.*

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

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