

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

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3 **Ordinance amending the Police Code to prohibit the Department of Public Works and**

4 **the Department of Building Inspection from granting special permits to exceed ambient**

5 **noise levels during night time construction unless certain written findings are made,**

6 **and to prohibit the Department of Public Works from issuing such permits for projects**

7 **in certain residential areas (outside the area bounded by Pine, Taylor, Market, 8th,**

8 **Folsom, Fremont, and Front Streets) covered by the 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 subsections or parts of tables.

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

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: whether ~~if~~ construction noise in the vicinity of the proposed
9 work site would be less objectionable at night than during daytime because of different
10 population levels or different neighboring activities, and shall deny the permit unless the Director
11 of Public Works or the Director of Building Inspection makes the following written findings:

12 (1) ~~if there are no traffic impacts, or, in the alternative, the Municipal~~
13 Transportation Agency has issued specific findings that the extent and duration of obstruction and
14 interference with traffic, particularly on streets of major importance, would be less
15 objectionable at night than during daytime;

16 (2) ~~if~~ the kind of work to be performed emits noises at such a low level as to
17 not cause significant disturbance in the vicinity of the work site; and

18 (3) ~~for work sites adjacent to a residential property if the neighborhood of the~~
19 ~~proposed work site is primarily residential in character~~ wherein sleep could be disturbed, at least
20 one of the following factors applies:

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

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

24 (C) ~~if~~ the proposed night work is in the general public interest.
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1 (c) Notwithstanding subsection (b), the Director of Public Works shall not issue a special
2 permit where:

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

5 (2) the work is outside the area bounded by Pine Street, Taylor Street, Market Street,
6 8th Street, Folsom Street, Fremont Street, and Front Street; and,

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

8 (d) The Director of Public Works or the Director of Building Inspection shall
9 prescribe such conditions, working times, types of construction equipment to be used, and
10 permissible noise emissions, as required in the public interest. All permits shall include terms
11 reducing permissible noise emissions between the hours of 10:00 p.m. and 7:00 a.m..

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

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14 Section 3. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 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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