

## ARTICLE 29: REGULATION OF NOISE

### SEC. 2900. DECLARATION OF POLICY.

(a) Building on decades of scientific research, the World Health Organization and the U.S. Environmental Protection Agency have determined that persistent exposure to elevated levels of community noise is responsible for public health problems including, but not limited to: compromised speech, persistent annoyance, sleep disturbance, physiological and psychological stress, heart disease, high blood pressure, colitis, ulcers, depression, and feelings of helplessness.

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

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

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

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

### SEC. 2901. DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Amended by Ord. 309-73, App. 8/10/73; Ord. 278-08, File No. 081119, App. 11/25/2008)

SECS. 2901.1--2901.14. RESERVED.

(Repealed by Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2902. NOISE LEVEL MEASUREMENT.

A person measuring the outside noise level shall take measurements with the microphone not less than four feet above the ground, at least four and one-half feet distant from walls or similar large reflecting surfaces, and protected from the effects of wind noises and other extraneous sounds by the use of appropriate windscreens. A person measuring the inside noise level measurements shall take measurements with the microphone at least three feet distant from any wall, and the average measurement of at least three microphone positions throughout the room shall be used to determine the inside noise level measurement.

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2903. RESERVED.

(Added by Ord. 274-72, App. 9/20/72; Repealed by Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2904. WASTE DISPOSAL SERVICES.

It shall be unlawful for any person authorized to engage in waste removal, collection, or disposal services or recycling removal or collection services to provide such services so as to create an unnecessary amount of noise, in the judgment of the Director of Public Health. For the purpose of this Section, noise emitted by equipment shall not be deemed unnecessary or without justification if the person engaged in such services hast to the extent the Director of Public Health has Judged reasonably feasible, incorporated available sound-deadening devices into equipment used in rendering those services. Notwithstanding the foregoing, it shall be unlawful for any person authorized to engage in waste removal, collection, or disposal services, or recycling removal or garbage-collection services to operate hydraulic compaction or mechanical processing systems on any truck-mounted waste, recycling, or garbage loading and/or compacting equipment or similar mechanical device so as to create mechanical or hydraulic noise exceeding 75

dBa when measured at a distance of 50 feet from the equipments. This maximum noise level does not apply to the noise associated with crushing, impacting, dropping, or moving garbage on the truck, but only to the truck's mechanical processing system. All other waste disposal or collection noises are subject to the Director of Public Health's judgment as described in this Section.

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2905. VEHICLE AND NONSTATIONARY SOURCE REPAIRS.

It shall be unlawful for any person within any residential area of the City and County to repair, rebuild, or test any motor vehicle or nonstationary source in such a manner as to cause unnecessary, excessive or offensive noise.

(Added by Ord. 274-72, App. 9/20/72)

#### SEC. 2906. RESERVED.

(Added by Ord. 274-72, App. 9/20/72; Repealed by Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2907. CONSTRUCTION EQUIPMENT.

(a) Except as provided for in Subsections (b), (c), and (d) hereof, it shall be unlawful for any person to operate any powered construction equipment if the operation of such equipment emits noise at a level in excess of 80 dBA when measured at a distance of 100 feet from such equipment, or an equivalent sound level at some other convenient distance.

(b) The provisions of Subsections (a) of this Section shall not be applicable to impact tools and equipment, provided that such impact tools and equipment shall have intake and exhaust mufflers recommended by the manufacturers thereof and approved by the Director of Public Works or the Director of Building Inspection as best accomplishing maximum noise attenuation, and that pavement breakers and jackhammers shall also be equipped with acoustically attenuating shields or shrouds recommended by the manufacturers thereof and approved by the Director of Public Works or the Director of Building Inspection as best accomplishing maximum noise attenuation.

(c) The provisions of Subsection (a) of this Section shall not be applicable to construction equipment used in connection with emergency work.

(d) Helicopters shall not be used for construction purposes for more than two hours in any single day or more than four hours in any single week.

(Amended by Ord. 309-73, App. 8/10/73; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2908. CONSTRUCTION WORK AT NIGHT.

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

work site would be less objectionable at night than during daytime because of different population levels or different neighboring activities if obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during daytime; if the kind of work to be performed emits noises at such a low level as to not cause significant disturbance in the vicinity of the work site, if the neighborhood of the proposed work site is primarily residential in character wherein sleep could be disturbed; if great economic hardship would occur if the work were spread over a longer time; if the work will abate or prevent hazard to life or property; and if the proposed night work is in the general public interest. The Director of Public Works or the Director of Building Inspection shall prescribe such conditions, working times, types of construction equipment to be used, and permissible noise emissions, as required in the public interest.

The provisions of this Section shall not be applicable to emergency work.

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2909. NOISE LIMITS.

##### (a) Residential Property Noise Limits.

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

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

##### (b) Commercial And Industrial Property Noise Limits.

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

##### (c) Public Property Noise Limits.

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

##### (d) Fixed Residential Interior Noise Limits.

In order to prevent sleep disturbance, protect public health and prevent the acoustical environment from progressive deterioration due to the increasing use and influence of mechanical equipment, no fixed noise source may cause the noise level measured inside any sleeping or living room in any dwelling unit located on residential property to exceed

45 dBA between the hours of 10:00 p.m. to 7:00 a.m. or 55 dBA between the hours of 7:00 a.m. to 10:00p.m. with windows open except where building ventilation is achieved through mechanical systems that allow windows to remain closed.

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

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

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2910. VARIANCES.

The Directors of Public Health, Public Works, Building Inspection, or the Entertainment Commission, or the Chief of Police may grant variances to noise regulations, over which they have jurisdiction pursuant to Section 2916. All administrative decisions granting or denying variances are appealable to the San Francisco Board of Appeals.

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2911. RESERVED.

(Added by Ord. 274-72, App. 9/20/72; Repealed by Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2912. ADDITIONAL RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC HEALTH AND THE DEPARTMENT OF BUILDING INSPECTION.

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

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

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

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

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

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SECS. 2913--2915. RESERVED.

(Repealed by Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2916. ENFORCEMENT.

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

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

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

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2917. VIOLATIONS.

(a) Criminal Penalties. Any person violating any of the provisions of this Article shall be deemed guilty of an infraction and upon conviction thereof, shall be fined in an amount not exceeding (1) \$100 for a first violation of this Article; (2) \$200 for a second violation of this Article; and (3) up to \$300 for each additional violation of this Article within one year of the date of a second or subsequent violation. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

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

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2918. CITY AGENCY NOISE TASK FORCE.

(a) Membership.

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

(2) Non-Voting Members. The Task Force shall invite other City departments, such as the Fire Department, the 311 Customer Service Center, and the Municipal Railway, to send a representative to sit as a non-voting member of the task force with respect to

vehicle noise, and community representatives when the Director of Public Health deems necessary additional expertise, resources, or other assistance.

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

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

(Added by Ord. 274-72, App. 9/20/72; Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2920. AUTHORITY TO ADOPT RULES AND REGULATIONS.

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

(Added by Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2922. PREEMPTION.

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

(Added by Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2924. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

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

(Added by Ord. 278-08, File No. 081119, App. 11/25/2008)

#### SEC. 2926. SEVERABILITY.

If any of the provisions of this Article or the application thereof to any person or circumstance is held invalid, the remainder of this Article, including the application of such part or provisions to persons or circumstances other than those to which it is held



invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Article are severable.

(Added by Ord. 278-08, File No. 081119, App. 11/25/2008)