

ORDINANCE NO. 11122 SEP 18 1978  
(New Series)

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 6,  
OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING  
SECTIONS 56.35 AND 56.35.1 RELATING TO LOUD,  
UNUSUAL NOISES, AND BY ADDING ARTICLE 9.5  
RELATING TO NOISE ABATEMENT AND CONTROL.

BE IT ORDAINED, by the Council of The City of San Diego,  
as follows:

Section 1. That Chapter V, Article 6, of the San Diego  
Municipal Code be amended by repealing Sections 56.35 and  
56.35.1 as follows:

SEC. 56.35 LOUD, UNUSUAL NOISES--PROHIBITED--  
EXCEPTIONS

SEC. 56.35.1 LOUD, UNUSUAL NOISES--DECLARATION OF  
CERTAIN ACTS CONSTITUTING

Section 2. That Chapter V of the San Diego Municipal Code  
be amended by adding Article 9.5, Divisions 1 through 7, to  
read as follows:

ARTICLE 9.5

NOISE ABATEMENT AND CONTROL

DIVISION 1 - GENERAL

SEC. 59.5.0101 PURPOSE AND INTENT

The Council of The City of San Diego finds and declares  
that:

A. Inadequately controlled noise presents a  
growing danger to the health and welfare of the residents  
of the City of San Diego;

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B. The making and creating of unnecessary, excessive, offensive or unusually loud noises within the jurisdictional limits of the City of San Diego is a condition which has persisted and the level and frequency of occurrence of such noises continue to increase;

C. The making, creation or continuance of such excessive noises which are prolonged or unusual in their time, place, and use, affect and are a detriment to the public health, comfort, convenience, safety, welfare, and prosperity of the residents of the City of San Diego;

D. Every person is entitled to an environment in which the noise is not detrimental to his or her life, health, and enjoyment of property; and

E. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared to be a matter of legislative determination and public policy and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, prosperity, peace and quiet of the City of San Diego and its inhabitants.

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SEC. 59.5.0102 DEFINITIONS

Whenever the following words and phrases are used in this article, unless otherwise defined herein, they shall have the meaning ascribed to them in this section:

A. Ambient Noise - ambient noise is the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far. For a comparison of ambient noise with sounds from an identifiable source pursuant to Section 59.5.0401, at a location and time of day selected for the comparison, the ambient noise level is the sound level mean-square averaged over a period of fifteen (15) minutes without inclusion of the sounds from the identifiable source and randomly occurring intermittent noises from any other isolated identifiable source.

B. Decibel - decibel (dB) is a unit measure of sound (noise) level.

C. Commercial Purpose - a commercial purpose shall mean and include the use, operation, or maintenance of any sound amplifying equipment for the purpose of advertising any business, or any goods, or any services, or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage or customers to or for any performance, show,

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entertainment, exhibition, or event, or for the purpose of demonstrating such sound equipment.

D. Construction Equipment - construction equipment shall mean any tools, machinery or equipment used in connection with construction operations including all types of "special construction" equipment as defined in the pertinent sections of the California Vehicle Code when used in the construction process on any construction site, regardless of whether such construction site be located on-highway or off-highway.

E. Container - a container is any receptacle, regardless of contents, manufactured from wood, metal, plastic, paper or any other material including but not limited to any barrel, basket, box, crate, tub, bottle, can or refuse container.

F. Emergency Work - emergency work is work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from imminent exposure to danger or damage or work by public or private utilities when restoring utility service.

G. Fixed Source - a fixed sound source is 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

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process machinery and equipment, pumps, fans, air-conditioning apparatus or refrigeration machines.

H. Motor Vehicles - motor vehicles shall include any and all self-propelled vehicles as defined in the California Vehicle Code and shall specifically include, but not be limited to, "mini-bikes" and "go-carts."

I. Noise Level - noise level shall mean "sound level" and the terms may be used interchangeably herein.

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

K. Nonstationary Source - a machine or device capable of being moved from place to place for occasional or temporary use at a given location, including but not limited to powered and manual construction equipment not used in connection with construction operations, powered lawn mowers, chain saws and soil tillers, but excluding motor vehicles.

L. Octave Band Sound Pressure Level - is the sound pressure level, in decibels measured in each of the octave bands with center frequencies 31.5, 63, 125, 500, 1000, 2000, 4000 and 8000 Hz using a sound level

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meter in conjunction with octave band width filters corresponding to ANSI Class II (ANSI S1-11-1966).

M. Person - person shall mean a person, firm, association, copartnership, joint venture, corporation, or any entity, public or private.

N. Powered Model Vehicles - powered model vehicles shall include but not be limited to airborne, waterborne, or landborne vehicles such as model airplanes, model boats, and model vehicles of any type or size which are not designed for carrying persons or property and which can be propelled in any form other than manpower or windpower.

O. Sound Level - sound level (noise level) in decibels is that quantity measured using the frequency weighting-A of a sound level meter as defined herein.

P. Sound Level Meter - a sound level meter is an instrument for the measurement of sound, including a microphone, an amplifier, an attenuator, networks at least for the standardized frequency weighting-A, and an indicating instrument having at least the standardized dynamic characteristic "fast," as specified in American National Standard Specifications for Sound Level Meters S1.4-1971 or successor reference thereto.

Q. Sound Amplifying Equipment - sound amplifying equipment as used herein shall have that meaning ascribed

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to it in Section 33.0203(b) of the San Diego Municipal Code.

R. Sound Truck - sound truck shall have that meaning ascribed to it in Section 33.0203(a) of the San Diego Municipal Code.

S. Unnecessary, Excessive or Offensive Noise - unnecessary, excessive or offensive noise shall mean any sound or noise conflicting with the criteria, standards, or levels set forth in this article for permissible noises. In the absence of specific maximum noise levels, a noise level which exceeds the actual measured ambient noise level by five (5) decibels or more as corrected for time duration as described in Section 59.5.0401B at the nearest property line shall be deemed a prima facie violation of this article.

T. Watercraft - watercraft shall mean any boat, ship, barge, craft or floating thing designed for navigation in the water which is propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel possessing a valid marine document issued by the United States Bureau of Customs or any federal agency successor thereto.

U. Supplementary Definitions of Technical Terms - definitions of technical terms not defined herein shall

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be obtained from American National Standard "Acoustical Terminology," S1.1-1961(R-1971) or successor reference.

SEC. 59.5.0103 SOUND LEVEL MEASUREMENT

A. Any sound or noise level measurement made pursuant to the provisions of this article shall be measured with a sound level meter using the A-weighting and "Slow" response pursuant to applicable manufacturer's instructions, except that for sounds of a duration of two (2) seconds or less, the "fast" response shall be used and the measurement recorded.

B. The sound level meter shall be appropriately calibrated and adjusted as necessary by means of an acoustical calibrator of the coupler-type to assure meter accuracy within the tolerances set forth in American National Standards ANSI-S1.4-1971.

C. For outside measurements, the microphone shall be not less than four (4) feet from any large reflecting surface such as the ground, a wall, or building, and shall be protected from the effects of wind noises by the use of appropriate wind screens. When a noise measurement is made, the actual measured distances and orientation of sources, microphone position, and reflecting surfaces shall be noted and recorded. In no case shall a noise measurement be taken within five (5) feet of the noise source.



SEC. 59.5.0104 SEVERABILITY

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

DIVISION 2 - ADMINISTRATION

SEC. 59.5.0201 ESTABLISHMENT OF NOISE ABATEMENT AND CONTROL ADMINISTRATOR

A. There is hereby established within the Environmental Quality Department of The City of San Diego the position of Noise Abatement and Control Administrator (hereinafter referred to as the "Administrator") who shall be selected from the Classified Service as defined in the Charter of The City of San Diego and shall have a minimum of three (3) years professional background in acoustics.

B. The Administrator shall select such technical, secretarial or clerical staff from the Classified Service as is necessary to assist the Administrator in the performance of his or her duties.

SEC. 59.5.0202 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

A. The Administrator and his staff shall have the overall responsibility of regulating and controlling

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the emission of all unnecessary, excessive or offensive noises within the City of San Diego and shall take such action, subject to the provisions of this article, as is reasonable and necessary to abate those sound sources causing such noises. He or she shall coordinate the activities of all City departments charged with regulating, controlling and abating unnecessary noises as defined herein and shall consult with and make recommendations to all City departments relating to noise control and reduction in those activities carried out by the various departments including Environmental Impact Report review process relating to noise pollution. The Administrator may exercise or delegate any of the functions, powers and duties vested in his office or in the administration of his office.

B. The Administrator is expressly charged:

1. To make any necessary investigations, inspections, or studies which in his or her opinion are necessary for the purpose of enforcing the provisions of this article or controlling or abating an unnecessary, excessive or offensive noise. Information derived from noise studies shall be made available to the public upon request.

2. To institute necessary proceedings to prosecute violations of this article and to compel the prevention and abatement of unnecessary, excessive or offensive noise, and as further set forth in Division 6 of this article.

3. To grant or issue such variances, permits, notices, or other matters required under the provisions of this article as will not be contrary to its intent or to the public health, safety and general welfare of the citizens of the City of San Diego when, due to special conditions, strict and literal interpretation and enforcement of the provisions of this article would result in unusual difficulties or unnecessary hardship or be inconsistent with the general purposes of this article. In granting any such variance or permits, the Administrator shall hold hearings and may impose such conditions as he deems necessary or desirable to protect the public health, safety, and general welfare in accordance with the purpose and intent of this article.

4. To do any and all other acts which may be necessary for the successful prosecution of the purposes of this article and such other acts as may be specifically enumerated herein as duties.

5. In addition to these foregoing duties, the Administrator shall, as practical and feasible, encourage and conduct studies, investigations and research relating to the physical and psychological aspects of noise on City residents; develop plans and proposals for joint cooperative investigation and research with public and private agencies and organizations on methods of eliminating or reducing noise; enlist the voluntary cooperation of the general public, other governmental entities, and civic, technical, scientific and educational societies (groups); consult and cooperate with all agencies of the state and federal governments; and collect and disseminate appropriate educational materials to the general public for the purpose of advising of the necessity, purpose and methods of noise abatement.

SEC. 59.5.0203 ISSUANCE OF PERMITS OR VARIANCES  
BY ADMINISTRATOR

The Administrator shall evaluate all applications for permits or variances from the requirements of this article and may grant said variances with respect to time for compliance, subject to such terms, conditions, and requirements as he or she may deem reasonable to achieving compliance with the provisions of this article. Each such variance shall set forth in detail the approved method of

achieving compliance and a time schedule for its accomplishment. In determining the reasonableness of the terms of any proposed variance, said Administrator shall consider the magnitude of nuisance caused by the offensive noise, the uses of property within the area of impingement by the noise, operations carried on under existing nonconforming rights or conditional use permits or zone variances, the time factors related to study, design, financing and construction of remedial work, the economic factors related to age and useful life of the equipment and the general public interest and welfare.

Natural resource extractive industries, e.g., sand, rock, and/or gravel, operating either under conditional use permits or as nonconforming uses, shall be granted a period of five (5) years from the effective date of this article within which to apply for a variance under this section. During that five (5) year period, the provisions of this article which require noise measurement by sound level meters and/or similar instruments shall be nonapplicable; however, this in no manner shall restrict or limit the power of The City of San Diego to regulate or control the making or producing of noise by such industries under Divisions 5 and 6 of this article, and shall require, as a condition of the above time extension, the submission of a phased implementation program for noise abatement and control

for each extractive industry site in the City of San Diego to the Administrator within one (1) year from the effective date of this article.

A nominal fee shall be charged to each applicant for processing permits or variances. Fee schedules shall be approved by Council resolution. A report of permits and variances shall be prepared monthly and be available for public review.

SEC. 59.5.0204 APPEALS

Any person aggrieved by disapproval of a variance or permit by the Administrator may appeal in writing to the Board of Noise Abatement and Control. In the case of a permit denial, the board shall meet as soon as feasibly practical in order to consider the matter. All other appeals shall be scheduled in the board's regular course of business. The board may take such action as is set forth in Section 59.5.0208 of this article.

SEC. 59.5.0205 INSPECTION BY ADMINISTRATOR

A. The Administrator may inspect, at any reasonable time and in a reasonable manner, any device or mechanism which is intended to or which actually produces sound when operated or handled, which creates or may create any unnecessary noise including but not limited to the premises where such device or mechanism is used.

B. If entry is denied or refused, the Administrator shall obtain an inspection warrant from a court of competent jurisdiction.

SEC. 59.5.0206 ADMINISTRATOR'S GUIDELINES

A. The Administrator shall, within nine (9) months following the effective date of this article, prepare and develop guidelines for the implementation and enforcement of this article. Such guidelines shall include but not be limited to objectives, criteria, recommended practices, and appropriate standards relating to noise abatement within the City of San Diego. Specific standards upon which the basic limitation of noise may be determined or adjusted for any industry shall be included with specific recommendations for appropriate amendments of this article, if any, to be made.

B. The Administrator shall present his guidelines to the City Council for certification and adoption by ordinance and they shall upon adoption be incorporated by reference into this article.

C. Public Hearing and Notice

Prior to the adoption of such guidelines by the Council, a public hearing shall be conducted at which time all interested persons may appear. Notice of

such public hearing shall be published in the City's official newspaper once ten (10) days prior to said hearing.

D. Distribution of Guidelines

Following Council adoption, copies of such guidelines shall be distributed as specified in said guidelines.

SEC. 59.5.0207 AMENDMENT TO OTHER ORDINANCES

A. Aircraft

Within three (3) months following the effective date of this article, the City's Airports Director, in conjunction with the Administrator, the Building Inspection Director, the Director of the Environmental Quality Department, and the Director of the Planning Department shall present a joint report to the Mayor and Council generally relating to noise control and abatement for aircraft, aircraft engine ground operations, whether or not installed in aircraft, and including land-use regulations and building construction standards. Such report shall include specific recommendations regarding such aircraft noise control and abatement including specific ordinances or amendments to the extent legally possible.



B. Other Municipal Code Provisions

Within one (1) year following the effective date of this article the Administrator shall, and from time to time thereafter, present a written report to the Mayor and Council with specific recommendations as to needed additions or revisions of this article or any ordinance contained within the San Diego Municipal Code which should be amended, revised, or added in order to insure the citizens of San Diego a quiet environment, and any other specific ordinance pertaining to noise abatement and control.

SEC. 59.5.0208 BOARD OF NOISE ABATEMENT AND CONTROL

A. Creation of Membership

There is hereby created a Board of Noise Abatement and Control which shall consist of nine (9) members; one (1) shall be qualified by training and experience in the field of acoustics or acoustical engineering; one (1) shall be qualified by training, experience and registration in the field of mechanical engineering; one (1) shall be qualified by training, experience, and licensing in the field of architecture; one (1) shall be a physician qualified in the field of physiological effects of noise; one (1) shall be a qualified audiologist; one (1) building contractor; one (1) electronics engineer; and two (2) general members of the public. The members shall be appointed

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by the Mayor and confirmed by the Council. Appointments shall be made for two (2) year terms with the initial appointments to include four (4) appointments for one (1) year each ending January 1, 1975, and five (5) appointments for two (2) years each ending January 1, 1976. Vacancies shall be filled for the unexpired term of the member whose place becomes vacant. The Mayor shall designate a chairman upon initial formulation of the board and thereafter, during January of each year, the Mayor shall designate one (1) member as chairman; however, in the absence of such designation, the board shall on or after January 15 select from among its members a chairman. Such members shall serve without compensation and shall serve until his or her successor is duly appointed.

B. Meetings

The board shall meet regularly once a month or more often if necessary for the transaction of business. It shall establish its own rules and procedures necessary or convenient for the conduct of business.

Five (5) members of the board shall constitute a quorum. The affirmative vote of not less than five (5) members shall be necessary for any action of the board.

C. Powers and Duties

1. The board shall hear and determine appeals from the rulings, decisions and determinations of the Noise Abatement and Control Administrator, granting or denying applications for variances or permits from the provisions of this article. Such board may affirm, modify, or overrule the Administrator's decisions and shall be guided by the same considerations as set forth in Sections 59.5.0203 and 59.5.0408.

2. The board shall advise and assist the Administrator in the performance of his or her duties and responsibilities as set forth herein.

DIVISION 3 - NOISE ABATEMENT CONTRACT COMPLIANCE

SEC. 59.5.0301 CONTRACT PROVISIONS

A. Contract

As used in this section, the term "contract" shall mean any written agreement or legal instrument whereby The City of San Diego is committed to expend or does expend public funds in consideration for work, labor, services, equipment, or any combination of the foregoing, except that the term "contract" shall not include:

1. Contracts for financial or other assistance entered into by The City of San Diego

with any federal, state or other local governmental entity or agency.

2. Contracts, resolutions, indentures, declarations of trust or other legal instruments authorizing or relating to the purchase of insurance, the authorization, issuance, award and sale of bonds, certificates of indebtedness, notes or other fiscal obligations of the City, or consisting thereof.

3. Employment by The City of San Diego of officers and employees of the City, consultants and experts.

B. Contract Provisions

Three (3) months after the effective date of this article, no contract shall be awarded or entered into by The City of San Diego unless such contract contains provisions requiring that:

Devices and activities which will be operated, conducted or constructed pursuant to the contract and which are subject to the provisions of this Code will be operated, conducted or constructed without causing a violation of this article.

C. Regulations

The Administrator may, from time to time, recommend to the City's Purchasing Agent and/or other City

departments such specifications for the operation or construction of devices and activities pursuant to City contracts as he deems necessary to comply with the provisions of this section.

D. No person shall cause or permit the operation of a device or conducting of an activity in such a way as to violate any provision of a contract required by this section.

E. The provisions of this section shall not apply to those contracts awarded prior to three (3) months from the effective date of this article.

DIVISION 4 - NOISE LEVEL LIMITS,  
STANDARDS AND CONTROL

SEC. 59.5.0401 FIXED AND NONSTATIONARY SOURCES

On or after a date twelve (12) months after the effective date of this article, unless a variance has been applied for and granted pursuant to this article, it shall be unlawful for any person to operate or cause to be operated any single or combination of fixed source or nonstationary source type of equipment or machinery except construction equipment used in connection with construction operations that individually or collectively constitute an identifiable sound source in such a manner as to cause the sound level at any point on the property line of any property to exceed by five (5) decibels or more the noise level limits set forth in subsection A below plus allowances for time duration in subsection B of this section.

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A. Noise Level Limit

The "noise level" or "sound level" referred to in this section shall mean the higher of the following:

(1) actual measured ambient noise level, or (2) that noise level limit as determined from the table in this subsection:

<u>Zone</u>	<u>Time</u>	<u>Sound Level (A-Weighted) Decibels</u>
R-1 Residential	7 a.m. to 7 p.m.	50
	7 p.m. to 10 p.m.	45
	10 p.m. to 7 a.m.	40
R-2 Residential	7 a.m. to 7 p.m.	55
	7 p.m. to 10 p.m.	50
	10 p.m. to 7 a.m.	45
R-3, R-4 and all other Residential	7 a.m. to 7 p.m.	60
	7 p.m. to 10 p.m.	55
	10 p.m. to 7 a.m.	50
All Commercial	7 a.m. to 7 p.m.	60
	7 p.m. to 10 p.m.	55
	10 p.m. to 7 a.m.	55
SR, M-IP, M-1A and M-1B Manufacturing	anytime	70
	anytime	75
All other Industrial including Agricultural Industry	anytime	75

If a measurement location is on a boundary between two zoning districts, the noise level limit for the zone from which the sound is emanating shall apply.

B. Time Duration Correction Table

The time duration allowances set forth in the table below shall apply to those noise level limits set forth in subsection A above.

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<u>Duration of Sound</u>	<u>Allowance Decibels</u>
Up to 30 minutes per hour	+ 3
Up to 15 minutes per hour	+ 6
Up to 10 minutes per hour	+ 8
Up to 5 minutes per hour	+11
Up to 2 minutes per hour	+15
Up to 1 minute per hour	+18
Up to 30 seconds per hour	+21
Up to 15 seconds per hour	+24

Permissible construction noise level limits shall be governed by Sections 59.5.0408 and 59.5.0409 of this article.

SEC. 59.5.0402 VEHICLE AND NONSTATIONARY SOURCE REPAIRS

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

SEC. 59.5.0403 MOTOR VEHICLES

A. On-Highway

Violations for exceeding applicable noise-level limits as to persons operating motor vehicles on a public street or highway within the City shall be prosecuted under applicable California Vehicle Code provisions.

B. Off-Highway

Except as otherwise provided for in this article, it shall be unlawful to operate any motor vehicle of any type on any site other than on a public street or

highway as defined in the California Vehicle Code in any manner so as to cause noise in excess of those noise levels permitted for on-highway motor vehicles as specified in the table for "35 miles per hour or less speed limits" contained in Section 23130 of the California Vehicle Code and as corrected for distances set forth in subsection B1 below:

1. Corrections:

The maximum noise level as the off-highway vehicle passes may be measured at a distance of other than fifty (50) feet from the center of lane of travel provided the measurement is further calibrated by addition of the applicable correction as follows:

<u>Distance (Feet)</u>	<u>Correction (Decibels)</u>
25	-6
28	-5
32	-4
35	-3
40	-2
45	-1
50 (Preferred Distance)	0
56	+1
63	+2
70	+3
80	+4
90	+5
100	+6

A measured noise level thus calibrated to the lane-to-microphone distance of fifty (50) feet



shall be deemed in violation of this section if it exceeds the applicable noise-level limit as specified above.

C. Nothing in this section shall apply to authorized emergency vehicles when being used in emergency situations including the blowing of sirens and/or horns.

SEC. 59.5.0404 URBAN TRANSIT BUSES

Buses as defined in the California Vehicle Code shall at all times comply with Section 59.5.0403 on Motor Vehicles.

SEC. 59.5.0405 POWERED MODEL VEHICLES

It shall be unlawful for any person to operate any powered model vehicle except between the hours of 7 a.m. and 9 p.m. and then only in such a manner so as not to emit noise in excess of those levels set forth in Section 59.5.0401; however, if operated in parks, agricultural or unclassified zones, the noise level shall be measured at a distance of one hundred (100) feet from the noise source instead of at the property line.

SEC. 59.5.0406 REFUSE VEHICLES

No person shall operate or permit to be operated a refuse compacting, processing or collection vehicle after December 31, 1973, within the City of San Diego which when compacting creates a sound level in excess of eighty-six (86) decibels when measured at a distance of fifty (50)

feet from any point of the compacting vehicle unless a variance has been applied for and granted by the Administrator or Appeals Board. No refuse collection shall be permitted from 7:00 p.m. to 7:00 a.m. in any residential area. Notwithstanding the above, on or after a date forty-eight (48) months after the effective date of this article, no person shall operate or permit to be operated, a refuse, compacting, processing or collection vehicle which when compacting creates a sound level in excess of eighty (80) decibels when measured at a distance of fifty (50) feet from any point of the compacting vehicle.

SEC. 59.5.0407 WATERCRAFT

Violations for excessive noise of watercraft operating in waters under the jurisdiction of The City of San Diego shall be prosecuted under applicable provisions of the California Harbors and Navigation Code.

SEC. 59.5.0408 CONSTRUCTION NOISE

It shall be unlawful for any person, between the hours of seven (7) o'clock p.m. of any day and seven (7) o'clock a.m. of the following day, or on legal holidays as specified in Section 21.04 of the San Diego Municipal Code with the exception of Columbus Day and Washington's Birthday, or on Sundays, to erect, construct, demolish, excavate for, alter or repair any building or structure in such a manner as to create an unnecessary, excessive

or offensive noise unless a special permit has been applied for and granted beforehand by the Noise Abatement and Control Administrator. In granting such special permit, the Administrator shall consider if the 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 the daytime; if the type 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; the character and nature of the neighborhood of the proposed work site; if great economic hardship would occur if the work were spread over a longer time; if the proposed night work is in the general public interest; and he shall prescribe such conditions, working times, types of construction equipment to be used, and permissible noise levels as he deems to be required in the public interest.

The provisions of this section shall not apply to emergency work as defined herein provided that the Administrator shall be notified of such emergency work forthwith.

SEC. 59.5.0409 CONSTRUCTION EQUIPMENT

A. Except as provided in subsection C hereof, on or after a date six (6) months after the effective date of this article, it shall be unlawful for any person, including The City of San Diego, to operate any single or combination of powered construction equipment, regardless of age or date of acquisition, if the operation of such equipment causes a noise level in excess of seventy (70) decibels for more than eight (8) hours during any twenty-four (24) hour period when measured at a distance of one hundred (100) feet from such equipment, or the corresponding sound level at some other convenient distance, including the property line or residential zone boundary. These sound levels shall be corrected for time duration in accordance with the following table:

<u>Total Duration in 24 Hours</u>	<u>Allowance Decibels</u>
Up to 8 hours	0
Up to 4 hours	+ 5
Up to 2 hours	+10
Up to 1 hour	+15
Up to 30 minutes	+20
Up to 15 minutes	+25

The intent of this provision is that a violation has occurred when the operation of such equipment causes a sound level in excess of ninety-five (95) decibels for fifteen (15) minutes during any

twenty-four hour period when measured at a distance of one hundred (100) feet.

B. In the event that lower noise limits standards are set pursuant to the Occupational Safety and Health Act (OSHA) or successor reference thereto, these lower limits shall be used as the basis for revising or amending the noise level limits specified in subsection A above.

C. The provisions of subsections A and B of this section shall not apply to construction equipment used in connection with emergency work.

SEC. 59.5.0410 CONTAINERS AND CONSTRUCTION MATERIAL

It shall be unlawful for any person to handle or transport or cause to be handled or transported in any public place, any container or any construction material in such a way as to create an unnecessary, excessive or offensive noise as defined in Section 59.5.0102.

SEC. 59.5.0411 EXTERIOR NOISE ISOLATION STANDARDS

The design and construction of all buildings located within subsequently identified noise zones within the City of San Diego shall be effectuated when exterior noise isolation standards are subsequently specified in the San Diego Building Code.

SEC. 59.5.0412 TRAIN HORNS AND WHISTLES--EXCESSIVE  
SOUND PROHIBITED

It shall be unlawful for any person to operate or sound or cause to be operated or sounded, a train horn or train whistle which creates a noise level in excess of eighty-nine (89) decibels at any place or point three hundred (300) feet or more distant from the source of such sound. Operation of train horns and whistles is to be limited to emergencies, grade crossings, and intersections.

SEC. 59.5.0413 SIGNAL DEVICE FOR FOOD TRUCKS

No person shall operate or use or cause to be operated or used any sound signal device other than sound amplification equipment attached to a motor vehicle, wagon, or manually propelled cart from which food or any other items are sold, which emits a sound signal more frequently than once every ten (10) minutes in any one City block and with a duration of more than ten (10) seconds for any single emission. The sound level of this sound signal shall not exceed ninety (90) decibels at fifty (50) feet. This provision shall not apply to sound trucks which are regulated by Section 33.0701.1 et seq. of the San Diego Municipal Code.

DIVISION 5 - GENERAL NOISE REGULATIONS

SEC. 59.5.0501 GENERAL PROHIBITIONS

In the absence of objective measurement by use of a sound level meter, additionally it shall be unlawful for

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any person to make, continue, or cause to be made or continued, within the limits of said City, any loud, unnecessary or unusual noise which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

The characteristics and conditions which should be considered in determining whether a violation of the provisions of this section exists should include but not be limited to the following:

- A. The level of the noise;
- B. The intensity of the noise;
- C. Whether the nature of the noise is usual or unusual;
- D. Whether the origin of the noise is natural or unnatural;
- E. The level and intensity of the background noise;
- F. The proximity of the noise to sleeping facilities;
- G. The nature and zoning of the area within which the noise emanates;
- H. The density of the inhabitation of the area within which the noise emanates;
- I. The time of the day or night the noise occurs;

J. The duration of the noise;

K. Whether the noise is recurrent, intermittent, or constant; and

L. Whether the noise is produced by a commercial or noncommercial activity.

SEC. 59.5.0502 LOUD, UNUSUAL NOISES--DECLARATION OF CERTAIN ACTS CONSTITUTING

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

A. Horns, Signaling Devices, etc.

Violations for loud, unnecessary or unusual noises associated with the use or operation of horns, signaling devices, etc., on automobiles, motorcycles, or any other vehicle, except as provided in Section 59.5.0413, shall be prosecuted under applicable provisions of the California Vehicle Code.

B. Radios, Television Sets, Phonographs and Similar Devices

1. Uses Restricted

The use, operation, or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound in such manner as to



disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area.

2. Prima Facie Violations

The operation of any such set, instrument, phonograph, television set, machine or similar device between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this section.

C. Loud Speaking Amplifiers for Advertising

The use, operation or the permitting to be played, used, or operated of any sound production or reproduction device or machine including but not limited to radio receiving sets, phonographs, musical instruments, loudspeakers, and sound amplifiers, for commercial or business advertising purposes in, upon, over, or across any street, alley, sidewalk, park, or public property. This provision shall not be applicable to sound amplifying equipment mounted on any sound truck or vehicle for commercial or noncommercial purposes where the owner or operator has a valid, approved permit and appropriate license pursuant to

Section 33.0701.1 et seq. of the San Diego Municipal Code and is using or operating said equipment in conformance therewith.

D. Yelling, Shouting, etc.

Loud or raucous yelling, shouting, hooting, whistling or singing on the public streets which is designed to particularly disrupt rather than communicate between the hours of 10:00 p.m. and 8:00 a.m. or at any time or place is hereby prohibited.

E. Hawkers and Peddlers

The shouting or crying out of any peddlers, hawkers and vendors which disturbs the peace and quiet of a neighborhood or of any reasonable person of normal sensitiveness. This provision shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.

F. Drums

The use of any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the City. This provision shall not apply to any participant in a school band, drum and bugle corps, or duly licensed parade or who has been otherwise duly authorized by The City of San Diego to engage in such conduct.

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G. Animals and Fowl

The keeping or maintenance, or the permitting to be kept or maintained upon any premises owned, occupied or controlled by any person of any animal or fowl which by any frequent or long-continued noise shall cause annoyance or discomfort to a reasonable person of normal sensitiveness in the vicinity; provided, however, that nothing contained herein shall be construed to apply to occasional noises emanating from legally operated dog and cat hospitals, humane societies, City pounds, farm and/or agricultural facilities, or areas where keeping of animals or fowl are permitted.

H. Schools, Courts, Churches, Hospitals

The creation of any noise on any street, sidewalk, or public place adjacent to any school, institution of learning (except recreational areas of schools), church, court or library, while the same are in use; or adjacent to a hospital, rest home or long-term medical or mental care facility which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, rest home or long-term medical or mental care facility, provided conspicuous signs are displayed in such streets, sidewalks or public

places indicating the presence of a school, institution of learning, church, court, library, rest home, or long-term medical or mental care facility.

I. Steam Whistles

The operation, use or causing to be operated or used, of any steam whistle attached to any stationary boiler except to give notice of the time to start or stop work or as a sound signal of imminent danger.

J. Engines and Motor Vehicles

Any unnecessary, disturbing, or raucous noises caused by racing or accelerating the engine or any motor vehicle while not moving or the wilfull back-firing of any engine and exhaust from the engine tailpipe or muffler.

SEC. 59.5.0503 BURGLAR ALARMS

On or after one (1) year from the effective date of this article, no owner of a motor vehicle shall have in operation an audible burglar alarm therein unless such burglar alarm shall be capable of terminating its operation within fifteen (15) minutes of its being activated.

Notwithstanding the requirements of this provision, any member of the Police Department of The City of San Diego shall have the right to take such steps as may be reasonable

and necessary to disconnect any such alarm installed on a motor vehicle at any time during the period of its activation. On or after thirty (30) days from the effective date of this article, any motor vehicle upon which a burglar alarm has been installed shall, when parked on a public highway or parking lot open to the public, prominently display the telephone number at which communication may be made with the owner of such motor vehicle.

DIVISION 6 - VIOLATIONS AND ENFORCEMENT

SEC. 59.5.0601 VIOLATIONS: MISDEMEANORS

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500) or be imprisoned in the City or County jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

SEC. 59.5.0602 VIOLATIONS: ADDITIONAL REMEDIES:  
INJUNCTIONS

As an additional remedy, the operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this article, which operation or maintenance causes discomfort or annoyance to reasonable

persons of normal sensitiveness or which endangers the comfort, repose, health, or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

SEC. 59.5.0603 ENFORCEMENT

Section 59.5.0407 shall be enforced by the Aquatics Division of the Park and Recreation Department. The Chief of Police shall be responsible for the enforcement of Sections 59.5.0403, 59.5.0404, 59.5.0501, 59.5.0502, and 59.5.0503. All other provisions, except Section 59.5.0411, shall be enforced by the Noise Abatement and Control Administrator. When standards are established for Section 59.5.0411, the Building Inspection Director shall be responsible for the enforcement of those adopted standards.

SEC. 59.5.0604 MANNER OF ENFORCEMENT

Violations of this article shall be prosecuted in the same manner as other misdemeanor violations of the San Diego Municipal Code; however, nothing in this article shall prevent the Administrator, in his enforcement of the provisions of this article for which he is responsible, from making efforts to obtain voluntary compliance by way of warning, notice, or educational means.

SEC. 59.5.0605 DISPLAY OF PERMITS AND OTHER NOTICES

Any permit or certificate required herein shall be displayed or maintained on the premises designated on the permit.

SEC. 59.5.0606 FALSE AND MISLEADING STATEMENTS:  
UNLAWFUL REPRODUCTION OR ALTERATION  
OF DOCUMENTS

A. No person shall knowingly make a false or misleading statement or submit a false or misleading document to the Administrator as to any matter within his jurisdiction.

B. No person shall make, reproduce, alter or cause to be made, reproduced or altered a permit, certificate, or other document issued by the Administrator or required by this article if the purpose of such reproduction or alteration is to evade or violate the provisions of this article or any other law.

DIVISION 7 - EXEMPTIONS

SEC. 59.5.0701 NONAPPLICABILITY

A. Church Bells, etc.

The provisions of this article shall not apply to the operation or use of any organ, bell, chime, or other similar instrument by any church, synagogue, mosque, school, or city-operated facility; provided, however, that such operation or use not create a loud, unnecessary or unusual noise which causes discomfort

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or annoyance to any reasonable person of normal sensitiveness residing in the area.

B. Sporting and Public Events

Notwithstanding the provisions of this article, those reasonable sounds emanating from a sporting or public event shall not be prohibited.

C. Emergency Work

The provisions of this article shall not apply to any emergency work as defined herein so long as the Administrator has been notified in advance, if possible, or as soon as practical after said emergency.

D. Sound Trucks

The use, operation, and regulation of sound trucks for commercial or noncommercial purposes as defined in this Code shall be pursuant to Section 33.0701.1 et seq. of the San Diego Municipal Code.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By DWDetisch  
Donald W. Detisch, Deputy

DWD:K  
8-30-73

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MAY 2 1978  
11122



SEP 18 1973

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

RECEIVED  
CITY CLERK'S OFFICE  
1973 AUG 31 PM 2:41  
SAN DIEGO, CALIF.

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON  
Mayor of The City of San Diego, California.

EDWARD NIELSEN  
City Clerk of The City of San Diego, California.

(Seal)

By *Helena J. Ingram*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

SEP 4 1973, and on SEP 18 1973

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN  
City Clerk of The City of San Diego, California.

(Seal)

By *Helena J. Ingram*, Deputy.

MICROFILMED  
MAY 2 1978

Office of the City Clerk, San Diego, California

Ordinance Number 11122 Adopted SEP 18 1975

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*MB*

and

RECEIVED <sup>LB</sup>  
CITY CLERK'S OFFICE  
1973 OCT 11 AM 9:44  
SAN DIEGO, CALIF.

ATTORNEY (S)

CITY OF SAN DIEGO  
202 C Street, 12th Floor  
San Diego, California 92101

**CERTIFICATE OF PUBLICATION**

No. \_\_\_\_\_

IN THE MATTER OF

*NOISE ABATEMENT & CONTROL*

I, *Patricia M. Applestill* hereby certify that *San Diego Daily Transcript* is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; that the

*ORDINANCE 11122 (NEW SERIES)*

is a true and correct copy of which this certificate is annexed and was published in said newspaper on

*September 27, 1973*

I certify under penalty of perjury that the foregoing is true and correct, at San Diego, California, on

*October 8, 1973*

*Patricia M. Applestill*  
(Signature)

L-10-8M-8-73

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148" @ 4.42 = \$654<sup>16</sup>

lm