

ORDINANCE NUMBER O- 16100 (New Series)

Adopted on JAN 3 1984

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 9, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 59.5.0202, 59.5.0204, 59.5.0206, 59.5.0401, 59.5.0404, 59.5.0501, 59.5.0502 and 59.5.0503, AND BY REPEALING SECTION 59.5.0405, RELATING TO THE NOISE ABATEMENT AND CONTROL.

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

Section 1. That Chapter V, Article 9, of the San Diego Municipal Code be, and the same is hereby amended by amending Sections 59.5.0202, 59.5.0204, 59.5.0206, 59.5.0401, 59.5.0404, 59.5.0501, 59.5.0502 and 59.5.0503, to read as follows:

SEC. 59.5.0202 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

A. - No change.

B. The Administrator is expressly charged:

1. and 2. - No change.

3. To grant or issue variances, permits, notices, or other matters required under the provisions of this article as will not be contrary to its intent or detrimental 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 permit, 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 this article.

The requirement for a public hearing prior to issuing a permit or variance may be waived by the Administrator where a single social event is scheduled to occur between the hours of 7:00 a.m. and 11:00 p.m. and does not involve more than 200 persons.

4. - No change.

C. - No change.

SEC. 59.5.0204 APPEALS

Any person directly affected by the noise and/or the applicant who is aggrieved by approval or disapproval of a variance or permit by the Administrator may appeal in writing to the secretary of the Board within 14 calendar days of the decision. 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 59.5.0207 of this article.

SEC. 59.5.0206 THE SAN DIEGO CITY NOISE MAP

A. The official record of noise levels in the City of San Diego shall be the San Diego City Noise Map. The Administrator shall compile existing records of sound level measurements and noise prediction models available to The City of San Diego, and take further sound level measurements as necessary. From these records, measurements and models, the Administrator shall determine Community Noise Equivalent Levels (CNEL) for The City of San Diego. The map shall be sufficiently detailed to enable a resident to locate his/her place of residence. Where adequate data are available the map shall be marked with isograms of CNEL at 60 decibels, and at five-decibel intervals above 60 decibels.

B. - No change.

C. Any person may request the Administrator to accept for a location within the City of San Diego, a CNEL where none is predicted by the San Diego City Noise Map or which differs from the predicted one, subject to the following requirements. The request shall be accompanied by an estimate of the annual CNEL at the place that is based on a survey of noise there that includes essentially continuous measurement of the sound level over a period of at least two weeks, and appropriate information about the noise-making activity in the area during the test period and during the preceding year. These two items shall be such as

to support the stated estimate of annual CNEL within an accuracy of two decibels. The survey and estimate of annual CNEL for the specific date and place shall be made by a qualified acoustical consultant at the expense of the applicant.

SEC. 59.5.0401 SOUND LEVEL LIMITS

A. - No change.

B. The sound level limit at a location on a boundary between two zoning districts is the arithmetic mean of the respective limits for the two districts. Permissible construction noise level limits shall be governed by Section 59.5.0404 of this article.

C. Fixed-location public utility distribution or transmission facilities located on or adjacent to a property line shall be subject to the noise level limits of Part A. of this section, measured at or beyond six feet from the boundary of the easement upon which the equipment is located.

D. This section does not apply to firework displays authorized by permit from the Fire Department.

SEC. 59.5.0404 NOISE FROM CONSTRUCTION ACTIVITY

A. - No change.

B. Except as provided in subsection C. hereof, it shall be unlawful for any person, including The City of San Diego, to conduct any construction activity so as to cause, at or beyond the property

lines of any property zoned residential, an average sound level greater than 75 decibels during the 12-hour period from 7:00 a.m. to 7:00 p.m.

C. The provisions of subsection B. of this section shall not apply to construction equipment used in connection with emergency work, provided the Administrator is notified within 48 hours after commencement of work.

SEC. 59.5.0501 GENERAL PROHIBITIONS

A. - No change.

B. 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:

1. The level of the noise;
2. Whether the nature of the noise is usual or unusual;
3. Whether the origin of the noise is natural or unnatural;
4. The level of the ambient noise;
5. The proximity of the noise to sleeping facilities;
6. The nature and zoning of the area from which the noise emanates and the area where it is received;
7. The time of day or night the noise occurs;
8. The duration of the noise; and

9. Whether the noise is recurrent,
intermittent, or constant.

SEC. 59.5.0502 DISTURBING, EXCESSIVE, OFFENSIVE
NOISES - DECLARATION OF CERTAIN
ACTS CONSTITUTING

The following activities, among others, are
declared to cause disturbing, excessive or offensive
noises in violation of this section but said
enumeration shall not be deemed to be exclusive,
namely:

A. - No change.

B. Radios, Television Sets, Phonographs, Loud
Speaking Amplifiers and Similar Devices

1. Uses Restricted

The use, operation, or permitting to be
played, used, or operated, any sound production
or reproduction device, radio receiving set,
musical instrument, drums, phonograph, television
set, loud speakers and sound amplifiers or other
machine or device for the producing or
reproducing of sound in such a manner as to
disturb the peace, quiet, and comfort of any
reasonable person of normal sensitivity in any
residential or public area is prohibited. This
provision shall not apply to any participant in a
duly-licensed parade, or to any person who has
been otherwise duly authorized by The City of San
Diego to engage in such conduct.

2. Prima Facie Violations

The operation of any such set, instrument, phonograph, television set, machine, loud speakers 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 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. Animals

1. 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 animals which by any frequent or long-continued noise, shall cause annoyance or discomfort to a reasonable person of normal sensitiveness in the vicinity.

2. The noise from any such animal or animals that disturbs two or more residents residing in separate residences adjacent to any part of the property on which the subject animal or animals are kept or maintained, or three or more residents residing in separate residences in close proximity to the property on which the subject animal or animals are kept or maintained shall be prima facie evidence of a violation of this section.

D. Hospitals, Schools, Libraries, Rest Homes, Long-Term Medical or Mental Care Facilities

To make noise adjacent to a hospital, school, library, rest home, or long-term medical or mental care facility, which noise unreasonably interferes with the workings of such institutions or which disturbs or unduly annoys occupants in said institutions.

E. Playing of Radios on Buses and Trolleys

The operation of any radio, phonograph, or tape player on an urban transit bus or trolley so as to emit noise that is audible to any other person in the vehicle is prohibited.

SEC. 59.5.0503 BURGLAR ALARMS

A. Audible burglar alarms for structures or motor vehicles are prohibited unless the operation of such burglar alarms can be terminated within 20 minutes of being activated.

B. 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 in any building, dwelling, or motor vehicle at any time during the period of its activation. On or after 30 days from the effective date of this article, any building, dwelling or motor vehicle upon which a burglar alarm has been installed shall prominently display the telephone number at which communication may be made with the owner of such building, dwelling, or motor vehicle.

Section 2. That Chapter V, Article 9, of the San Diego Municipal Code be, and the same is hereby amended by repealing Section 59.5.0405 entitled, "Construction Activities."

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 Thomas F. Steinke
Thomas F. Steinke
Deputy City Attorney

TFS:ta:532
9/29/83
O-84-69
Or.Dept:Bldg.Insp.
Form=o.none

Passed and adopted by the Council of The City of San Diego on JAN 3 1984,
by the following vote:

| Councilmen | Yeas | Nays | Not Present | Ineligible |
|-----------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Bill Mitchell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bill Cleator | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gloria McColl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| William Jones | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ed Struiksma | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mike Gotch | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dick Murphy | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Uvaldo Martinez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Roger Hedgecock | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

ROGER HEDGECOCK
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By Ellen Board, 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

DEC 12 1983, and on JAN 3 1984.

~~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.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By Ellen Board, Deputy.

| | |
|---|---------------------------|
| Office of the City Clerk, San Diego, California | |
| Ordinance Number <u>16100</u> | Adopted <u>JAN 3 1984</u> |

RECEIVED
CITY CLERK'S OFFICE

1984 JAN 18 AM 11:07
SAN DIEGO, CALIF.

CERTIFICATE OF PUBLICATION

CITY OF SAN DIEGO
ATTN: ELLEN BOVARD
202 C St., 12th Floor
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

ORDINANCE NO. O-16100

ORDINANCE NO. O-16100
(New Series)

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 8, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 8-101, 8-102, 8-103, 8-104, 8-105, 8-106, 8-107, 8-108, 8-109, 8-110, 8-111, 8-112, AND BY ADDING SECTION 8-113, RELATING TO THE NOISE ABATEMENT ACT.

Whereas the City's Noise Ordinance will generally: 1) allow a person to more easily obtain a noise permit for a party; 2) provide a 10-day period for an interested party to file an appeal from a noise variance decision; 3) clarify the provisions that define the methods by which the sound levels of the area of the City impacted by traffic noise and aircraft noise are determined; 4) assign the function of reporting noise to the Fire Department; 5) combine two sections dealing with construction into one section; 6) define, as a prima facie violation, noise which is the subject of complaints from three or more people in separate residences in close proximity to a noisy animal, such as a barking dog; 7) delete restrictions on yelling and shouting which may be in conflict with State law; 8) delete restrictions on motor vehicle noise now covered by State law; and 9) prohibit the operation of radios, televisions, or tape players on urban transit trolleys, as well as buses.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Enacted on DECEMBER 12, 1983.
Passed and adopted by the Council of The City of San Diego on JANUARY 3, 1984.

AUTHENTICATED BY:
ROGER HEDGECOCK,
Mayor of The City of San Diego, California.
CHARLES G. ASBP, MOUR,
City Clerk of The City of San Diego, California.

(SEAL)
By ELLEN BOVARD, Deputy.
Published Jan. 18, 1984. 50-1208

I, Carrie Gedcon, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. O-16100
(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

January 16, 1984

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 16th day of Jan., 19 84.

Carrie Gedcon
(Signature)

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7" X 8.87 = 62.09