

Item 56
6/4/19

ORDINANCE NUMBER O- 21078 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 06 2019

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 5,
DIVISION 0 OF THE SAN DIEGO MUNICIPAL CODE BY
REPEALING SECTION 85.28, RELATING TO TRAIN
WHISTLE USE – PROHIBITED.

WHEREAS, in response to complaints from residents and visitors about whistle or horn noise from freight trains in the downtown area, the City Council on January 31, 2000, adopted Municipal Code section 85.28 prohibiting nighttime sounding of locomotive whistles or horns at downtown highway-rail crossings; and

WHEREAS, in 2006, the Federal Railroad Administration created procedures for “Quiet Zones,” described in 49 C.F.R. § 222 (2006), allowing for a reduction in locomotive whistle or horn noise in exchange for locally-funded supplemental safety measures at highway-rail crossings; and

WHEREAS, in 2012, pursuant to 49 C.F.R § 222 (2006), the City established federally supervised and regulated “Quiet Zones” for the highway-rail crossings in downtown, which are substantively the same as the zones set forth in Municipal Code section 85.28; and

WHEREAS, 49 C.F. R. § 222.7 (2006), expressly preempts any state law, rule, regulation, or order governing the sounding of a locomotive horn at public highway-rail crossings; NOW, THEREFORE,

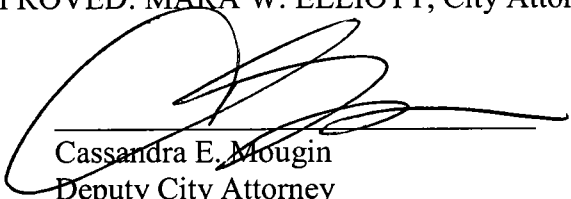
BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 8, Article 5, Division 0 of the San Diego Municipal Code is repealed by repealing Section 85.28 relating to Train Whistle Use – Prohibited.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

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

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Cassandra E. Mouglin
Deputy City Attorney

CEM:cw
04/15/19
06/12/19 COR. COPY
Or.Dept: Transportation & Storm Water
CC No.: N/A
Doc. No.: 2025934_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 04 2019.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

(See attached memo and signature page.)

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 533-5800

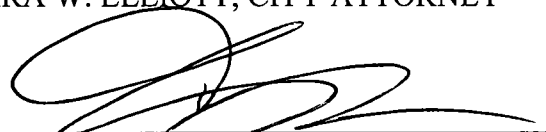
DATE: June 12, 2019
TO: City Clerk Elizabeth S. Maland
FROM: City Attorney
SUBJECT: Correction for Ordinance (O-2019-129)

The correction is that the ordinance has a final passage date of June 6, 2019, effective July 6, 2019, that needed Chapter 8, Article 5, Division 28 changed to properly be stated as Chapter 8, Article 5, Division 0.

I have submitted with this memo the corrected ordinance documents regarding the changes. If you have additional questions, please do not hesitate to contact our office.

MARA W. ELLIOTT, CITY ATTORNEY

By




Cassandra E. Mouglin
Deputy City Attorney

CEM:cw
Doc. No.: 2026935

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

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

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Cassandra E. Mouglin
Deputy City Attorney

CEM:cw
04/15/19
Or.Dept: Transportation & Storm Water
CC No.: N/A
Doc. No.: 1996954

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 04 2019.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6/6/19
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 5,
DIVISION 0 OF THE SAN DIEGO MUNICIPAL CODE BY
REPEALING SECTION 85.28, RELATING TO TRAIN
WHISTLE USE – PROHIBITED.

Article 5: Special Regulations

§85.28 ~~Train Whistle Use—Prohibited~~

- (a) ~~Purpose and Intent. The Council finds that an effect of sustained economic growth in the San Diego region is an increase in freight train traffic through residential areas. The Council finds that it is the current practice of freight train engineers and crew members to use a whistle of ninety decibels or louder as a warning device when approaching any at-grade crossing or railroad tracks. The train whistle is used regardless of the time of day or speed of the train, presence or absence of pedestrians, or vehicles at or in close proximity to the crossing. The Council finds that the whistle is activated during late night hours through residential areas of the City for sustained periods of time lasting up to a minute or longer. The Council finds that this use of the train whistle seriously affects the quality of life for residents and visitors in these residential areas. Therefore, it is necessary to enact regulations governing the use of train whistles under certain specific conditions.~~

- (b) ~~Prohibition. Except as provided in Section 85.28(e), the use of a locomotive air siren, steam whistle, air whistle, or other similar device is prohibited during the hours of 11:00 p.m. to 6:00 a.m., in The City of San Diego at all gate-protected grade crossings between Eighth Avenue and Hawthorne Street and 69th Street and Euclid Avenue.~~
- (e) ~~Emergency Exception. Notwithstanding Section 85.28(b), a locomotive siren, steam whistle, air whistle, or other similar device may be activated to avert an immediate threat to life or property.~~

CEM:cw
04/30/19
06/12/19 COR. COPY
Or.Dept: Transportation & Storm Water
CC No.: N/A
Doc. No.: 2025935_2

Passed by the Council of The City of San Diego on JUN 04 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 06 2019.

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, 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

MAY 21 2019

JUN 06 2019

, and on _____.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21078