

INTRODUCED BY COUNCILMEMBER _____

CITY ATTORNEY

ORDINANCE No. 11456 C. M. S.

CSK:cmh

**AN ORDINANCE TO CONTROL HOURS
OF CONSTRUCTION ACTIVITY IN
THE FIRE-DAMAGED AREA AND TO
ADD NOISE MITIGATION MEASURES
TO THE NOISE RESTRICTIONS
CONTAINED IN SECTION 3-1.02
OF THE MUNICIPAL CODE**

WHEREAS, reconstruction of structures damaged or destroyed by the fire of October 20, 1991 in Oakland hills has begun and will continue to occur on a broad scale for two to three years;

WHEREAS, widespread reconstruction activities will generate significant amounts of noise in the fire-damaged area of the Oakland hills;

WHEREAS, property owners in the fire-damaged area whose residences were not damaged or destroyed will be exposed to the significant amounts of noise generated by the widespread reconstruction activity;

WHEREAS, the Municipal Code prohibits noise which disturbs the peace or which may be injurious to health between the hours of 9:00 p.m. to 7:00 a.m.;

WHEREAS, the City Council desires to provide property owners in the fire-damaged area with additional respites from noise related construction activity while not causing delay in reconstruction activity or additional financial costs to property owners; NOW THEREFORE,

THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN:

Section 1. Construction Hours.

The hours of construction activity in the fire-damaged area of the Oakland hills shall be the hours of 9:00 a.m. to 9:00 p.m. on Saturdays and Sundays and the hours of 7:00 a.m. to 9:00 p.m. on weekdays. Any provision to the contrary contained in any ordinance, code, regulation, including Section 3-1.02 of the Municipal Code is suspended during the effective period of this Ordinance.

Section 2. Fire-Damaged Area.

For the purposes of this Ordinance "fire-damaged area" of the Oakland hills means all of that area situated: BEGINNING at the intersection of Claremont Avenue and the westerly line of the University of California, Berkeley campus; thence southerly along said westerly property line of the University of California campus to Grizzly Peak Boulevard; thence southeasterly on Grizzly Peak Boulevard to the most westerly line of the Robert Sibley Volcanic Regional Preserve; thence due south to Skyline Boulevard; thence westerly on Skyline Boulevard to Broadway Terrace; thence southwest on Broadway Terrace to Farallon Way; thence southwest on Farallon Way and the extension of Farallon Way to Pinehaven Road; thence westerly on Pinehaven Road to Broadway Terrace; thence southerly on Broadway Terrace to Uranus Avenue; thence east on Uranus Avenue to Sherwood Drive; thence south on Sherwood Drive to Taurus Avenue; thence west on Taurus Avenue approximately 650 feet to a path connecting Taurus Avenue and Capricorn Avenue; thence south along said path to Capricorn Avenue; thence south on Capricorn Avenue to Florence Terrace; thence north and west on Florence Terrace and an extension of Florence Terrace across Highway 13 to Estates Drive; thence west on Estates Drive to Masonic Avenue; thence south on Masonic Avenue to Amy Drive; thence southwest on Amy Drive to Harbord Drive; thence southeast on Harbord Drive to Maxwellton Road; thence southwest on Maxwellton Road to the Oakland-Piedmont border; thence northwest along said Oakland-Piedmont border to Clarewood Drive; thence northwest on Clarewood Drive to Broadway Terrace; thence west on Broadway Terrace to Margarido Drive; thence north and east on Margarido Drive to Rock Ridge Boulevard South; thence west on Rock Ridge Boulevard South to Rock Ridge Boulevard; thence west on Rock Ridge Boulevard to Broadway; thence north on Broadway to Golden Gate Avenue, thence north on Golden Gate Avenue to Chabot Road; thence along the extension of Golden Gate Avenue to the Oakland-Berkeley border; thence along said Oakland-Berkeley border to the intersection of said Oakland-Berkeley border with Claremont Avenue; thence northeast on Claremont Avenue to the point of BEGINNING.

Section 3. Enforcement.

Violation of Section 1 of this Ordinance shall be enforced in the same manner as provided by Section 3-1.02 of the Municipal Code.

Section 4. Noise Mitigation Measures.

Section 3-1.02 of the Municipal Code is amended to read as follows:

The persistent maintenance or emission of any noise or sound produced by human, animal or mechanical means, between the hours of 9:00 p.m. and 7:00 a.m. next ensuing, which, by reason of its raucous or nerve-racking nature, shall disturb the peace or

comfort, or be injurious to the health of any person shall constitute a nuisance.

Failure to comply with the following provisions shall constitute a nuisance.

(1) All construction equipment powered by internal combustion engines shall be properly muffled and maintained.

(2) Unnecessary idling of internal combustion engines is prohibited.

(3) All stationery noise-generating construction equipment such as tree grinders and air compressors are to be located as far as is practical from existing residences.

(4) Quiet construction equipment, particularly air compressors, are to be selected whenever possible.

(5) Use of pile drivers and jack hammers shall be prohibited on Sundays and Holidays, except for emergencies and as approved in advance by the Building Official.

Whenever the existence of any such nuisance shall come to the attention of the Building Official it shall be his duty to notify in writing the occupant of the premises upon which such nuisance exists, specifying the measures necessary to abate such nuisance, and unless the same is abated within forty-eight (48) hours thereafter, the occupant so notified shall be guilty of an infraction, and the Building Official shall summarily abate such nuisance. (As amended by Ordinance No. 10389 C.M.S., passed October 18, 1983, effective January 1, 1984).

Section 5. Effective Date.

Sections one, two and three of this Ordinance shall become effective immediately and remain in effect for three years or until revoked by the City Council. The City Council may extend the effective period of Sections one, two and three of this Ordinance by motion. Section four of this Ordinance shall become effective immediately.

Section 6. Public Health, Safety and Welfare.

This Ordinance is necessary to protect the health, safety and welfare of the public and to protect private and public property in the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, **JUN 9 1992**, 19 _____

PASSED BY THE FOLLOWING VOTE:

AYES— BAZILE, CANNON, GIBSON HASKELL, MILEY, MOORE, ~~OGAWA~~, RILES, SPEES, and PRESIDENT HARRIS, - 8

NOES— NONE

ABSENT— OGAWA, - 1

ABSTENTION— NONE

ATTEST: _____


ARRECE JAMESON
City Clerk and Clerk of the Council
of the City of Oakland, California