APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER _____ CITY ATTORNEY

ORDINANCE No. 11894 C. M. S.

ORDINANCE AMENDING SECTION 3-1.01 OF THE OAKLAND MUNICIPAL CODE TO PROVIDE FOR THE UNIFORM ABATEMENT OF EXCESSIVE NOISE

WHEREAS, the great weight of medical research and scientific studies support the conclusion that excessive noise levels and vibrations are detrimental to the public health, welfare and safety; and

WHEREAS, the creation of noise intrusions over and above the noise level normally associated with a given location are contrary to public interest; and

WHEREAS, in accordance with the California Code of Regulations, Section 15038, relating to Actions by Regulatory Agencies for Protection of the Environment, and Section 15061(B)(3), the action on the part of the City Council to amend the Oakland Municipal Code (OMC) is exempt from the provisions of the California Environmental Quality Act guidelines (CEQA).

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1: In order to control unnecessary, excessive and annoying noise and vibration in the City of Oakland, it is hereby ordained to be the policy of the City to prohibit such noise and vibration generated from or by all sources as specified in this Ordinance.

Section 2: Article 1, Chapter 3, Section 3-1.01 of the Oakland Municipal Code is hereby repealed and replaced with the following:

"3-1.01 EXCESSIVE AND ANNOYING NOISES PROHIBITED.

A. It shall be unlawful for any person to create or allow to be created any excessive or annoying noise as defined herein. Any violation of the regulations specified herein shall be punishable as an infraction.

B. Definitions.

1. "Excessive noise" is any unnecessary noise which persists for ten minutes or more; such period of noise need not be witnessed by enforcement personnel if the occupants of two or more separate housing or commercial units certify that they have experienced such period of noise and describe with particularity the source.

2. "Annoying noise" is noise with a repetitive pattern, shrill frequencies, and/or static-like sounds, including loud music and noise attributable to, but not limited to, leaf blowers, alarms, engines, barking dogs, and other animals.

C. Excessive and Annoying Noises a Nuisance. The following acts, and the causing or permitting thereof, shall be considered disturbing the peace and shall constitute an infraction.

1. Mechanical or Electronic Devices. Using any mechanical or electronic device for the intensification of any sound or noise into the public streets which produces excessive or annoying noise;

2. Vehicular Attachments. Attaching any accessory or device to any vehicle which results in the creation of unnecessary noise;

3. Advertisement. Using any instrument, whistle, drum, bell, or making any other unnecessary noise for the purpose of advertising, announcing, or otherwise calling attention to any goods, wares, merchandise, or to any show, entertainment, or event. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, or beverages at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events;

4. Animals and Birds. Owning, possessing, or harboring any animal or bird which howls, barks, meows, squawks, or makes other annoying noises continuously and/or incessantly for an unreasonable period of time so as to create a noise disturbance across a real property line. For the purposes of this article, the animal or bird noise shall not be deemed a noise disturbance if a person is trespassing or threatening to trespass upon private property in or upon which the animal or bird

is situated, or is using any other means to tease or provoke the animal or bird. This provision shall not apply to public zoos;

5. Emergency Signaling Device. The intentional sounding or permitted sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device not in compliance with (a) or (b), unless occurring for emergency purposes:

   (a) The testing of a stationary emergency signaling device shall not occur before 7 am or after 7 pm. Any such testing shall use only the minimum cycle test time, in no case shall such test time exceed sixty (60) seconds;

   (b) The testing of the complete emergency signaling system, including the functioning of the signaling device, and personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 7 am or after 10 pm. The time limit specified in Subsection (a) shall not apply to such complete system testing;

6. Stationary Non-emergency Signaling Devices. Sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place, for more than 10 seconds in an hourly period. Churches, schools, and bell towers shall be exempt from the operation of this provision;

7. Burglar or Fire Alarm. Sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm which is not terminated within 15 minutes of activation;

8. Loading and Unloading. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, refuse, or similar objects between the hours of 9 pm and 6 am in such a manner as to cause a noise disturbance across a residential property line or at any time to violate the applicable noise provisions of the Oakland Planning Code;

9. Domestic Power Tools, Machinery. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool between 9 pm and 6 am so as to create a noise disturbance across a real property line or at any time to violate the applicable noise provisions of the Oakland Planning Code;

10. Sensitive Uses. Creation of any noise within or adjacent to a hospital or medical care facility, nursing home, school, court, day care, church, or similar facility, so as to interfere with the functions of such activity;

11. Noise resulting from construction and demolition activities, the operation of commercial refrigeration units, air conditioning systems, compressors, commercial exhaust systems, ventilation units, and other commercial or industrial noises associated with land use activities, shall be regulated pursuant to standards contained within the noise regulations of the Oakland Planning Code;

D. Noise Enforcement Procedures. If it is determined that a noise in violation of this Article exists, the following procedures shall be followed:

1. A written or verbal warning shall be issued by the investigating official or his or her agent to the person(s) responsible for the event causing the noise disturbance.

2. If the noise disturbance persists for more than fifteen minutes following the issuance of a written or verbal warning, or recurs within a one week period from the issuance of such warning, then the person responsible for the event causing the noise disturbance shall be guilty of a violation of this Article.

E. Violations and Penalties. Any person who violates or causes or permits another person to violate any provision of this Article is subject to, but not limited to, fines and penalties specified in Article 3, Chapter 1 of the Oakland Municipal Code and civil penalties and administrative citations authorized pursuant to Articles 6, 7, and 8 of Chapter 1 of the Oakland Municipal Code.

Violations Deemed a Public Nuisance. In addition to the penalties herein provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to the public health, safety and welfare, and is declared and deemed a public nuisance and shall be punishable as such.

F. Continuing Violation. Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which the violation of this Article is committed, continued or permitted by the person and shall be punished accordingly as herein provided.

G. Remedies not Exclusive. Remedies under this Article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

H. Severability. If any part or provision of this Article or the application thereof, to any person or circumstance is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this Article are severable."

INTRODUCED: May 28, 1996

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 1 1 1996, 19 _____

PASSED BY THE FOLLOWING VOTE:

AYES– BAYTON, CHANG, DE LA FUENTE, ~~JORDAN~~, MILEY, RUSSO, SPEES, WOODS-JONES, and PRESIDENT HARRIS — 8

NOES– **NONE**

ABSENT– Jordan – 1

ABSTENTION– **NONE**

ATTEST: Ceda Floyd

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

600-242 (1/95)

ORDINANCE AMENDING SECTION 3-1.01 OF THE OAKLAND MUNICIPAL CODE TO PROVIDE FOR THE UNIFORM ABATEMENT OF EXCESSIVE NOISE

NOTICE AND DIGEST

This ordinance amends sections of the Oakland Municipal Code, providing new standards for the regulation of excessive noise.