

ORDINANCE No. \_\_\_\_\_  
AN ORDINANCE OF THE CITY OF SOUTH PASADENA AMENDING  
SECTIONS 19A.24 AND 19A.25 OF, AND ADDING A NEW SECTION  
19A.25B TO, THE SOUTH PASADENA MUNICIPAL CODE, RELATING  
TO RAIL AND RAILROAD NUISANCES.

The City Council of the City of South Pasadena does ordain, as follows:

Section 1. Findings: The City Council of the City of South Pasadena does hereby find and determine:

1. That the City Council is familiar with the rationale involved in the following citations: *Jones v. Union Pacific Railroad* (2000) 79 Cal App 4<sup>th</sup> 1053, 94 Cal Rptr 2d 661; California Public Utilities Code Sections 2901-6, and cases cited thereunder; *Flahive v. Dana Point* (1999) 92 Cal App. 4<sup>th</sup> 241; *Bakersfield v. Miller* (1966) 64 Cal 2d 93; Government Code §38771; Civil Code §3479; *Costa Mesa v. Soffer* 11 Cal App 4<sup>th</sup> 378 (13 Cal Rptr 2d 735); Attorney General Opinions 92-306; *People v. Sun Pacific* 77 Cal App 4<sup>th</sup> 619; and others; the actions taken herein are based thereon.

2. That this City Council has over the past months and years received substantial evidence in hearings, letters and newsprint articles to justify the findings of public nuisance hereinafter set forth. Such evidence includes testimony concerning the peace, enjoyment, use and valuation of residential properties, the unnecessary noise which destroys family life, normal sleep patterns, traffic congestion and hazard, and other nuisance factors. In particular, it is noted that the City is about to receive an influx of 200-300 new trains in its residential and school districts on a daily basis with a need to carry out regional transportation functions with a minimum of checker-board regulations

3. That this City Council has judiciously attempted to balance the needs of incoming common carriers to carry out their new and primary function of transport with a high degree of time, safety and reliability with the normal life patterns of residents living adjacent to rail lines in the normal peace and enjoyment of their prior rights. In so doing, the City Council finds that in meeting its duties and functions of the legislative and executive branches of government (under the doctrine of the separation of powers) it has balanced the opposing interests from a "hands-on" position; i.e. the members of the Council are familiar and experienced with the viewpoint of the residents and also that of the rail system

Section 2. Section 19A.24 of the South Pasadena Municipal Code is hereby amended to read as follows:

**Sec, 19A,24. Railroad Crossings.**

It is unlawful, and is hereby declared to be a public nuisance, for any railroad or other common-carrier-by-rail to operate a public conveyance by rail across a public street unless such crossing is protected by flashing lights and automatic safety gates, or separated by over or underpass. Such equipment shall meet minimum standards imposed by the Public Utilities Commission and maximum standards as may be from time to time required by ordinance of this City, specifically including the following:

1. Any and all bells, horns or other noise devices relating to safety gates shall ring

(or be rung) for only 20 seconds before the arms start to move down, and shall stop ringing (be stopped) once the arms are completely down, and then shall not ring (or be rung) again until the next closing or lowering of the gates.

2. As used herein, noise devices do not include lights

Section 3. Section 19A.25 of the South Pasadena Municipal Code is hereby amended to read as follows:

**Section 19A.25. Railroad Whistles**

It is unlawful and it is hereby declared to be a public nuisance for any operator of a railroad or other common-carrier-by-rail to blow, ring or otherwise activate (or permit to be blown, rung or otherwise activated) any whistle, horn or other device designed and intended primarily to make noise: 1) at a noise level in excess of seventy-five decibels or 2) longer than 10 seconds per activation, or 3) for more than 10 such activations in any five minute period, or 4) at any grade crossing protected by safety gates. There shall be exempted from such restrictions any emergency situations, defined as those very few situations where an unexpected, unusual, urgent and dangerous condition suddenly arises so far out of the normal 200-300 daily trips as to cause an operator exercising reasonable judgment to conclude that emergency measures are necessary at that time and place.

Section 4. A new Section 19A.25B, reading as follows is hereby added to the South Pasadena Municipal Code:

**Sec. 19A.25B. Speed of Trains**

It is declared unlawful, and it is hereby declared to be a public nuisance, for any operator of a railroad train or other common carrier by rail to operate such equipment at a speed greater than 20 mile per hour while any part of the train is crossing any street or intersection in the City.

Section 5. Severability. The City Council declares that it has considered and adopted each and every regulation herein independently of the other provisions; should any provision be declared invalid by a court of final resort, the Council declares that such invalid portion shall be deemed severable, and that this Council would have adopted each and every other provision notwithstanding

Section 6. The City Clerk shall.....etc.