

Chapter 9.36 NOISE

Sections:

- 9.36.010 Curfew-Offensive noise.
- 9.36.020 Unreasonably disturbing noises.
- 9.36.025 Public health and safety.
- 9.36.030 Subsequent offense within forty-eight hours.
- 9.36.040 Enforcement.

9.36.010 CURFEW - OFFENSIVE NOISE.

(a) No person shall between the hours of 10:00 p.m. and 8:00 a.m. make, cause, suffer or permit to be made any offensive noise (1) which is made within one hundred feet of any building or place regularly used for sleeping purposes, or (2) which disturbs, or would tend to disturb, any person within hearing distance of such noise.

(b) "Offensive noise" means any noise which is loud, boisterous, irritating, penetrating, or unusual, or that is unreasonably distracting in any other manner, such that it is likely to disturb people in the vicinity of such noise, and includes, but is not limited to, noise made by barking or howling dogs, by an individual alone or by a group of people engaged in any business, meeting, gathering, game, dance, or amusement, or by any appliance, contrivance, device, structure, construction, ride, machine, implement, or instrument.

(c) Subsection (a) above shall not apply between the hours of 7:00 a.m. and 8:00 a.m. to any person engaged in performance of a contract for public works awarded by the city of Santa Cruz where the director of public works determines that the project has the potential to disrupt traffic and that this disruption could be alleviated by authorizing construction work to commence at 7:00 a.m. or that due to time constraints on project completion it is necessary to allow the contractor to begin work at 7:00 a.m.

(d) Subsection (a) above shall not apply to any person engaged in performance of a contract for public works awarded by the city of Santa Cruz, in the event of emergency and if the city manager of the city of Santa Cruz so authorizes such work.

(Ord. 97-05 § 1, 1997; Ord. 96-23 § 1, 1996; Ord. 80-29 § 1, 1980; prior code § 4274).

9.36.020 UNREASONABLY DISTURBING NOISES.

No person shall make, cause, suffer or permit to be made any noises or sounds (a) which are unreasonably disturbing or physically annoying to people of ordinary sensitiveness or which are so harsh or so prolonged or unnatural or unusual in their use, time or place as to cause physical discomfort to any person, and (b) which are not necessary in connection with an activity which is otherwise lawfully conducted. As used in this section, "lawfully conducted activities" shall include, but not be limited to, any and all activities conducted by the city for public health, safety or welfare purposes.

(Ord. 93-08 § 1, 1993; Ord. 80-29 § 1, 1980; prior code § 4275.1).

9.36.025 PUBLIC HEALTH AND SAFETY.

This chapter shall not apply to refuse collection, recyclable collection or street sweeping activities undertaken by, or pursuant to contract with, the city of Santa Cruz. Similarly, this chapter shall not apply to any other activity undertaken by the city, another governmental agency, or city contractor, for public health and safety purposes when, in the judgment of the city or governmental agency, such activity cannot be undertaken effectively or efficiently in compliance with the regulations set forth in this chapter.

(Ord. 2003-37 § 1, 2003).

9.36.030 SUBSEQUENT OFFENSE WITHIN FORTY-EIGHT HOURS.

Any person who violates any section of this chapter and is cited for such a violation, and who within forty-eight hours after receiving such a citation again violates the same section, is guilty of a misdemeanor. A person is cited for a violation when he or she is issued and signs an infraction or misdemeanor citation, or when he or she is arrested and booked, or when a complaint is filed and the person is notified of the filing of such a complaint.

(Ord. 80-29 § 1, 1980).

9.36.040 ENFORCEMENT.

The provisions of this chapter are enforceable without reference to the regulations concerning noise set forth in the Zoning Ordinance and the fact that the city officer issuing a citation has not obtained a scientific noise measurement prior to issuing the citation shall not constitute a defense.

(Ord. 93-52 § 2, 1993; Ord. 80-35 § 1, 1980).

Chapter 9.37

CHARGES FOR SPECIAL SECURITY SERVICES AT LOUD OR UNRULY GATHERINGS

Sections:

- 9.37.010 Definitions.
- 9.37.020 Response to loud or unruly gatherings.
- 9.37.030 Cost recovery for special security services.
- 9.37.040 Billing and collection.
- 9.37.050 Violations/Fines.
- 9.37.060 Service of alcoholic beverages to minors.

9.37.010 DEFINITIONS.

The following terms used in this chapter shall have the meanings set forth in this section.

(a) “Responsible person(s)” shall mean a person(s) with a right of possession in the property on which a loud or unruly gathering is conducted, including, but not limited to, an owner or tenant of the property if the gathering is on private property, or a permittee if the gathering is a permitted gathering on public property, or any person(s) accepting responsibility for such a gathering. “Responsible person” shall additionally include the landlord of another responsible person and the parents and/or legal guardians of responsible persons under the age of 21 years. To incur liability for special security service charges imposed by this chapter the responsible person need not be present at the loud or unruly gathering resulting in the emergency response giving rise to the imposition of special security service charges. This chapter therefore imposes vicarious as well as direct liability upon responsible persons.

(b) “Special security services” shall mean the provision of any police, fire or other emergency response service to a loud or

unruly gathering within twelve months of a first response as provided in this chapter.

(c) “Loud or unruly gathering” shall mean a gathering of two or more persons on private property or a permitted gathering of two or more persons on public property whose loud or unruly conduct constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare, including violations of Chapter 9.36. This term excludes incidents of domestic violence. A loud or unruly gathering shall constitute a public nuisance.

(Ord. 2005-20 § 1, 2005: Ord. 89-03 § 1, 1989).

9.37.020 RESPONSE TO LOUD OR UNRULY GATHERINGS.

When a police officer responds to a first loud or unruly gathering at premises in the city with a given address, the officer shall inform any responsible person at the scene that:

(a) The officer has determined that a loud or unruly gathering exists; and

(b) Responsible persons will be charged for the cost of any special security services required for subsequent responses to the scene within the next twelve months.

Only one warning will be given pursuant to this section before the city assesses special security service costs pursuant to Section [9.37.030](#). If a responsible person cannot be identified at the scene, the police department may issue a warning to one of the other responsible persons identified in Section [9.37.010](#)(a) or subsequently return to the scene and issue the warning to a then-present responsible person. To the extent feasible, each warning shall be documented in the form of a letter and mailed by the city to each responsible person. Warnings given to responsible persons who do not reside at the premises in question shall be delivered by certified mail.

(Ord. 2008-05 § 1, 2008: Ord. 2005-20 § 2, 2005: Ord. 89-03 § 1, 1989).

9.37.030 COST RECOVERY FOR SPECIAL SECURITY SERVICES.

(a) When the police department or fire department or other city emergency responder responds to a loud or unruly gathering at premises with a given address in the city within twelve months of a warning given to a responsible person for those premises pursuant to Section [9.37.020](#), or while any such warning remains in effect pursuant to Section [9.37.050](#), all responsible persons shall be jointly and severally liable for the city’s costs of providing special security service for that response and all subsequent responses during that warning period.

(b) (i) A tenant/responsible person who is a member of a multi-tenant/responsible person household may request a determination from the city that, in relation to his or her fellow tenants/responsible persons, he or she is not primarily liable for city costs assessed to responsible persons pursuant to subsection (a).

(ii) At a minimum the determination request shall document by clear and convincing evidence that the requesting tenant/responsible person was not on or about the premises at any time during the loud or unruly gathering or during the twenty-four (24) hour period preceding the city response to the loud or unruly gathering and that the requesting tenant/responsible person had no prior knowledge of the gathering that ultimately resulted in the city response and cost assessment.

(iii) The determination request shall be submitted in writing to the city official designated by the City Manager to hear and rule upon such requests.

(iv) The written determination request shall be submitted within fifteen (15) calendar days of the date of the city cost invoice to the requesting tenant/responsible person; late determination requests shall not be considered.

(v) The decision of the designated city official on the request determination shall be final.

(vi) A city determination that the requesting tenant/responsible person is not primarily liable shall operate to preclude the city from undertaking further cost collection action against the requesting tenant/responsible person but shall not operate to bar any other responsible person, including landlords, parents or legal guardians, from seeking contribution or indemnity for such costs from the requesting tenant/responsible person.

(c) Landlords shall be prohibited from charging tenants a deposit against potential cost assessments levied pursuant to subsection (a) where the tenants, during the current or any previous lease agreement with the landlord for the premises which are the subject of the lease agreement, have

not been cited and convicted for violating this chapter. Upon any such citation and conviction, the landlord shall be authorized to charge such a deposit. For purposes of this subsection, a no contest plea and payment of a fine for violating this chapter shall constitute a conviction.
(Ord. 2008-05 § 2, 2008; Ord. 2005-20 § 3, 2005; Ord. 89-03 § 1, 1989).

9.37.040 BILLING AND COLLECTION.

Charges for special security service shall include a reasonable charge for the emergency responder's time and actual costs of any equipment used or damaged in connection with the response, together with an additional thirty-three percent of the special security charge for administrative overhead. These charges shall be computed and a bill submitted to the responsible person(s). The chief of police shall promulgate notice and billing procedures for this purpose. The bill shall be a debt owed to the city and failure to pay that bill within thirty days is a violation of this code. If the city is obliged to initiate litigation or other proceedings authorized by Title 4 of this code to recover this debt, the responsible person shall be liable for:

- (a) Costs of suit;
- (b) Attorney's fees; and
- (c) Costs of collection.

(Ord. 2005-20 § 4, 2005; Ord. 89-03 § 1, 1989).

9.37.050 VIOLATIONS/FINES.

(a) It shall be an infraction for a responsible person to conduct or allow a loud or unruly gathering on premises owned by the responsible person or on premises rented by or to the responsible person. A third or subsequent violation within a twelve-month period shall constitute a misdemeanor.

(b) Fines.

(1) A first violation of this section shall be punishable by a fine of \$250.00.

(2) A second violation of this section at a given address in the city within a given twelve-month period shall be punishable by a fine of \$500.00.

(3) A third or subsequent violation of this section at a given address in the city within a given twelve-month period shall be punishable by a fine of \$1,000.00.

(c) The fines prescribed at subsection (b) are in addition to any special security service charges that may be assessed pursuant to this chapter.

(d) The second, third or subsequent violation fines prescribed at subsections (b)(2) and (b)(3) are payable whether or not the responsible person at the time of the current loud or unruly gathering is the same person who was the responsible person for any prior loud or unruly gathering at those premises.

(e) The fine schedule prescribed at subsection (b) is a "rolling schedule" meaning that in calculating the fine payable the police department or city attorney shall count backward starting from the date of the most recent loud or unruly gathering to determine how many prior loud or unruly gatherings have taken place at the premises in question during the statutory twelve-month period. A warning given pursuant to Section [9.37.020](#) shall remain in effect for the premises at a given address until a full twelve-month period has elapsed during which there have been no loud or unruly gatherings at those premises.

(Ord. 2005-20 § 5, 2005).

9.37.060 SERVICE OF ALCOHOLIC BEVERAGES TO MINORS.

The city council hereby finds that the service of alcohol to minors at loud and unruly gatherings and the consumption of alcohol by minors at loud or unruly gatherings has in the past and continues to pose a threat to the health and safety of all persons who reside in the city and also causes significant disruption of city residents' quiet enjoyment of their households, especially in the city's residential neighborhoods. In addition, such conduct on behalf of persons who serve alcohol to minors and minors who consume alcohol at loud or unruly gatherings results in the expenditure of a disproportionate percentage of the city's police, fire and public safety resources which are underwritten primarily by general municipal taxes paid to the city by its taxpayers and residents. It is therefore the policy of the city council that in responding to loud or unruly gatherings, the city police department shall strictly

enforce any and all applicable state laws pertaining to the service of alcohol to minors, and the consumption of alcohol by minors, and with respect to minors in possession of alcohol, the police department shall establish a “no tolerance” protocol by which the police department contacts, or causes the minor’s school to contact, the minor’s parents or legal guardians whenever the minor is found to be in possession of alcohol or narcotics or found to be intoxicated at a loud or unruly gathering. Where the minor’s school has an internal student disciplinary office any such incident shall likewise be reported to that office.

(Ord. 2005-20 § 6, 2005).