



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE AGENDA REPORT

**AGENDA DATE:** January 26, 2015

**TO:** Ordinance Committee

**FROM:** Andrew Bermond, Project Planner  
Ariel Calonne, City Attorney

**SUBJECT:** Amendments To The Noise Ordinance (SBMC Chapter 9.16)  
Defining Noise Disturbance And Administrative Citations For  
Violations

### **RECOMMENDATION:**

That the Ordinance Committee review and comment upon proposed amendments to the City's Noise Ordinance (SBMC Chapter 9.16) that would rewrite the entire chapter, define noise disturbance and establish administrative citations to be issued for violations.

### **DISCUSSION:**

#### Problem Statement

This Noise Ordinance amendment is intended to address concerns from the Santa Barbara City College Neighborhood Task Force; specifically party disturbances at night. However, while addressing those issues staff took the opportunity to review and revise the entire ordinance which in its current form dates back to the 1980's and earlier.

Enforcement of the current noise ordinance is very difficult, and as a result rarely occurs. Currently, police officers have the option of issuing a warning to the offender, or issuing a misdemeanor disturbing the peace citation. Disturbing the peace citations are rarely issued because they require a signed complaint from the affected person and result in a criminal record for the offender.

The Neighborhood Task Force identified the Noise Ordinance of the City of San Luis Obispo as a model that was well suited to the needs of that community, specifically the creation of an escalating administrative fine that could be issued to tenants and landlords for violations without the need for a complaining party or a criminal record.

Proposed Code Amendments

The proposed changes to the Noise Ordinance amendment would establish new regulations on noise levels and establish new enforcement measures such as administrative fines.

**Noise Disturbance:** One of the basic strategic changes is a move away from decibel-based noise standards which require specialized equipment and training for enforcement. The proposed ordinance relies instead upon the practical experiences of those affected adversely by noise. Accordingly, "Noise Disturbance" would be defined as the making or permitting to be made any noise that is plainly audible by a person of ordinary sensitivity at a distance of fifty feet (50') from the noise source. Specific conduct that would constitute a disturbance includes the operating of televisions, music players, loud speakers, amplification, or musical instruments that create a disturbance across a property line between the hours of 10 p.m. and 7 a.m. Keeping of animals which cause a disturbance across a property line could also constitute a violation.

**Exclusions:** Noise Disturbance violations would not be issued to events sponsored or permitted by the City, the County, or any school. Noise complaints should be resolved with the relevant institution rather than through the City Police Department.

**Enforcement:** Criminal enforcement through misdemeanor citations is cumbersome and costly. This fact results in limited noise enforcement. The proposed Noise Ordinance amendment would empower police and zoning enforcement staff to issue abatement orders and administrative citations if the violation is not removed. Continued violations within a nine month period would result in escalating fines. The proposed fine schedule would be:

First Violation	\$350
Second Violation	\$750
Third and Subsequent Violations	\$1,000

Revenue generated could be used to provide funding for additional staff to enforce this ordinance. In San Luis Obispo, revenue generation is sufficient to meet all program-related expenses. Detailed discussion of staffing will be presented at a future date.

Other Noise Issues

Comments from the public on the draft Noise Ordinance amendment brought up bar and nightclub noise downtown and special event noise at Elings Park. These issues are not addressed specifically in the Noise Ordinance amendment. Council may wish to provide staff with direction on how to proceed with these noise issues.

**CONCLUSION:**

Staff believes the proposed changes to the existing ordinance place reasonable restrictions on nuisance noise and empowers law enforcement to improve enforcement and better respond to complaints. Potential noise disturbances from special events at excluded City facilities will be addressed in the near future through an update of the Parks rental agreements and permits.

**ATTACHMENT(S):** Draft Ordinance

**PREPARED BY:** Andrew Bermond, Project Planner

**SUBMITTED BY:** George Buell, Community Development Director  
Ariel Calonne, City Attorney

**APPROVED BY:** City Administrator's Office

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SANTA BARBARA AMENDING CHAPTER 9.16 OF THE  
SANTA BARBARA MUNICIPAL CODE IN ITS ENTIRETY  
PERTAINING TO NOISE

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS  
FOLLOWS:

SECTION 1. Findings and Intent. It is hereby declared to be the policy of the City of Santa Barbara to minimize the exposure of residents to the harmful physiological and psychological effects of excessive noise. It is the express intent of the City Council to control the level of noise in a manner which promotes commerce, the use, value and enjoyment of property, sleep and repose, and the quality of the environment. The City Council finds that the occurrence of loud or disturbing noises in the City of Santa Barbara constitutes an immediate and ongoing threat to the public health, safety, and welfare of the residents of the City. As a matter of legislative determination and public policy, the provisions, regulations and prohibitions of this ordinance are in pursuit of and for the purpose of securing and promoting the public health, safety, and welfare and the peace and quiet of the City of Santa Barbara and its residents. Moreover, the City Council finds that this ordinance is in furtherance of, and consistent with, the Santa Barbara General Plan, including specifically Noise Policy ER31.

SECTION 2. Chapter 9.16 of Title 9 of the Santa Barbara Municipal Code is amended in its entirety to read as follows:

**9.16.010 Generally.**

**A. CAUSING ANNOYANCE, DISCOMFORT OR DISTURBING THE PEACE**

~~-Excessive or Unreasonable Noise.~~ It shall be unlawful for any person to make, cause or suffer or permit to be made or caused, upon any premises owned, occupied or controlled by ~~him~~ said person in the City, any ~~unnecessary~~ noises or sounds which cause are physically annoying annoyance or discomfort to persons of ordinary sensitiveness sensitivity or which are so harsh or so prolonged or unnatural or unusual in their use, time or place as to occasion physical discomfort to the inhabitants of the City, or any number thereof which disturb the peace and quiet of any neighborhood.

**B. FACTORS USED IN DETERMINING WHETHER A VIOLATION HAS OCCURRED.** The factors which shall be considered by the City in determining whether to issue a citation for a violation and whether a violation of this Section has occurred shall include, but not be limited to, the following:

1. The volume of the noise, music, or related sound;
2. The intensity of the noise, music, or related sound;
3. The duration, continuousness or repetitive nature of the noise, music, or related sound;
4. ~~Whether the nature of the noise, music, or related sound is unusual for the area in which it occurs;~~
54. Whether the origin of the noise, music, or related sound is natural or unnatural to the area in which it occurs;
65. The volume and intensity of the background noise or sound, if any;
76. The proximity of the noise, music, or related sound to residential sleeping facilities or to overnight accommodations, such as hotels and motels;

~~87.~~ The proximity to offices, places of business or other areas where work is known to be carried on, of the noise, music, or related sound;

~~98.~~ The nature and zoning of the area within which the noise, music, or related sound emanates;

~~109.~~ The time of day or night the noise, music, or related sound occurs and the relationship of this time to the normal activities of the area in which it occurs and in relation to the other factors listed in this subsection;

~~111.~~ The duration of the noise, music, or related sound;

~~102.~~ Whether the noise, music, or related sound is recurrent, intermittent, or constant;

~~113.~~ Whether the noise, music, or related sound is produced by a commercial or a noncommercial activity;

~~124.~~ Whether the person or business responsible for the noise, music, or related sound has been previously recently warned that complaints have been received about the noise, music, or related sound and such person or business has failed to reduce it to an appropriate level.

**9.16.020 Noise Disturbance Prohibited.**

No person shall make, continue or cause to be made or continued, or permit or allow to be made or continued, any noise disturbance in such a manner as to be plainly audible by a person of ordinary sensitivity at a distance of fifty (50) feet from the noise source; provided, nothing in this section shall be construed to prohibit any noise which does not penetrate beyond the boundaries of the noise source's own premises or does not constitute an unreasonable disturbance to people lawfully on those premises.

**9.16.030 Specific Conduct Prohibited.**

A. The following subsections set forth specific conduct which shall be unlawful:

**1. Radios, Television Sets, Musical Instruments and Similar Devices.** Operating, playing or permitting the operation or playing of any radio, television set, phonograph music player, drum, musical instrument, or similar device which produces or reproduces sound between the hours of ten (10) P.M. and seven (7) A.M. in such a manner as to create a noise disturbance audible by a person of ordinary sensitivity across a residential or commercial real property line.

**2. Loudspeakers and Amplified Sound.** Using or operating for any purpose any loudspeaker, loudspeaker system or similar device between the hours of ten (10) P.M. and seven (7) A.M. ~~ten p.m. and seven a.m.~~ in such a manner that the sound creates a noise disturbance audible by a person of ordinary sensitivity across a residential real property line.

**3. Animals and Birds.** Keeping, maintaining or possessing or harboring any animal or bird which frequently or for long duration, howls, barks, meows, squawks or makes other sounds which create a noise disturbance audible by a person of ordinary sensitivity across a residential or commercial real property line.

**B. EXCLUSIONS.**

1. Amplification of sound by a person as part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County, provided the County has adopted or approved a sound control plan for the property which is applicable to the event or activity.

2. Amplification of sound by a person as a part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County of Santa Barbara and for which property the County has not developed a sound control plan.

3. Amplification of sound by a person as part of an activity or event sponsored or approved by the City of Santa Barbara on property owned by or leased to the City of Santa Barbara.

4. Amplification of sound by a person as part of an activity or event sponsored by or approved by a nursery school or day care, elementary school, secondary school or college or university on property owned by or leased to the educational institution.

5. Amplification of sound by a person as part of an activity or event sponsored by or approved by a public entity on property owned by or leased to the public entity.

**9.16.015040 Construction Work at Night Prohibited.**

It shall be unlawful for any person, between the hours of 8:00 ~~p.m.~~P.M. of any day and 7:00 ~~a.m.~~A.M. of the following day to erect, construct, demolish, excavate for, alter or repair any building or structure ~~if the noise level created thereby is in excess of the ambient noise level by 5 dBA at the nearest property line of a property used for residential purposes unless a special permit therefor has been applied for and granted by the Chief of Building and Zoning Official.~~ In granting such special permit, the Chief of Building and Zoning Official shall consider if construction noise in the vicinity of the proposed work site would be less objectionable at night than during daytime because of



different population levels or different neighboring activities, if obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during daytime, if the kind of work to be performed emits noises at such a low level as to not cause significant disturbance in the vicinity of the work site, if the neighborhood of the proposed work site is primarily residential in character wherein sleep could be disturbed, if great economic hardship would occur if the work were spread over a longer time, if the work will abate or prevent hazard to life or property, if the proposed night work is in the general public interest; and he shall prescribe such conditions, working times, types of construction equipment to be used, and permissible noise emissions, as he deems to be required in the public interest. This section shall not be applicable to activities of public or private utilities when restoring utility service following a public calamity or when doing work required to protect persons or property from an imminent exposure to danger.

**9.16.0250 Leaf Blowers - Restriction on Use.**

**A. DEFINITIONS.**

1. ~~LEAF BLOWER~~ Leaf Blower. Any device used, designed or operated to produce a current of air by fuel, electricity or other means to push, propel or blow cuttings, refuse or debris.

2. ~~NOISE LEVEL STANDARDS~~ Noise Level Standards.

Measured in accordance with those standards developed under the supervision of the American National Standards Institute's (ANSI) "Committee for Sound Level Labeling Standard for Hand Held and Back Pack Gasoline Engine Powered Blowers" presently adopted as ANSI B-175.2-1990 with the maximum noise level of 65 decibels.

**B. PROHIBITION IN RESIDENTIAL ZONES.**

It is unlawful for any person to operate a leaf blower within two hundred ~~and~~ fifty feet (250') of any residential zone, as that term is defined in Title 28 of this Code, before 9:00 ~~a.m.~~ A.M. or after 5:00 ~~p.m.~~ P.M. Monday through Saturday or at any time on Sundays or national holidays, provided that the City Parks and Recreation Department employees shall be allowed to use leaf blowers between the hours of 7:00 ~~a.m.~~ A.M. and 9:00 ~~a.m.~~ A.M. Monday through Saturday when cleaning parking lots adjacent to the City's Beachfront parks.

**C. CLEAN-UP OF DEBRIS.**

It is unlawful for any person operating any type of leaf blower to blow cuttings, refuse or debris onto a neighboring property or into a street or gutter. It is also unlawful for any person operating any leaf blower to fail to properly dispose of accumulated debris, leaves, or refuse in a sealed trash or refuse container.

**D. PHASE-OUT OF CERTAIN LEAF BLOWERS.**

1. **Existing Leaf Blowers.** The use of leaf blowers which are not manufactured to meet or exceed the Noise Level Standards is prohibited in all areas of the City under all circumstances, after October 9, 1997.

2. **Sale of New Leaf Blowers.** It is unlawful to sell or offer for sale within the City of Santa Barbara leaf blowers which are not manufactured to meet or exceed the Noise Level Standards of 65 decibels.

**E. CERTIFICATION.**

Owners and operators will present equipment to the City Parks and Recreation Director or his designee, with an application and reasonable fee, for noise testing

according to ANSI testing criteria in the Noise Level Standards. Leaf Blowers which generate 65 decibels or less according to the test will be issued a certification sticker, which is valid for one year following the date of testing. The use of a leaf blower, without a current and valid certification sticker affixed to it, within the City after July 1, 1998 is an infraction. All sound level measurements described in this section shall be taken with a Sound Level Meter.

**F. GUIDELINES FOR THE PROPER USE OF LEAF BLOWERS.**

The City Parks and Recreation Director is hereby authorized and directed to adopt guidelines for the proper use of leaf blowers which guidelines shall promote the safe and efficient use of leaf blowers, while also mitigating, to the extent possible, the noise and nuisance effects of leaf blowers. The Finance Department is hereby directed to provide a copy of this ordinance and the leaf blower guidelines to each person obtaining a City business license for the operating of a gardening or landscaping maintenance service or business within the City. The operator of every business establishment selling leaf blowers within the City of Santa Barbara shall post in a conspicuous location and shall distribute to all purchasers a copy of this ordinance and the guidelines.

**9.16.02160 Use of Gasoline Powered Leaf Blowers Prohibited.**

Measure D97, adopted November 4, 1997, provides: In order to secure and promote the public health, comfort, safety and welfare, and to protect the rights of its citizens to privacy and freedom from nuisance, it is the purpose of this ordinance to prohibit unnecessary, excessive and annoying noises at levels which are detrimental to the health and welfare of the community, and to minimize airborne dust and pollen.

It shall be unlawful for any person within the City to use or operate any portable machine powered with a gasoline engine, or gasoline powered generator, to blow leaves, dirt, and other debris off sidewalks, driveways, lawns, or other surfaces.

**9.16.0250070 Regulation of Noise Affecting Parcels Zoned or Used for Residential Purposes.**

**A. HOURS OF OPERATION.** Hours of operation on property zoned for agricultural use and used for planting, grading, vegetation removal, harvesting, sorting, cleaning, packing, shipping, and pesticide application shall be limited to 7:00 A.M. to 7:00 P.M. Monday through Saturday. Hours of operation for the above-stated activities shall be limited to 8:00 A.M. to 7:00 P.M. on Sunday and holidays.

**B. MOTOR VEHICLE HORNS AND SIGNALING DEVICES.** The following acts and the causing thereof are declared to be in violation of this ordinance:

1. The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space except as a warning of danger as provided in Section 27000 of the California Vehicle Code.

2. The sounding of any horn or other auditory signaling device which produces a sound level in excess of 60 dB(A) at a distance of 200 feet.

3. Exception. Emergency vehicles may be equipped with and use auditory signaling devices that do not comply with the requirements of this section.

**C. MECHANICAL EQUIPMENT.** Mechanical equipment other than vehicles and equipment which is operated by electricity obtained from an electricity utility company shall not be used outside before 8:00 A.M. or after 7:00 P.M. on Saturday, Sunday or holidays or before 7:00 A.M. or after 7:00 P.M. Monday through Friday.

~~C.~~ D. **NOISE LIMITATIONS.** All mechanical equipment other than vehicles (including heating, ventilation, and air conditioning systems) shall be insulated. Sound at the property line of any adjacent parcel used or zoned for residential, institutional, or park purposes shall not exceed sixty A-weighted decibels using the Community Noise Equivalent Level (60 dB(A) CNEL). All wind machines are prohibited in the City.

~~9.16.030 Sonic Booms Declared Public Nuisance.~~

~~Flights of manned and piloted aircraft over and in the vicinity of the City so as to cause loud, sudden and intense "sonic booms" in the City constitute a public nuisance.~~

~~9.16.040 Creating Sonic Boom Unlawful.~~

~~It is unlawful to pilot any aircraft over and in the vicinity of the City at supersonic speeds so as to cause loud, sudden and intense "sonic boom" impacts in the City.~~

~~9.16.050~~080 **Sound Amplification.**

No person shall amplify sound using sound amplifying equipment contrary to any of the following:

    A.~~(a)~~ The only amplified sound permitted shall be either music or the human voice or both.

    B.~~(b)~~ Sound emanating from any public park or place shall not be amplified above the ambient noise level so as to be audible within any hospital, rest home, convalescent hospital, or church while services therein are being conducted.

    C.~~(c)~~ The volume of amplified sound shall not exceed ~~the noise levels set forth herein~~ 60dB(A) when measured outdoors at or beyond the property line of the property from which the sound emanates.

Time Period

~~10 p.m. - 7 a.m.~~

~~7 a.m. - 10 p.m.~~

~~Maximum Noise Level~~

~~50 dBA~~

~~60 dBA~~

       ~~D.(d)~~ The volume of amplified sound inside a structure shall not exceed 45dB(A) ~~the noise levels set forth herein~~ when measured inside a building used for residential purposes. This maximum noise level shall not apply to the dwelling unit from which the sound is emanating.

~~Time Period~~

~~10 p.m. - 7 a.m.~~

~~7 a.m. - 10 p.m.~~

~~Maximum Noise Level~~

~~40 dBA~~

~~45 dBA~~

       ~~E.(e)~~ The limits set forth above shall not apply to the following:

                   ~~1.(1)~~ Amplification of sound by a person as part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased to the County, provided the County has adopted or approved a sound control plan for the property which is applicable to the event or activity.

                   ~~2.(2)~~ Amplification of sound by a person as a part of an event or activity sponsored or approved by the County of Santa Barbara on property owned by or leased

to the County of Santa Barbara and for which property the County has not developed a sound control plan.

                   ~~3.(3)~~ Amplification of sound by a person as part of an activity or event sponsored or approved by the City of Santa Barbara on property owned by or leased to the City of Santa Barbara.

                   ~~4.(4)~~ Amplification of sound by a person as part of an activity or event sponsored by or approved by a nursery school, elementary school, secondary school or college or university on property owned by or leased to said educational institution.

                   ~~5.(5)~~ Amplification of sound by a person as part of an activity or event sponsored by or approved by a public entity on property owned by or leased to said public entity.

**9.16.060090 Definitions.**

Unless the context otherwise clearly requires, technical words and phrases used in this chapter are defined as follows:

                   **A.(A) SOUND AMPLIFYING EQUIPMENT.** "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music, or any other sound. "Sound amplifying equipment" shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. "Sound amplifying equipment" as used in this chapter, shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes and shall not include communication equipment used by public or private utilities when restoring utility service following a

public calamity or when doing work required to protect persons or property from an imminent exposure to danger.

~~B.(B)~~ **AMBIENT NOISE.** "Ambient noise" is the all-encompassing noise associated with a given environment, being usually composed of sounds from many sources near and far. For the purpose of this ordinance, ambient noise level is the level obtained when the noise level is averaged over a period of five (5) minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which a comparison is to be made.

~~C.~~ **NOISE DISTURBANCE.** "Noise disturbance" shall mean any sound which (a) endangers or injures the safety or health of human beings or animals, or (b) annoys or disturbs reasonable persons of normal sensitivities, or (c) endangers or injures personal or real property, or (d) violates the factors set forth in Section 9.16.010 of this Chapter. Compliance with the quantitative standards as listed in this Chapter shall constitute elimination of a noise disturbance.

~~D.(C)~~ **DECIBEL.** "Decibel" (dB) shall mean an intensity unit which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio is ten (10) times the common logarithm of this ratio.

~~E.(D)~~ **SOUND LEVEL.** "Sound level" (noise level) in decibels is the value of a sound measurement using the "A" weighting network of a sound level meter. Slow response of the sound level meter needle shall be used except where the sound is impulsive or rapidly varying in nature in which case fast response shall be used.

~~F.(E)~~ **PERSON.** "Person" shall mean a person, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.



~~G.(F)~~ **SOUND LEVEL METER.** "Sound level meter" shall mean an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels which satisfies the pertinent requirements in American National Standards Institute's specification S1.4 ~~1974~~ 2014 or the most recent revision thereof for type S-2A general purpose sound level meters.

~~H.(G)~~ **SUPPLEMENTARY DEFINITIONS OF TECHNICAL TERMS.** Definitions of technical terms not defined herein shall be obtained from the American National Standards Institute's Acoustical Terminology S1-1-~~1974~~ 1994 or the most recent revision thereof.

**9.16.070100 Measurement Methods.**

~~(a)~~A. Any decibel measurement made pursuant to the provisions of this Chapter shall be based on a reference sound pressure of twenty (20) micronewtons per square meter (0.0002 microbar) as measured with a sound level meter using the "A" weighting, and using the slow meter response.

~~(b)~~B. Unless otherwise provided, outdoor measurements shall be taken with the microphone located at any point on the property line of the noise source, but no closer than five (5) feet from any wall or vertical obstruction and three (3) to five (5) feet above ground level whenever possible.

~~(c)~~C. Unless otherwise provided, indoor measurements shall be taken inside the structure with the microphone located at any point as follows: (1) no less than three (3) feet above floor level; (2) no less than five (5) feet from any wall or vertical obstruction; and (3) not under common possession and control with the building or portion of the building from which the sound is emanating.

**9.16.110 Enforcement.**

**A. PRIMA FACIE VIOLATION.** Any noise exceeding the noise level limits in Section 9.16.080, or the prohibited actions as provided in Sections 9.16.010, 9.16.020 and 9.16.030, shall be deemed to be prima facie evidence of a violation of the provisions of this Chapter.

**B. VIOLATIONS.** Any violation of the provisions of this Chapter shall be a misdemeanor or be subject to administrative code enforcement pursuant to Chapter 1.25 of this code. Each hour such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

**C. ABATEMENT ORDERS.**

1. In lieu of issuing a notice of violation as provided for in subsection B of this section, the zoning enforcement or police department staff responsible for enforcement of any provision of this Chapter may issue an order requiring abatement of a sound source alleged to be in violation, within a reasonable time period and according to guidelines which the police department may prescribe.

2. No complaint or further action shall be taken in the event that the cause of the violation has been removed, the condition abated or fully corrected within the time period specified in the written notice.

**D. CONTINUED VIOLATIONS.** Once a violation of any provision of this Chapter has been verified by a zoning enforcement or police department staff, the owner(s) of the property where the violation occurred may be subject to administrative action or misdemeanor citation for allowing a subsequent violation of this Chapter to

occur on the property within nine (9) months after the date of a previous violation, provided the property owner has received notification from the City of the previous violation and at least fourteen (14) days have passed since the date the notification was mailed to the property owner(s).

**9.16.090120 Violations - Additional Remedies - Injunctions.**

As an additional remedy, the operation or maintenance of any sound amplifying equipment, device, instrument, vehicle, or machinery in violation of any provision of this Chapter, which operation or maintenance causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.