

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA ESTABLISHING ADMINISTRATIVE GUIDELINES AND FINES FOR NOISE VIOLATIONS PURSUANT TO SECTIONS 9.16.020 AND 9.16.030 OF THE SANTA BARBARA MUNICIPAL CODE

WHEREAS, Chapter 1.25 of the Santa Barbara Municipal Code (Municipal Code) enables the City, acting as a charter city pursuant to Article XI, Sections 5 and 7 of the state Constitution, to impose and collect civil administrative fines in conjunction with the abatement of violations of the provisions of the Municipal Code;

WHEREAS, Chapter 1.25 of the Municipal Code also provides that the City Council shall establish by resolution the amounts of the administrative fines to be imposed and paid for violations of the provisions of the Municipal Code; and

WHEREAS, violations of Sections 9.16.020 and 9.16.030 of the Municipal Code differ from other Municipal Code violations in a manner that justifies the adoption of separate administrative citations for such violations.

WHEREAS, the City Council wishes to establish administrative guidelines for the enforcement of violations of Sections 9.16.020 and 9.16.030 of the Municipal Code; and

WHEREAS, the City Council wishes to establish a progressive schedule of administrative fines for violations of Sections 9.16.020 and 9.16.030 of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT:

The Council of the City of Santa Barbara adopts the following guidelines and fines for administrative citations issued pursuant to the Student Neighborhood Assistance Program:

SECTION 1. Administrative Citation Guidelines for Noise Violations Pursuant to the Student Neighborhood Assistance Program (SNAP)

The following Guidelines implement the Administrative Citation Program ("Program") (Chapter 1.25 of the Santa Barbara Municipal Code) as applied to violations of Sections 9.16.020 and 9.16.030 of the Santa Barbara Municipal Code issued pursuant to the Student Neighborhood Assistance Program.

1.1 PURPOSE

The Student Neighborhood Assistance Program (SNAP) is established for the purpose of abating noise violations and to prevent the reoccurrence of future violations of the City's noise ordinance through education. SNAP has two important functions: 1) to educate all residents about the City's noise ordinance and the consequences of future noise complaints, and 2) to be the first responders to noise complaints in order to free patrol officers to respond to more pressing calls for service. Interaction with all residents is to be accomplished with an emphasis on maintaining positive public relations for the Police Department.

SNAP Personnel are non-sworn hourly Police Department employees who are supervised by the Beat Coordinator Sergeant. On a nightly basis they report to the on-duty Watch Commander.

1.2 CALLS FOR SERVICE

SNAP personnel will not self-initiate calls for service for potential violations of the City's noise ordinance (SBMC Chapter 9.16). SNAP Personnel will only respond to these calls after a complaint has been received by the Police Department from a person who has been disturbed.

1.3 ENFORCEMENT PROCEDURES FOR NOISE COMPLAINTS PURSUANT TO SANTA BARBARA MUNICIPAL CODE SECTIONS 9.16.020 & 9.16.030 MC

a. 1st Call for Service:

Upon the Police Department receiving a complaint for loud noise, SNAP Personnel will be directed to respond to the location identified in the call for service.

SNAP Personnel shall investigate and document the circumstances observed at the location of the alleged violation. If the SNAP Personnel believe that a violation of either Section 9.16.020 or Section 9.16.030 is occurring, the SNAP Personnel shall initiate contact with the occupants of the residence and request contact with the person or persons in control of the residence.

Upon establishing that a violation of either Section 9.16.020 or Section 9.16.030 is occurring, the SNAP Personnel will issue a warning to each of the persons in control of the residence or location. The SNAP Personnel will also educate the violator(s) about City's Noise Ordinance and the consequences of future violations. SNAP Personnel will follow up with written notice to each of the residents of the residential unit and to the property owner at the property owner's address as it is shown on the last equalized assessment roll of the County of Santa Barbara advising them that the residential unit has been placed on a 9-month "no warning list."

b. 1st Offense within No Warning Period:

Upon the Police Department receiving a complaint for loud noise at a residence on the “no warning list”, a police officer shall respond to the complaint.

Upon establishing that a violation of either Section 9.16.020 or Section 9.16.030 is occurring and the location of the violation is on the “no warning list”, the police officer shall issue a notice of administrative citation to the person(s) in control of the residence with a fine not to exceed \$350. Following the issuance of a notice of administrative citation, a letter shall be served upon each violator advising them of the administrative citation procedures and their due process rights. In addition, notice of the administrative citation shall be sent to the property owner at the property owner’s address as it is shown on the last equalized assessment roll of the County of Santa Barbara.

c. 2nd Offense within No Warning Period:

When the Police Department receives a complaint for loud noise at a residence on the “no warning list”, a police officer shall respond to the complaint.

Upon establishing that a violation of either Section 9.16.020 or Section 9.16.030 is occurring and that this is the second offense at the location of the violation during the “no warning period”, the police officer shall issue an administrative citation to the person(s) in control of the residence with a fine not to exceed \$750. Following the issuance of a notice of administrative citation, a letter shall be served upon each violator advising them of the administrative citation procedures and their due process rights.

In addition, the police officer shall issue an administrative citation with a fine not to exceed \$350 to the property owner at the property owner’s address as it is shown on the last equalized assessment roll of the County of Santa Barbara. The notice of administrative citation served on the owner of the real property shall advise the owner of the administrative citation procedures and their due process rights.

d. 3rd Offense within No Warning Period:

When the Police Department receives a complaint for loud noise at a residence on the “no warning list”, a police officer shall respond to the complaint.

Upon establishing that a violation of either Section 9.16.020 or Section 9.16.030 is occurring and that this is the third offense at the location of the violation during the “no warning period”, the police officer shall issue an administrative citation to the person(s) in control of the residence with a fine not to exceed \$1000. Following the issuance of a notice of administrative citation, a letter shall be served upon each violator advising them of the administrative citation procedures and their due process rights.

In addition, the police officer shall issue an administrative citation with a fine not to exceed \$750 to the property owner at the property owner’s address as it is shown on the last equalized assessment roll of the County of Santa Barbara. The notice of

administrative citation served on the owner of the real property shall advise the owner of the administrative citation procedures and their due process rights.

e. 4th and Subsequent Offenses within No Warning Period:

When the Police Department receives a complaint for loud noise at a residence on the “no warning list”, a police officer shall respond to the complaint.

Upon establishing that a violation of either Section 9.16.020 or Section 9.16.030 is occurring and that this is the second violation at the location of the violation during the “no warning period”, the police officer shall issue an administrative citation to the person(s) in control of the residence with a fine not to exceed \$1000. Following the issuance of a notice of administrative citation, a letter shall be served upon each violator advising them of the administrative citation procedures and their due process rights.

In addition, the police officer shall issue an administrative citation with a fine not to exceed \$1000 to the property owner at the property owner’s address as it is shown on the last equalized assessment roll of the County of Santa Barbara. The notice of administrative citation served on the owner of the real property shall advise the owner of the administrative citation procedures and their due process rights.

f. New Occupants:

If the Police Department responds to a loud noise complaint during the no warning period and discovers that the residential unit is occupied by new tenants, the new tenants will receive a warning and the residential unit will be notified as specified above in Section 1.3(a) 1st Call for Service. This treatment will occur only if **all** of the tenants are new. If any tenant that occupied the residential unit when the no warning period was initiated is still occupying the residential unit when a subsequent complaint/response occurs, the police response will proceed in accordance with the appropriate subsection (b) – (e) of this Section 1.3 based on the number of violations during the no warning period.

1.4 SERVING A NOTICE OF ADMINISTRATIVE CITATION

The Notice of Administrative Citation and any amended Notice of Administrative Citation (“the Notice”), shall be served by one of the following methods:

a. Personal Service.

Personal service to the person(s) who caused the violation; or

b. Service by Mail.

Certified mail, postage prepaid, return receipt requested, to the person(s) who caused the violation and as required pursuant to the provisions of Chapter 1.25 of the

Municipal Code at the address as it appears on the last equalized assessment roll of the County of Santa Barbara or as otherwise known to the Director. The address of the owner shown on the assessment roll shall be conclusively deemed to be the proper address for the purpose of mailing such notice. Certified mail returned due to inaccurate addressing will have the mailing information confirmed and be mailed once more. If after confirming the mailing information the certified mail is again returned, or if the recipient refuses to accept the certified letter, a copy of the same Notice shall be sent by first class (regular) mail to the same address. Service shall be deemed effective pursuant to the regular mail, provided the notice that was sent by regular mail is not returned; or

c. Service by Posting.

The Notice may be posted on the subject property in a conspicuous place. A copy of the Notice shall also be mailed to the person(s) who caused the violation by first class mail. Proper posting shall consist of enclosing the Notice in some form of sealed plastic and either securely taping it to the property or stapling or tacking the Notice to a stake and staking the property with the Notice.

d. Proof of Service.

Proof of service of the Notice of Administrative Citation shall be documented at the time of service by a declaration under penalty of perjury executed by the staff person effecting service, declaring the time and manner in which service was made and filed in City records.

1.5 CONTENTS OF NOTICE OF ADMINISTRATIVE CITATION

The Notice of Administrative Citation shall contain the following information:

- a. The correct full name of the owner(s) or person(s) in control of the real property or business.
- b. The date on which an inspection established the Code violation.
- c. The Municipal Code section(s) violated.
- d. The City address or location where the Code violation(s) occurred.
A narrative description of the violation established by the inspection stated in plain, simple, non-technical language. A statement assessing the amount of the fine and any applicable remediation required for the violation.
- e. A statement advising that the person(s) receiving the citation will be receiving a bill from the City Finance Department informing them of the procedures necessary to pay the administrative fine.
- f. A statement advising that any person(s) having any title interest in the property or aggrieved by the administrative citation may appeal to the Hearing Administrator. The statement shall also include criteria for appeals and any other relevant information related to the filing of an appeal.

g. A statement that the Code violation is a public nuisance and that collection of unpaid administrative fines may, at the City's option, be enforced as an assessment or lien against the real property.

h. The signature of the staff person issuing the Notice of Administrative Citation.

i. The date the Notice of Administrative Citation is issued.

j. Any other information deemed necessary by the City for due enforcement or fine collection purposes.

1.6 APPEALS

Notice of Administrative Citation may be appealed in accordance with Chapter 1.25 of the Municipal Code.

1.7 HEARING ADMINISTRATOR

The City Administrator shall develop a list of qualified persons who are capable of acting as the Hearing Administrator. Hearing Administrators shall be randomly selected from that list. If a Hearing Administrator is a City employee, he/she will not hear appeals from his/her department.

1.8 PAYMENT OF ADMINISTRATIVE FINES

All fines may be paid in person at the City Billing and Collections Division office located at 735 Anacapa Street. Mailed payments are to be addressed to City of Santa Barbara, Billings and Collections Division, P.O. Box 1990, Santa Barbara, CA 93102-1990.