



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony

The House Committee on Water, Land, & Ocean Resources
Friday, March 02, 2012 at 11:00 am

By

Virginia Hinshaw, Chancellor

and

Lori M. Ideta

Assistant Vice Chancellor and Dean of Students
University of Hawai'i at Mānoa

HCR44 / HR24 REQUESTING THE CITY AND COUNTY OF HONOLULU TO STUDY THE ISSUE OF FRATERNITY AND SORORITY HOUSE LOCATIONS

Chair Chang, Vice Chair Har, and members of the House Committee on Water, Land, and Ocean Resources, thank you for this opportunity to provide comments on these measures. The University of Hawai'i at Mānoa is committed to being a good neighbor to our surrounding communities. Over the years, we have taken steps to ensure that our campus population is educated about our responsibility to the neighborhoods in which we reside. We are dedicated to continuing such efforts.

Enclosed, please find "Good Neighbor Guidelines" which resulted from the Good Neighbor Initiative, a collaborative project between the University of California, Santa Cruz; and the State of California, City of Santa Cruz. The University of Hawai'i at Mānoa has been using this document as a model to guide our educational efforts for our campus community. In regard to HCR44/HR24, we specifically refer you to Attachment A, Municipal Code 9.37.010-9.37.060, "Special Security Service Charges at Loud or Unruly Gatherings." You will note that per this section, the "responsible party" for the loud or unruly gathering can include the owner and/or the landlord of the property.

The University of Hawai'i at Mānoa will continue to formulate our educational efforts around the Good Neighbor Guidelines. We view this as an opportunity to partner with the City and County of Honolulu to codify our efforts similar to the partnership between UC Santa Cruz and the City of Santa Cruz. We welcome considering the possibility of a student intern to assist in this project. A model of such efforts comes from the recent collaboration between the University of Hawai'i at Mānoa Associated Students of the University of Hawai'i (ASUH) and the City and County of Honolulu, Department of Transportation, regarding the U-Pass transportation fee.

We look forward to working collaboratively with the City and County of Honolulu to ensure that the University of Hawai'i at Mānoa remains a good neighbor to our surrounding communities.

GOOD NEIGHBOR GUIDELINES

Last updated January 30, 2006

Good Neighbor Initiative University of California, Santa Cruz

I. Preamble

As concerned members of our community, the University of California at Santa Cruz (UCSC) has established the Good Neighbor Guidelines. UC Santa Cruz, along with the city of Santa Cruz, encourages student neighbors to live up to the social responsibilities of our community. By creating this document, UC Santa Cruz has set guidelines to educate our students to be conscientious and responsible members of the Santa Cruz community. In order to reflect the diversity of the campus and the community, students, registered student organizations, community members and their neighbors may suggest or provide comment on the Good Neighbor Guidelines by emailing gni_ucsc@yahoo.com.

UC Santa Cruz expects all students to function in a mature and respectful manner and be responsible for abiding by all state and city laws and ordinances—especially those relating to noise, traffic, parking, zoning, and the consumption of alcohol. Furthermore, students are expected to foster good relations with our city; taking into consideration the diverse view points of their neighbors and displaying responsible behavior in their family-oriented neighborhoods.

II. Table of Contents

The Guidelines address the following areas:

- A. Alcohol and Other Drugs
- B. Neighbor Relations
- C. Traffic Safety and Parking
- D. Upkeep and Beautification
- E. Enforcement
- F. Annual Review

The following guidelines are consistent with the educational role of the University, the rights and needs of all residents, city ordinances, standards of common courtesy, and are directed toward encouraging and maintaining positive neighbor relationships.

A. Alcohol and Other Drugs:

See Attachment A: Santa Cruz Municipal Code 9.37.060

Service of Alcoholic Beverages to Minor

See Attachment B: Business and Professions Code 25662A

Minor in Possession of Alcoholic Beverage

See Attachment C: Business and Professions Code 25661

Minor Purchasing Alcohol

See Attachment D: Santa Cruz Municipal Code 9.12.040

Adult Purchasing Alcohol for Minor

Students and members of recognized student organizations are encouraged to set good examples by:

1. Observing state and local laws governing alcohol and drug use.
2. Developing positive attitudes to combat abuse and encourage moderation. Recognized student organization officers should set good examples for their members.
3. Not providing alcohol for underage persons, which is illegal. Students should set a good example for young people in the greater community (See attachment F).
4. Not allowing the use of illegal drugs, including the use of alcohol by people under 21.
5. Where possible, sponsoring alcohol and other drug education programs including programs by national organizations or campus programs. Contact Student Health Outreach and Promotion (SHOP) at 459-3772 to get Social Host/Party Packs, AOD educational materials, or to schedule a program or workshop.
6. Encouraging social events where only non-alcoholic beverages are served.
7. Providing, at events where alcohol is served, a variety of accessible non-alcoholic beverages and food.
8. Providing canned non-alcoholic beverages to prevent tampering of drinks.
9. Providing non-drinking monitors at all functions where alcohol is served.
10. Educating all student organization members regarding risk management and insurance policies and hold members responsible where applicable.

B. Neighborhood Relations

See Attachment E: Santa Cruz Municipal Code Section 8.08.130, 9.36.010

Zoning Ordinances 24.12.130, 24.12.290, 24.14.260, 24.12.600

General Noise Regulations

See Attachment F: Santa Cruz Municipal Code Section 9.36.010 subsection (C) (D) General Noise Regulations, Exemptions

See Attachment F: Santa Cruz Zoning Ordinance 24.14.260

General Noise

Students are encouraged to:

1. Respect the rights of neighbors and follow existing laws and ordinances. All registered student organization members are to be knowledgeable about the Santa Cruz Noise Ordinance and Unruly Gathering Ordinance (See Attachments A, B, and F).
 - a. Observe quiet hours after 10:00 p.m., in accordance with the law.
 - b. Use amplified sound only in accordance with the Noise Ordinance. Exterior amplified sound in residential areas is discouraged. To have an inside or an outside amplified sound system, you will need to acquire an event permit from the Police Department.
2. Host a meeting annually, prior to the beginning of classes in Fall, with neighbors within 300 feet of the house and all other people who have expressed an interest to meet with

student groups living in the neighborhood. Consider holding a potluck in conjunction with a neighbor, for example. (Call Code Enforcement at (831) 420-5100, and they will send postcards to your neighbors for your gathering).

3. Provide telephone numbers of household contact persons or student organization leaders and alumni advisor to neighbors within 300 feet of the house prior to beginning of each academic year or with change of student organization officers to ensure open communication between you and your neighbors.
4. Be responsible for mediating and resolving neighborhood problems in a timely fashion. Telephone calls to neighbors will be made before 9:00 p.m. in a mature and civil manner (See previous statement).
5. Initiate programs to foster positive attitudes about relations with neighbors, reduction of noise, elimination of alcohol abuse, and elimination of verbal abuse.
6. Be responsible hosts.
 - a. Notify neighbors within 300 feet (multiple dwellings/manager) and all other people who have notified the student group of their desire to receive notices in writing of organized social events at least three days prior to that function. Notifications should include size, type of event, hours and a contact person who will be present at the event.
 - b. Encourage admitted houseguests to adhere to the same standards of conduct.
 - c. Limit the number of events that take place on contiguous weekends.
 - d. Make sure to get to know every guest coming to your event in order to prevent damage to your property and also your neighbor's property—to accomplish this, see to it that your guests get to their cars safely.
 - e. Be responsible for damage to neighbors' properties caused by household members.
 - f. Encourage hiring private security for large functions when alcohol is served.
7. Set reasonable limits—be considerate of your neighbors—on the total number of large events per quarter and for the academic year that will take place at the residence.
 - a. Consider holding large social functions at facilities of sufficient size to accommodate a larger crowd and when alcohol is served, rather than in your home.
8. Negotiate with neighbors regarding hours for basketball courts and limitations on athletic events where applicable.

C. Traffic Safety and Parking:

1. Comply with the laws of the City of Santa Cruz and the State of California and hold invited guests to the same standard of conduct.
 - a. All residents and guests are prohibited from parking on lawns and other landscaped or un-surfaced areas at all times. Parking is only allowed on paved areas (i.e. asphalt, concrete, or turf blocks).
 - b. Educate household members and guests about neighborhood parking restrictions and encourage safe responsible driving. Throughout the city of Santa Cruz, a parking permit program is in place. If you do not have a permit, prepare to get a ticket.
 - c. Make provisions for guest parking for social events.
 - d. Educate household members and guests to arrive quietly and to depart in the same manner to avoid disrupting the neighbors.

- e. Make sure your guests do not drive drunk. If there is an accident, you may be found responsible.
2. Give priority to traffic safety and reduction of parking such as parking in, or blocking neighbors' driveways, public alleys, and sidewalks, which are violations of the law.
3. If you are a student living off-campus, please don't drive to school and store your vehicle in residential areas. UCSC expects students not to negatively impact the community by taking up public spaces intended for the use of residential community members.

D. Upkeep and Beautification:

See Attachment G: Santa Cruz Municipal Code, Title 6.14.010

Findings, Landscape Maintenance

See Attachment H: Santa Cruz Municipal Code, Title 24.22.568 and 24.12.1112

Abatement of Public Nuisances, Purpose

See Attachment H: Santa Cruz Municipal Code 24.22.010

Definitions

See Attachment I: Santa Cruz Municipal Code 1.08.020, 24.12.130

Health and Safety Code 17.920.3

Declaration of Nuisances

See Attachment A: Santa Cruz Municipal Code 9.37.010 -9.37.050

Loud and Unruly Gathering Ordinance

Students and registered student organizations are expected to maintain a safe, clean, and attractive environment for the health and well being of their members, guests, and neighbors.

Specifically, the students should:

1. Maintain the property in accordance with all fire, health, zoning, building and safety codes.
2. Maintain lawn and landscaping. Work with landlords to make sure landscape is kept up. Property should be free of overgrown weeds and vegetation. This should be specified in your lease.
3. Know the trash/recycling collection days in your area and put your trash out after 4:00 pm the night before pickup and **before** 7:00 am the day of. You cannot put your trash out any other night. Green waste pick up is the following business day of your trash.
4. Dispose of litter, trash, and garbage on a regular basis in an appropriate manner by using the appropriate city issued containers.
5. Do not place trash bags outside of a trashcan for pickup, unless the city is notified in advance. If this is a consistent problem call the city to either request a larger or more trash containers. The Public Works Department phone number is (831) 420-5220.
6. Clean up must be completed immediately after social functions in order to ensure litter and trash does not invade the neighborhood. A grace period of 12 hours will be given.

III. Enforcement/Non-compliance

UCSC Response

In an effort to maintain positive University-Community relations, UC Santa Cruz reserves the right to exercise jurisdiction over conduct that occurs **off-campus** and violates the Campus Code

of Student Conduct, and/or other policies and regulation when such conduct may be a threat to the safety or security of members of the Santa Cruz community, university community or university property, functions or facilities.

The University may choose to exercise jurisdiction over off-campus incidents where the alleged misconduct includes, but is not limited to:

- a. conduct that would constitute a felony, including burglary, robbery, theft, etc.; and
- b. conduct that egregiously and/or repeatedly has negatively impacted members of the surrounding off-campus community and that violates federal, state or local laws/ordinances; or conduct that severely impacts or strains emergency response abilities in the surrounding community. (i.e. disturbances caused by parties, property damage, threats or injury to person, etc.)

University sanctions for a violation of the *Code of Student Conduct* range from one or more of the following:

- warning
- referral to alcohol education, ethics and community rentals workshops
- community service
- disciplinary probation
- fines
- suspension
- dismissal

Upon receipt of a neighbor complaint or police notification regarding student behavior at a known rental property, Student Judicial Affairs will follow up with landlords.

If, at anytime, you are hosting an event in which you feel the safety and security of your guests has been compromised by uninvited guests, unsafe drinking, fighting, or other unintentional results, call 911.

Citations and other measures may be taken by the Santa Cruz Police Department.

It is in the best of interest of all parties involved to seek an amicable resolution that benefits those involved. UCSC emphasizes and supports neighbor-to-neighbor communication and cooperation. The SCPD Community Service Officer is available to facilitate dialogue amongst all parties. Contact by phone (831) 420-5840 or e-mail PD_CommServ@ci.santa-cruz.ca.us

IV. Annual Review

The City and the University will conduct annual reviews of the effectiveness of the Good Neighbor Guidelines. The City and University will assume active roles in providing guidance to students and student organizations in adoptive procedures to assure compliance. The City and University will evaluate the guidelines to make recommendations for changes or specifications and may take actions in matters within the City and/or Universities jurisdiction.

This document was inspired by the Good Neighbor Policy developed at the University of California, Riverside. UCSC wishes to express its appreciation for allowing us to borrow extensively from their resources.

ATTACHMENT A

Municipal Code 9.37.010 – 9.37.060

Special Security Service Charges at Loud or Unruly Gatherings

BE IT ORDAINED By The City Of Santa Cruz As Follows:

Section 1. Section 9.37.010 of the Santa Cruz Municipal Code is hereby amended to read as follows:**“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.”

Section 2. Section 9.37.020 of the Santa Cruz Municipal Code is hereby amended to read as follows:**“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. Warnings given to responsible persons who do not reside at the premises in question shall be delivered by certified mail.

Section 3. Section 9.37.030 of the Santa Cruz Municipal Code is hereby amended to read as follows:**“9.37.030. COST RECOVERY FOR SPECIAL SECURITY SERVICES.**

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."

Section 4. Section 9.37.040 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"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."

Section 5. Section 9.37.050 is hereby added to the Santa Cruz Municipal Code to read as follows:

"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 \$250 fine.

(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.

(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.

(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 9.27.020 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.”

Section 6. Section 9.37.060 is hereby added to the Santa Cruz Municipal Code to read as follows:

“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”

ATTACHMENT B

Business and Professions Code 25662A

Minor in Possession of Alcoholic Beverage

Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor and shall be punished by a fine of two hundred fifty dollars (\$250) or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school. A second or subsequent violation shall be punishable as a misdemeanor and the person shall be fined not more than five hundred dollars (\$500), or required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

ATTACHMENT C

Business and Professions Code 25661

Minor Purchasing Alcohol

Any person under the age of 21 years who presents or offers to any licensee, his or her agent or employee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent or not actually his or her own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his or her possession any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor and shall be punished by a fine of at least two hundred fifty dollars (\$250), no part of which shall be suspended; or the person shall be required to perform not less than 24 hours nor more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of fine and community service as determined by the court. A second or subsequent violation of this section shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

ATTACHMENT D

Santa Cruz Municipal Code 9.12.040

Adult Purchasing Alcohol for Minor

- A. It is unlawful for any minor (i.e. any person under the age of 21 years), whether on public or private property, to solicit another person to purchase an alcoholic beverage for the minor from an off-sale alcohol retailer.
- B. This section shall not apply to a minor's solicitation of another person for the purchase of an alcoholic beverage from an on-sale alcohol retailer.
- C. This section shall not apply to a minor's actual or attempted direct purchase of an alcoholic beverage from an off-sale alcohol retailer.

ATTACHMENT E

Santa Cruz Municipal Code Section 8.08.130, 9.36.010

Zoning Ordinances 24.12.130, 24.12.290, 24.14.260, 24.12.600

General Noise Regulations

A. Notwithstanding the sound level meter standards described in this ordinance, it is nonetheless unlawful for any person to make, continue, or cause to be made or continued any disturbing, excessive or offensive noise which causes discomfort or annoyance to reasonable persons of normal sensitivity. The factors which should be considered in determining whether a violation of this section exists include the following:

1. The sound level of the objectionable noise.
2. The sound level of the ambient noise.
3. The proximity of the noise to residential sleeping facilities.
4. The zoning of the area.
5. The population density of the area.
6. The time of day or night.
7. The duration of the noise.
8. Whether the noise is recurrent, intermittent, or constant.
9. Whether the noise is produced by a commercial or noncommercial activity.
10. Whether the nature of the noise is usual or unusual.
11. Whether the noise is natural or unnatural.

B. It is unlawful for any person to make, continue, or cause to be made or continued any disturbing, excessive or offensive noise, which causes discomfort or annoyance to reasonable persons of normal sensitivity. The following acts, among others, are declared to be disturbing, excessive and offensive noises in violation of this section:

1. Radios, Television Sets, Musical Instruments and similar stationary or mobile devices: Operating, playing or permitting the operation or playing of any radio, television set, audio equipment, drum, musical instrument, or similar device which produces or reproduces sound in such a manner as to disturb the peace, quiet and comfort of neighboring residents or persons of normal sensitivity. The operation of any such set, instrument, audio equipment, television set, machine or similar device between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this section.
2. Loud Speakers (Amplified Sound): Using, or operating, or permitting to be used or operated, for any purpose, any loud speaker, loudspeaker system, or similar device between the hours of 10:00 p.m. and 8:00 a.m. such that the sound there from creates a noise disturbance across a residential property line, or at any time exceeds the maximum permitted noise level for the underlying land use category, except for any non-commercial public speaking, public assembly or other activity for which a variance has been issued.
3. Animals and Birds: Owning, possessing, or permitting to be harbored any animal or bird which frequently or for a continued duration howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential or commercial property line.
4. Loading and Unloading: Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects, or permitting these activities between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to cause a noise

disturbance across a residential property line or at any time exceeds the maximum permitted noise level for the underlying land use category.

5. Construction: Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration, grading or demolition work between the hours of 10:00 p.m. and 8:00 a.m. on week days and on Saturdays, Sundays or federal holidays such that the sound there from creates a noise disturbance across a residential or commercial property line or at any time exceeds the maximum permitted noise level for the underlying land use category, except for emergency work or by variance. This section does not apply to the use of domestic power tools.

6. Domestic Power Tools: Operating or permitting the operation of any mechanically powered saw, sander, drill grinder, lawn or garden tool, or similar tool between 10:00 p.m. and 8:00 a.m. so as to create a noise disturbance across a residential or commercial property line. Any motor, machinery, pump, compressor, generator etc., shall be sufficiently muffled and maintained so as not to create a noise disturbance.

7. Powered Model Vehicles: Operating or permitting the operation of powered model vehicles between the hours of 10:00 p.m. and 8:00 a.m. so as to create a noise disturbance across a residential or commercial property line or at any time exceeds the maximum permitted noise level for the underlying land use category.

8. Stationary Non-emergency Signaling Devices: Sounding, or permit-ting the sounding of any 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 any hourly period. Houses of worship shall be exempt from the operation of this provision. Sound sources covered by this provision and not exempted under this subsection may be exempted by a variance.

9. Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing. Testing of a stationary emergency signaling device shall not occur between 10:00 p.m. and 8:00 a.m. Any such testing shall only use the minimum cycle test time. In no case shall the test time exceed 10 seconds or occur more than once each calendar month.

10. Vehicle, Motorcycle, Motorboat or Aircraft Repair and Testing: Repairing, rebuilding, modifying or testing any motor vehicle, motorboat or aircraft, or permitting any these activities, in such a manner as to create a noise disturbance across a residential property line, or at any time exceeds the maximum permitted noise level for the underlying land use category shall not be permitted except where said activities are directly related to officially sanctioned events underlying land use category. (Ord. 9.36.010; Ord. 24.14.260)

ATTACHMENT F

Santa Cruz Municipal Code Section 9.36.010 subsection (C) (D)

General Noise Regulations, Exemptions

Santa Cruz Zoning Ordinance 24.14.260

General Noise

The following activities shall be exempt from the provisions of this title:

A. **Emergency Work.** The provisions of this title shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work.

B. **Entertainment Events.** The provisions of this title shall not apply to those reasonable sounds emanating from authorized school bands, school athletic and school entertainment events and occasional public and private outdoor or indoor gatherings, public dances, shows, bands, sporting and entertainment events conducted between the hours of eight a.m. and ten p.m.

C. **Federal or State Preempted Activities.** The provisions of this chapter shall not apply to any other activity the noise level of which is regulated by state or federal law.

D. **Minor Maintenance to Residential Property.** The provisions of this title shall not apply to noise sources associated with minor maintenance to property used for residential purposes, provided the activities take place between the hours of eight a.m. and ten p.m.

E. **Public Health, Welfare and Safety Activities.** The provisions of this title shall not apply to construction maintenance and repair operations conducted by public agencies and/or utility companies or their contractors which are deemed necessary to serve the best interests of the public and to protect the public health, welfare and safety, including but not limited to, trash collection, street sweeping, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, vacuuming catch basins, repairing of damaged poles, removal of abandoned vehicles, repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, sidewalks, etc. (Ord. 9.36.010 subsection (C) (D)).

ATTACHMENT G

Santa Cruz Municipal Code, Title 6.14.010

Findings, Landscape Maintenance

The City Council finds and determines as follows:

A. The lack of maintenance of landscaping and sanitation on both private and public properties, including overgrown, dead, or decayed vegetation and weeds and the accumulation of rubbish and debris, is a condition which is injurious to the public health, safety and welfare of the residents of the City of Santa Cruz and contributes substantially and increasingly to the deterioration of the City.

B. Unless corrective measures, as established in this chapter, are undertaken to alleviate such existing conditions and to assure the avoidance of future problems in this regard, the public health, safety and general welfare, specifically aesthetic, social and economic standards, will be depreciated.

C. The uses and abuses of property as described in this chapter are reasonably related to the proper exercise of the police power to protect the health, safety and general welfare of the public. (Ord. 9.36.010 subsection (C) (D)).

ATTACHMENT H

Santa Cruz Municipal Code, Title 24.22.568 and 24.12.1112

Abatement of Public Nuisances, Purpose

Cruz Municipal Code 24.22.010

Definitions

It is hereby declared to be in the public interest to promote the health, safety and welfare of the residents of the City of Santa Cruz by providing a summary procedure for the abatement of nuisances as declared by the City Council of the City of Santa Cruz, which abatement procedures shall be in addition to all other proceedings authorized by this code or otherwise by law. (Ord. 24.12.1112)

Santa Cruz Municipal Definitions 24.22.010

Definitions

For the purpose of this chapter the following words and phrases shall have the meanings given herein:

"Abandoned vehicle" means an unlicensed (i.e. not currently registered) or physically inoperable vehicle.

"Abatement" means the demolition, removal, repair, maintenance, construction, reconstruction, replacement, or reconditioning of structures, appliances or equipment; or the removal, transportation, disposal and treatment of waste and abandoned materials and equipment capable of harboring, breeding, or attracting rodents or insects or producing odors or blight.

"Agricultural groves" means any grove of ten or more trees on a parcel or lot.

"Attractive nuisance" means any condition, instrumentality, or machine which is unsafe and unprotected and thereby dangerous to young children by reason of their inability to appreciate the peril which exists, and which may reasonably be expected to attract young children to the premises and risk injury by playing with, in, or on it. Attractive nuisances may include, but shall not be limited to:

1. Abandoned and/or broken equipment;
2. Hazardous pools, ponds, culverts, excavations; and
3. Neglected machinery.

"Building" means any structure including, but not limited to any house, garage, duplex, apartment, condominium, stock cooperative, mobile home, or other residential structure or any portion thereof, which is designed, built, rented or leased to be occupied or otherwise is intended for supporting or sheltering any use or occupancy, and any commercial, industrial, or other establishment, warehouse, kiosk, or other structures affixed to or upon real property, used for the purpose of conducting a business, storage or other activity.

"Construction material" means any discarded material from the building or destruction of structures, road and bridges including concrete, rocks, asphalt, plasterboard, wood and other related material.

"Code Compliance Manager" shall mean the Code Compliance Manager for the City of Santa Cruz.

"Excavation" means any wells, shafts, basements, cesspools, septic tanks, fish ponds, and other like or similar conditions more than six inches in diameter and three feet in depth.

"Foul" means very offensive to the senses.

"Garbage" means any putrescible animal, fish, fowl, food, fruit, or vegetable matter resulting from the cultivation, preparation, storage, handling, decay or consumption of the substance.

"Hazardous materials and waste" means any chemical, compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the State of California as a "hazardous waste" as defined in 40 C.F.R. §§ 261.1 through 261.33 and Santa Cruz Municipal Ord. 24.14.268, except that for purposes of this chapter, hazardous waste also shall include household waste as defined in 40 C.F.R. 261.4(B)(1) and Santa Cruz Municipal Ord. 24.14.274.

"Hearing Officer" means the individual appointed by the City Manager of the City of Santa Cruz to hear the appeal on a determination of the existence of a nuisance.

"Noxious" means hurtful or unwholesome.

"Odor" means any smell, scent, or fragrance.

"Owner" means any person, agent, firm or corporation having legal or equitable interest in the property.

"Premises" means any lot or parcel of land upon which a building is situated, including any portion thereof improved or unimproved, and adjacent streets, sidewalks, parkways and parking areas.

"Property" means any lot or parcel of land, including any alley, sidewalk, parkway or unimproved public easement.

"Refuse" means any putrescible and nonputrescible solid waste, except sewerage, whether combustible or noncombustible and includes garbage and rubbish.

"Unmerchantable" means unsalable.

"Vehicle" means any device by which any person or property may be propelled, moved, or drawn upon a highway, or upon water, excepting a device moved exclusively by human power, or used exclusively upon stationary rails or tracks.

"Violator" means any responsible party, including the landowner, or lessee, tenant, or any other person who had possession or custody of the property.

"Waste matter" means any rubbish or construction material.

"Weeds" means useless and troublesome plants generally accepted as having no value and frequently of uncontrolled growth. (Ord. 19.40.010)

ATTACHMENT I

Santa Cruz Municipal Code 1.08.020, 24.12.130

Health and Safety Code 17.920.3

Declaration of Nuisances

It is unlawful and is hereby declared a nuisance for any person owning, leasing, occupying or having charge or possession of any property and any vehicles thereon, in the City to maintain the property in such a manner that any of the following conditions are present:

- A. The existence of any garbage, rubbish, refuse or waste matter upon the premises.
- B. The existence of weeds upon the premises, including public sidewalks, streets or alleys between said premises and the centerline of any public street or alley.
- C. The existence of overgrown, dead, decayed, diseased or hazardous trees, and other vegetation, including but not limited to dead agricultural groves which are: (1) likely to attract rodents, vermin or other nuisances, or (2) constitutes a fire hazard, or (3) is dangerous to the public safety and welfare.
- D. Overgrown vegetation including trees, shrubbery, ground cover, lawns and decorative plantings, which substantially detract from the aesthetic and property values of neighboring properties.
- E. Any abandoned or discarded furniture, stove, refrigerator, freezer, sink, toilet, cabinet, or other household fixture or equipment visible from a public right-of-way.
- F. The existence of any abandoned, wrecked, dismantled or inoperative motor vehicle upon the premises.
- G. The storage or parking of trucks exceeding the manufacturer's gross vehicle weight rating of 10,000 pounds on all areas of all residential zones, and the storage or parking of other vehicles on the landscaped front and street side yard setback area of all residential zones, including but not limited to the front lawn areas.
- H. Abandoned, boarded-up or partially destroyed buildings contrary to the provisions of the Uniform Fire code, Uniform Building Code, Uniform Housing Code and/or Uniform Code for Abatement of Dangerous Buildings.
- I. Peeling or blistering paint on any building or structure such that the condition is plainly visible from a public right-of-way.
- J. The existence of loud or unusual noises, or foul or noxious odors which offend the peace and quiet of persons of ordinary sensibilities and which interferes with the comfortable enjoyment of life or property and affect the entire neighborhood or any considerable number of persons.
- K. The existence of hazardous substances and waste unlawfully released, discharged, or deposited upon any premises onto any City property.
- L. The existence of any hay, straw, lumber, papers, or other substance upon the premises, which has been rendered un-merchantable by reason of any fire on the property.
- M. Any attractive nuisance.
- N. Any other condition which is contrary to the public peace, health and safety

Taken from the City of Santa Cruz website on January 30, 2006.

For updates of the Municipal Codes, check <http://www.ci.santa-cruz.ca.us/index.html> under City Government, Municipal Codes.

For updates of the Business and Professions Codes, check <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=bpc&codebody=&hits=20>