

**ORDINANCE NO. 2022-01**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE  
SANTA MARIA CEMETERY DISTRICT PROHIBITING  
CONDUCT DISRUPTING PEACEFUL AND QUIET  
ENJOYMENT OF CEMETERY GROUNDS**

Adopted by the Board of Trustees of the

**SANTA MARIA CEMETERY DISTRICT**

On Date of Sept 12, 2022

**WHEREAS**, the Trustees of the Santa Maria Cemetery District Board of Trustees have repeatedly encountered complaints of excessive noise and inappropriate behavior by visitors to the grounds of the Cemetery District; and

**WHEREAS**, the Trustees of the Santa Maria Cemetery District Board of Trustees recognize that all visitors to the grounds of the Cemetery District have a right to a peaceful and quiet environment in which they can visit and grieve their loved ones. The mission of the District, consistent with the Health and Safety Code, is to meet the cultural, economic, religious, and social needs of its diverse community; and

**WHEREAS**, the Santa Maria Cemetery District acknowledges that Santa Maria Municipal Code Section 6-5.02 prohibits the consumption of any alcoholic beverage on public property; and

**WHEREAS**, the Santa Maria Cemetery District acknowledges that Santa Maria Municipal Code Section 6-1.01 prohibits the disturbance or conduct that interrupts the quiet during funerals and funeral processions; and

**WHEREAS**, the Santa Maria Cemetery District recognizes that Santa Maria Municipal Code Section 6-4.01 prohibits the discharge of any firearm, gun or rifle, or other gun or device discharging by the use of powder, air, or springs, and bullet or shot of any kind, or any sling or slingshot in the City of Santa Maria at locations other than designated shooting galleries, shooting

ranges, or other applicable recreational facilities; and

**WHEREAS**, the Santa Maria Cemetery District recognizes that its Rules and Regulations place restrictions on, and conditions for, music played or performed on Cemetery Grounds; and

**WHEREAS**, the Santa Maria Cemetery District recognizes that California Penal Code Section 602 (q) prohibits persons staying on property open to the public during those hours of the day or night when the property is regularly closed to the public; and

**WHEREAS**, the Santa Maria Cemetery District recognizes that the Cemetery District's current Rules and Regulations and the relevant Santa Maria Municipal Code Sections and the relevant California Penal Code Section are insufficient to adequately deter and punish offending conduct in order to ensure visitors are afforded peace and quiet in which to grieve; and

**WHEREAS**, pursuant to Health and Safety Code Section 9041, Santa Maria Cemetery District is granted all rights and powers necessary to carry out its function, amongst them the ability to adopt ordinances; and

**WHEREAS**, pursuant to Health and Safety Code Section 8133, the authorities having jurisdiction and control of cemeteries may make and enforce general rules and regulations, and appoint sextons or other officers to enforce obedience to the rules and regulations, with such powers and duties regarding the cemetery as may be necessary; and

**WHEREAS**, the Santa Maria Cemetery District desires to enact civil penalties in the form of an infraction in order to encourage visitors to conduct themselves appropriately on District grounds; and

**WHEREAS**, the Santa Maria Cemetery District understands and acknowledges that financial penalties may be unduly burdensome for certain individuals and, accordingly, seek to implement a process for granting a hardship waiver in the event the offending individual demonstrates an intent and ability to abide by appropriate standards of conduct.

**NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE SANTA MARIA CEMETERY DISTRICT ORDAIN AS FOLLOWS:**

1. The above recitals and true and correct, and incorporated herein.

**1.01 Purpose**

The Trustees of the Santa Maria Cemetery District determine that all visitors to the grounds of Santa Maria Cemetery District are entitled to a peaceful and quiet environment without the intrusion of excessive noise, annoyances, harassment, or conduct that disturbs their right to grieve or visit loved ones in peace.

**1.02 Definitions**

- (a) "District" means the Santa Maria Cemetery District and all of its grounds.
- (b) "Disturb" or "Disturbance" means conduct that disrupts or bothers persons of reasonable sensibilities visiting the District.
- (c) "Excessive Noise" means any sound which is plainly audible to a person of average hearing at a distance of fifty (50) feet from the noisemaker or device emitting said noise.
- (d) "Enforcement Officer" means any peace officer or employee, including his or her designee, with the authority to enforce this code, its adopted codes, applicable municipal codes, and/or applicable state codes.
- (e) "Citee" is any person cited with a violation pursuant to this ordinance.

**1.03 Restricted Activity**

- (a) No person, while on District grounds, shall generate or cause to generate any excessive noise. Funeral processions involving military honors or those for public safety employees are exempt from this section.
- (b) No person, while on District grounds, shall cook or otherwise prepare food on a rack over an open fire, or by utilizing a portable grill, or by utilizing a portable stovetop, or the like.
- (c) No person, while on District grounds, shall disturb any other visitors present, or cause to occur a disturbance.
- (d) No person, while on District grounds, shall erect tables or chairs or lay down blankets, rugs, or towels that obstruct any headstone, disturb any other visitor, or interfere with another visitor's ability to view or visit a grave. Events authorized by the District in

advance and in writing for Memorial Day or Veterans' Day are exempted from this requirement.

#### **1.04 Violation**

- (a) Violation of any section in this Ordinance is an infraction punishable by the following schedule of fines:
  - a. A fine not exceeding \$100 for a first violation;
  - b. A fine not exceeding \$200 for a second violation within one year after the first violation;
  - c. A fine not exceeding \$500 for each additional violation within one year of the first violation.
- (b) Fines may be levied by any Enforcement Officer with a reasonable belief that the offending party violated any section in this Ordinance.

##### **1.04.1 Hardship**

- (a) Any person that is issued a fine pursuant to this Ordinance is eligible to apply for a hardship waiver, which, if deemed sufficient, may reduce any fine issued.
- (b) Any person that desires to be considered for a reduction of the fine due to hardship must demonstrate that the Citee has made a bona fide effort to comply with this Ordinance after the first violation and that payment of the full amount of the fine would impose an undue financial burden.
- (c) Forms for hardship waivers shall be made available to the public upon request during normal business hours at the office of the District. Forms may be returned to the District clerk at the District's office during normal business hours.
- (d) Completed and submitted hardship waivers will be reviewed by a team designated by the Santa Maria Cemetery District Board of Trustees to review and approve or deny such waivers.

#### **1.05 Exclusion**

- (a) In addition to, or as an alternative to a criminal or administrative citation for a violation of this Ordinance, any visitor is subject to exclusion from the District if said visitor violates any of the provisions of this Ordinance within ninety (90) days after he or she was given a citation pursuant to Paragraph 1.04.
- (b) The Santa Maria Cemetery District Board of Trustees shall designate District employees or other designees who are authorized to issue exclusion notices.
- (c) If a District visitor violates any provision of this Ordinance within ninety (90) days

after the individual was given a citation pursuant to Paragraph 1.04, a designated District employee may issue a written exclusion notice excluding the person from the District. If the person is excluded from the District, the exclusion shall be for a period of no less than one (1) month and no more than twelve (12) months. The exclusion notice shall specify the person that is to be excluded from the District, the period of exclusion, the date and time the exclusion is to commence, and information concerning the right to appeal the exclusion notice to the team designated by the Santa Maria Cemetery District Board of Trustees to hear appeals pursuant to Paragraph 1.06.

- (d) The person to whom the exclusion notice is issued shall sign a written acknowledgment of its receipt and allow his or her photograph to be taken. If the excluded person refuses to sign a receipt or allow a photograph to be taken, the District employee, or District designee, issuing the exclusion notice shall make a written record of the refusal. Any refusal to sign or acknowledge the exclusion notice will not prevent it from taking effect.
- (e) Any violation of any provisions of this Ordinance that is confrontational or violent may result in the issuance of an exclusion notice immediately, without the necessity of a repeat offense. In addition, any criminal conduct as designated in the California Penal Code, whether or not such conduct is also a violation of the rules set forth herein, may result in the immediate issuance of an exclusion notice.

#### **1.06 Procedure of Appeal of Exclusion Notice**

- (a) The individual to whom an exclusion notice is issued shall have the right to appeal from the issuance of the notice.
- (b) A notice of appeal of an exclusion notice must be given to the District Manager at the District's office within five (5) business days of the issuance of an exclusion notice. The notice of appeal shall state, or contain, the following:
  - a. The appellant's name;
  - b. The appellant's address and a telephone number where he or she can be reached;
  - c. A concise statement as to why the appellant believes that the issuance of the exclusion notice was invalid or unjustified;
  - d. An attached copy of the exclusion notice.
- (c) The Santa Maria Cemetery District Board of Trustees shall designate a team of no less than two (2) employees or trustees to hear and handle any and all appeals of exclusion notices.

- (d) A failure to include any of the required information in the notice of appeal may result in a denial of the appeal.
- (e) A hearing on the appeal shall be held no more than twenty (20) calendar days after the filing of the appeal, unless postponed for good cause. The appellant shall be provided written notice of the hearing date, time, and location at least five (5) calendar days prior to the hearing date. The hearing shall afford a reasonable opportunity for the appellant to be present and present evidence that the exclusion notice is invalid or unjustified.
- (f) The decision of the appeals team shall be provided in writing to the appellant within five (5) business days of the hearing. The decision shall be final.
- (g) The District shall have the burden to show by a preponderance of the evidence that the exclusion notice was justified by a violation of the rules of conduct as set forth herein.
- (h) Copies of all documents used by the District at the hearing shall be made available to the appellant at least five (5) calendar days prior to the hearing if appellant requests such in writing.

**1.07. Incorporated Codes**

- (a) This Ordinance hereby incorporates the following codes:
  - a. Santa Maria Municipal Code Section 6-5.02.
  - b. Santa Maria Municipal Code Section 6-4.01.
  - c. Santa Maria Municipal Code Section 6-1.01.

**1.08 Effective Date**

- (a) This ordinance shall be effective 31 days after adoption.

**INTRODUCED** and passed first reading on the 8 day of Aug, 2022.

**PASSED AND ADOPTED** by the Board of Trustees of the Santa Maria Cemetery District on the 12<sup>th</sup> day of Sept, 2022 by the following vote:

AYES: 4

NOES:

ABSENT: 1

ABSTAIN:

**APPROVED:**

  
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Chairman, Board of Trustees

**ATTEST:**

A handwritten signature in black ink, appearing to read "Debra De..." with a long, sweeping flourish extending to the right.

Clerk of the Board