

**Before the Board of Supervisors  
County of Placer, State of California**

In the matter of:

AN ORDINANCE ADDING ARTICLE 9.36  
TO THE PLACER COUNTY CODE  
PERTAINING TO NOISE

Ord. No: \_\_\_\_\_

First Reading: \_\_\_\_\_

The following ORDINANCE was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held January 6, 2004 by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

\_\_\_\_\_  
CHAIRMAN, BOARD OF SUPERVISORS

Attest:  
Clerk of said Board

\_\_\_\_\_  
  
The Board of Supervisors of the County of Placer, State of California,  
does hereby ordain as follows:

That Article 9.36 is hereby added to the Placer County Code, as shown  
on "Exhibit A" attached hereto and made a part hereof.

## **Exhibit A**

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### **9.36.010 Declaration of Findings, Purpose, and Policy**

Excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life. The people of Placer County have a right to and should be ensured an environment free from unnecessary, offensive and excessive sound and vibration that may jeopardize their health or welfare or safety or degrade the quality of life.

Therefore, it is declared to be the policy of Placer County in its exercise of the police power to prohibit unnecessary, excessive and offensive sounds. At certain levels, such sounds become noise and are detrimental to the health and welfare of the citizenry and, in the public interest, are hereby systematically proscribed. This chapter is intended to work in concert with and supplement Penal Code §370 (Public Nuisances) and §415 (Disturbing the peace) and to establish local community standards for noise regulation.

### **9.36.020 Definitions.**

The following words, phrases and terms as used in this chapter shall have the following meanings:

“Acoustic Specialist” means a person or persons trained in acoustic sampling, qualified to measure sound levels consistent with criteria contained within this noise ordinance.

“Ambient sound level” means the composite of normal or existing sound from all sources measured at a given location for a specified time of the day or night. The ambient sound level shall be measured with a sound level meter, using slow response and “A” weighting. The ambient sound level shall be determined with the sound source at issue silent.

“Approving Authority,” means the designated body or persons authorized to grant approval or deny a discretionary permit or an exception to this chapter.

“A-Weighting,” means the standard A-weighted frequency response of a sound level meter, which de-emphasizes low and high frequencies of sound in a manner similar to the human ear for moderate sounds.

“C-Weighting” means the standard C-weighted frequency response of a sound level meter, which de-emphasizes high frequencies of sound in a manner similar to the human ear for relatively loud sounds.

“Decibel” means a unit for measuring the relative amplitude of sound equal approximately to the smallest difference normally detectable by the human ear, whose range includes approximately one hundred thirty decibels on a scale beginning with zero decibels for the faintest detectable sound. The sound pressure associated with zero decibels is 20 micropascals.

“Discretionary Permit” means a permit issued by the County other than ministerial permits, including but not limited to Conditional Use Permits, Tentative Subdivision Maps, Design Review Permits and Administrative Permits.

“Enforcement officer” means the Placer County sheriff, the planning director, and/or the health officer and the employee(s) designated by the sheriff, the planning director, and/or the health officer as code enforcement officer(s) to enforce the provisions of this article.

“Equivalent Hourly Sound Level (L<sub>eq</sub>)” means the sound level corresponding to a steady state A weighted sound level containing the same total energy as the actual time-varying sound level over a one-hour period.

“Fixed sound source” means a device or machine which creates sounds while fixed or stationary, including but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment also includes motor vehicles operated on private property.

“Impulsive sound” means a single noise event or series of single noise events, which result in a high peak sound level of short duration (less than 1 second). Examples include, but are not limited to guns shots, blasting, or hammering.

“Intruding sound level” means the sound level created, caused, maintained or originating from an alleged offensive source, measured in decibels, at a specified location while the alleged offensive source is in operation.

“Maximum Sound Level (L<sub>max</sub>)” means the maximum noise level measured on a sound level meter.

“Motor vehicle” means any vehicle that is propelled by other than human or animal power on land.

“Noise” means any loud discordant or disagreeable sound or sounds.

“One-Third Octave Band” means a band of frequencies, in hertz (Hz), which is one third of an octave wide. The center frequencies of one-third-octave bands increase by a factor of 1.26 (cube root of 2). Examples of one-third octave band center frequencies in the range of audible sound include 20, 25, 31.5, 40 and 63 hertz. Describing sound pressure levels in one-third octave bands provides information as to the tone or pitch, of noise (low frequency versus high frequency), as well as the amplitude of the sound.

“Pleasure motor boat” means any boat which is powered by an in-board, out-board or in-board/out-board motor and is used for recreational purposes, including boats that are or may be used commercially to support recreational use. This includes, but is not limited to, commercial fishing and sightseeing. A vessel competing in a regatta, boat race, or trial runs pursuant to the terms of a duly authorized government permit shall not be considered a “pleasure motor boat” for purposes of this Chapter.

“Property line or plane” means a vertical plane including the property line that determines the property boundaries in space.

“Public property” means any property owned by a public agency and held open to the public, including but not limited to parks, streets, sidewalks, and alleys.

“Residential property” means a parcel of real property that is zoned for residential use.

“School” means institutions conducting regular academic instruction at preschool, kindergarten, elementary, secondary or collegiate levels.

“Sensitive Receptor” means a land use in which there is a reasonable degree of sensitivity to noise. Such uses include single-family and multi-family residential uses, frequently used outbuildings, schools, hospitals, churches, rest homes, cemeteries, public libraries and other sensitive uses as determined by the enforcement officer.

“Simple tone noise” means any sound that is distinctly audible as a single pitch (frequency) or set of pitches. Includes sound consisting of speech and music.

“Sound level” means the sound pressure level in decibels as measured with a sound level meter using the A-weighting and C weighting networks or one-third-octave band frequency. The unit of measurement is referred to herein as dBA, dBC or one-third octave band.

“Sound level meter” means an instrument meeting American National Standard Institute Standard S1.4A-1985 for Type I or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment that will provide equivalent data.

### **9.36.030 Exemptions.**

A. Sound or noise emanating from the following sources and activities are exempt from the provisions of this title:

1. Sound sources typically associated with residential uses (e.g., children at play, air conditioners in good working order, etc.)

2. Sound sources associated with property maintenance (e.g., lawn mowers, edgers, snow blowers, blowers, pool pumps, power tools, etc.) provided such activities take place between the hours of seven a.m. and nine p.m.

3. Safety, warning and alarm devices, including house and car alarms, and other warning devices that are designed to protect the health, safety and welfare, provided such devices are not negligently maintained or operated.

4. The normal operation of public and private schools typically consisting of classes and other school-sponsored activities.

5. Maintenance (e.g., lawn mowers, edgers, aerators, blowers, etc.) of golf courses, provided such activities take place between the hours of five a.m. and nine p.m. May through September, and seven a.m. and six p.m. October through April.

6. Emergencies, involving the execution of the duties of duly authorized governmental personnel and others providing emergency response to the general public, including but not limited to sworn peace officers, emergency personnel, utility personnel, and the operation of emergency response vehicles and equipment.

7. Construction (e.g., construction, alteration or repair activities) between the hours of six a.m. and eight p.m. Monday through Friday, and between the hours of eight a.m. and eight p.m. Saturday and Sunday. Provided, however, that all construction equipment shall be fitted with factory installed muffling devices and that all construction equipment shall be maintained in good working order.

8. Infrequent repair, rebuilding, reconstruction or dismantling of any motor vehicle between the hours of 8:00 a.m. and 8:00 p.m.

9. Sound sources associated with agricultural operations on agricultural land, as defined by Placer County Code Chapter 5, Article 5.24.040, which are carried out in any manner consistent with the practice and within the standards of the agricultural industry. This includes without limitation all mechanical devices, apparatus or equipment utilized for the protection or salvage of agricultural crops during periods of adverse weather conditions or when the use of mobile sources is necessary for pest control.

10. Sound sources associated with existing legal non-conforming and/or existing permitted commercial, industrial or non-profit operations, which do not significantly change in existing on-site activities, or result in a change in the number of days or daily hours of operation.

11. Gunfire occurring while hunting consistent with all state laws on private property shall be allowed. Gunfire occurring during target practice shall only be allowed between the hours of 9:00 am and dusk and shall not exceed 2 hours within a 24-hour period.

12. Animal noise (These noises are handled elsewhere in the Code.)

13. Any vehicle, otherwise compliant with state law, being operated upon any public highway, street or right-of-way or driveway for the purpose of exiting or entering property. This exception does not include any amplified sound emanating from the vehicle, vehicle alarms or horn-honking.

**9.36.040 Sound measurement methodology.**

A. Compliance with this chapter shall be determined using methodology described in this section. Sound measurement, except as otherwise provided in this chapter, shall be made with a sound level meter using the A-weighting network at slow meter response, except that fast meter response shall be used for impulsive type sounds.

B. Calibration of the measurement equipment utilizing an acoustical calibrator meeting American National Standards Institute (ANSI) Type 1 or Type 2 standard shall be performed immediately prior to recording any sound data. Calibration equipment shall be certified annually.

C. Exterior sound levels shall be measured at the property line or at any location within the property of the affected sensitive receptor. Sound measurements shall be taken in such a manner and location so that it can be determined whether sound level standards are exceeded at the property line. Where practical, the microphone of the sound level meter shall be positioned three to five feet above the ground and away from reflective surfaces. The actual location of the sound measurements shall be at the discretion of the enforcement officer.

**9.36.050 Duty to cooperate.**

It is unlawful for any person to refuse to cooperate with or to obstruct any governmental agent, officer or employee in determining the ambient sound level of a sound source. Such cooperation shall include, but is not limited to, the shutting off or quieting of any sound source so that an ambient sound level can be measured.

**9.36.060 Sound limits for sensitive receptors.**

A. It is unlawful for any person at any location to create any sound, or to allow the creation of any sound, on property owned, leased, occupied or otherwise controlled by such person that:

1. Causes the exterior sound level when measured at the property line of any affected sensitive receptor to exceed the ambient sound level by five (5) dBA or
2. Exceeds the sound level standards as set forth in Table 1, whichever is the greater.

Table 1  
SOUND LEVEL STANDARDS (On-site)

Sound Level Descriptor	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
Hourly Leq, dB	55	45

Maximum level, (Lmax) dB	70	65
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B. Each of the sound level standards specified in Table 1 shall be reduced by five (5) dB for simple tone noises, consisting of speech and music. However, in no case shall the sound level standard be lower than the ambient sound level plus five (5) dB.

C. If the intruding sound source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient sound level can be measured, the sound level measured while the source is in operation shall be compared directly to the sound level standards of Table 1.

**9.36.070 Special noise disturbances: Time, place and manner restrictions:**

A. Pleasure Motor Boat Noise at Lake Tahoe

1. This ordinance is consistent with the State of Nevada Board of Wildlife Commissioners amended NAC 488.460 Adopted Regulation R116-00, which establishes noise level criteria for motorboats, and El Dorado County Code, Chapter 9.17, both of which are currently enforced on Lake Tahoe

2. The measurement shall be conducted only by an enforcement officer or by persons qualified by training to perform these measurements, acting in the presence of an enforcement officer. Operating manuals or other literature provided by the sound level meter manufacturer should be consulted for both recommended operation of the instrument, and precautions to be observed. A field calibration of the sound level meter shall be performed immediately before and after each test sequence.

3. Pleasure motor boat engines manufactured before January 1, 2002 shall not exceed a sound level of 90 dBA Leq as measured adjacent to the exhaust outlets by a sound level meter utilizing a water-based measurement testing procedure consistent with the Society of Automotive Engineers (SAE) International Marine Technical Committee testing procedures SAE J2005 and SAE J1970 or successor procedures which are recognized by the American National Standards Institute. Pleasure motor boat engines manufactured on or after January 1, 2002 shall not exceed a level of 88 dBA Leq as measured adjacent to the exhaust outlets by a sound level meter utilizing a testing procedure consistent with the Society of Automotive Engineers (SAE) International Marine Technical Committee testing procedures SAE J2005 and SAE J1970 or successor procedures which are recognized by the American National Standards Institute. Specific testing procedures shall be as prescribed by duly adopted policies and procedures of the environmental health department.

4. Sound limits and measurements.

a. Pleasure motor boat engines shall not exceed a sound level of 75 dBA as measured by a sound level meter utilizing a shoreline-based measurement testing procedure consistent with the Society of Automotive Engineers (SAE) International Marine Technical Committee testing procedures SAE J2005 and SAE J1970 or successor procedures which are recognized by the American National Standards Institute. Specific testing procedures shall be as prescribed by duly adopted policies and procedures of the County.

b. Measurement of a sound level that meets the criterion set in subdivision A does not preclude the conducting of a test of sound level to determine compliance with section 3,

above.

#### B. Commercial shooting ranges

New commercial shooting ranges shall not produce a maximum noise level that exceeds 65 dBA at the receiving property line of a noise-sensitive use. The sound level meter should be set on Fast Response when evaluating impulsive noise levels such as those associated with shooting ranges.

### **9.36.080 Exceptions.**

A. An exception may be requested from any provision of this chapter. Requests for exceptions shall be made on forms provided by the County. Notice of the request for exception must be given to all the surrounding properties that would be impacted by the exception, i.e, those properties that would experience a noise level at their property line that exceeds Table 1 of this ordinance.

B. If the applicant can show to the County that a diligent investigation of available sound suppression techniques for construction-related noise indicates that immediate compliance with the requirements of this chapter would be impractical or unreasonable, due to the temporary nature or short duration of the exception, a permit to allow exception from the provisions contained in all or a portion of this chapter may be issued. Factors that the approving authority must consider for construction related exceptions shall include but not be limited to the following:

1. Conformance with the intent of this chapter;
2. Uses of property and existence of sensitive receptors within the area affected by sound;
3. Factors related to initiating and completing all remedial work;
4. The time of the day or night the exception will occur;
5. The duration of the exception; and
6. The general public interest, welfare and safety.

C. If the applicant can show to the County that the characteristics of a special event indicate that immediate compliance with the requirements of this chapter would be impractical due to the type of event or unreasonable due to its temporary nature or short duration, a permit allowing an exception from the provisions of this chapter may be issued. Factors considered for special events related exceptions shall include but not be limited to the following:

1. Conformance with the intent of this chapter;
2. Uses of property and existence of sensitive receptors within the area affected by sound;
3. Hardship to the applicant, or community of not granting the exception;
4. The time of the day or night the exception will occur;
5. The duration of the exception; and
6. The general public interest, welfare and safety.

D. If the applicant can show to the County, or his or her designee that immediate compliance with the requirements of this chapter would not result in a hazardous condition or nuisance, and strict compliance would be unreasonable due to the circumstances of the requested exception, a



permit to allow exception from the provisions contained in all or a portion of this chapter may be issued. Factors considered for all requests for exceptions, other than construction or special events, shall include but not be limited to the following:

1. Conformance with the intent of this chapter and General Plan Policies;
2. Uses of property and existence of sensitive receptors within the area affected by sound;
3. Factors related to initiating and completing all remedial work;
4. Age and useful life of the existing sound source;
5. Hardship to the applicant, or community of not granting the exception;
6. The time of the day or night the exception will occur;
7. The duration of the exception; and
8. The general public interest, welfare and safety.

E. Within thirty (30) days of receipt of the application, the County shall either (1) approve or conditionally approve such request in whole or in part, (2) deny the request, or (3) refer the request directly to the Board of Supervisors for action at the next available Board meeting. In the event the exception is approved, reasonable conditions may be imposed which minimize the public detriment and may include restrictions on sound level, sound duration and operating hours, an approved method of achieving compliance and a time schedule for its implementation.

F. Where a request for exception is associated with a discretionary permit, the exception shall be processed concurrently with the discretionary permit. The approving authority for the discretionary permit shall also be the approving authority for the exception. Factors that the approving authority must consider for requests for exception shall be those factors identified above, depending upon the type of exception requested. The approving authority for an exception processed with a discretionary permit shall either (1) approve or conditionally approve such request in whole or in part, or (2) deny the request.

G. Where an Approving Authority has approved an exception and complaints are received related to the exception the approving body has the authority to take action, as he or she deems necessary to reduce the sound impacts including modification or revocation of the exception.

H. Any person aggrieved by the decision of the approving authority may appeal to the Board of Supervisors by filing written notice of appeal with the Board Clerk within ten (10) days of the decision. The Board of Supervisor's decision shall be final and shall be based upon the considerations set forth in this section.

### **9.36.090 Enforcement, Violations and penalties.**

#### A. Violations

Violations of this chapter shall be infractions. Each day any such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

#### A. Cost for enforcement

The total cost for enforcement of a second or subsequent violations shall constitute a special security assignment over and above the services normally provided and shall be charged against the responsible party. The County may collect any such costs for enforcement and costs of collection by use of all available legal means.

C. Nonexclusive remedy

1. Notwithstanding the provisions of this chapter, the County shall not be prevented from taking any other civil or criminal action to abate any violation of this chapter.

2. For the purposes of this chapter the person charged may be any person or persons in charge of the premises and any person or persons responsible for an activity or event resulting in unlawful noise levels (Responsible party).

**9.36.100 Administrative Citations**

The Enforcement Officer may employ the provisions of this section to secure compliance with this article. This section provides for administrative citations and fines which are in addition to all other legal remedies, criminal or civil, which may be pursued by the County. The use of this section shall be at the sole discretion of the Enforcement Officer.

A. Warning of an Administrative Citation.

1. Whenever the Enforcement Officer determines that a violation of that provision has occurred, the Enforcement Officer may issue a written warning of an administrative citation to any Person and/or Owner responsible for the violation. A warning shall be served as a prerequisite to the issuance of a first administrative citation.

a. In the Enforcement Officer's sole discretion, the following dispute resolution process may be utilized. The Enforcement Officer shall schedule a meeting that shall be attended by the complainant and the person and/or Owner responsible for the violation, the enforcement officer and a county-appointed facilitator. If the problem can be resolved as a result of this meeting, all formal enforcement proceedings shall be suspended, pending successful implementation of any and all agreements reached at the dispute resolution meeting. If the problem cannot be resolved in a satisfactory manner, formal enforcement proceedings shall again commence. Failure of the responsible party to attend the dispute resolution meeting shall be cause for formal enforcement procedures to continue to the next appropriate step.

2. The Enforcement Officer shall provide for a reasonable period of time to correct the violation after considering the circumstances of the case, prior to the issuance of an administrative citation. A warning shall not be required before the issuance of a second or any subsequent administrative citation for a continuing or repeated violation.

3. A warning shall include the same information as required under B 2. of this section, as well as the following: A time limit by which the violation shall be corrected, after which an administrative citation may be issued if the violation is not fully corrected. A statement that the County intends to charge the Person and/or Owner for all administrative costs associated with code enforcement activity.

4. A notice of violation pursuant to section 17.62.120 shall constitute a warning under this subsection as long as it meets the requirements of subsection B.2.

B. Administrative Citation.

1. Whenever the Enforcement Officer determines that a violation has occurred, the Enforcement Officer may issue an administrative citation to any Person and/or Owner responsible for the violation provided that any required warning has first been issued. Each and every day during a portion of which a violation of a Code is committed, continued or permitted is a separate and distinct violation for which an administrative citation may be issued.

2. Each administrative citation shall contain the following information:

- a. The date of the violation;
- b. The address or a definite description of the location where the violation occurred;
- c. The Code section(s) violated and a description of the violation;
- d. A description of how the violation can be corrected;
- e. The amount of the fine for the Code violation;
- f. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
- g. An order prohibiting the continuation or repeated occurrence of the Code violation described in the administrative citation;
- h. A description of the administrative citation review process, including the time within which the administrative citation may be contested by submitting a request for hearing form; and
- i. The name and signature of the citing enforcement officer.

C. Service of Warning or Administrative Citation.

Service (delivery) of a warning or an administrative citation may be accomplished by any of the following methods:

1. Personal Service. The Enforcement Officer, or an authorized designee, may obtain the signature of the Person and/or Owner responsible for the Code violation on the administrative citation. If the responsible Person and/or Owner refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of service nor of the citation and subsequent proceedings.

2. A combination of service by First Class Mail and Posting. Service may be provided by (a) deposit in the United States Mail, in a sealed envelope sent first class postage prepaid, addressed to the Person and/or Owner to be notified at the last-known business or residence address as the same appears in the current public records or other records pertaining to the matter to which the notice is directed, in combination with (b) posting a copy of the administrative citation in a conspicuous place on or near the property on which the violation is located. Service by mail and posting shall be deemed to have been completed at the later of either the time of deposit in any official United States postal box or the time of posting. The failure of the responsible Person and/or Owner to receive a properly addressed and mailed or posted administrative citation shall not affect the validity of the service nor of the citation and subsequent proceedings. Failure of a posted notice to remain in place after posting shall in no way affect the validity of the service nor of the citation and subsequent proceedings.

**9.36.110 Amount of Fines.**

1. The fine for a Code violation imposed pursuant to this section shall be one hundred dollars for the first citation, two hundred dollars for the second citation, and five hundred dollars for the third and any subsequent administrative citations. The fine amounts shall be cumulative where multiple citations are issued.

2. A late payment charge shall be paid to the County in the amount specified in subsection G, if a fine has not been paid in full to the County on the date on which it is due.

**9.36.120 Payment of the Fine.**

1. The fine shall be paid to the County within thirty days from the date of the administrative citation in accordance with the payment instructions printed on the citation form.

2. Any administrative citation fine paid pursuant subsection E.1., shall be refunded in accordance with subsection F.5., if it is determined, after a hearing, that the cited party charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

3. Payment of a fine under this section shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the administrative citation.

**9.36.130 Review Hearing.**

**1. Request for Hearing.**

a. Any cited party receiving an administrative citation may contest that there was a violation of the Code or that he or she is the responsible party by completing a request for hearing form and returning it to the Placer County Planning Department within twenty days from the date of the administrative citation, together with an advance deposit of the full amount of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to subsection F.2. An additional \$50.00 hearing fee shall be required. The failure of any cited party to properly file a request for hearing within the time specified in this subsection shall constitute a waiver of the right to an administrative hearing and adjudication of the administrative citation or fine or any portion thereof.

b. A request for hearing form may be obtained from the Placer County Planning Department.

c. Any cited party requesting a hearing must provide the County with a mailing address to which any notices under this section may be served. All decisions or notices served on or after the time that a request for hearing form has been filed with the Planning Department shall be provided by deposit in the United States Mail, in a sealed envelope sent first class postage prepaid, addressed to the cited party to be notified at any mailing address provided to the County by that cited party in the request for hearing form. It is the responsibility of the cited party requesting a hearing to provide any change of address to the Planning Department regarding proceedings under this section. Service shall be deemed to have been completed at the time of deposit in any official United States postal box. The failure of the cited party to receive a properly addressed service shall not affect the validity of the service or proceedings.

f. If the Enforcement Officer submits an additional written report concerning the administrative citation to the Hearing Officer for consideration at the hearing, then a copy of this report shall also be served on the cited party requesting the hearing at least five days prior to the date of the hearing.

g. A hearing before the Hearing Officer shall be set for the earliest practicable date after a request for hearing has been properly filed in accordance with the provisions of this section. However, no hearing shall be set until either full payment of the deposit has been made, or a waiver thereof has been issued under subsection 9.36.130.2

h. The cited party requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.

## **2. Advance Deposit Hardship Waiver.**

a. Any cited party who requests a hearing to contest that there was a violation of a Code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in subsection 9.36.130.1, may file a request for an advance deposit hardship waiver.

b. The request for waiver shall be filed with the Placer County Planning Department on an advance deposit hardship waiver application form, available from that department, at the time of the filing of the request for hearing form.

c. The requirement of depositing the full amount of the fine as described in subsection 9.36.130.1, shall be automatically stayed unless or until the Planning Director makes a determination not to issue the advance deposit hardship waiver.

d. The Planning Director shall issue a written decision listing the reasons for his or her determination to issue or not issue the advance deposit hardship waiver. The written decision of the Planning Director shall be final.

e. The written decision of the Planning Director shall be served upon the cited party who applied for the advance deposit hardship waiver.

### **9.36.140 Hearing Officer.**

"Hearing Officer" shall mean the person or persons appointed by the Planning Director to preside over an administrative hearing provided for in this section. The Zoning Administrator may also act as the Hearing Officer if so appointed. The Planning Director shall appoint a Hearing Officer to preside over an administrative citation hearing which has been properly requested under the provisions of this section.

### **9.36.150 Hearing Procedure.**

a. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

b. The failure of any cited party receiving an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

c. The administrative citation and any additional report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts

contained in those documents. The Enforcement Officer or a designee may, but is not required to, appear at an administrative citation hearing.

d. The Hearing Officer may continue the hearing and request additional information from the Enforcement Officer, another county employee, or the cited party receiving the administrative citation prior to issuing a written decision.

e. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

**9.36.160 Hearing Officer's Decision.**

a. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to uphold, modify, or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer may be appealed to the Appellate Panel.

b. If the Hearing Officer determines that the administrative citation should be upheld, then the fine amount on deposit with the County shall be retained by the County.

c. If the Hearing Officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the fine shall be paid in full within 30 days from the date of service of the final administrative decision, unless the Hearing Officer sets forth an alternative payment schedule in the decision.

d. If the Hearing Officer determines that the administrative citation should be canceled and the fine was deposited with the County, then the County shall promptly refund the amount of the deposited fine.

e. The cited party receiving the administrative citation shall be served with a copy of the hearing officer's written decision. Any appeal of the hearing officer's decision must be received by the County within five (5) business days.

**9.36.170 Late Payment Charges.**

Any cited party who fails to pay to the County any fine imposed pursuant to the provisions of this section on or before the date that fine is due shall also be liable for the payment of a late payment charge in the amount of twenty percent of the total fine amount owed. This late payment charge shall be charged each additional 30 days the fine amount is not paid.

**9.36.180 Recovery of Administrative Citation Fines, Late Payment Charges, and Collection Costs.**

The County may collect any past due administrative citation fine or late payment charge, and may also recover its collection costs. The failure of any cited party to pay a fine assessed by an administrative citation or a late payment charge by the due date shall constitute a "Debt to the County." The County may seek payment of the debt by use of all available legal means, including but not limited to the following:

a. The County may refer the debt for collection.

b. The County may file a civil action in the Superior Court or the Small Claims Court to recover the debt.

**9.36.190 Appellate Panel.**

If the responsible party files a request for appeal of the decision of the Hearing Officer, the Planning Director shall coordinate a hearing panel for the appeal hearing. The panel shall have three members, drawn from the membership of the Board of Supervisors or their designees and of the Planning Commission. The members shall be selected to serve on the appellate panel on a rotating, as-available basis by the Director. Members shall act impartially on any matter placed before them and shall remove themselves from the panel should any conflict of interest involving the subject matter or parties of the proceedings come to their attention.

**9.36.200 Appellate Hearing procedure.**

A. A hearing shall be set for a date that is not less than fifteen days and not more than sixty days from the date that the request for appellate hearing is filed in accordance with the provisions of this ordinance.

B. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

C. The failure of any recipient of an administrative citation to appear at the administrative citation appellate hearing shall constitute a failure to exhaust their administrative remedies.

D. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. The Hearing Officer's decision will also be considered by the Panel.

E. The appellate hearing panel may continue the hearing and request additional information from the enforcement officer or the recipient of the citation prior to issuing a written decision.

**9.36.210 Appellate Panel decision.**

A. After considering all of the testimony and evidence submitted at the hearing, the Appellate hearing panel shall issue a written decision to uphold or cancel the Hearing Officer's decision and shall list the reasons for that decision. The decision of the Appellate panel shall be final.

B. The recipient of the administrative citation shall be served with a copy of the Appellate panel's written decision.

C. If the Appellate panel determines that the citation should be upheld, then the responsible party shall have ten days from the date of notice of the Appellate panel's decision to pay the fine, if a hardship waiver of deposit of fine has been granted.

D. If the administrative citation involves noncompliance with conditions of approval of a discretionary permit, in addition to assessing administrative fines, the hearing panel may, at its discretion, refer the matter to the Planning Commission for possible action on the underlying permit.

**9.36.220 Right to judicial review.**

Any person aggrieved by an administrative decision of an appellate hearing panel on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Superior Court in Placer County in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

**9.36.230 Task Force Review Report.**

One year following adoption of this ordinance, the Citizen Noise Task Force shall evaluate the effectiveness of this ordinance and present a report to the Board of Supervisors.

**9.36.240 Severability.**

If any portion of this Article is for any reason held unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article.

**9.36.250 Effective Date.**

The effective date of this ordinance is March 9, 2004.