

Anaheim Municipal Code

Chapter 6.70 SOUND PRESSURE LEVELS

Sections:

6.70.010 Established.

6.70.020 Violations and penalties.

6.70.030 Enforcement.

6.70.010 ESTABLISHED.

Sound produced in excess of the sound pressure levels permitted herein are hereby determined to be objectionable and constitute an infringement upon the right and quiet enjoyment of property in this City.

No person shall within the City create any sound radiated for extended periods from any premises which produces a sound pressure level at any point on the property line in excess of sixty decibels (Re 0.0002 Microbar) read on the A-scale of a sound level meter. Readings shall be taken in accordance with the instrument manufacturer's instructions, using the slowest meter response.

The sound level measuring microphone shall be placed at any point on the property line, but not closer than three (3) feet from any wall and not less than three (3) feet above the ground, where the above listed maximum sound pressure level shall apply. At any point the measured level shall be the average of not less than three (3) readings taken at two (2) minute intervals. To have valid readings, the levels must be five (5) decibels or more above the levels prevailing at the same point when the source's of the alleged objectionable sound are not operating.

Sound pressure levels shall be measured with a sound level meter manufactured according to American Standard S1.4-1961 published by the American Standards Association, Inc., New York City, New York.

Traffic sounds sound created by emergency activities and sound created by governmental units or their contractors shall be exempt from the applications of this chapter. Sound created by construction or building repair of any premises within the City shall be exempt from the applications of this chapter during the hours of 7:00 a.m. to 7:00 p.m. Additional work hours may be permitted if deemed necessary by the Director of Public Works or Building Official. (Ord. 2526 § 1 (part); June 18, 1968; Ord. 3400 § 1; February 11, 1975: Ord. 6020 § 1; April 25, 2006.)

6.70.020 VIOLATIONS AND PENALTIES.

The first violation of this chapter by any person shall be punishable as an infraction in accordance with applicable provisions of the California Penal Code and the California Government Code. The second and all subsequent violations of said chapter committed by such person shall be punishable as a misdemeanor. (Ord. 5929 § 9; July 27, 2004.)

6.70.030 ENFORCEMENT.

The Code Enforcement Manager of the City of Anaheim shall enforce the provisions of this chapter. (Ord. 5812 § 25; June 11, 2002.)

Chapter 6.72 AMPLIFIED SOUND

Sections:

6.72.010 Purpose.

6.72.020 Regulation of amplified sound.

6.72.030 Definitions.

6.72.040 Exemptions from chapter.

6.72.050 Penalty for violations.

6.72.010 PURPOSE.

This City Council enacts this legislation for the sole purpose of securing and promoting the public health, comfort, safety, and welfare of its citizenry. While recognizing that certain uses of sound-amplifying equipment are protected by the constitutional rights of freedom of speech and assembly, the City Council, nevertheless, feels obligated to reasonably regulate the use of sound-amplifying equipment in order to protect the correlative constitutional rights of the citizens of this community to privacy and freedom from public nuisance of loud and raucous noise. (Ord. 4059 § 1 (part); October 9, 1979; Ord. 5941 § 1 (part); September 14, 2004.)

6.72.020 REGULATION OF AMPLIFIED SOUND.

Notwithstanding the provisions of Chapter 6.70 of this code, it shall be unlawful for any person to use or operate, or cause to be used or operated, within the City of Anaheim any sound-amplifying equipment in a fixed or movable position, or mounted upon any vehicle, except when used or operated in compliance with the following provisions:

.010 In all residential zones and within two hundred feet of any boundary thereof, no sound-amplifying equipment shall be operated or used for commercial purposes, except sound-amplifying equipment may be used for commercial purposes upon a moving vehicle between the hours of 8:00 a.m. and 8:00 p.m. to announce the presence of such vehicle in an area or location for commercial purposes; provided that such sound-amplifying equipment shall not be used during periods that the vehicle is stopped, parked or otherwise in a stationary position..

.020 In all residential zones and within two hundred feet of any boundary thereof, no sound-amplifying equipment shall be operated or used for noncommercial purposes between the hours of 8:00 p.m. and 8:00 a.m. of the following day.

.030 In all non-residential zones, except such portions thereof as may be included within two hundred feet of the boundary of any residential zone, the operation or use of sound-amplifying equipment for commercial purposes is prohibited between the hours of 9:00 p.m. and 8:00 a.m. of the following day.

.040 In all non-residential zones, except such portions thereof as may be included within two hundred feet of the boundary of any residential zone, the operation or use of sound-amplifying equipment for noncommercial purposes is prohibited between the hours of 10:00 p.m. and 7:00 a.m. of the following day.

.050 Sound emanating from sound-amplifying equipment shall not be audible to a person of normal hearing acuity within an enclosed building (other than a building within which the sound emanate) at a distance in excess of two hundred feet from the sound-amplifying equipment.

.060 In no event shall the sound-amplifying equipment be unreasonably loud, raucous, jarring or disturbing to a person of normal sensitiveness within the area of audibility, or disturb the peace or quiet of any neighborhood.

.070 It shall be unlawful for any person to operate or use any sound-amplifying equipment within, upon or adjacent to the premises of any hospital, school, or publicly owned or operated arena, stadium, convention center or auditorium, while in use, in a manner which disturbs, disrupts or interferes with the conduct of any event, business or activity of any nature then occurring within such building or premises. Nothing contained in this subsection shall be deemed to prohibit any conduct which is otherwise prohibited by California Penal Code Sections 302 or 403, or any other provision of State law. (Ord. 4059 § 1 (part); October 9, 1979; Ord. 5781 § 1; September 25, 2001; Ord. 5941 § 1 (part); September 14, 2004.)

6.72.030 DEFINITIONS.

.010 The word "person," as used herein, shall include the singular and the plural, and shall also mean and include any person, firm, corporation, association, club, partnership, society or any other form of association or organization.

.020 The words "sound-amplifying equipment," as used herein, shall mean any device for the amplification of the human voice, music or any other sound.

.030 The word "zone," as used herein, shall mean the zoning designation given to any public or private property pursuant to the provisions of Title 18 of this Code. Any public or private street, alley or other right-of-way shall be deemed to have the same zoning designation as the public or private property immediately contiguous to such street, alley or right-of-way. Where the property on each side of a street, alley or right-of-way bears a different zoning designation, each such zoning designation shall be deemed to extend to the centerline of such street, alley or right-of-way.

.040 Nothing contained in this section shall be deemed to permit or authorize any activity or sound level which is otherwise prohibited by any provision of State law.(Ord. 4059 § 1 (part); October 9, 1979; Ord. 5941 § 1 (part); September 14, 2004.)

6.72.040 EXEMPTIONS FROM CHAPTER.

The following uses of sound-amplifying equipment and activities shall be exempt from the provisions of this chapter:

.010 Vehicle sound systems, radios and similar devices located within or upon any vehicle, to the extent the sound from such devices is regulated by provisions of the Vehicle Code of the State of California.

.020 Sound-amplifying equipment when used and heard only by occupants of the premises in

which the devices are located.

.030 Warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles when used for traffic safety purposes, or any other device when used by a public safety officer for official purposes.

.040 Equipment used by any duly authorized facility operator, tenant or lessee as an integral part of any event at Anaheim Stadium, Arrowhead Pond, Anaheim Convention Center, or as an integral part of any event or program at any other publicly owned or operated facility.

.050 Equipment and devices used as an integral part of any public or private institutional use lawfully permitted pursuant to Title 18 of this Code, including but not limited to, public and private educational institutions, and places of religious worship. (Ord. 5941 § 1 (part); September 14, 2004.)

6.72.050 PENALTY FOR VIOLATIONS.

The first violation of this chapter by any person occurring within any twelve-month period shall be punishable as an infraction in accordance with applicable provisions of the California Penal Code and the California Government Code. The second and all subsequent violations of this chapter by such person occurring within any twelve-month period shall be punishable as a misdemeanor. (Ord. 5941 § 1 (part); September 14, 2004.)

Chapter 6.73 PROVISION OF POLICE SERVICES AT LOUD PARTIES OR OTHER EVENTS

Sections:

6.73.010 Definitions.

6.73.020 Noise restrictions.

6.73.030 Initial police response to party or similar event from which loud and unreasonable noise originates.

6.73.040 Second or subsequent responses to party or similar event from which loud and unreasonable noise originates—Civil fines.

6.73.050 Notice of violation.

6.73.060 Violation—Civil fines.

6.73.070 Administrative hearing, appeal.

6.73.080 Collection of unpaid fines.

6.73.090 Cumulative remedies.

6.73.010 DEFINITIONS.

As used in this chapter:

.010 The term “loud and unreasonable noise” means any sound or noise, including, but not

limited to, music or speech, which is so loud in volume level and of such duration or character as to willfully disturb the comfort, health, peace, safety, quiet enjoyment or repose of one or more persons of ordinary sensibilities who is (are) not present at the party or similar event which is the source of such sound or noise.

.020 The term “owner” means any person(s), including any firm, association, organization, partnership, trust, business, corporation, company or entity, who owns the premises where the party or similar event occurs and from which the loud and unreasonable noise originates.

.030 The term “party or similar event” means any gathering, event or activity at which one or more persons are present and which occurs on private property.

.040 The term “responsible person” means each and all of the following.

.0401 Any person who is present at and is actually in charge of the premises where the party or similar event occurs and from which the loud and unreasonable noise originates;

.0402 The owner, tenant or other person lawfully occupying the premises where the party or similar event occurs and from which the loud and unreasonable noise originates;

.0403 If the person in charge of the premises from which the loud and unreasonable noise originates is a minor who resides with both parents, then both parents shall be deemed responsible persons;

.0404 If the person in charge of the premises from which the loud and unreasonable noise originates is a minor who resides with one parent or legal guardian, then the parent or legal guardian who resides in, owns, or controls the premises from which the loud and unreasonable noise originates shall be deemed a responsible person.

.050 The term “second or subsequent response” means any and all occasions within a three-month period after the initial response, when one or more police officers are dispatched to the scene of a party or similar event from which loud and unreasonable noise originates at the same location. (Ord. 5337 § 1 (part); October 20, 1992: Ord. 6259 § 1 (part); November 20, 2012.)

6.73.020 NOISE RESTRICTIONS.

It shall be unlawful and constitute a public nuisance for any owner or responsible person to conduct or allow to be conducted any party or similar event from which loud and unreasonable noise originates between the hours of 10:00 p.m. and 7:00 a.m. Continuation of any activity prohibited by this section after written notification by a peace officer as provided in Section 6.73.030 that the activity is disturbing the comfort, health, peace, safety, quiet enjoyment or repose of one or more other persons shall be prima facie evidence of willful intent within the meaning of Section 6.73.010.010.(Ord. 5337 § 1 (part); October 20, 1992: Ord. 6259 § 1 (part); November 20, 2012.)

6.73.030 INITIAL POLICE RESPONSE TO PARTY OR SIMILAR EVENT FROM WHICH LOUD AND UNREASONABLE NOISE ORIGINATES.

.010 When any police officer responds to a complaint of any party or similar event from which loud and unreasonable noise originates, and that police officer determines that the party or similar event violates Section 6.73.020 of this chapter, or that the party or similar event endangers the public peace, health, safety or general welfare, that police officer shall issue a written notice to the responsible person or persons to immediately discontinue the loud and unreasonable noise, or other

activity which violates Section 6.73.020, and further give notice that a second or subsequent response to that same location or address within a three-month period may cause the responsible person or persons to be subject to liability for civil fines as set forth in Section 6.73.070. The written notice shall include the following information:

.0101 The name(s) of the responsible person or persons;

.0102 The location or address of the premises where the party or similar event occurred from which loud and unreasonable noise originated;

.0103 The date and time of the response by a peace officer to the premises where the party or similar event occurred from which loud and unreasonable noise originated;

.0104 That the police officer or officers responded to the premises as the result of a public nuisance complaint caused by a party or similar event from which loud and unreasonable noise originated;

.0105 That the activity is disturbing the comfort, health, peace, safety, quiet enjoyment or repose of one or more other persons who is (are) not present at the party or similar event from which loud and unreasonable noise originated.

.0106 That any second or subsequent responses by officers, as the result of a complaint, to a party or similar event at the same premises within a three-month period from which loud and unreasonable noise originates after a written notice is issued pursuant to Section 6.73.030 may cause the responsible person or persons to be subject to civil fines as set forth in Section 6.73.070. (Ord. 5337 § 1 (part); October 20, 1992: Ord. 6259 § 1 (part); November 20, 2012.)

6.73.040 SECOND OF SUBSEQUENT RESPONSES TO PARTY OR SIMILAR EVENT FROM WHICH LOUD AND UNREASONABLE NOISE ORIGINATES—CIVIL FINES.

If, after a written notice is issued pursuant to Section 6.73.030, a second or subsequent response is necessary to the same location or address within a three-month period, all responsible persons may be jointly and severally liable for civil fines as set forth in Section 6.73.070. (Ord. 5337 § 1 (part); October 20, 1992: Ord. 6259 § 1 (part); November 20, 2012.)

6.73.050 NOTICE OF VIOLATION.

.010 The City shall give a notice of a violation of Section 6.73.020 by issuing a citation or notice of violation to the responsible person or persons within a reasonable time following the violation, but not exceeding thirty (30) days. The citation or notice of violation shall be served either by personal service or first class mail on the responsible person or persons. When served by mail, the citation or notice shall be deposited in the mail for delivery by the United States Postal Service, in a sealed envelope, postage prepaid, addressed to such responsible person or persons at their last known address as the same appears in the public records of the City.

.020 Service by personal service shall be deemed to have been completed when served on the responsible person or persons. Service by mail shall be deemed to have been completed at the time of deposit by the City in the mail for delivery by the United States Postal Service.

.030 The citation or notice of violation issued pursuant to this chapter, at a minimum, shall include the following information:

- .0301 The name(s) of the responsible person or persons;
 - .0302 The location or address where the party or similar event occurred from which loud and unreasonable noise originated;
 - .0303 The date and time of the response by a peace officer to the premises where the party or similar event occurred from which loud and unreasonable noise originated;
 - .0304 The Code section(s) violated and a brief description of the violation;
 - .0305 An order prohibiting the continuation or repeated occurrence of the violation;
 - .0306 The amount of the civil fine imposed and an explanation of how and when to pay the civil fine;
 - .0307 Notification of the right to appeal the citation, including the time within which the citation may be contested and the place to submit a written appeal; and
 - .0308 Notification that the City may impose a lien on the subject property, or pursue other lawful means to collect the civil fine, in the event of nonpayment of any civil fines.
- (Ord. 6259 § 1 (part); November 20, 2012.)

6.73.060 VIOLATION—CIVIL FINES.

- .010 The following civil fines shall be assessed for violations of Section 6.73.020 following the issuance of written notice pursuant to section 6.73.030:
 - .0101 A civil fine not exceeding one hundred dollars (\$100.00) for a first violation;
 - .0102 A civil fine not exceeding two hundred fifty dollars (\$250.00) for a second violation within a three-month period from the date of the first violation;
 - .0103 A civil fine not exceeding five hundred dollars (\$500.00) for a third violation within a three-month period from the date of the first violation;
 - .0104 A civil fine not exceeding seven hundred fifty dollars (\$750.00) for a fourth violation within a three-month period from the date of the first violation; and
 - .0105 A civil fine not exceeding one thousand dollars (\$1,000.00) for a fifth and any subsequent violations within a three-month period from the date of the first violation;
- .020 All civil fines imposed under this chapter shall be due and payable to the City of Anaheim within the earlier of thirty (30) days from the issuance of the citation or service of the notice of violation, whichever is earlier. (Ord. 6259 § 1 (part); November 20, 2012.)

6.73.070 ADMINISTRATIVE HEARING, APPEAL.

- .010 Any responsible person who, pursuant to this chapter, is subject to a civil fine shall have the right to file a request for an administrative hearing to appeal the imposition of the civil fine. Any such request shall be made in writing and shall be filed in the office of the Chief of Police within ten (10) calendar days from the date of service of the citation or notice of violation, whichever is earlier. The written request for an administrative hearing shall be accompanied by an advance deposit of the civil fine. If no such written request is received within the ten-day period, any applicable civil fine

shall be due and payable as provided in Subsection 6.73.070.020 of this chapter.

.020 If a written request for hearing is received within the ten-day period, the Chief of Police or his or her designee (who shall not have been involved in the underlying incident) shall conduct a hearing within twenty (20) calendar days after receipt of the written request, at a date set by the Chief of Police. Written notice of the hearing shall be mailed to the responsible person who requested the administrative hearing at least ten calendar days in advance of the hearing. The decision of the Chief of Police or his or her designee shall be final, and the civil penalties imposed, if any, shall become immediately due and payable upon the mailing of the notice of the decision.

.030 Any civil fine which has been deposited shall be refunded if it is determined, after an administrative hearing, that the responsible person who requested the administrative hearing was not responsible for the violation(s) or there was no violation(s) as charged in the citation or notice of violation.

.040 Any responsible person aggrieved by a decision of the Chief of Police or his or her designee following an administrative hearing may obtain review of the decision by filing a petition for review with the Orange County Superior Court, Central Justice Center in accordance with the timelines and provisions as set forth in California Government Code Section 53069.4. (Ord. 6259 § 1 (part); November 20, 2012.)

6.73.080 COLLECTION OF UNPAID FINES.

.010 The amount of any civil fine imposed pursuant to this chapter shall be deemed a debt owed to the City.

.020 At its discretion, the City may pursue any and all legal and equitable remedies to collect unpaid fines imposed pursuant to this chapter. Pursuit of one remedy does not preclude the pursuit of any other remedy. It is intended that persons causing, maintaining, and/or permitting the violation, and not the taxpayers, bear the financial burden of the City's enforcement efforts. Remedies available to the City to collect unpaid fines and costs include the following, without limitation:

.0201 Referring the delinquent account to a collection agency; and/or

.0202 Authorizing a lien to be recorded on the property for any civil fines imposed against the owner.

.030 The City shall be entitled to recover all costs related to enforcing any violation(s) of this chapter that are recoverable under applicable local, State or Federal law. (Ord. 6259 § 1 (part); November 20, 2012.)

6.73.090 CUMULATIVE REMEDIES.

The remedies provided under this chapter are cumulative, and shall not restrict the City's ability to pursue any other remedy to which it is entitled under law or equity. Nothing in this chapter shall be deemed to preclude the imposition of any criminal penalty, nor shall anything in this chapter be deemed to conflict with any penalty or provision under State law, or prohibit any conduct authorized by the State or Federal constitutions.

(Ord. 6259 § 1 (part); November 20, 2012.)

Chapter 8.10

BARKING DOG VIOLATIONS AND CIVIL FINES

Sections:

- 8.10.010 Applicability of chapter.**
- 8.10.020 Definitions.**
- 8.10.030 Barking dog citation general.**
- 8.10.040 Barking dog citation contents.**
- 8.10.050 Service of barking dog citation.**
- 8.10.060 Amount of barking dog civil fines.**
- 8.10.070 Payment of barking dog civil fines.**
- 8.10.080 Administrative hearing.**
- 8.10.090 Hearing procedures.**
- 8.10.100 Administrative hearing decision.**
- 8.10.110 Right to judicial review.**
- 8.10.120 Collection of unpaid fines.**

8.10.010 APPLICABILITY OF CHAPTER.

.010 Notwithstanding any other provision of this Code to the contrary, this chapter makes any violation for keeping, maintaining, or permitting a barking dog as defined in Section 8.10.020 of this chapter subject to the civil fines set forth in this chapter and establishes the administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines for barking dog violations pursuant to Government Code Section 53069.4 and the City's powers as a charter city.

.020 The issuance of any civil citation under this chapter is solely at the City's discretion and is one option the City has to address barking dog violations. By adopting this chapter, the City does not intend to limit its discretion to utilize any other remedy, civil or criminal, including those public nuisance remedies otherwise provided by law.

.030 The purpose of issuing civil citations pursuant to this chapter is to encourage voluntary and complete compliance with the provisions of this Code and to eliminate nuisances for the protection and benefit of the entire community.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.020 DEFINITIONS.

The following definitions apply to the use of these terms for the purposes of this chapter:

.010 "Animal Care Services" means the department within Orange County Health Care Agency

authorized to perform the functions described in this chapter and any other ordinance or law that delegates such authority to the Animal Care Services Department or its director; or, in the event the provisions of this chapter are administered and enforced by employees of the City of Anaheim, such term shall mean the Community Preservation Division of the Planning Department of the City of Anaheim.

.020 “Barking dog” means a dog that barks, bays, cries, howls or makes any noise for an extended period of time to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property. Such extended period of time shall consist of incessant barking for 30 minutes or more in any 24-hour period, or intermittent barking for 60 minutes or more during any 24-hour period. A dog shall not be deemed a “barking dog” for purposes of this chapter if, at any time the dog is barking, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or when the dog is being teased or provoked.

.030 “City” means the City of Anaheim.

.040 “Civil citation” means a notice issued pursuant to this chapter that there has been a violation of this chapter.

.050 “County” means the County of Orange.

.060 “Day or days” as used in this chapter shall mean calendar day or calendar days, respectively, unless otherwise expressly provided. This time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

.070 “Director” means the Director of Animal Care Services, or his or her designee; or, in the event the provisions of this chapter are administered and enforced by employees of the City of Anaheim, such term shall mean the Community Preservation Manager of the City of Anaheim.

.080 “Enforcement Officer” means any Animal Care Services employee or agent designated in writing by the Director, or any Community Preservation Officer of the City of Anaheim.

.090 “Hearing Officer” means a person appointed by the County Executive Officer or designee to serve as a Hearing Officer for administrative hearings and assigned to hear matters pursuant to this chapter, or any person appointed by the City Manager of the City to hold such hearings.

.100 “Issued” means giving a civil citation to a violator. Issuance occurs on the date when a barking dog civil citation is personally served on the violator, or the date is mailed to the property where the barking dog is located or where the barking dog violation occurred, or the date the citation is posted in a conspicuous place either on the property where the barking dog is located or where the barking dog violation occurred. When service is made by posting, the barking dog citation shall also be mailed within 24 hours of posting to any address known for the violator.

.110 “Notice of Decision” means a form used by a Hearing Officer to inform a violator and/or complainant of an administrative hearing decision regarding provisions of this chapter.

.120 “Owner” means any person who possesses, has title to or an interest in, harbors or has control, custody or possession of a barking dog, and the verb forms of “to own” shall include all those shades of meaning.

.130 “Responsible Person.” A responsible person may also be referred to as a “violator” herein. A responsible person is any of the following:

.01 A person who allows a barking dog violation to exist, whether through willful action, failure to act, or failure to exercise proper control over a barking dog.

.02 A person whose agent, employee, or independent contractor allows a barking dog violation to exist, whether through willful action, failure to act, or failure to exercise proper control over a barking dog.

.03 A person who is the owner of, and a person who is a lessee or sublessee with the current right of possession of, real property in or upon which a barking dog violation occurs.

.04 For purposes of the chapter, "person" includes a natural person or legal entity, and the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.

.05 For the purposes of this chapter, there may be more than one responsible person for a barking dog violation, and a minor at least 14 years of age may be a responsible person subject to the provisions of this chapter.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.030 BARKING DOG CITATION GENERAL.

.010 Any Enforcement Officer has the authority to issue a civil citation to any responsible person for a barking dog violation that the Enforcement Officer did not see or hear occur based on a complaint, signed under penalty of perjury, lodged by a member of the community who has been disturbed by the barking dog. A responsible person to whom a civil citation is issued shall be liable for and shall pay to the City the fine or fines described in the barking dog citation when due. Where the responsible person is a minor under the age of eighteen (18) years, the minor's parents or legal guardian shall be liable for and held responsible for payment of their minor child's citation fines and/or late penalties. In any case, the responsible person (by his or her parents when the responsible person is under the age of eighteen) shall have the right to appeal the issuance of the citation pursuant to the provisions of this chapter.

.020 Prior to issuing a civil citation for a barking dog, the responsible person shall be given a 10-day period within which to correct the problem.

.030 Each day a barking dog violation exists beyond the initial 10-day period allowed for correction shall be a separate violation and be subject to a separate citation and fine. A barking dog civil citation may include a violation for one (1) or more days on which a violation exists, and for violation of one (1) or more Code sections.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.040 BARKING DOG CITATION CONTENTS.

Each barking dog citation issued pursuant to this chapter shall contain the following information:

.010 Date on which a complaint or personal inspection established the barking dog violation(s).

.020 Name of the responsible person for the barking dog violation(s) (if known).

.030 Address where the barking dog violation(s) occurred.

.040 The Code section(s) violated.

- .050 Whether the violation(s) were established by inspection or by complainant.
- .060 Amount of the fine for the violation(s) and procedure to pay the fine to avoid a late payment penalty.
- .070 Designation of prior civil citation issued for the same Code violation(s), if known by the Enforcement Officer.
- .080 Notification of an assigned administrative hearing date, time and location where the civil fine may be contested.
- .090 Description of the procedure for requesting a continuance of the assigned administrative hearing.
- .100 A notice that a barking dog violation is a nuisance and that collection of unpaid fines and/or penalties can result in additional fines, penalties and/or imprisonment in the County jail.
- .110 Signature of the Enforcement Officer who issued the barking dog citation and/or civil fine.
- .120 Date upon which the barking dog citation and/or civil fine was issued.
- .130 Proof of service to be completed by the Enforcement Officer indicating whether the citation was issued by personal service, by mail, or by posting in a conspicuous place on the property where the barking dog violation occurred.
- .140 A self-addressed envelope in which the violator can mail the civil fine if the citation is not contested.
- .150 Any other information deemed necessary by the Enforcement Officer for enforcement or collection purposes.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.050 SERVICE OF BARKING DOG CITATION.

A barking dog citation may be served by any of the following methods:

- .010 An Enforcement Officer may personally serve the barking dog citation on the responsible person. The responsible person shall be requested to sign a copy of the citation showing his or her receipt of the citation and notice of the responsible person's right to an administrative hearing. Signing the citation shall not constitute an admission of guilt. If the responsible person fails, refuses or is otherwise unable to sign the citation, that fact shall be noted on the citation at the time of personal service and such failure to sign shall not affect the validity of the personal service.
- .020 An Enforcement Officer may mail the civil citation by certified mail, return receipt requested, if the property owner and/or occupier's name is known but the violator is not present when personal service is attempted. The citation shall be mailed to the address where the barking dog violation occurred.
- .030 An Enforcement Officer may post a copy of the barking dog citation in a conspicuous place on the property where the barking dog violation occurred if the property owner and/or occupier's name is unknown. In this event, the citation shall also be mailed addressed to the owner of the property where the barking dog violation occurred as reflected on the County's property tax rolls. A copy of the citation shall also be mailed within 24 hours of posting the citation addressed to "Resident" at the address where the barking dog violation occurred.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.060 AMOUNT OF BARKING DOG CIVIL FINES.

.010 Fines for violating the provisions of this chapter shall be as follows:

Fine for First Barking Dog Violation Citation Issued (Per Citation):	\$250.00
Fine for Second Barking Dog Citation Issued within Same 12-month Period (Per Citation):	\$275.00
Fine for Third Barking Dog Citation Issued within Same 12-month Period (Per Citation):	\$303.00
Fine for Fourth Barking Dog Citation Issued within Same 12-month Period (Per Citation):	\$333.00
Fine for Fifth Barking Dog Citation Issued within Same 12-month Period (Per Citation):	\$366.00
Fine for Sixth and Subsequent Barking Dog Citations Issued within Same 12- month Period (Per Citation):	\$403.00

.020 The amount due and owing for any fine, or portion thereof, not paid within fifteen (15) days of the due date thereof shall be double the unpaid fine amount.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.070 PAYMENT OF BARKING DOG CIVIL FINES.

.010 After receiving a barking dog violation citation, a violator shall respond by either of the following methods:

.01 The violator may choose to correct the barking dog violation and pay the barking dog citation fine without contesting the fine in an administrative hearing. In that event, payment of the citation fine must be received by the Director prior to the date assigned for administrative hearing as noted in the citation. Payment shall be made by enclosing the fine amount by check or money order in the self-addressed envelope attached to the civil citation and mailing the envelope to the Director by U.S. first class mail, postage prepaid. The Director may authorize payment to be made in accordance with any other method, at any location within the County, or to any address; or

.02 A violator may choose to appear at an administrative hearing on the assigned administrative hearing date contained in the citation. In that event, the fine is due and payable to the Hearing Officer at the conclusion of the hearing if the Hearing Officer upholds the barking dog citation. The Hearing Officer may allow the violator an additional period of time within which to pay the fine if, in the Hearing Officer's sole discretion, such additional time for payment is necessary.

.020 To avoid a late penalty, fines for barking dog violations must be received by the Director within fifteen (15) days of the date they are due as specified in paragraph .01 or .02 of subsection .010 above.

.030 Payment of a fine shall not excuse the violator from correcting the barking dog violation.

The issuance of a barking dog citation and/or payment of a fine shall not bar the County from taking any other enforcement action regarding a barking dog violation that is not corrected, including issuing additional barking dog citations and/or criminal complaints.

.040 In the event that a fine imposed under the authority granted by this chapter, or any portion thereof, remains unpaid for fifteen (15) days after it is due and payable pursuant to paragraph .01 or .02 of subsection .010 above, an amount equal to the unpaid amount shall be added as a late penalty and the late penalty and fine shall become due immediately. If a Hearing Officer upholds the issuance of a citation in an administrative hearing, the late penalty will be assessed if the fine is not paid as required at the conclusion of the hearing, or other time for payment determined by the Hearing Officer. (Ord. 6102 § 1 (part); April 22, 2008.)

8.10.080 ADMINISTRATIVE HEARING.

.010 Any person who receives a barking dog citation may contest it by appearing at the assigned administrative hearing date, time and location noted on the barking dog citation. A violator may contest the barking dog citation by denying that a violation occurred, by denying that it was not corrected within the original 10 day correction period, if applicable, or by denying that the violator is a responsible person for the violation.

.020 If the citation fine is not paid prior to the assigned date and time of the administrative hearing noted on the barking dog citation, the violator must personally attend the administrative hearing on the date, time and place specified. A failure to personally appear at the administrative hearing shall constitute an abandonment of any defense the violator may have to the barking dog citation. (Ord. 6102 § 1 (part); April 22, 2008.)

8.10.090 HEARING PROCEDURES.

.010 Hearings shall be conducted by a Hearing Officer either: (i) on the date and at the time and place specified in the barking dog citation, or (ii) on the date assigned when a continuance pursuant to subsection .060 below has been granted. The violator and complainant shall be notified of the assigned hearing date, time and location by the Director or his or her designee.

.020 The Director or his or her designee will provide all pertinent documents and records in the possession of Animal Care Services related to the barking dog citation are delivered to the Hearing Officer.

.030 The violator and complainant shall be given the opportunity to testify and to present evidence relevant to the barking dog citation. A parent or legal guardian of a violator, who is a juvenile, under eighteen (18) years of age, must accompany the juvenile to the hearing or the administrative hearing will be deemed abandoned by the violator. Such abandonment shall also constitute a failure to exhaust administrative remedies concerning the violation set forth in the barking dog citation.

.040 The citation itself and accompanying complainant's affidavit signed under penalty of perjury attesting to the barking dog violation provided to the Hearing Officer shall be accepted by the Hearing Officer as prima facie evidence of the violation and the facts stated in such documents.

.050 Neither the Enforcement Officer nor any other representative of the County or City shall be required to attend the hearing. However, any such appearance and/or additional submission may be made at the discretion of the Enforcement Officer or any other Animal Care Services employee.

.060 The Director may continue a hearing once if a request for continuance is made showing good cause by a violator, a complainant, or a representative of the County or City. A Hearing Officer may also continue a hearing upon his or her own motion. All continuance requests shall either: (i) be made in person at the hearing, or (ii) be made by a written request received by the Director via e-mail, facsimile or letter at least seven calendar days prior to the hearing date. If a continuance is granted, the parties will be notified, and a new hearing date shall be scheduled that is within fourteen (14) days of the date on which the continued hearing was first scheduled to take place. If the request for continuance is denied, the parties will be notified, and the hearing shall proceed as originally scheduled. If the violator or complainant is not present on an assigned hearing date and no continuance of the hearing has been granted, the hearing shall be deemed abandoned or dismissed in accordance with subsection .090 below.

.070 The hearing shall be conducted informally and the legal rules of evidence need not be followed.

.080 The Hearing Officer does not have the authority to issue a subpoena or subpoena duces tecum.

.090 The failure of the violator to appear at the hearing, unless the hearing was continued per subsection .060 above, shall constitute an abandonment of the administrative hearing, and a failure to exhaust administrative remedies concerning the violation set forth in the barking dog citation. The violator's failure to appear shall be noted on the notice of decision completed by the Hearing Officer and mailed to the violator and complainant. The failure of the complainant to appear at the hearing, unless the hearing was continued per subsection .060 above, shall constitute an abandonment of the complaint and shall be grounds for a dismissal of the barking dog citation. The complainant's failure to appear shall be noted on the notice of decision completed by the Hearing Officer and mailed to the violator and complainant.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.100 ADMINISTRATIVE HEARING DECISION.

.010 After considering all the evidence and testimony submitted at an administrative hearing, the Hearing Officer shall issue a written decision to the violator and complainant to uphold or to dismiss the barking dog citation based upon a conclusion of whether or not a violation occurred for which the violator was a responsible person. The Hearing Officer's decision is final. The Hearing Officer has no discretion or authority to reduce the amount of a fine.

.020 If the Hearing Officer's decision is to uphold the barking dog citation, the civil fine imposed for the violation shall be due at the conclusion of the administrative hearing, or at some other time as directed by the Hearing Officer. If the decision is to dismiss the barking dog citation, the civil fine shall no longer be due and payable.

.030 The Hearing Officer's continued employment, performance evaluation, compensation, and benefits shall not directly or indirectly be linked to the amount of citations upheld or dismissed, or the amount of fines upheld, by the Hearing Officer.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.110 RIGHT TO JUDICIAL REVIEW.

.010 A responsible person may seek judicial review of the administrative hearing decision by

filing an appeal with the Superior Court within twenty (20) calendar days after the responsible person receives a copy of the notice of decision at the conclusion of the hearing in accordance with the provisions of California Government Code Section 53069.4. The appeal filed with the court must also contain a proof of service showing that a copy of the appeal was served upon "City Clerk of the City of Anaheim, 200 South Anaheim Boulevard, Anaheim, California 92805." The responsible person must pay the appropriate Superior Court filing fee when the appeal is filed.

.020 No judicial appeal is permitted where a violator has failed to appear at an assigned administrative hearing, or is deemed to have abandoned the contest of the barking dog citation by an unexcused nonappearance at the hearing, or where a citation has been dismissed by a Hearing Officer because a complainant has failed to appear at an assigned administrative hearing.

(Ord. 6102 § 1 (part); April 22, 2008.)

8.10.120 COLLECTION OF UNPAID FINES.

.010 The City at its discretion may pursue and all legal and equitable remedies for the collection of unpaid fines and late penalties. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total fines and late penalties owed by a violator under this chapter have been collected.

.020 Failure to timely remit payment of a citation fine and/or late penalty authorized under subsection .040 of Section 8.10.070 above will result in criminal liability and a warrant may be issued for a violator's arrest. Nonpayment of such fine and/or late penalty shall be a misdemeanor pursuant to Section 1.01.370 of this Code, punishable by a fine of not more than one thousand dollar (\$1,000) or by imprisonment in the County jail for a period of not more than six (6) months or by both such fine and imprisonment.

(Ord. 6102 § 1 (part); April 22, 2008.)