

## Chapter 9.44 Public Nuisance Noise

- A. Title and general finding: This chapter shall be known as, and may be cited and referred to as, the Public Nuisance Noise Ordinance. The County finds that the enforcement of this ordinance is an important public service, critical to the protection of the public health, the improvement of the quality of life in the community, and the enhancement of public safety and general welfare of the citizens of the County of Amador.
- B. Unlawful noise: It shall be unlawful for any person to make, continue, or cause to be made or continued, within the limits of the unincorporated County, any disturbing, excessive, or offensive noise which causes discomfort or annoyance to any reasonable person of normal sensitivity.
- C. Factors for consideration: The characteristics and conditions which should be considered in determining whether a violation of the provisions of this section exists should include, but not be limited to, the following:
- (1) The level of the noise;
  - (2) The context and whether the nature of the noise is usual or unusual (for example: music, fireworks, and cheering may be appropriate during a Fourth of July party);
  - (3) The level of the ambient noise;
  - (4) The proximity of the noise to residential structures or other sleeping facilities;
  - (5) Whether the noise is unusual given the zoning and allowed uses (for example: see section 19.80.030 regarding agricultural uses);
  - (6) The time at which the noise occurs;
  - (7) The duration of the noise; and
  - (8) Whether the noise is recurrent, intermittent, or constant.
- D. Owner liable: In addition to the perpetrator, the property owner shall also be responsible for any violations under this chapter. The owner is liable regardless of their relationship with the perpetrator.
- E. Prima facie violations: Any disturbing noise occurring between the hours of 10:00 p.m. and 8:00 a.m. that is plainly audible from a neighboring property shall constitute evidence of a prima facie violation of this chapter. Examples of which include, but are not limited to, yelling, shouting, hooting, whistling, singing, playing a musical instrument, emitting or transmitting any loud music or noise from an amplifying device, and the habitual barking or howling of animals.
- F. Enforcement Discretion: Nothing in this chapter shall be construed as requiring the Sheriff or Code Enforcement Officer to enforce this chapter, or as requiring the District Attorney to prosecute violations. These officials and personnel maintain the discretion to enforce and prosecute. Nothing in this chapter is intended to impose a mandatory duty on any County employee.
- G. Criminal Enforcement:
1. Finding and intent: It is the intent of the County in enacting this "Criminal Enforcement" provision to give the Sheriff the ability to address the direct source of any noise nuisances at or near the time of the nuisance. The intent is for the Sheriff to issue a citation to the violator regardless of whether that person is the owner of the property.

2. Citation: In performing his or her duties under this chapter, the Sheriff and his or her designated representative shall have the authority and discretion to issue misdemeanor citations for violations under this chapter and to take appropriate action to abate the nuisance including making an arrest if necessary.

H. Administrative Enforcement:

1. Finding and Intent: It is the intent of the County in enacting this “Administrative Enforcement” provision to give the Code Enforcement Officer the ability to address absentee property owners who allow their property to be rented to noisy short-term renters (*i.e.*, those who rent for less than 30 days). Short-term renters have less incentive to maintain the peace and quiet of the neighborhood than do owners and long-term renters. The absentee property owner shall be responsible for any noise nuisance occurring on his or her property regardless of whether that owner is on site at the time of the violation and regardless of whether that owner is aware of the violation. Any noise nuisance for which an absentee owner is hereby responsible shall constitute a separate and distinct violation of this chapter.
2. Nonexclusive remedy: The Code Enforcement Officer shall have the discretion and authority to administer citations and fines, as set forth below, in addition to any enforcement procedures established in Chapter 2.06 (Code Enforcement).
3. Separate violations: Each and every day that a violation of this chapter exists constitutes a separate and distinct offense. A violation is subject to a citation as follows:
  - a. First administrative citation within a 12-month period: warning.
  - b. Second administrative citation within a 12-month period: \$200 fine.
  - c. Third administrative citation within a 12-month period: \$500 fine.
  - d. Any successive administrative citation within a 12-month period: \$1000 fine.
4. Sufficient evidence required: The Code Enforcement Officer shall not issue a citation or fine unless there is sufficient evidence of a violation. Sufficient evidence includes credible witness statements, video or audio recordings, or other evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. A Sheriff-issued citation or report shall qualify as sufficient evidence.
5. Contents of administrative citation: Administrative citations shall be issued to the owner of the property on which the violation occurred, and shall contain the following information:
  - a. General contents: The heading: “Administrative Citation pursuant to Amador County Public Nuisance Noise Ordinance, Chapter 9.44”; the name and address of the property owner; the name of persons causing the violation if known; a description of the violation; the time and date of the disturbance; the amount of the administrative fine imposed for the violation, or if no fine, then “warning”; a copy of any Sheriff citation or report; a statement that enforcement under this chapter does not preclude the County or other agencies from pursuing other remedies; direction that any fine shall be payable to the County of Amador and delivered to the Planning Department within the County Administration Building.

- b. Notice of right to request hearing: The citation shall also contain a statement that the property owner may request a hearing of the Board of Supervisors regarding the imposition of the fine or warning. Any request shall be submitted to the Planning Department within ten calendar days of the date the citation is served. The citation shall also contain a statement that a failure to request a hearing within the ten days will be deemed an admission of the violation and a failure to exhaust administrative remedies in any subsequent action to challenge any decision or action under this chapter.
6. Hearing to challenge fine or warning: Any person may challenge the citation directly to the board of supervisor by paying a fee of seventy-five dollars when filing a request for a hearing with the Board of Supervisors. The request shall note the name of the property owner, the address of the property, the date of the cited violation, and a statement of any material facts supporting the reason for the appeal.
7. Failure to pay a monetary sanction: All fines shall be payable to the County of Amador within 30 days of service of the citation or, if a hearing is requested, within 30 days of the hearing. Any amount owed after the 30 days shall be subject to a late fee of 10 percent of the owed amount and then shall accrue interest at a rate of 7% per year.
8. Liens: To the fullest extent allowed by law, and after notice and a hearing, the Board of Supervisors may declare any owed fines inclusive of penalty and interest a lien on any real property owned by the property owner, and thereby authorize the collection and any action necessary to collect or perfect the lien.
9. Request for hardship waiver: Within the time allowed to request a hearing, and in the same manner, the owner may request a hardship waiver to reduce the amount of the fine or of the hearing cost. The Planning Department Director or the Board of Supervisors may grant the waiver upon a showing by the owner that they have made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden.
10. Continuing violation: In the case of a continuing violation, the County shall provide the violator a reasonable period of time, but not to exceed one week, to correct or otherwise remedy the violation prior to the imposition of administrative fines.