

**CITY OF DANA POINT  
AGENDA REPORT**

Reviewed By:	
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**DATE: APRIL 27, 2005**

**TO: CITY MANAGER/CITY COUNCIL**

**FROM: KYLE BUTTERWICK, DIRECTOR OF COMMUNITY DEVELOPMENT**

**SUBJECT: CIVIL FINES FOR VIOLATIONS OF THE CITY'S NOISE CONTROL ORDINANCE**

**RECOMMENDED ACTION:**

That the City Council specify a civil fine not exceeding one thousand dollars (\$1,000.00) for violations of the City's Noise Control ordinance [DPMC Chapter 11.10].

**ISSUES:**

Should the City Council specify an increase in civil fines for violations of the City's Noise Control ordinance?

**STRATEGIC PLAN IMPLEMENTATION:**

The recommended action is in compliance with the Strategic Plan Initiative to evaluate land use issues to ensure that the goals, policies and programs of the General Plan reflect the community's vision and mission.

**BACKGROUND:**

At the last City Council meeting, the Council asked staff to prepare a resolution to increase the penalty for violating the City's noise ordinance to \$1000 for a first offense and \$2500 for a second offense.

The City's Municipal Code allows the City to handle municipal code violations, including violations of the noise ordinance, through its Administrative Citation Program. (See DPMC Chapter 1.10.) Under the Administrative Citation Program, "[a]ny responsible party violating, causing or maintaining a violation of any provision of [the] Code may be issued an administrative citation by an enforcement officer assessing a civil fine." (DPMC § 1.10.030.) Pursuant to DPMC section 1.10.070:

The amount of the fines for violating particular provisions of this Code shall be set in a schedule of fines adopted by resolution by the City Council.... Where no amount is specified by resolution of the City Council,

the following fines shall apply: (1) A fine not exceeding one hundred dollars (\$100.00) per day for a first violation; (2) A fine not exceeding two hundred dollars (\$200.00) per day for a second violation of the same ordinance or permit within one year from the date of the first violation; (3) A fine not exceeding five hundred dollars (\$500.00) per day for each additional violation of the same ordinance or permit within one year from the date of the first violation.

The City Council has not adopted a specific fine for violating the noise ordinance, so the \$100-\$200-\$500 default fee schedule currently applies when a noise ordinance violation is handled through the administrative citation process.

**DISCUSSION:**

Pursuant to state law, a fine for violating a city ordinance may not exceed \$1000. Therefore, the City cannot fine repeat offenders more than \$1000 for a second violation of the noise ordinance. However, the City may make all violations of the noise ordinance subject to a \$1000 fine.

Pursuant to Cal Govt. Code 36901, “[t]he city legislative body may impose fines, penalties, and forfeitures for violations of ordinances. It may fix the penalty by fine or imprisonment, or both. A fine shall not exceed one thousand dollars (\$ 1,000). Imprisonment shall not exceed six months.” Therefore, the City cannot establish a fine of more than \$1000 for violating the noise control ordinance.

However, the City can establish \$1000 as the fine for all (or certain) violations of the noise control ordinance. Doing so would allow the City to penalize violators \$1000 per violation and still handle such violations through the administrative citation process. (See DPMC § 1.10.070(a); Govt. Code § 53069.4.) Thus, if the City Council wishes to discourage violation of the noise control ordinance to the maximum extent possible, it should pass a resolution establishing a \$1000 fine for violations of such ordinance.

**FISCAL IMPACT:**

The proposed action would result in an increase in fines in cases of a violation of the City’s Noise Control ordinance.

**ALTERNATIVE ACTIONS:**

- 1. Other action as directed by the City Council.

**ACTION DOCUMENTS:**

**Page No.**

- A. [Draft Resolution](#) ..... 3

**SUPPORTING DOCUMENTS:**

None.

**ACTION DOCUMENT A**

**RESOLUTION NO. 05-04-27-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, SPECIFYING CIVIL FINES FOR VIOLATIONS OF THE CITY'S NOISE CONTROL ORDINANCE**

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, Government Code Section 53069.4 authorizes the City Council to penalize violators of the Municipal Code through the administrative citation process; and

WHEREAS, Section 1.10.070(a) of the Dana Point Municipal Code authorizes the City Council to set by Resolution a schedule of fines for violating particular provisions of the Municipal Code; and

WHEREAS, the City Council hereby finds that it is necessary to specify fines for violations of the noise control ordinance of the Municipal Code in order to encourage voluntary and complete compliance with the Municipal Code and to protect the public health, safety, convenience and welfare of the citizens of Dana Point.

THE CITY COUNCIL OF THE CITY OF DANA POINT DOES RESOLVE AS FOLLOWS:

Section 1. A civil fine for violation of the City's Noise Control ordinance, DPMC Section 11.10, shall be an amount of, not to exceed, one thousand dollars (\$1,000.00).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Dana Point, California, held on this 27<sup>th</sup> day of April, 2005.

\_\_\_\_\_  
Wayne Rayfield, Mayor

ATTEST:

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Sharie Apodaca, Interim City Clerk

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )  
CITY OF DANA POINT )

I, Sharie Apodaca, Interim City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 05-04-27-\_\_\_ adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 27<sup>th</sup> day of April, 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Sharie Apodaca, Interim City Clerk