

1 ALESHIRE & WYNDER, LLP
2 PAUL J EARLY
3 3880 Lemon Street, Suite 520
4 Riverside, California 92501
5 Telephone: (951) 241-7338
6 Facsimile: (949) 223-1180
7 Administrative Hearing Officer

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE ADMINISTRATIVE HEARING OFFICER

FOR

THE CITY OF NEWPORT BEACH

IN RE

Appeal of Administrative Citation
ADM24419D
[REDACTED]

**FINDINGS OF FACT AND STATEMENT
OF DECISION OF THE
ADMINISTRATIVE HEARING OFFICER**

Hearing Officer: Paul Early
Date: March 5, 2026
Time: 5:00 p.m.

INTRODUCTION

1. This matter involves an appeal of the above-captioned Administrative Citation issued by the City of Newport Beach for a violation of Newport Beach Municipal Code ("NBMC") Section 10.28.007. Paul Early ("Hearing Officer"), sitting as the Hearing Officer under NBMC Section 1.05.070, heard this matter on the above-captioned date and time (the "Hearing"). The Hearing Officer is a licensed attorney in the State of California and serves as Hearing Officer under contract with the City of Newport Beach ("City"). Pursuant to NBMC Section 1.05.070, the Hearing Officer shall hear and decide whether the citations issued by the City were validly imposed.

2. City is a charter city and municipal corporation existing under the laws of the State of California.

3. The City was represented at the Hearing by Officer Loska ("City Representative").

4. [REDACTED] ("Applicant") appeared in support of the appeal.

5. The following Findings of Fact, Conclusions of Law, and Decision and Order are based on the evidence presented during the Hearing.

1 6. The Hearing Officer considered the testimony of all witnesses at the Hearing and all
2 documents made part of the administrative record. The mere fact that a witness's testimony or
3 document may not be specifically referred to below does not and shall not be construed to mean that
4 said testimony or document was not considered.

5 7. Pursuant to the Administrative Hearing Rules and Procedures of the City of Newport Beach,
6 the Hearing was digitally recorded.

7 8. The documents presented to the Hearing Officer during the hearing are attached hereto as
8 Exhibit A and form the administrative record of the hearing.

9 **ISSUES**

10 9. Applicant appeals the issuance of Administrative Citations for an excessively loud vehicle.

11 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12 10. This matter is before the Hearing Officer consistent with Section 1.05.070 of the NBMC.

13 11. NBMC Section 10.28.007 provides in pertinent part:

14 "It is unlawful for any person or property owner to make, continue, cause or allow to be
15 made any loud, unreasonable, unusual, penetrating or boisterous noise, disturbance or commotion
16 which annoys, disturbs, injures or endangers the comfort, repose, health, peace and quiet within the
17 limits of the City, and the acts and things listed in this chapter, among others, are declared to be
18 loud, disturbing, injurious and unreasonable noises in violation of this Chapter, but shall not be
19 deemed to be exclusive."

20 12. On December 6, 2025, the above-captioned Citation was issued against the Applicant for an
21 excessively loud vehicle.

22 13. The City Representative testified that on December 6, 2025 while on foot he heard a loud
23 vehicle start up and observed the Applicant [REDACTED] entering the vehicle. I noted the license
24 plate and mailed the citation without making contact with the Applicant.

25 14. Applicant claims he drives a stock [REDACTED] and that he has no aftermarket exhaust
26 system. he claims the sound of the car is normal for the car and provided evidence from the [REDACTED]
27 dealership that the car was stock and not making any unusual noises. He further argued that state
28

1 regulations on vehicle equipment pre-empt any local regulations and that the subjective nature of
2 the citation is also prohibited.

3 15. Credibility determinations were made in favor of the Applicant and City. Both appeared to
4 be honest and believable, and all of the evidence provided by each was accepted as true.

5 16. This hearing officer agrees with the Applicant. If the vehicle was stock and unmodified, the
6 officers subjective interpretation that the engine or exhaust noise was too loud is not viable to sustain
7 the citation.

8 **DECISION AND ORDER**

9 17. There is insufficient evidence to support that Applicant violated the City's municipal code.

10 18. The Hearing Officer hereby **UPHOLDS** the Applicant's appeal and **OVERTURNS** the
11 above-captioned Administrative Citation.

12 20. Any person aggrieved by an administrative decision of a Hearing Officer may obtain review
13 of the administrative decision by filing a petition for review with the Orange County Superior Court
14 in accordance with the timelines and provisions as set forth in California Government Code Section
15 53069.4. There may be other time limits which also affect the ability to seek judicial review.

16
17 Dated: March 6, 2026



18 Paul Early
19 Administrative Hearing Officer
20
21
22
23
24
25
26
27
28