

# Alameda County Sheriff's Office

Lakeside Plaza, 1401 Lakeside Drive, 12<sup>th</sup> Floor, Oakland, CA 94612-4305



Gregory J. Ahern, Sheriff

Coroner - Public Administrator - Marshal  
Director of Emergency Services

AGENDA ITEM \_\_\_\_\_ July 14, 2009

July 7, 2009

Honorable Board of Supervisors  
County Administration Building  
1221 Oak Street  
Oakland, CA 94612

Dear Board Members:

**SUBJECT: AMENDMENT TO TITLE 10 OF THE ORDINANCE CODE**

**RECOMMENDATION:**

It is respectfully requested that your Honorable Board adopt an ordinance amending Title 10 of the Ordinance Code of the County of Alameda, adding Sections 10.36.010 through 10.36.070.

**SUMMARY:**

The ordinance, amending Title 10 of the Ordinance Code of the County of Alameda for the enforcement and obedience to traffic control devices, defines the terms "Official Traffic Control Device", "Enforcement Officer", and "Administrative Citation". The ordinance establishes the authority for Enforcement Officers to issue Administrative Citations in the unincorporated area of Alameda County.

**DISCUSSION/FINDINGS:**

This amendment is being enacted to provide a method for enforcing violations of traffic control devices which are erected and maintained by Alameda County Public Works in unincorporated Alameda County.

**FINANCING**

No additional financing will be needed to implement this ordinance. The fines received as a result of this ordinance will be deposited into a trust fund as determined by the Auditor Controller's Office.

Honorable Board of Supervisors

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July 7, 2009

Regards,

*JAMES L. BAKER, A/S*

*for*

Gregory J. Ahern  
Sheriff-Coroner

GJA:SEB:sb

cc: Susan Muranishi, County Administrator  
Richard Winnie, County Counsel  
Patrick O'Connell, Auditor-Controller

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 10 OF THE ORDINANCE CODE OF THE  
COUNTY OF ALAMEDA FOR THE ENFORCEMENT AND OBEDIENCE TO  
TRAFFIC CONTROL DEVICES**

The Board of Supervisors of the County of Alameda ordains as follows:

**SECTION I**

The following Sections are added to Chapter 10.36 of Title 10 of the Ordinance Code of the County of Alameda to read as follows:

**10.36.010 Construction of Chapter - - Definitions**

“Official Traffic Control Device” means any sign, signal, marking, or device, consistent with California Vehicle Code section 21400, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic, but does not include islands, curbs, traffic barriers, speed humps, speed bumps, or other roadway design features. It is the intent of the Board of Supervisors that this definition shall be consistent with California Vehicle Code section 440.

“Enforcement Officer” means any County employee or agent of the County with the authority to enforce any provision of this code, including, but not limited to the Sheriff of the County of Alameda or his designee.

“Administrative Citation” means a written document issued by an Enforcement Officer memorializing a violation of this code in the presence of the issuing Enforcement Officer. The Administrative Citation shall serve as notice of the violation and be in addition to all other legal remedies, criminal or civil, which may be pursued by the County to address any violation of this code. Use of the Administrative Citation process shall be at the sole discretion of the County.

**10.36.020 Traffic Control Devices**

The driver of any vehicle shall obey the instruction of any Official Traffic Control Device applicable thereto placed in accordance with the traffic laws of the County unless otherwise directed by a person authorized to direct traffic, subject to the exceptions granted to the driver of an authorized emergency vehicle when responding to emergency calls. This section is applicable only in the unincorporated portions of Alameda County.

### **10.36.030 Schedule of Fines and Fees for the Disobedience of Official Traffic Control Devices**

Fines for violation of Section 10.36.020 shall be as set forth in California Vehicle Code Section 42001.

Fines shall not be in excess of those found in California Vehicle Code Section 42001. However, fees may be imposed by the Board of Supervisors for the cost of enforcement. The Board of Supervisors may pass and from time to time update a "Schedule of Fees for the Disobedience of Official Traffic Control Devices" by resolution.

### **10.36.040 Administrative Citation**

Whenever an Enforcement Officer charged with the enforcement of this chapter determines that a violation of this chapter has occurred, the Enforcement Officer shall have the authority to issue an administrative citation to any responsible party.

The Administrative Citation shall serve as notice of the violation and be in addition to all other legal remedies, criminal or civil, which may be pursued by the County to address any violation of this code. Use of the Administrative Citation process shall be at the sole discretion of the County.

Each Administrative Citation shall contain the following information:

1. Date and location of the violation(s) and the approximate time the violation(s) was(were) observed;
2. Description of how the section(s) was (were) violated;
3. Amount of the fine imposed for the violation(s) and any fees and additional penalties for late payment;
4. Explanation of the applicable time limits, the payment procedure and the consequences of failure to pay the fines and any fees;
5. Rights of appeal; and
6. Signature of the Enforcement Officer and the officer's badge number where applicable.

### **10.36.050 Appeal of Administrative Citation**

1. Persons receiving an Administrative Citation under this chapter may appeal it within 21 calendar days from the date the Administrative Citation was issued. If the deadline falls on a weekend or County holiday, then the deadline shall be extended until the next regular business day.
2. The request to appeal must:
  - a) Be in writing;
  - b) Be accompanied by a deposit of the total fine and any fees noted on the citation;
  - c) Specify the basis for the appeal in detail;
  - d) Be postmarked within 21 days from the date the Administrative Citation was issued; and
  - e) Be sent to the address as set forth on the Administrative Citation.
3. The written request to appeal will be reviewed and, if found to be complete, a date, time and place shall be set for a hearing before a hearing officer appointed by the Sheriff. Written notice of the time and place for the hearing will be served by first class mail or personal service at least 21 days prior to the date of the hearing to the party appealing the citation. Service by first class mail, postage prepaid shall be effective on the date of mailing.
4. The failure of any person to receive notice of the hearing shall not affect the validity of any proceedings under this chapter.
5. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute waiver of that person's rights to administrative determination of the merits of the Administrative Citation and the amount of the fine and any fees.
6. A hearing officer shall be designated by the Sheriff for hearings under this chapter. The person requesting the appeal may request the Sheriff to recuse a hearing officer for reasons of actual prejudice against the party's cause. The hearing officer shall conduct an orderly, fair hearing and accept evidence as follows:
  - A. A valid citation shall be prima facie evidence of the violation;
  - B. All testimony shall be by declaration under penalty of perjury;

- C. The person responsible for the violation, or any other interested person may present testimony or evidence concerning the violation.
7. The hearing officer may reduce, waive or conditionally reduce the fines and any fees stated in the Administrative Citation. The hearing officer may impose deadlines or a schedule for payment of the fine and any fees due in excess of the deposit.
  8. The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings. The decision shall be served by first class mail on all parties. The decision of the hearing officer affirming or dismissing the Administrative Citation is final.
  9. The Sheriff may establish appropriate administrative rules for implementing this chapter, conducting hearings, and rendering decisions pursuant to this section.

#### **10.36.060 Appeal Process**

A person contesting the final decision on an Administrative Citation may seek review by filing an appeal to be heard by the superior court. Such appeal is governed by Government Code Section 53069.4, subdivision (b)(1).

#### **10.36.070 Payment of the Fine**

The fine and any fees shall be paid within 30 days from the date of the Administrative Citation if an appeal is not requested. Additional fees and fines may be assessed for late payments, and the matter may be referred to a collection agency. Payment shall be made as set forth on the Administrative Citation.

If there is an administrative appeal, fines and any fees determined to be due in the written decision of the hearing officer shall be deducted from the deposit made when the appeal is requested. Any amount owed in excess of the deposit shall be due and payable 10 days after receipt of the written decision. Any refund due from the deposit shall be returned by check sent through the U.S. Mail.

**SECTION II**

This ordinance shall take effect and be in force 30 days after the date of passage, and, before the expiration of fifteen days after its passage, it shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on \_\_\_\_\_, 2009, by the following called vote:

AYES:

NOES:

EXCUSED:

\_\_\_\_\_  
ALICE LAI -BITKER,  
President of the Board of Supervisors  
County of Alameda, State of California

ATTEST: CRYSTAL K. HISHIDA-GRAFF, Clerk  
of the Board of Supervisors, County of Alameda

By: \_\_\_\_\_

Approved as to form:  
RICHARD E. WINNIE, County Counsel

By:  \_\_\_\_\_