



Ventura County  
Campaign Finance Reform Ordinance

**RULES AND PROCEDURES  
FOR RESOLUTION OF  
COMPLAINTS**

Adopted, May 3, 2016

## TABLE OF CONTENTS

<b>ADMINISTRATION .....</b>	<b>1</b>
ARTICLE I – IDENTIFICATION.....	1
Section 1.01: Name .....	1
Section 1.02: Contact Information .....	1
ARTICLE II – MISSION STATEMENT .....	1
ARTICLE III – APPOINTED OFFICERS .....	1
Section 3.01: Appointing Authority .....	1
Section 3.02: Duties and Responsibilities of Compliance Officer .....	1
Section 3.02.1: Requests to Compliance Officer for Advice Concerning Compliance With the Ordinance .....	1
Section 3.03: Duties and Responsibilities of Hearing Officer.....	2
ARTICLE IV – STAFF ASSISTANCE .....	2
Section 4.01: Legal Staff.....	2
Section 4.02: Administrative Staff.....	2
ARTICLE V – PUBLIC HEARINGS .....	2
Section 5.01: Hearings Open to the Public .....	2
Section 5.02: Hearing Schedule and Notice Requirements.....	3
<b>HEARING PROCEDURES .....</b>	<b>3</b>
ARTICLE VI – PURPOSES .....	3
ARTICLE VII – DEFINITIONS .....	3
Section 7.01: Complainant.....	3
Section 7.02: Evidentiary Hearing .....	3
Section 7.03: Investigation .....	3
Section 7.04: Respondent.....	3
Section 7.05: Subpoena.....	4
Section 7.06: Subpoena Duces Tecum .....	4
Section 7.07: Other Terms.....	4
ARTICLE VIII – PRE-HEARING PROCEDURES .....	4
Section 8.01: Complaint Filing .....	4
Section 8.02: Initial Complaint Review .....	4
Section 8.03: Initial Review Findings.....	4
Section 8.04: Investigation .....	5
Section 8.05: Insufficient Evidence.....	5
Section 8.06: Sufficient Evidence .....	5
Section 8.07: Subpoenas.....	6
Section 8.08: Witnesses, Documents and Statements .....	7
Section 8.09: Material Witness Depositions .....	7
Section 8.10: Motions to Compel.....	8
Section 8.11: Privileged Documents.....	8
Section 8.12: Communications and Stipulations .....	8
Section 8.13: Witness Lists and Exhibits.....	9
Section 8.14 Scheduling Public Hearings .....	9
ARTICLE IX – COUNSEL .....	9
ARTICLE X – PROCEDURES FOR THE EVIDENTIARY HEARING .....	9
Section 10.01: Public Hearings.....	9
Section 10.02: Basic Record of Proceedings .....	9
Section 10.03: Opening Statements .....	9
Section 10.04: Compliance Officer's Case in Chief.....	10
Section 10.05: Respondent's Case.....	10

Section 10.06: Rebuttal Evidence.....	10
Section 10.07: Closing Arguments .....	10
Section 10.08: Motions for Nonsuit Not Authorized.....	10
Section 10.09: Continuances .....	10
Section 10.10: Evidentiary Burdens.....	10
Section 10.11: Court Reporters .....	10
ARTICLE XI – EVIDENCE .....	11
Section 11.01: Oaths.....	11
Section 11.02: Procedural Rights .....	11
Section 11.03: Redirect and Recross .....	11
Section 11.04: Compliance Officer's Right to Call Respondent .....	11
Section 11.05: Rules of Evidence .....	11
Section 11.06: Hearsay Evidence.....	11
Section 11.07: Rules of Privilege .....	11
Section 11.08: Hearing Officer's Discretion .....	12
ARTICLE XII – RULINGS.....	12
Section 12.01: Deliberations and Rulings.....	12
Section 12.02: Hearing Officer Orders.....	12
Section 12.03: Payment of Monetary Penalties by Stipulation.....	12
Section 12.04: Payment of Monetary Penalties by Hearing Officer Order .....	12
Section 12.05: Collections .....	12
ARTICLE XIII – EX PARTE COMMUNICATIONS.....	12
Section 13.01: Communications Between Parties and Hearing Officer .....	12
Section 13.02: Review of Written Submissions; Service Requirements .....	13
Section 13.03: Limitations.....	13
Section 13.04: Disclosure of Ex Parte Communications .....	13
ARTICLE XIV – NON-APPEARANCE AND DEFAULT .....	13
Section 14.01: Hearing Upon Respondent's Failure to Appear.....	13
Section 14.02: Motion Following Respondent's Default .....	13
ARTICLE XV – JUDICIAL REVIEW .....	14
Section 15.01: Writ of Mandate.....	14
Section 15.02: Statute of Limitations .....	14
Section 15.03: Record of Proceedings .....	14

# **ADMINISTRATION**

## **ARTICLE I — IDENTIFICATION**

### **Section 1.01: Name**

Ventura County Campaign Finance Reform Ordinance ("Ordinance") Rules and Procedures for Resolution of Complaints.

### **Section 1.02: Contact Information**

County Executive Office, Campaign Finance Staff  
800 South Victoria Avenue, L-1940 Ventura, CA 93009-1940  
Telephone: (805) 477-1994  
E-mail: Sally.Harrison@ventura.org

## **ARTICLE II – MISSION STATEMENT**

To preserve public confidence in our county government through the prompt and fair enforcement of local governmental campaign finance ethics laws.

## **ARTICLE III – APPOINTED OFFICERS**

### **Section 3.01: Appointing Authority**

The Compliance Officer and Hearing Officer are appointed by the Board of Supervisors.

### **Section 3.02: Duties and Responsibilities of Compliance Officer**

The Compliance Officer shall receive and investigate complaints of alleged violations of the Ordinance as set forth in these Rules and Procedures. The Compliance Officer shall also provide to candidates, committees and complainants written advice regarding compliance with the Ordinance.

#### **Section 3.02.1: Requests to Compliance Officer for Advice Regarding Compliance With the Ordinance**

All requests to the Compliance Officer for advice regarding compliance with the Ordinance shall be made in writing and be submitted to the County Executive Officer or his or her designee. The request must identify the party making the request for advice and the candidate, committee and/or complainant on whose behalf the request is being made and specify the section(s) of the Ordinance in question. The Compliance Officer shall provide a written response as soon as is practicable.

### Section 3.03: Duties and Responsibilities of Hearing Officer

The Hearing Officer shall receive recommendations from the Compliance Officer for dismissal of complaints and adoption of voluntary settlement agreements. In absence of a voluntary settlement agreement, the Hearing Officer shall preside as the trier of fact and law at the Evidentiary Hearing and shall make determinations concerning appropriate remedies, including the issuance of fines and/or penalties.

## **ARTICLE IV –STAFF ASSISTANCE**

### Section 4.01: Legal Staff

The County Counsel shall provide the Hearing Officer such legal staff and services necessary to perform his or her duties and responsibilities. In cases where the County Counsel has declared a conflict of interest, outside legal counsel will be retained to provide legal services to the Hearing Officer.

### Section 4.02: Administrative Staff

The County Executive Officer or his or her designee shall provide the Compliance Officer and Hearing Officer such administrative staff and services necessary to perform their duties and responsibilities.

- (a) The County Executive Officer or his or her designee shall provide administrative services to the Compliance Officer as follows:
  - 1) Receive complaints filed with the Clerk of the Board of Supervisors alleging violation of the Ordinance and forward them to the Compliance Officer;
  - 2) Engage services of attorneys and investigators as appropriate and as approved by the Compliance Officer;
  - 3) Assist with issuance of Subpoenas Duces Tecum; and
  - 4) Provide other support and assistance as required by the Compliance Officer.
- (b) The County Executive Officer or his or her designee shall provide administrative services to the Hearing Officer as follows:
  - 1) Prepare, post and distribute notices of hearings and agendas of all public hearings before the Hearing Officer;
  - 2) Receive all submissions from parties in relation to any matter set for a public hearing;
  - 3) Process requests for Subpoenas and Subpoenas Duces Tecum as directed by the Hearing Officer;
  - 4) In cases where the County Counsel has declared a conflict of interest, engage services of attorneys as needed and as approved by the Hearing Officer; and
  - 5) Provide other support and assistance as required by the Hearing Officer.

## **ARTICLE V – PUBLIC HEARINGS**

### Section 5.01: Hearings Open to the Public

The Hearing Officer shall hear all matters presented to him or her for decision at a hearing that is open and accessible to the public.

## Section 5.02: Hearing Schedule and Notice Requirements

Hearings shall be held as necessary when there are matters requiring the attention of or action by the Hearing Officer. Notices and agendas of all hearings before the Hearing Officer shall be posted at the Ventura County Government Center, Hall of Administration Building, in a place freely accessible to the public. Notice of hearing before the Hearing Officer and an agenda of the matters to be heard at the hearing shall be posted at least 72 hours before the meeting in the same manner as agendas are posted for Ventura County boards and commissions that are governed by the Ralph M. Brown Act, Government Code section 54950 et seq., including, but not limited to, posting on the Agendas, Documents and Broadcasts page of the County of Ventura website.

## **HEARING PROCEDURES**

### **ARTICLE VI – PURPOSE**

The purpose of these procedures is to establish a uniform set of rules and procedures to be followed by the Hearing Officer and all persons subject to the Ordinance subsequent to the filing of a complaint alleging violation of the Ordinance.

### **ARTICLE VII – DEFINITIONS**

For purposes of these procedures:

#### **Section 7.01: Complainant**

"Complainant" means the person or entity that files a written complaint alleging violation of the Ordinance.

#### **Section 7.02: Evidentiary Hearing**

"Evidentiary Hearing" means a hearing before the Hearing Officer, open to the public, at which the allegations of the complaint are adjudicated and at which the Compliance Officer and Respondent may introduce evidence, including live testimony and documentary evidence, in support of their claims or defenses.

#### **Section 7.03: Investigation**

"Investigation" means an official inquiry, conducted by or under the direction of the Compliance Officer, including, but not limited to, interviews of witnesses and a review of documents, reports, and other materials which are relevant to whether a violation of the Ordinance has occurred.

#### **Section 7.04: Respondent**

"Respondent" means a person or entity that is alleged in a complaint to have violated the Ordinance.

#### Section 7.05: Subpoena

"Subpoena" means a written order of the Hearing Officer requiring a witness's appearance at an Evidentiary Hearing to give testimony.

#### Section 7.06: Subpoena Duces Tecum

"Subpoena Duces Tecum" means a written order of either the Compliance Officer or the Hearing Officer requiring the production of books, papers, records or other items material to the alleged violation of the Ordinance at issue.

#### Section 7.07: Other Terms

Other terms used in these procedures shall be defined in accordance with their usage in common language.

### **ARTICLE VIII – PRE-HEARING PROCEDURES**

#### Section 8.01: Complaint Filing

Complaints alleging violations of the Ordinance, along with the supporting evidence, shall be filed with the Clerk of the Board of Supervisors. The Clerk of the Board of Supervisors shall mark each filed complaint as received and forward the complaint to the County Executive Officer or his or her designee. The County Executive Officer or his or her designee shall then forward the complaint to the Compliance Officer.

#### Section 8.02: Initial Complaint Review

The Compliance Officer shall perform an initial review of each complaint to determine: (a) whether the complaint alleges facts that, if true, would constitute a violation of the Ordinance; and (b) whether there is any credible evidence supporting the allegations in the complaint. During the initial review, the Compliance Officer shall review evidence submitted with the complaint, evidence submitted by the Respondent and other evidence identified in the course of the initial review. The Compliance Officer must make a good-faith effort to issue to the Hearing Officer a written opinion within five working days of his or her receipt of a complaint as to whether the complaint merits further investigation or should be dismissed. If the Compliance Officer cannot issue an opinion within five working days, the Compliance Officer shall notify the Hearing Officer in writing as to when the initial review will be completed.

#### Section 8.03: Initial Review Findings

If the Compliance Officer's initial review finds that a complaint fails to allege facts that, if true, would constitute a violation of the Ordinance, and/or that there is no credible evidence to justify further investigation of the complaint, or if adequate exculpatory evidence is identified, the Compliance Officer shall recommend to the Hearing Officer that the complaint be dismissed. Before finalizing his or her recommendation, the Compliance Officer shall discuss the case with the Complainant. Both the Complainant and the subject of the complaint shall be promptly notified of the Compliance Officer's

findings and recommendation. A recommendation of dismissal shall be reviewed by the Hearing Officer at a public hearing. The Hearing Officer may sustain the recommendation and order the complaint dismissed or may overrule the recommendation and provide direction to the Compliance Officer for further action.

#### Section 8.04: Investigation

For any complaint not recommended for dismissal after initial review, the Compliance Officer shall conduct an investigation and determine whether sufficient evidence exists to establish that a violation of the Ordinance has occurred. The Compliance Officer shall consider the allegations of the complaint, the evidence submitted with the complaint, and any other information discovered during the investigation that would indicate whether a violation of the Ordinance has or has not occurred.

The Compliance Officer shall have the power and authority to require by Subpoena Duces Tecum the production of any books, papers, records, documents or other items material to the performance of the Compliance Officer's duties or exercise of his or her powers. Failure to obey a Subpoena Duces Tecum constitutes contempt.

#### Section 8.05: Insufficient Evidence

If, after the investigation is complete, the Compliance Officer concludes that either the evidence is insufficient to establish that a violation of the Ordinance has occurred or the evidence establishes that no violation of the Ordinance has occurred, the Compliance Officer shall prepare a written report of that conclusion and shall recommend to the Hearing Officer that the complaint be dismissed. The Compliance Officer shall strive to submit the recommendation for dismissal to the Hearing Officer within 40 calendar days after the Compliance Officer's receipt of a complaint. If additional time is required, the Compliance Officer shall report the reasons to the Hearing Officer.

A recommendation of dismissal after investigation shall be reviewed by the Hearing Officer at a public hearing. The Hearing Officer may sustain the recommendation and order the complaint dismissed or may overrule the recommendation and provide direction to the Compliance Officer for further action.

#### Section 8.06: Sufficient Evidence

If the Compliance Officer concludes on the basis of the investigation that sufficient evidence exists to establish that a violation of the Ordinance has occurred, the Compliance Officer shall offer to enter into a proposed voluntary settlement agreement with the Respondent. The proposed settlement may require the Respondent to do one or more of the following:

- (1) Cease and desist violation of the Ordinance;
- (2) File any reports, statements, or other documents or information required by the Ordinance;



(3) Pay a monetary penalty of up to \$5,000 per violation to the General Fund of the County of Ventura; and

(4) Pay a fine of up to three times the amount or value not properly reported or improperly received or expended.

The Compliance Officer shall primarily consider the deterrent effect of the settlement on future violations by others. Before agreeing to a settlement agreement, the Compliance Officer shall discuss with the Complainant the proposed settlement rationale and fairly consider the input of the Complainant.

If a proposed voluntary settlement agreement is reached, the Compliance Officer shall (a) provide a copy of the proposed settlement to the Complainant and (b) submit to the Hearing Officer, within 40 calendar days after the Compliance Officer's receipt of the complaint, a written report of the Compliance Officer's findings and the proposed settlement signed by the Compliance Officer and the Respondent. A proposed settlement shall be reviewed by the Hearing Officer at a public hearing. A proposed settlement agreement shall become final and effective only upon acceptance by the Hearing Officer. If the Hearing Officer does not accept the proposed settlement agreement, the Hearing Officer shall schedule an Evidentiary Hearing on the matter and then may take any action allowed by the Ordinance. If the Compliance Officer needs more than 40 calendar days after receipt of the complaint to complete the investigation and settlement discussion, the Compliance Officer shall submit a written report to the Hearing Officer identifying the reason for the additional time and the time when the Compliance Officer believes the report will be ready.

If no proposed voluntary settlement agreement is reached in a timely manner, then the Compliance Officer shall submit to the Hearing Officer a written request to set the matter for an Evidentiary Hearing. The Evidentiary Hearing shall be scheduled not less than 90 days and not more than 150 days from the date the Compliance Officer submits the request for an Evidentiary Hearing. At the Evidentiary Hearing, the Compliance Officer shall present to the Hearing Officer the evidence supporting the allegations in the complaint. Within five working days of the Compliance Officer's written request to set the matter for an Evidentiary Hearing, the County Executive Officer or his or her designee shall serve written notice to all parties of the time, date and location of the Evidentiary Hearing.

#### Section 8.07: Subpoenas and Subpoenas Duces Tecum

Once a matter has been set for an Evidentiary Hearing, the Hearing Officer may issue Subpoenas and Subpoenas Duces Tecum at the request of any party for a witness's attendance or production of documents at the Evidentiary Hearing. Compliance with the provisions of Code of Civil Procedure section 1985 shall be a condition precedent to the issuance of a Subpoena Duces Tecum. All costs related to a Subpoena or Subpoena Duces Tecum, including witness and mileage fees, shall be borne by the party requesting the Subpoena or Subpoena Duces Tecum. Failure to obey a Subpoena or Subpoena Duces Tecum constitutes contempt.

Requests for a Subpoena or Subpoena Duces Tecum should be submitted in writing to the designated staff in the County Executive Office.

#### Section 8.08: Witnesses, Documents and Statements

Any party to a matter pending before the Hearing Officer may request from any other party to the matter:

- (a) the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the Evidentiary Hearing; and
- (b) an opportunity to inspect and make a copy of any of the following in the possession or custody or under the control of any other party to the matter:
  - (1) A statement pertaining to the subject matter of the proceeding made by any party. Where the party is a committee, this section shall apply to statements made by an officer of the committee and/or the candidate if the committee is a controlled committee of a candidate;
  - (2) Statements of witnesses then proposed to be called to testify at the Evidentiary Hearing and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding who are not included in subdivision (b)(1) above; and
  - (3) All writings that any other party then proposes to offer in evidence.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electronic, including audio and/or video, or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

- (c) Requests for information under this section must be made in writing no later than 45 calendar days prior to the date scheduled for the Evidentiary Hearing, unless a shorter time is ordered by the Hearing Officer. While no particular form must be used, the request must clearly and plainly state the information or items sought. Requests for information must be served on the party from whom the information is sought either personally or by mail. Concurrent with the service responsibilities set forth under this section the party seeking information shall ensure that all other parties to the Evidentiary Hearing are provided with a copy of the request for information. The party responding to the information request shall respond within 10 calendar days and shall provide all other parties to the Evidentiary Hearing with copies of all documents that are produced.

#### Section 8.09: Material Witness Depositions

In the event that a material witness is unavailable to testify at the Evidentiary Hearing, any party may move the Hearing Officer for an order that the testimony of that material witness be taken by deposition in the manner prescribed by law for depositions in civil actions under article 3 (commencing with section 2025.310) of chapter 9 of title 4 of part 4 of the Code of Civil Procedure. The motion shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of the testimony; a showing that the witness will be unable or cannot

be compelled to attend the Evidentiary Hearing; and shall request an order requiring the witness to appear and testify before an officer named in the order for that purpose. A motion for an order for a deposition shall be filed with the Hearing Officer and served on all parties no later than 45 calendar days before the date scheduled for the Evidentiary Hearing and at least 14 calendar days before the date scheduled for the hearing on the motion. Any opposition or response to the motion shall be filed with the Hearing Officer and served on all parties at least seven calendar days before the date scheduled for the hearing. No written reply to such opposition will be allowed. If the motion is granted, the moving party shall serve notice of the deposition and a copy of the signed order on the other parties at least 10 days before the deposition.

Parties seeking to file a motion for an order for a material witness deposition should first contact the designated staff in the County Executive Office to schedule the hearing. Once a date for the hearing is scheduled, all moving and opposition papers should be submitted to the designated staff in the County Executive Office.

#### Section 8.10: Motions to Compel

If a party claims that another party has failed to comply with a request for information made pursuant to this article, the party may request a hearing before the Hearing Officer for the purpose of seeking to compel production of the requested information. A motion to compel shall be filed with the Hearing Officer and served on all parties no later than 30 days before the date scheduled for the Evidentiary Hearing and at least 14 calendar days before the date scheduled for the hearing on the motion. Any opposition or response to the motion shall be filed with the Hearing Officer and served on all parties at least seven calendar days before the date scheduled for the hearing. No written reply to such opposition will be allowed.

Parties seeking to file a motion to compel should first contact the designated staff in the County Executive Office to schedule the hearing. Once a date for the hearing is scheduled, all moving and opposition papers should be submitted to the designated staff in the County Executive Office.

#### Section 8.11: Privileged Documents

Nothing in this article shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney work product.

#### Section 8.12: Communications and Stipulations

Nothing in this article precludes the parties to the Evidentiary Hearing from engaging in discussions with one another on such matters as scheduling the Evidentiary Hearing, clarification of issues, exchanges of information, issuance of Subpoenas and Subpoenas Duces Tecum, the number and identity of witnesses, and the possibility of informal resolution (subject to the Hearing Officer's final action on any proposed settlement). The parties to the Evidentiary Hearing may stipulate as to any facts or matters which they have agreed are not in dispute.

### Section 8.13: Witness Lists and Exhibits

No later than 10 calendar days prior to the Evidentiary Hearing, each party to the Evidentiary Hearing shall mail or deliver to all other parties and shall submit to the Hearing Officer a list of all witnesses and a copy of all exhibits or documents that the party anticipates offering into evidence at the Evidentiary Hearing.

All materials submitted to the Hearing Officer shall be filed with the designated staff in the County Executive Office.

### Section 8.14: Scheduling Public Hearings

The Compliance Officer and respondents, or their representatives, shall contact the designated staff in the County Executive Office to schedule any public hearing for the Hearing Officer to consider recommendations for dismissal, proposed settlements, motions and other matters or to hold an Evidentiary Hearing. The parties shall provide mutually available dates for the subject public hearing.

## **ARTICLE IX – COUNSEL**

The Compliance Officer shall present to the Hearing Officer at the Evidentiary Hearing the evidence supporting the allegations in the complaint. Each party has the right to attend the Evidentiary Hearing and may be represented by legal counsel or any other representative of his or her choosing.

## **ARTICLE X – PROCEDURES FOR THE EVIDENTIARY HEARING**

The procedures contained in this article provide the basic procedures for the conduct of the Evidentiary Hearing.

### Section 10.01: Public Hearings

Evidentiary Hearings shall be open to the public. The Hearing Officer shall make any written reports, recommendations and proposed settlements available to the public and affected parties at least five calendar days in advance of acting upon a complaint or proposed settlement.

### Section 10.02: Basic Record of Proceedings

The following documents shall be made a part of the record: the notice of hearing, the complaint, the Compliance Officer's Evidentiary Hearing brief and any Evidentiary Hearing brief submitted by a Respondent.

### Section 10.03: Opening Statements

The Compliance Officer shall make an opening statement. Each Respondent may make an opening statement immediately following the Compliance Officer's opening statement or may reserve an opening statement until after the Compliance Officer concludes his or her case.

#### Section 10.04: Compliance Officer's Case in Chief

The Compliance Officer puts on his or her case first.

#### Section 10.05: Respondent's Case

The Respondent puts on its case after the Compliance Officer concludes his or her case. If there is more than one Respondent, the order of presentation may be decided by mutual agreement of the Respondents or, if necessary, in the discretion of the Hearing Officer.

#### Section 10.06: Rebuttal Evidence

After the initial presentation of evidence by both sides, the parties, beginning with the Compliance Officer, may introduce evidence in rebuttal. Such evidence should be limited to matters already raised in the presentation of the Compliance Officer's or Respondent's case.

#### Section 10.07: Closing Arguments

Each party may make a closing argument. The Compliance Officer proceeds first. The Respondent(s) proceeds after the Compliance Officer's closing argument. The Compliance Officer may conclude the closing arguments with a rebuttal.

#### Section 10.08: Motions for Nonsuit Not Authorized

These procedures do not authorize the making of a motion for nonsuit at any time during the Evidentiary Hearing.

#### Section 10.09: Continuances

The Hearing Officer may continue the Evidentiary Hearing for good cause shown by one of the parties to the Evidentiary Hearing or pursuant to stipulation by all parties.

#### Section 10.10: Evidentiary Burdens

The parties must establish each element or claim for which they have the burden of proof by a preponderance of the evidence.

#### Section 10.11: Court Reporters

Any party may arrange for a court reporter to be present to record the proceedings at an Evidentiary Hearing or other public hearing before the Hearing Officer. Costs of the court reporter shall be paid by the party who requested the court reporter; however, nothing shall preclude the parties from agreeing to share equally in the costs of the court reporter.

## **ARTICLE XI – EVIDENCE**

### **Section 11.01: Oaths**

Oral evidence shall be taken only under oath. The oath may be administered by the Hearing Officer. The oath is obtained by an affirmative response to the following statement: "You do solemnly state, under penalty of perjury, that the evidence that you shall give in this matter shall be the truth, the whole truth, and nothing but the truth."

### **Section 11.02: Procedural Rights**

Each party shall have the right to:

- (a) Call and examine witnesses;
- (b) Introduce exhibits;
- (c) Cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; and
- (d) Impeach any witness regardless of which party first called the witness to testify.

### **Section 11.03: Redirect and Recross**

A party may examine a witness on redirect or recross, subject only to the limitations imposed by the Hearing Officer.

### **Section 11.04: Compliance Officer's Right to Call Respondent**

The Compliance Officer may call and examine any Respondent as if under cross-examination even if that Respondent does not first testify in his or her own behalf.

### **Section 11.05: Rules of Evidence**

The Evidentiary Hearing need not be conducted according to the provisions of the Evidence Code. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

### **Section 11.06: Hearsay Evidence**

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

### **Section 11.07: Rules of Privilege**

The rules of privilege shall be effective to the extent that they are applicable in a court of law as governed by the Evidence Code.

#### Section 11.08: Hearing Officer's Discretion

The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

### **ARTICLE XII – RULINGS**

#### Section 12.01: Deliberations and Rulings

Not later than 21 calendar days following conclusion of the Evidentiary Hearing, the Hearing Officer shall make a determination of the facts and law and render a final decision of all matters before him or her. Prior to making such a decision, the Hearing Officer may, if he or she deems it necessary, request additional information or investigation, or remand a matter to the Compliance Officer for further investigation and/or reconsideration.

#### Section 12.02: Hearing Officer Orders

Decisions of the Hearing Officer following Evidentiary Hearings or upon motions or stipulations shall be set forth in a written order prepared and signed by the Hearing Officer. Orders of the Hearing Officer shall be served by mail on all parties to the matter.

#### Section 12.03: Payment of Monetary Penalties by Agreement

At the time an agreement containing a monetary penalty is presented to the Hearing Officer and approved, the Respondent must produce and submit to the Compliance Officer a cashier's check made payable to the County of Ventura for the agreed amount.

#### Section 12.04: Payment of Monetary Penalties by Hearing Officer Order

When a ruling and order of the Hearing Officer includes a monetary penalty that was not agreed to by the Compliance Officer and the Respondent, the amount of the penalty shall be due and payable by the Respondent immediately upon receipt of the order.

#### Section 12.05: Collections

Monetary penalties that remain unpaid 30 days after the Respondent's receipt of an order by the Hearing Officer will be referred for appropriate collections remedies by the County of Ventura.

### **ARTICLE XIII – EX PARTE COMMUNICATIONS**

#### Section 13.01: Communications Between Parties and Hearing Officer

Once a complaint has been filed, the Hearing Officer shall not participate in any communications with the Compliance Officer, any party, representative of a party, or any person who has a direct or indirect interest in the outcome of the proceeding about the subject matter or merits of the case at issue, except at a noticed public hearing.

This section does not prohibit the Hearing Officer from reviewing complaints and other written submissions that are properly served in accordance with section 13.02.

#### Section 13.02: Review of Written Submissions; Service Requirements

Except for the initial complaint, no pleading, letter, document or other writing shall be filed by a party unless service of a copy thereof together with any exhibit or attachment is made on all other parties to the proceeding.

#### Section 13.03: Limitations

Communications prohibited under section 13.01 do not include communications between parties and County Executive Office staff concerning matters of procedure or practice, including requests for continuances that are not in controversy. It also does not prohibit communications between a party and the Hearing Officer when the opposing party has had a default entered pursuant to article XIV.

#### Section 13.04: Disclosure of Ex Parte Communications

If, while the proceeding is pending, the Hearing Officer receives a communication of a type that would be in violation of this article, he or she shall promptly disclose the content of the communication on the record and give all parties an opportunity to address it.

### **ARTICLE XIV – NON-APPEARANCE AND DEFAULT**

#### Section 14.01: Hearing Upon Respondent's Failure to Appear

In the event a Respondent fails to appear at an Evidentiary Hearing, the Hearing Officer, at his or her discretion, may conduct the hearing notwithstanding the absence of the Respondent or, in the alternative, dispense with the Evidentiary Hearing and take under submission Respondent's express written admissions, stipulations entered into between the parties, and any other written evidence submitted by a party present at the Evidentiary Hearing. The Compliance Officer retains the burden of proving the charges in the complaint.

#### Section 14.02: Motion Following Respondent's Default

In the event of the Respondent's default, and within seven business days after a decision by the Hearing Officer that the Respondent has committed a violation of the Ordinance, the Respondent may serve a written motion requesting that the Hearing Officer's decision be vacated and stating the grounds relied on. The Hearing Officer, in his or her discretion, may vacate the decision and grant a re-hearing on a showing of good cause. As used in this section, "good cause" includes, but is not limited to, any of the following:

- (a) Failure of the person to receive notice of the Evidentiary Hearing; or
- (b) Mistake, inadvertence, surprise, or excusable neglect of the party or the party's representative.



## **ARTICLE XV – JUDICIAL REVIEW**

### **Section 15.01: Writ of Mandate**

Judicial review of any final order of the Hearing Officer may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure.

### **Section 15.02: Statute of Limitations**

The 90-day statute of limitations contained in Code of Civil Procedure section 1094.6 shall apply to judicial review of final orders of the Hearing Officer.

### **Section 15.03: Record of Proceedings**

The record under judicial review shall include all (and only) those materials submitted to the Hearing Officer at or before the close of the Evidentiary Hearing and any duly certified audio, video and/or transcribed record of oral proceedings before the Hearing Officer.