

Attachment 3

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Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Board Hearing on:

Consider adoption of an ordinance amending Chapter 10.60 Code regulating Noise Control, adding of a "plainly audible" noise detection standard and changing the classification for this violation to a misdemeanor; or provide further direction to staff as appropriate.

Proposed CEQA Action: Categorically exempt per Section 15061(b)(3) of the CEQA Guidelines.

Board Action:

Ordinance No. 5315

A substitute motion made by Supervisor Luis A. Alejo, seconded by Supervisor Chris Lopez as amended to:

- a. Find the adoption of the ordinance is categorically exempt per Section 15061(b)(3) of the CEQA Guidelines;
- b. Adopted Ordinance No. 5315 (Attachment A) amending Chapter 10.60 of the Monterey County Code relating to noise control; with first offense an infraction and second offense a misdemeanor; and
- c. Provide further direction to staff as appropriate & come back in September to see if the ordinance can be an infraction and or misdemeanor.

PASSED AND ADOPTED on this 23rd day of July 2019, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

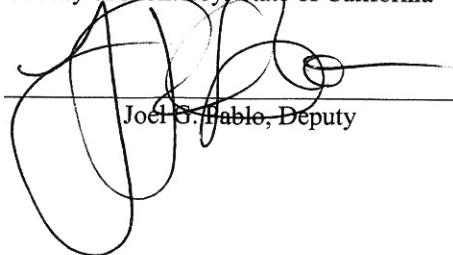
NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting July 23, 2019.

Dated: July 23, 2019
File ID: 19-0593

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Joel S. Hable, Deputy

ORDINANCE NO. 5315

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING CHAPTER 10.60 OF THE MONTEREY COUNTY CODE
REGULATING NOISE**

County Counsel Summary

This ordinance amends Chapter 10.60 of the Monterey County Code regulating noise. Existing County regulations prohibit operation of noise producing devices whose noise exceeds 85 dBA measured fifty feet therefrom and prohibits nighttime noises at certain noise levels between 10 p.m. and 7 a.m. This ordinance adds a "plainly audible" noise detection standard, prohibiting nighttime noise that is "plainly audible" at a distance of fifty feet from the source. The ordinance also extends the nighttime noise limitation to 9 p.m. rather than 10 p.m. This ordinance classifies the first violation of this Chapter as an infraction punishable by a fine of not more than two hundred and fifty dollars and classifies all subsequent violations as a misdemeanor punishable by a fine of not more than one thousand dollars, by imprisonment in the County jail, or both.

The Board of Supervisors of the County of Monterey hereby ordains as follows:

SECTION 1. Chapter 10.60 of the Monterey County Code is hereby amended to read as follows:

Chapter 10.60 NOISE CONTROL

Sections:

10.60.010 Findings.

10.60.020 Definitions.

10.60.030 Operation of noise-producing devices restricted.

10.60.040 Regulation of nighttime noise.

10.60.050 Enforcement.

10.60.010 - Findings.

This Board finds that noises generated so as to be in excess of the levels permitted in this Chapter impair hearing, impede convalescence, hinder concentrated mental effort, interfere with relaxation and sleep, depreciate property values, and cause stress and nervous tension and consequent irritability, insomnia, accident proneness, and increased risk for cardiovascular disease and hypertension.

(Ord. 2450 § 1, 1978) (Ord. No. 5250, § 3, 12-16-2014)

10.60.020 - Definitions.

For the purpose of this Chapter, the terms set forth in this Section shall have the following meanings:

"dBA" means decibels on the A scale.

"Person" means any individual, firm, partnership, association, corporation, organization, or business trust.

"Plainly audible" means any sound that can be detected by a reasonable person of ordinary sensitivities using his or her unaided hearing faculties.

"Emergency" means a situation arising from fire, explosion, act of God or act of public enemy which, if not corrected immediately, will potentially result in the loss of life, property or substantial environmental resources.

(Ord. 2450 § 2, 1978) (Ord. No. 5250, § 4, 12-16-2014)

10.60.030 - Operation of noise-producing devices restricted.

At any time of the day, it is prohibited within the unincorporated area of the County of Monterey to operate, assist in operating, allow, or cause to be operated any machine, mechanism, device, or contrivance which produces a noise level that exceeds eighty-five (85) dBA measured fifty (50) feet therefrom. The prohibition in this Section shall not apply to aircraft nor to any such machine, mechanism, device or contrivance that is operated in excess of two thousand five hundred (2,500) feet from any occupied dwelling unit.

(Ord. 2450 § 3, 1978) (Ord. No. 5250, § 5, 12-16-2014)

10.60.040 - Regulation of nighttime noise.

The following regulations shall apply to nighttime noise:

A. It is prohibited within the unincorporated area of the County of Monterey to make, assist in making, allow, continue, create, or cause to be made any loud and unreasonable sound any day of the week from 9:00 p.m. to 7:00 a.m. the following morning.

B. Within the time period from 9:00 p.m. to 7:00 a.m. the following morning, and for the purposes of this Section, a loud and unreasonable sound shall include any sound that is plainly audible at a distance of fifty (50) feet in any direction from the source of the sound or any sound that exceeds the exterior noise level standards set forth in Table 1 below.

Table 1: Exterior Noise Level Standards
(Nighttime Only)

	Standard
Nighttime hourly equivalent sound level (L_{eq} dBA)	45
Maximum level, dBA	65

- C. The provisions of this Section are not intended to affect and shall not apply to:
1. Bells, chimes, carillons and similar devices while being used for religious purposes, or in conjunction with religious services, or for celebrations of public holidays; or
 2. Outdoor gatherings, public dances, shows and sporting and entertainment events, provided such gathering, dance or event is conducted on commercial or institutional premises, pursuant to applicable rules, regulations and zoning restrictions and in compliance with all permits or licenses issued by a public agency relative to the staging of the gathering, dance or event; or
 3. Emergency vehicles being operated by authorized personnel or equipment used in an emergency, such as chain saws; or
 4. Commercial agricultural operations, not including activities at farm-related housing.

D. For the purpose of evaluating conformance with the standards of this Section, noise levels shall be measured as follows:

1. The “plainly audible” standard shall be based on the sound level detected by a reasonable person of ordinary sensitivities using his or her unaided hearing faculties.
2. Sound Level Meter. To determine compliance with the exterior noise level standards in Table 1 in subsection (B), noise measurement shall be made using a sound level meter meeting American National Standard Institute's Standard SI.4-1981 (or more recent revision thereof) for Type 1 or Type 2 integrating sound level meters using the A-weighted network scale, or an instrument and the associated recording and analyzing equipment that provide equivalent data, which may be or become available as industry standards change and new best practices become available. Calibration of the measurement equipment utilizing an acoustical calibrator shall be performed at the beginning and end of the shift of the enforcement personnel responding to noise complaints. Where practical, the microphone shall be positioned five feet above the ground and away from reflective surfaces.
3. Measuring Noise Levels. Noise levels may be measured in any direction from the source from which the noise is emanating.

(Ord. No. 5250, §§ 2, 6, 12-16-2014)

10.60.050 - Enforcement.

A. The first violation of the provisions of this Chapter shall be an infraction punishable by a fine of not more than two hundred and fifty dollars (\$250)

B. The second, and any subsequent, violation of the provisions of this Chapter shall be a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the Monterey County Jail for a period of not more than six months or by both such fine and imprisonment.

C. In the event of a violation of this Chapter or any requirement imposed pursuant to this Chapter, the County may, in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Monterey County Code and any other action authorized by law.

D. Each and every day during any portion of which any violation of this Chapter is committed or permitted and continues to exist without remedy by the responsible person shall be deemed a separate and distinct offense and violation for purposes of determining the total amount of penalties pursuant to this Section.

SECTION 2. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. This ordinance shall become effective on the thirty-first day following its adoption.

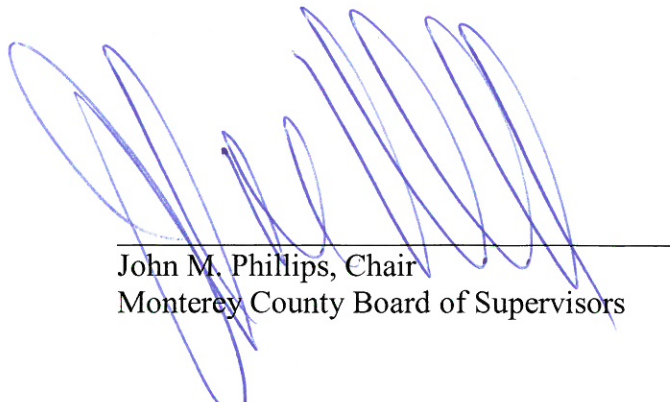
PASSED AND ADOPTED on this 23rd day of July, 2019, by the following vote:

AYES: Supervisor Alejo, Phillips, Lopez, Parker and Adams

NOES: None

ABSENT: None

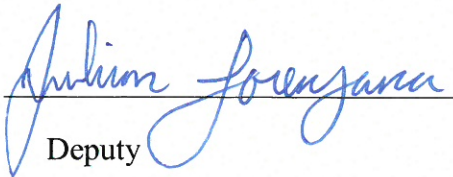
ABSTAIN: None



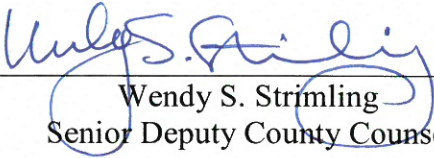
John M. Phillips, Chair
Monterey County Board of Supervisors

A T T E S T:

Valerie Ralph
Clerk of the Board of Supervisors

By: 
Deputy

APPROVED AS TO FORM BY:


Wendy S. Strimling
Senior Deputy County Counsel