



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: ORD 22-021

May 24, 2022

Introduced: 5/17/2022

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

- a. Introduce, waive first reading, and set June 21, 2022 at 10:30 a.m. as the date and time to consider adoption of an ordinance amending Chapter 10.60 of the Monterey County Code to modify regulations for the control of nighttime noise and enforcement mechanisms of the Chapter;
- b. Find that an ordinance amending Chapter 10.60 of the Monterey County Code to modify regulations for the control of nighttime noise and enforcement mechanisms of the Chapter is exempt under the California Environmental Quality Act ("CEQA") per CEQA Guidelines Section 15308 because the ordinance is an action taken by the County to assure the enhancement and protection of the environment and involves procedures for protection of the environment; and
- c. Provide direction to staff as appropriate.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Introduce, waive first reading, and set June 21, 2022 at 10:30 a.m. as the date and time to consider adoption of an ordinance amending Chapter 10.60 of the Monterey County Code to modify regulations for the control of nighttime noise and enforcement mechanisms of the Chapter; and
- b. Find that an ordinance amending Chapter 10.60 of the Monterey County Code to modify regulations for the control of nighttime noise and enforcement mechanisms of the Chapter is exempt under the California Environmental Quality Act ("CEQA") per CEQA Guidelines Section 15308 because the ordinance is an action taken by the County to assure the enhancement and protection of the environment and involves procedures for protection of the environment.
- c. Provide direction to staff as appropriate.

SUMMARY:

On August 23, 2021, Supervisor Philips submitted Board Referral 2021.15 requesting that County Counsel and the Housing and Community Development (HCD) Department explore possible noise ordinance revision solutions, enforcement implementation strategies such as bolstered staffing and technological resources and possible funding solutions to implement them. On August 31, 2021, the Referral was formally assigned to County Counsel and HCD.

On September 28, 2021, HCD presented a preliminary response on the Referral. On February 8, 2022, HCD presented its initial recommendations for amendments to the noise control ordinance. Following the hearing, the Board directed staff to redraft the ordinance based on the discussions and feedback received from the Board and the community and return for the Board's consideration. On May 10, 2022, HCD presented its refined recommended amendments to Chapter 10.60 adding a definition of "Amplified noise" to better define impermissible nighttime noise and provision for a prohibition on nighttime noise, including Amplified noise, between the hours of 8:00 p.m. and 7:00 a.m.

Following the hearing, a motion was made by Supervisor John M. Phillips, seconded by Supervisor Luis A. Alejo to revise the ordinance based on the recommendations discussed and come back to the Board for further consideration on Tuesday, May 24, 2022.

DISCUSSION:

Based upon the Board's consensus at the May 10, 2022 meeting, no revisions to the existing nighttime hours are being recommended by staff at this time. The existing County regulations prohibit the making of loud and unreasonable sounds between the hours of 9:00 p.m. and 7:00 a.m. The draft ordinance maintains these nighttime hours. Additionally, staff is maintaining its refined recommendation to add a definition of "Amplified noise" to better define impermissible nighttime noise since this added provision was supported by consensus.

Based upon the Board's discussion and direction on May 10, 2022, HCD staff and the County Counsel's Office reviewed noise ordinances from the jurisdictions within the County of Monterey for the purposes of determining an equitable approach. Each jurisdiction is slightly different in its approach, but either issue administrative citations upon violation of the applicable noise regulations, or infractions or misdemeanors. Of those that issue administrative citations it appears that some jurisdictions adopt the fines by ordinance while others adopt the fines by resolution. The fines range from \$100 to \$319 for the first offense and increase for subsequent offenses.

The existing County regulations classify the first violation of this Chapter as an infraction punishable by a fine of not more than \$250, and classify all subsequent violations as a misdemeanor punishable by a fine of not more than \$1,000, by imprisonment in the County jail or both. As a result of reviewing other local jurisdictional regulations and the Board's direction, staff continues to recommend the ordinance remove reference to criminal penalties, and provide for the enforcement of violations of Chapter 10.60 to be handled administratively pursuant to Monterey County Code Chapter 1.22 by the Enforcement Officer. Additionally, staff recommends refinement to the ordinance directing the Enforcement Officer to issue verbal warnings of violation upon first contact of an occurrence within a 24 hour period. After such a warning is given, the Enforcement Officer may issue an administrative citation with the first violation punishable by a civil penalty of not more than \$500, the second violation punishable by a civil penalty of not more than \$1,000, and the third violation punishable by a civil penalty of not more than \$2,000. Finally, the ordinance makes each hour such violation is committed or permitted to continue a separate offense. Staff believes the warning, penalty amount, and application of the fees (i.e., compounding within a 24 hour period) provide a disincentive while ensuring a common understanding of the provisions through the warning process.

On May 10, 2022, the Board directed staff to review and bring back recommendations related to unruly gatherings. Due to the compressed timeframe to report back to the Board on May 24, 2022, staff is not prepared to report out to the Board on its recommendations related to these gatherings under this cover.

ENVIRONMENTAL REVIEW:

This ordinance is exempt under the California Environmental Quality Act ("CEQA") per CEQA Guidelines Section 15308 because the ordinance is an action taken by the County to assure the

enhancement and protection of the environment and involves procedures for protection of the environment.

OTHER AGENCY INVOLVEMENT:

The County Counsel's Office approved the ordinance as to form. Also, HCD coordinates with the Sheriff's Office on noise complaints and compliance matters regarding noise. Finally, HCD consults County Counsel on code compliance cases.

FINANCING:

The adoption of the Ordinance does not have a negative financial impact to the Departmental budgets since staffing resources and equipment needs are not expected to increase resulting from the adoption of the Ordinance. Staff will work alternative schedules to cover weekend and evening hours. However, the Departments may see an increase in revenue generated through the active enforcement of noise violations due to the hours and increased in penalties.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The ordinance would continue to support the Board of Supervisors Strategic Initiatives by enhancing the health and safety of Monterey County residents.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared and Approved by: Erik Lundquist, Housing and Community Development Director, x5154 *EL*

The following attachments are on file with the Clerk of the Board:

- Attachment A - Draft Ordinance (clean-signed)
- Attachment B - Draft Ordinance (redlined)
- Attachment C - City of Salinas Noise Regulations
- Attachment D - City of Soledad Noise Regulations