

Attachment 3

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Monterey County

Item No.

Board Report

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

Legistar File Number: ORD 22-005

February 08, 2022

Introduced: 1/27/2022

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

- a. Introduce, waive first reading, and set March 1, 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 regarding noise; and
- b. Provide direction to staff as appropriate.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Introduce, waive first reading, and set March 1, 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 regarding noise; and
- b. 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. At that meeting, the Board accepted the report and directed HCD to work with the County Counsel's Office to strengthen the noise ordinance and work in collaboration with Monterey County Sheriff's Office on how to enforce compliance with the ordinance. Subsequently, representatives from the County Counsel, Sheriff's Office and HCD met to discuss implementation of the existing noise ordinance and discussed potential staff resources. These meetings resulted in staff recommending amendments to Chapter 10.60 of the Monterey County Code, as discussed below and provided in the attached draft ordinance.

DISCUSSION:

The County's existing Noise Ordinance No. 5315, which is codified at Chapter 10.60 of the Monterey County Code (MCC), was last updated in July 2019. The ordinance prohibits, within the unincorporated area of the County of Monterey, making, assist in making, allowing, continuing, creating, or causing to be made any loud and unreasonable sound any day of the week from 9:00 pm to 7:00 am. The ordinance further prohibits nighttime noise (9:00 pm to 7:00 am) that is "plainly audible" at 50 feet in any direction from the source in exceedance of 45 L eqdBA with a maximum dBA of 65. The existing ordinance also prohibits at any time noise in excess of 85 dBA measured 50

feet from a machine, mechanism, device, or contrivance at any time of the day, measured 50 feet from the source. The existing ordinance further provides that the first violation of the ordinance shall be an infraction punishable by a fine of not more than \$250. The second violation is a misdemeanor punishable by a fine of not more than \$1,000 or imprisonment in the Monterey County Jail for a period of not more than 6 months, or by both fine and imprisonment.

The Sheriff's Office actively enforces the ordinance since it is intended for law enforcement (the ordinance includes provisions for criminal penalties). As such, the Sheriff's Office currently received complaints, responds to complaints, communicates with violators and provides reports. To reduce obligation on the Sheriff's Office and the Courts, HCD assists and opens a code compliance case and issues an administrative citation upon receiving a report from the Sheriff's Office rather than the Sheriff's Office issuing an infraction. The issuance of an administrative citation allows the County to track the frequency of complaints and record an encumbrance against the property.

In discussions with County Counsel, the Sheriff's Office and HCD, it was determined that it would be appropriate to revise the ordinance to formalize the current practice (i.e., civil penalties) and retain the criminal penalties (i.e., infractions and misdemeanors). Under no circumstances would an individual violator be charged both criminally and civilly. This approach is preferred by staff because there may be circumstances that warrant a criminal action and situations suitable for a civil action that are not so egregious. The multipronged approach also allows additional coverage in the nighttime and weekends since the Sheriff's Office and HCD would have the ability to respond collaboratively to a complaint. The Sheriff's Office and HCD staff will work to address noise complaints in the evenings and weekends. HCD would generally take a proactive approach and is prepared to staff its code compliance section during these high activity times to enforce noise complaints. It is anticipated that the staff levels will fluctuate seasonally and depending upon demand. The Sheriff's Office would provide support and engage, as needed to provide the necessary safety for staff and the public.

At the direction of Board Referral 2021.15, County staff is also recommending that the ordinance be amended to prohibit unreasonable noise between 7:00 pm and 7:00 am as a proactive measure rather than 9:00 pm to 7:00 am. Enforcing noise at an earlier time would allow enforcement before noise generating events become unmanageable. Also as a preventative measure, staff is recommending the ordinance be amended to provide the first violation as a misdemeanor punishable by a fine of not more than \$1,000, by imprisonment in the County jail or both. Alternatively, this ordinance allows for the issuance of an administrative citation for the violation of this Chapter with the first violation punishable by a fine of not more than \$1,000, the second violation punishable by a fine of not more than \$2,500, and the third violation punishable by a fine of not more than \$5,000. This significant increase should provide a deterrent.

OTHER AGENCY INVOLVEMENT:

HCD coordinates with the Sheriff's Office on noise complaints and compliance matters regarding noise. Also, 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 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 1 - Draft Ordinance (clean-signed)
- Attachment 2 - Draft Ordinance (redlined)
- Attachment 3 - Board Order and Ordinance No. 5315
- Attachment 4 - Board Referral 2015.15

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