

Attachment 2

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ORDINANCE NO. _____

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

County Counsel Summary

This ordinance amends Chapter 10.60 of the Monterey County Code to modify regulations for the control of nighttime noise and enforcement mechanisms. The ordinance adds a definition of “Amplified noise” to better define impermissible nighttime noise. Existing County regulations prohibit the making of loud and unreasonable sounds between the hours of 9:00 p.m. and 7:00 a.m. This ordinance prohibits the making of loud and unreasonable sounds, including Amplified noise, between the hours of 8:00 p.m. and 7:00 a.m. 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. This ordinance amends Chapter 10.60 to allow for the issuance of an administrative citation for the violation of this Chapter with the first violation punishable by a civil penalty of not more than \$1,000, the second violation punishable by a civil penalty of not more than \$2,500, and the third violation punishable by a civil penalty of not more than \$5,000. Finally, the ordinance also removes the infraction classification.

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

SECTION 1. FINDINGS

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. The Board of Supervisors recognizes the need to strengthen protection of the environment from loud and unreasonable nighttime sound. Additionally, the California Coastal Act requires protection of environmentally sensitive habitat areas and the compatibility of development adjacent to environmentally sensitive habitat areas, and the proposed regulations would further such protection and compatibility. While the ordinance would apply in both the coastal and non-coastal zones, Chapter 10.60 is not a part of the County’s certified Local Coastal Program per Chapter 20.96 of Title 20 of the Monterey County Code. Accordingly, this ordinance does not need certification by the California Coastal Commission.

C. This ordinance protects the public health, safety and welfare by increasing protections from loud and unreasonable sounds during the nighttime hours between 8:00 p.m. and 7:00 a.m., and better defining enforcement mechanisms for violations of the ordinance.

D. 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.

SECTION 2. Section 10.60.020 of the Monterey County Code is hereby amended to read as follows:

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

“Amplified noise” means any sound which is enhanced or amplified by any means or device whatsoever, including but not limited to an amplifier, loudspeaker, megaphone, or speaker unit.

"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.

SECTION 3. Subsection A of Section 10.60.040 of the Monterey County Code is hereby amended to read as follows:

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 89:00 p.m. to 7:00 a.m. the following morning.

SECTION 4. Subsection B of Section 10.60.040 of the Monterey County Code is hereby amended to read as follows:

B. Within the time period from 89:00 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, including but not limited to Amplified noise, 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

SECTION 5. Section 10.60.050 of the Monterey County Code is hereby amended to read as follows:

A. ~~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. 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 (\$250.00).~~

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 (\$1,000.00) or by imprisonment in the Monterey County Jail for a period of not more than six months or by both such fine and imprisonment. The Enforcement Official, as defined by Chapter 1.22 of the Monterey County Code, is authorized and empowered to enforce the provisions of this Chapter. The Enforcement Officer may issue an administrative citation for the violation of this Chapter as a civil penalty as follows:~~

1. ~~The first violation of the provisions of this Chapter shall be punishable by a fine of not more than one thousand dollars (\$1,000).~~

2. ~~The second violation of the provisions of this Chapter shall be punishable by a fine of not more than two thousand five hundred dollars (\$2,500).~~

3. ~~The third, and any subsequent, violation of the provisions of this Chapter shall be punishable by a fine of not more than five thousand dollars (\$5,000).~~

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.~~

CD. 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.

D. Under no circumstances shall any individual violator of this Chapter be charged both criminally and civilly.

SECTION 6. 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 7. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this ___ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mary Adams, 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:

Kelly L. Donlon
Assistant County Counsel