

Noise Regulations

Chapter 10.60 of the Monterey County Code



Item 17

May 10, 2022

Board Referral 2015.15

REF220008

Background

- ▶ July 2019 - updated Noise Ordinance No. 5315
- ▶ Ordinance is intended for law enforcement (criminal penalties)
- ▶ August 31, 2021- Referral assigned to HCD
- ▶ September 28, 2021 - HCD presented a preliminary response on the Referral
- ▶ September 28, 2021 - Board 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.
- ▶ February 8, 2022 - HCD presented its recommended amendments to the Board of Supervisors and received direction

Existing Regulations, Chapter 10.60

- ▶ 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.
- ▶ 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

Existing Regulations, Chapter 10.60

- ▶ First Violation - Infraction punishable by fine of \$250
- ▶ Second Violation - Misdemeanor punishable by \$1,000 up to 6 months in jail, or both fine and imprisonment

Summary of Sheriff's Office Enforcement in Practice

- ▶ Responds to Complaints
- ▶ Forwards report to HCD
- ▶ HCD opens case and issues administrative citation

February 8, 2022 Board Direction

- ▶ Focus on amplified noise sources
- ▶ Consider the need for criminal penalties
- ▶ Revisit the nighttime quiet hours

Proposed Regulations, Chapter 10.60

- ▶ Amended to prohibit unreasonable noise between 8:00 pm and 7:00 am as a proactive measure rather than 9:00 pm to 7:00 am
- ▶ Removes infraction classification and adds administrative citation provisions
 - ▶ First violation - \$1,000
 - ▶ Second violation \$2,500
 - ▶ Third violation \$5,000
- ▶ Adds a definition of “Amplified noise” to better define impermissible nighttime noise.

Stipulate Agreement

MCC Section 1.22.036

Department-level resolution for notice of violation.

Prior to requesting a hearing before the Hearing Officer as provided in this Chapter, the recipient(s) of said notice of violation may contact the County at the number provided on the notice to schedule a meeting with County staff for a department-level resolution of the alleged violation(s). The County shall provide staff available to meet for this purpose. At the conclusion of the meeting, the County may issue an extension of time to cure the violation or negotiate other abatement remedies.

MCC Section 1.22.120

Financial hardship waiver.

- A. **Administrative citations.** Any person who would experience substantial financial hardship if required to pay an administrative fine or administrative costs may file a request for a financial hardship waiver within thirty (30) days after service of the administrative citation. The request, with all required supporting documents and materials, shall be filed with the Enforcement Official on an application form approved by the County for such use. The form shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein. The Hearing Officer shall provide a written decision on the request for financial hardship waiver as part of any administrative order issued for the matter.
- B. **Compliance orders.** Any person who would experience substantial financial hardship if required to pay administrative penalties or administrative costs imposed pursuant to this Chapter may file a request for financial hardship waiver within thirty (30) days after service of any related decision and administrative order. The request, with all required supporting documents and materials, shall be filed with the Enforcement Official on an application form approved by the County for such use. The form shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein. The Hearing Officer shall provide a written decision on the request for financial hardship waiver as part of any administrative order issued for the matter.
- C. **Financial hardship criteria.** In determining whether or not a financial hardship exists, the Hearing Officer shall consider the present and future ability to pay, the amount of personal assets and liabilities and the overall net worth of the responsible person.
- D. The Hearing Officer shall issue a written decision denying the request for hardship waiver or granting the waiver and waiving the administrative penalties, administrative fines, or administrative costs; reducing the amounts due; allowing time to pay the costs in installments and/or to provide alternative amends.
- E. Provisions for alternate amends shall be included in any waiver or reduction unless the Hearing Officer finds that unique, special circumstances exist for the responsible person that prevents the performance of any alternate amends.
- F. The written determination shall include findings supported by evidence and be sent by certified mail to the person who received the notice of violation at the address shown on the approved hardship waiver form. The written determination of the Hearing Officer related to the financial hardship waiver is final and an exhaustion of administrative remedies.

Financial Hardship Waiver Process Summary

- Request filed within 30 days of citation
- Supporting documentation provided
- Request Reviewed by Hearing Officer
- Written decision provided by Hearing Officer

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PROCESS FOR SUBMITTING REQUEST FOR FINANCIAL HARDSHIP WAIVER

- 1) An individual requesting a Hardship Waiver must submit this form within 30 days after service of any related decision and administrative order. The request, with all required supporting documents and materials, shall be filed with the Enforcement Official. The form shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein.
- 2) The Hardship Waiver will be reviewed by the Hearing Officer.
- 3) The Hearing Officer shall provide a written decision on the request for financial hardship waiver.
- 4) In determining whether or not a financial hardship exists, the Hearing Officer shall consider the present and future ability to pay, the amount of personal assets and liabilities and the overall net worth of the responsible person.
- 5) The Hearing Officer shall issue a written decision denying the request for hardship waiver or granting the waiver and waiving the administrative penalties, administrative fines, or administrative costs; reducing the amounts due; allowing time to pay the costs in installments and/or to provide alternative amends.
- 6) Provisions for alternate amends shall be included in any waiver or reduction unless the Hearing Officer finds that unique, special circumstances exist for the responsible person that prevents the performance of any alternate amends.
- 7) The written determination shall include findings supported by evidence and be sent by certified mail to the person who received the notice of violation at the address shown on the approved hardship waiver form.
- 8) The written determination of the Hearing Officer related to the financial hardship waiver is final and an exhaustion of administrative remedies

IMPORTANT INFORMATION!

- **You are signing your request under penalty of perjury. Please answer truthfully, accurately, and completely.**
- **The Hearing Officer may ask you for information and evidence.** You may be ordered to go to an administrative hearing to answer questions about your ability to pay fines and or costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to an administrative hearing when asked.
- **If you receive a fee waiver, you must tell the hearing officer if there is a change in your finances.** You must tell the hearing officer within five days if your finances improve or if you become able to pay the fees or costs during this case. Payment amounts that were waived may be adjusted after your eligibility came to an end.

Recommendation

It is recommended that the Board of Supervisors:

- a. Introduce, waive first reading, and set May 24, 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.