



## Legislation Details (With Board Report)

<b>File #:</b>	ORD 23-015	<b>Name:</b>	Review of the Noise Control Regulations
<b>Type:</b>	Ordinance	<b>Status:</b>	Agenda Ready
<b>File created:</b>	8/21/2023	<b>In control:</b>	Board of Supervisors
<b>On agenda:</b>	8/29/2023	<b>Final action:</b>	
<b>Title:</b>	Review of the Noise Control Regulations Receive a report on the implementation of the noise control regulations contained in Chapter 10.60 of the Monterey County Code, consider modifications to Chapter 10.60 suggested by the Civil Grand Jury, and provide direction to staff. Location: County-wide Proposed CEQA action: Find the review of the noise control regulations is not a project as defined in Section 15378 of the CEQA Guidelines.		

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Board Report, 2. Attachment A - Noise Regulations (Chapter 10.60 of the County Code), 3. Attachment B - Civil Grand Jury responses from July 11, 2023, 4. Attachment C - Correspondence, 5. Attachment D - Long Range Work Plan, 6. Presentation Item No. 12

Date	Ver.	Action By	Action	Result
8/29/2023	1	Board of Supervisors		

### Review of the Noise Control Regulations

Receive a report on the implementation of the noise control regulations contained in Chapter 10.60 of the Monterey County Code, consider modifications to Chapter 10.60 suggested by the Civil Grand Jury, and provide direction to staff.

**Location:** County-wide

**Proposed CEQA action:** Find the review of the noise control regulations is not a project as defined in Section 15378 of the CEQA Guidelines.

### RECOMMENDATION:

Staff recommends that the Board of Supervisors:

- Find that this review of the noise control regulations is not a project as defined in section 15378 of the CEQA Guidelines;
- Receive a report on the implementation of the noise control regulations contained in Monterey County Code Chapter 10.60;
- Consider modifications to Chapter 10.60 suggested by the Civil Grand Jury; and
- Provide direction to staff as appropriate.

### SUMMARY:

On June 21, 2022, the Board of Supervisors adopted Ordinance number 5379 amending Chapter 10.60 of the Monterey County Code to modify regulations for the control of nighttime noise and enforcement mechanisms. Chapter 10.60 is attached as **Attachment A** to this report for reference. In adopting Ordinance No. 5379, the Board of Supervisors requested that the Housing & Community Development Department (HCD) return to the Board with a report on implementation efforts. HCD has been enforcing Chapter 10.60 for roughly one year now, and is returning for a review of its enforcement efforts.

In general, HCD's enforcement efforts have had some success. In most, but not all, cases, compliance with nighttime noise regulations is achieved after the issuance of a warning and threat of fine. However, in some cases, particularly properties with reoccurring and unpermitted events, warnings and fines have not been successful in deterring property owners from violating the nighttime noise regulations. The reason events are especially problematic is because the financial gain to a property owner from the unpermitted event can exceed the violation amounts making the fines part of the cost of doing business.

Due to reoccurring noise issues, the Monterey County Civil Grand Jury prepared a report entitled "*Noise Ordinance: Sleepless in Monterey County*." The Civil Grand Jury report contained 11 findings and 8 recommendations for improving noise regulations and enforcement. Most of the recommendations included increasing staffing assigned to enforcement, extending on-call enforcement days and hours, and providing for more public outreach. One recommendation that would require an amendment to the current County Code (Recommendation No. 8 of the Civil Grand Jury report) was to impose stricter fines and penalties for repeat offenders of the special event code violations.

On July 11, 2023, the Board of Supervisors reviewed the Civil Grand Jury report and considered responses to the findings and recommendations. The Board responses to the Civil Grand Jury report on the noise regulations are attached as **Attachment B** to this report. As it relates to recommendation number 8, the response was that the recommended change needs additional review. This response was given mostly because the noise regulations do not regulate events. Noise regulations only apply to noise which may or may not be associated with an event. Events are permitted under separate provisions of the County Code.

On the topic of repeat noise ordinance violators, staff described at the July 11<sup>th</sup> Board hearing our experience with the provision in Chapter 10.60 to provide a warning over a 24 hour period before implementing fines. The 24 hour warning provision has created a situation where some individuals know that they will receive a warning before getting fined and this knowledge allows them the ability to cause noise on a regular basis, but to comply with the warning after it is given and avoid getting fined. To address this loophole, the Board could direct staff proceed with an ordinance to amend Chapter 10.60 to address this issue. Specifically, revisions to the 24 hour time period could be modified to allow fines to extend the number of days after a warning is issued before fines are assessed.

In addition to staff experience in enforcement of the noise regulations and the Civil Grand Jury recommendations, staff received a number of emails from interested persons following the Board hearing on July 11<sup>th</sup> suggesting that:

1. Chapter 10.60 be modified to address noise any time of the day; and
2. That the decibel levels and distance from the noise source be modified for daytime noise to have a "plainly audible" standard, similar to nighttime noise restrictions.

Correspondence received is attached as **Attachment C** to this report.

Currently, Chapter 10.60 restricts daytime noise to a level not exceeding 85 decibels measured 50 feet from the source. Noise levels from 9:00 p.m. to 7:00 a.m. (nighttime) cannot be plainly audible or exceed 65 decibels at 50 feet from the source. For comparison purposes, a hair dryer, blender, or lawn mower can cause noise at about 85 decibels near the source and 65 decibels is roughly equivalent to a normal conversation. Commentors have expressed issues with music and noise occurring all day with no ability to enforce given the different noise standards for day and nighttime noise.

HCD staff recommends that if the Board desires to regulate noise during the day, that clear exemptions be provided for normal daytime activities (criteria would need to be identified within Chapter 10.60).

Staff will present our experience enforcing the noise regulations, review the Civil Grand Jury recommendations, and summarize comments from interested parties at the meeting. After the presentation, staff requests that the Board provide direction to staff as appropriate regarding potential revisions to Chapter 10.60 and, if directed, the priority for completing the updates. A copy of the prioritized long-range work program is attached for reference as **Attachment D**.

#### CEQA

This review of the noise control regulations is not a commitment to a project as defined in Section 15378 of the CEQA Guidelines. If an ordinance amending Chapter 10.60 is considered in the future, the ordinance will be subject to its own CEQA determination as part of the consideration of that ordinance.

#### OTHER AGENCY INVOLVEMENT:

The following Departments or Agencies have been involved:

- County Counsel's Office
- Sheriff's Office

#### FINANCING:

Funding for staff time to prepare this report is included in the FY2023-24 Adopted Budget for each of the involved Departments/Agencies. Funding for staff time to prepare amendments to the noise regulations, if directed, will also be included in the adopted budget.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

These temporary emergency regulations promote public safety and protect the agricultural economy. Check the related Board of Supervisors Strategic Initiatives:

Economic Development

X Administration

Health & Human Services

Infrastructure

X Public Safety

Prepared by: Craig W. Spencer, Interim Director, Housing & Community Development

With input from: Josh Bowling, Chief of Building Services and Wyndee Nichols, Code Compliance Inspector

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

Attachment A - Noise Regulations (Chapter 10.60 of the County Code)

Attachment B - Civil Grand Jury responses from July 11, 2023

Attachment C - Correspondence

Attachment D - Long Range Work Plan

cc: Front Counter Copy; County Counsel; Sheriff's Office, CAO's office; Craig Spencer; interested parties