



Legislation Details (With Board Report)

File #: 21-818 **Name:** Referral No. 2021.15 - Noise Ordinance
Type: General Agenda Item **Status:** Passed - Agricultural Commissioner's Office
File created: 9/22/2021 **In control:** Board of Supervisors
On agenda: 9/28/2021 **Final action:** 9/28/2021
Title: Receive a preliminary analysis report in response to Board Referral No. 2021.15 seeking to update Monterey County Noise Ordinance (Chapter 10.60 of the Monterey County Code).

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment 1 - Board Referra; 2015.15, 3. Attachment 2 - Board Order and Ordinance No. 5315, 4. Completed Board Order Item No. 22

Date	Ver.	Action By	Action	Result
9/28/2021	1	Board of Supervisors	approved - agricultural commissioner	

Receive a preliminary analysis report in response to **Board Referral No. 2021.15** seeking to update Monterey County Noise Ordinance (Chapter 10.60 of the Monterey County Code).

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- 1) Receive a preliminary analysis report in response to **Board Referral No. 2021.15** and direct that staff:
 - i. Reassign the referral to the Sheriff’s Office; or
 - ii. Rescind referral
- 2) Provide further direction, as appropriate.

SUMMARY:

The County’s 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 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. Aircraft and those sources that are 2,500 feet from an occupied dwelling unit are excluded. The Ordinance further prohibits nighttime noise that is “plainly audible” at 50 feet in any direction from the source in exceedance of 45 L_{eq}dBA with a maximum dBA of 65.

Regarding enforcement, Section 10.60.050 MCC 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 of imprisonment in the Monterey County Jail for a period of not more than 6 months, or by both fine and imprisonment.

Comments have been received regarding the effective enforcement of the Ordinance. The loud parties seem to persist. Supervisor Phillips has requested the County Counsel’s Office and the Housing and Community Development (HCD) Department respond to a referral by preparing an analysis of the Noise Ordinance and enforcement program to determine if there are solutions or strategies that may be employed to create a more robust, effective program as well as identifying funding strategies for any proposed increases in resources dedicated to the program.

Since the existing Noise Ordinance is intended for law enforcement, the Sheriff's Office participated in drafting the Ordinance and the Sheriff's Office currently enforces the ordinance, HCD staff recommends the referral be reassigned to the Sheriff's Office to perform a more robust analysis. Considering the COVID-19 pandemic, the Board may also wish to consider an assignment to the Health Department due to concerns raised regarding gatherings.

PRELIMINARY ANALYSIS:

Background:

Board of Supervisors assigned Referral No. 2021.15 to County Counsel and HCD on August 31, 2021, to investigate the concern expressed that resources provided to enforce the noise ordinance that was revised in 2019 have been insufficient. Additionally, more analysis has been requested toward the noise ordinance time parameters, currently identified as the time period from 9pm to 7am on all days of the week.

Project Description:

The referral suggests a review of the existing Ordinance to identify needed revisions and explore resource allocation adjustments to enforcement efforts including increased number of staff and/or technological solutions. Examine opportunities to fund any proposed increase in resources.

Estimated Project Cost:

Project cost estimates are undetermined at this time.

Staffing Level Estimate:

Staffing level estimates are undetermined at this time.

Time impacts associated with this request may include staff time from HCD, County Counsel, Public Defenders Office, Environmental Health and/or the Sheriff's Office.

Departmental Challenges:

As indicated, the Noise Ordinance was established with the intention the Sheriff's Office would provide enforcement through the issuance of infractions and misdemeanors. This is not the current practice. To assist the Sheriff's Office, HCD receives noise case referrals from the Sheriff's Office, opens a case and issues an administrative citation when appropriate. The administrative citation process is primarily used for alleged violations of the building and zoning codes.

Since July 2019 the HCD has opened a total of 1003 Code Compliance cases; 28 of which involve a complaint of noise coupled with a building or zoning violation, typically large tents. The HCD Code Compliance team is responsible for investigating complaints related to land use violations with case priority determined by the level of health and safety risk presented by the alleged violation. Noise related complaints are currently a Priority 3 and do not receive immediate attention. The current process involves a notice that a complaint was received that is mailed to the property owner usually within one week of receiving the complaint. Priority 1 cases involve possible threats to health and safety and are responded to the same day. Of the total 1003 cases opened since July 2019, 606 (60%) were categorized as Priority 1 and were responded to by a staff of four Code Compliance Inspectors; more than 150 cases per inspector.

Staff recommends reassignment of this referral to the Sheriff's Office as loud private events are not violations of building code or zoning regulations and infraction and misdemeanors may result in more effective enforcement. If the referral remains with HCD, staff would be investigating the staff time and cost associated with establishing land use regulations like a noise overlay district or regulations

regarding private events on residential property. These land use actions would require some level of environmental review and would involve resource allocation. Additionally, the Board would need to consider a reprioritization of the already established long range work program.

Proposed Response Date:

If the Board directs HCD staff to continue to investigate options related to this referral, HCD staff proposes to report back to the Board in early January 2022 with a more comprehensive analysis and recommendations.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

An effective noise ordinance and enforcement program supports 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 by: Karen Riley-Olms, Management Analyst II, x5132

Approved by: Melanie Beretti, Housing and Community Development Services Manager, x5285

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

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

Attachment 1 - Board Referral 2015.15

Attachment 2 - Board Order and Ordinance No. 5315