



# County of Monterey

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

## Legislation Details (With Board Report)

**File #:** ORD 19-025 **Name:** Ex Parte Ordinance 2.04.355  
**Type:** Ordinance **Status:** General Government - Consent  
**File created:** 8/28/2019 **In control:** Board of Supervisors  
**On agenda:** 9/10/2019 **Final action:** 9/10/2019  
**Title:** Adopt an ordinance of the County of Monterey, State of California, adding Section 2.04.355 to the County Code related to attorney communications with members of the Board of Supervisors and other decision-makers acting in an adjudicative capacity.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Board Report, 2. Ordinance.final. 2.04.355 re Ex parte Communications and State Bar rule 3.5, 3. Rule\_3.5, 4. Item No. 27 Completed Board Order and Ordinance No. 5317

| Date      | Ver. | Action By            | Action                   | Result |
|-----------|------|----------------------|--------------------------|--------|
| 9/10/2019 | 1    | Board of Supervisors | adopted - county counsel | Pass   |

Adopt an ordinance of the County of Monterey, State of California, adding Section 2.04.355 to the County Code related to attorney communications with members of the Board of Supervisors and other decision-makers acting in an adjudicative capacity.

**RECOMMENDATION:**

It is recommended that the Board of Supervisors:

Adopt an ordinance of the County of Monterey, State of California, adding Section 2.04.355 to the County Code allowing attorney communications with members of the Board of Supervisors and other decision-makers acting in an adjudicative capacity.

**SUMMARY/DISCUSSION:**

On August 27, 2019, the Board of supervisors introduced, waived reading and set September 10, 2019 at 10:30 AM as the date and time for adoption of an ordinance allowing attorney communications with members of the Board of Supervisors and other decision-makers acting in an adjudicative capacity. The purpose of the ordinance is to address the implications of the new State Bar Rule of Professional Conduct 3.5, which precludes attorneys from making Ex Parte contacts with decision-makers who are sitting on an administrative body in an adjudicative capacity. Ex Parte contacts occur when one side in a matter contacts the decision-maker without the attendance of potential opponents. One effect of the State Bar rule is that it only prevents lawyers from contacting decision-makers and does not impact non-lawyers. The new rule would apply to the Board of Supervisors, the Planning commission, and other bodies or decision-makers, when they are considering entitlement matters, including land-use permits. This ordinance would allow all Ex Parte contacts at the discretion of the decision-maker.

Additional information and background are provided with Board reports of your meetings of June 25, July 16 and August 27, 2019.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

The financial impact of this item is limited to publishing the ordinance.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

*Eliminates uncertainty and therefore promotes more efficient administration.*

Mark a check to the related Board of Supervisors Strategic Initiatives

☐ Economic Development  
☒ Administration  
☐ Health & Human Services  
☐ Infrastructure  
☐ Public Safety

Prepared and Approved by:

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Charles McKee, County Counsel, x. 5312

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Dated:

Attachments:

Board Report

Ordinance Section 2.04.355

California Rule of Professional Conduct 3.5