

MONTEREY COUNTY PLANNING COMMISSION

Meeting: May 14, 2014 Time: 9:00 AM	Agenda Item No.: 7
Project Description: CONTINUED FROM THE APRIL 30 TH PLANNING COMMISSION HEARING. Conduct a public workshop on the proposed adoption of an ordinance amending Title 10 (Health and Safety) of the Monterey County Code to add regulations for the control of nighttime noise.	
Project Location: County-wide	APN: County-wide
Planning File Number: REF140008	Owner: N/A
Planning Area: County-wide	Flagged and staked: N/A
Zoning Designation: County-wide	
CEQA Action: Statutorily Exempt per Section 15262	
Department: RMA – Planning	

RECOMMENDATION:

Staff recommends that the Planning Commission conduct a public workshop on the proposed adoption of an ordinance amending Title 10 (Health and Safety) of the Monterey County Code to add regulations for the control of nighttime noise.

PROJECT OVERVIEW:

The workshop on this ordinance was continued from the April 30th Planning Commission hearing in order to allow staff time to make refinements to the ordinance and to hear additional comments from Planning Commissioners and members of the public. The following comments were heard at the April 30th workshop:

- We shouldn't limit the sources of noise. **We revised the ordinance accordingly.**
- Noise should be measured at the property line of the offending noise source, not the property line of the complainant. **We revised the ordinance accordingly.**
- The 55 dB standard may be too high, and we should consider the standard of 65 dB used by San Luis Obispo County. According to our presentation slide of comparative noise sources, 60 dB is the noise level of an air conditioner, and we would not want to make such equipment illegal to operate after 10:00 pm. **We looked into this and concluded that our information in the presentation (not contained in the proposed ordinance) was misleading. Once distance is factored into the analysis, there should be no problem of inadvertently regulating common household equipment. We left the ordinance unchanged in this matter pending further comment from Commissioners and members of the public.**
- There was concern expressed that the 55 dB standard was too high. **See the comment above.**
- There was interest expressed in addressing daytime noise. **We recommend no change here, as regulating daytime noise engenders a broad range of issues that would require**

extensive technical and policy analysis. We could do this, but it would substantially delay any quick action on nighttime noise.

- Concerns were expressed about the accuracy of the presentation slide showing comparative noise sources. **We have included an improved slide for this second part of the workshop.**

The proposed revisions to Title 10, Chapter 10.60 (Noise Control) are a result of recent public complaints and internal discussion related to nighttime noise, RMA – Planning. These revisions were prepared in close collaboration with the Monterey County Sheriff’s Office, the Health Department, and the Environmental Health Bureau, each of which provided advice concerning the revisions.

The purpose of these proposed revisions is to protect residents from the detrimental effects of loud nighttime noises and provide a regulatory tool for law enforcement officers to respond to neighborhood complaints. The revisions are a response to public complaints, but there is no state or local mandate that requires action by Monterey County. As such, the primary basis for this new regulation is Monterey County’s police power to protect the public health, safety, and welfare.¹ As this ordinance would amend Title 10 of the Monterey County Code, the new regulations would apply countywide, in both inland and coastal areas.

DETAILS OF THE PROPOSED REVISIONS:

The original draft ordinance presented at the April 30th workshop was drafted as narrowly as possible to address the issue of nighttime noise from a selected set of sources, such as landscaping equipment and music. The proposed ordinance has been revised (adding a new Section 10.60.040) to now apply to any nighttime noise (defined as between the hours of 10:00 p.m. and 7:00 a.m.):

Care was taken to include exemptions to the new regulations for:

- Bells, chimes, etc., in conjunction with religious services or public holiday celebrations
- Events conducted on in compliance with an issued permit or license
- Emergency work
- Commercial agricultural operations, but not including activities at farm-related housing.

The proposed regulations would also amend Section 10.60.020 (Definitions), to add a definition for “Emergency Work” but would otherwise make no substantive change to the existing provisions of Chapter 10.60. The existing Chapter 10.60 addresses the operation of noise-producing devices anytime of the day that produces noise above 85 dbA, and these provisions would be left unchanged.

The standard being proposed for nighttime noise (i.e., 55 db) is tailored to be consistent with the noise standards set forth in Table S-2 of the *Monterey County 2010 General Plan* “Safety Element.” In addition, it is generally consistent with nighttime noise standards in other jurisdictions polled,

¹ According to *California Land Use and Planning Law* (Curtin and Talbert, 2007), the police power “is set forth in the California Constitution, which confers on cities [and counties] the power to make and enforce . . . all local police, sanitary and other ordinances and regulations not in conflict with general laws.”

which span from 65 db to 45 db.² In Figure 1 below, comparative examples of noise levels are presented to help Planning Commissions and members of the public understand the proposed regulations.

ALTERNATIVES:

While staff is recommending the proposed revisions, there are alternate ways to proceed:

- Decline to adopt new regulations for nighttime noise.
- Defer regulations for nighttime noise until such time as work begins on the Community Noise Ordinance (Task 62 of the Long Range Planning Work Program), although Task 62 primarily concerns itself with the review and approval of development projects, while the ordinance at hand is independent of any development application.
- Refine the ordinance language to distinguish between weekday and weekend nights, and set separate standards for each.
- Request the retention of a qualified noise consultant to conduct a thorough technical study of the issues and postpone action on the ordinance until such a study is complete.

² Jurisdictions polled include: San Luis Obispo County, San Mateo County, Santa Barbara County, Sonoma County, and Ventura County.

Figure 1: Comparative Noise Levels

Noise Source	Decibel Level	Decibel Effect
Jet take-off (at 25 meters)	150	Eardrum rupture
Aircraft carrier deck	140	
Military jet aircraft take-off from aircraft carrier with afterburner at 50 ft (130 dB).	130	
Thunderclap, chain saw, Oxygen torch (121 dB).	120	Painful. 32 times as loud as 70 dB.
Steel mill, auto horn at 1 meter. Turbo-fan aircraft at takeoff power at 200 ft (118 dB). Riveting machine (110 dB); live rock music (108 - 114 dB).	110	Average human pain threshold. 16 times as loud as 70 dB.
Jet take-off (at 305 meters), use of outboard motor, power lawn mower, motorcycle, farm tractor, jackhammer, garbage truck. Boeing 707 or DC-8 aircraft at one nautical mile (6080 ft) before landing (106 dB); jet flyover at 1000 feet (103 dB); Bell J-2A helicopter at 100 ft (100 dB).	100	8 times as loud as 70 dB. Serious damage possible in 8 hr exposure
Boeing 737 or DC-9 aircraft at one nautical mile (6080 ft) before landing (97 dB); power mower (96 dB); motorcycle at 25 ft (90 dB). Newspaper press (97 dB).	90	4 times as loud as 70 dB. Likely damage 8 hr exp
Garbage disposal, dishwasher, average factory, freight train (at 15 meters). Car wash at 20 ft (89 dB); propeller plane flyover at 1000 ft (88 dB); diesel truck 40 mph at 50 ft (84 dB); diesel train at 45 mph at 100 ft (83 dB). Food blender (88 dB); milling machine (85 dB); garbage disposal (80 dB).	80	2 times as loud as 70 dB. Possible damage in 8 hr exposure.
Passenger car at 65 mph at 25 ft (77 dB); freeway at 50 ft from pavement edge 10 a.m. (76 dB). Living room music (76 dB); radio or TV-audio, vacuum cleaner (70 dB).	70	Arbitrary base of comparison. Upper 70s are annoyingly loud to some people.
Conversation in restaurant, office, background music, Air conditioning unit at 100 ft	60	Half as loud as 70 dB. Fairly quiet
Quiet suburb, conversation at home. Large electrical transformers at 100 ft	50	One-fourth as loud as 70 dB.
Library, bird calls (44 dB); lowest limit of urban ambient sound	40	One-eighth as loud as 70 dB.
Quiet rural area	30	One-sixteenth as loud as 70 dB. Very Quiet
Whisper, rustling leaves	20	
Breathing	10	Barely audible

Source: <http://www.industrialnoisecontrol.com/comparative-noise-examples.htm>

OTHER AGENCY INVOLVEMENT:

The proposed revisions to Title 10, Chapter 10.60 (Noise Control) have been coordinated with the Monterey County Sheriff’s Office, the Monterey County Department of Health, and the Monterey County Department of Environmental Health in the drafting of the new regulations.

CEQA APPROACH:

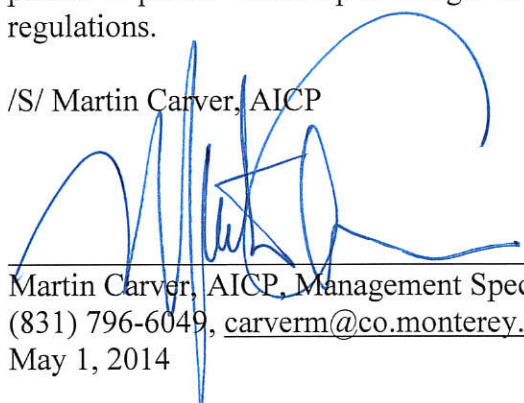
This public workshop is statutorily exempt per Section 15262 of the California Environmental Quality Act (CEQA), because the Planning Commission is not considering approving the proposed ordinance. There will be no legally binding effects of the actions of the Planning Commission to hold a public workshop on the proposed new regulations for the control of nighttime noise. RMA – Planning anticipates the need to prepare an Initial Study for the proposed regulations prior to formal hearings, with the most likely outcome being a Negative Declaration.

CONCLUSION/RECOMMENDATION:

The proposed revisions to Chapter 10.60 (Noise Control) are in response to a concern for public health and safety. The proposed regulations for nighttime noise would apply to noise from any source (with certain exceptions). Staff recommends that the Planning Commission hold a second

part of its public workshop that began on April 30th to continue the discussion of the proposed new regulations.

/S/ Martin Carver, AICP



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May 1, 2014

cc: Front Counter Copy; Planning Commission (10); Environmental Health Bureau; Land Use Advisory Committees (11); Henry Gowin, District #2; Carl Holm, Deputy Director RMA Marti Noel, Assistant RMA Director; Wendy Strimling, County Counsel; Jacqueline R. Onciano, RMA Services Manager; Martin Carver, Project Planner; Tamara Dooley; Lynn Learch; Luana Conley; Thomas Ponleithner; Planning File REF140008

Attachment: Exhibit A – Draft Ordinance amending Chapter 10.60 (Noise Control)

This report was reviewed by Jacqueline R. Onciano, Planning Services Manager, Long Range Planning Team

EXHIBIT A
Chapter 10.60
NOISE CONTROL

Sections:

- 10.60.010 Findings
- 10.60.020 Definitions
- 10.60.030 Operation of noise-producing devices restricted
- 10.60.040 Regulation of nighttime noise
- 10.60.040050 (Repealed)

10.60.010 Findings

This Board finds that noises generated so as to be in excess of the levels permitted in this Chapter impairs hearing, impedes convalescence, hinders concentrated mental effort, interferes with relaxation and sleep, depreciates property values, and causes stress and nervous tension and consequent irritability, insomnia, accident proneness, and ~~cardiovascular diseases~~ increased risk for cardiovascular disease and hypertension.

(Ord. 2450 § 1, 1978)

10.60.020 Definitions

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

- A. "dbA" means decibels on the A scale.
- B. "Person" means any individual, firm, partnership, association, corporation, organization, or business trust.
- C. "Emergency work" means any work performed to protect, maintain, or restore safe and/or healthy conditions in the community, along with work performed by private or public utilities when restoring utility service.

(Ord. 2450 § 2, 1978; definition of emergency work from San Mateo County Code Chapter 4.88)

10.60.030 Operation of noise-producing devices restricted

At any time of the day, no person shall, within the unincorporated limits of the County of Monterey, operate any machine, mechanism, device, or contrivance which produces a noise level exceeding eighty-five (85) dbA measured fifty (50) feet therefrom. The prohibition in this Section shall not apply to aircraft nor to any such machine, mechanism, device or contrivance ~~which that~~ is operated in excess of two thousand five hundred (2,500) feet from any occupied dwelling unit.

(Ord. 2450 § 3, 1978)

10.60.040 Regulation of nighttime noise

The following nighttime regulations shall also apply:

- A. It shall be unlawful within the unincorporated area of the County of Monterey to make, assist in making, permit, continue, create, or cause to be made, any loud and unreasonable sound produced by a chain saw, leaf blower, or other landscaping equipment, or any loud and unreasonable noise, music, percussion or other sound, that is broadcast outside of any residence or building by means of any amplified musical instrument, drum, or similar device, or by means of any radio, loudspeaker, sound amplifier or phonograph, or by means of or employing any similar device which amplifies and produces, reproduces or broadcasts sound, any day of the week during from the hours of 10:00 P.M. and to 7:00 A.M. the following morning.
- B. Within this time period, and for the purposes of this section, a loud and unreasonable sound shall include any sound created by means prohibited above that exceeds the exterior noise level standards set forth in Table 1 below.

(Santa Barbara County Code, Chapter 40, w/ editorial modification)

Table 1: Exterior Noise Level Standards (Nighttime Only)

	<u>Standard</u>
<u>Nighttime hourly equivalent sound level (L_{eq} dbA) dB</u>	<u>45</u>
<u>Maximum level, dbA dB</u>	<u>55*</u>

Note: *The SLO standard is 65 dB; I reduced this to 55 for consistency with the MC GP; CNEL levels are typically reduced by 10 dB for the nighttime period (<http://ceres.ca.gov/planning/genplan/sutter/noise1.html>).

- C. The provisions of this section are not intended to affect and shall not apply to:
 - 1. Bells, chimes, carillons and similar devices while being used for religious purposes, or in conjunction with religious services, or for celebrations of public holidays; or
 - 2. Outdoor gatherings, public dances, shows and sporting and entertaining events, provided such gathering, dance or event is conducted on commercial or institutional premises, pursuant to applicable rules, regulations and zoning

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restrictions, and in compliance with all permits or licenses issued by a public agency relative to the staging of the gathering, dance or event.

3. Emergency vehicles being operated by authorized personnel or equipment used in emergency work, such as chain saws.
4. Commercial agricultural operations, not including activities at farm-related housing.

(Santa Barbara County Code, Chapter 40; plus additional exemptions added by RMA staff).

D. For the purpose of evaluating conformance with the standards of this section, noise levels shall be measured as follows:

1. Use of Meter. Any noise measurement shall be made on a sound measuring instrument meeting American National Standard Institute's Standard SI.4-1981 (or more recent revision thereof) for Type 1 or Type 2 sound level meters using the A-weighted network scale, or an instrument and the associated recording and analyzing equipment that provide equivalent data, which may be or become available as industry standards change and new best practices become available. Calibration of the measurement equipment utilizing an acoustical calibrator shall be performed at the beginning and end of the shift of the enforcement personnel responding to noise complaints. (Santa Barbara County Code, Chapter 40; San Luis Obispo County Code, Chapter 23; RMA staff added reference to changing industrial standards)
2. Measuring Exterior Noise Levels. Exterior Noise levels shall be measured at as close as is practical to the property line of the affected alleged offending property. Where practical, the microphone shall be positioned five feet above the ground and away from reflective surfaces. (San Luis Obispo County Code, Chapter 23, w/ modification by RMA)

10.60.040050 Penalty for violations

Repealed.

(Ord. 3659 § 8, 1993)