

## ORDINANCE NO. 5250

### AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 10.60 OF THE MONTEREY COUNTY CODE RELATING TO NOISE CONTROL

#### County Counsel Summary

*This Ordinance amends Chapter 10.60 of the Monterey County Code to add regulations for the control of nighttime noise. This ordinance establishes two new standards for nighttime noise—65 dBA (maximum) and 45  $L_{eq}$  dBA (hourly equivalent)—that apply to sound from any source with limited exceptions. It also establishes procedures for the measurement of sound. Finally, the ordinance amends existing regulations for the operation of noise-producing devices at any time of day, clarifying the class of offenders that are regulated. This ordinance applies to both the coastal and non-coastal unincorporated area of Monterey County.*

The Board of Supervisors of the County of Monterey ordains as follows:

#### SECTION 1. FINDINGS

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. The Board of Supervisors recognizes the need to strengthen protection of the environment from loud and unreasonable nighttime sound. Additionally, the California Coastal Act requires protection of environmentally sensitive habitat areas and the compatibility of development adjacent to environmentally sensitive habitat areas, and the proposed regulations would further such protection and compatibility. While the ordinance would apply in both the coastal and non-coastal zones, Chapter 10.60 is not a part of the County's certified Local Coastal Program per Chapter 20.96 of Title 20 of the Monterey County Code. Accordingly, this ordinance does not need certification by the California Coastal Commission.

C. This ordinance protects the public health, safety and welfare by increasing protections from loud and unreasonable sounds during the nighttime hours between 10:00 p.m. and 7:00 a.m.

D. This ordinance 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.

SECTION 2. Section titles of Chapter 10.60 of the Monterey County Code are amended to read as follows:

**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.

SECTION 3. Section 10.60.010 of the Monterey County Code is revised to read as follows:

**10.60.010 Findings.**

This Board finds that noises generated so as to be in excess of the levels permitted in this Chapter impair hearing, impede convalescence, hinder concentrated mental effort, interfere with relaxation and sleep, depreciate property values, and cause stress and nervous tension and consequent irritability, insomnia, accident proneness, and increased risk for cardiovascular disease and hypertension.

(Ord. 2450 § 1, 1978)

SECTION 4. Section 10.60.020 of the Monterey County Code is amended to read as follows:

**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" means a situation arising from fire, explosion, act of God or act of public enemy which, if not corrected immediately, will potentially result in the loss of life, property or substantial environmental resources.

(Ord. 2450 § 2, 1978)

SECTION 5. Section 10.60.030 of the Monterey County Code is amended to read as follows:

**10.60.030 Operation of noise-producing devices restricted.**

At any time of the day, it is prohibited within the unincorporated area of the County of Monterey to operate, assist in operating, allow, or cause to be operated 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 that is operated in excess of two thousand five hundred (2,500) feet from any occupied dwelling unit.

(Ord. 2450 § 3, 1978)

SECTION 6. Section 10.60.040 of the Monterey County Code is amended to read as follows:

**10.60.040 Regulation of nighttime noise.**

The following regulations shall apply to nighttime noise:

A. It is prohibited within the unincorporated area of the County of Monterey to make, assist in making, allow, continue, create, or cause to be made any loud and unreasonable sound any day of the week from 10:00 p.m. to 7:00 a.m. the following morning.

B. Within the time period 10:00 p.m. to 7:00 a.m. the following morning, and for the purposes of this Section, a loud and unreasonable sound shall include any sound that exceeds the exterior noise level standards set forth in Table 1 below.

Table 1: Exterior Noise Level Standards (Nighttime Only)

	Standard
Nighttime hourly equivalent sound level ( $L_{eq}$ dBA)	45
Maximum level, dBA	65

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 entertainment events, provided such gathering, dance or event is conducted on commercial or institutional premises, pursuant to applicable rules, regulations and zoning restrictions and in compliance with all permits or licenses issued by a public agency relative to the staging of the gathering, dance or event; or

3. Emergency vehicles being operated by authorized personnel or equipment used in an emergency, such as chain saws; or

4. Commercial agricultural operations, not including activities at farm-related housing.

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

1. Sound Level Meter. Any noise measurement shall be made using a sound level meter meeting American National Standard Institute's Standard SI.4-1981 (or more recent revision thereof) for Type 1 or Type 2 integrating 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.

2. Measuring Noise Levels. Noise levels shall be measured at or outside the property line of the property from which noise is emanating. Where practical, the microphone shall be positioned five feet above the ground and away from reflective surfaces.

SECTION 7. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase should be declared invalid.

SECTION 8. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this 16th day of December, 2014, by the following vote:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter  
NOES: None  
ABSENT: None  
ABSTAIN: None

/s/ Louis R. Calcagno  
Chair, Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

By /s/ Gail T. Borkowski  
Clerk

APPROVED AS TO FORM:

/s/ Wendy S. Strimling

Wendy S. Strimling  
Senior Deputy County Counsel