

HOPE - Helping Our Peninsula's Environment

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Planning Commission
Monterey County

February 2, 2009

D-GP Noise Element Needs Impulse Policies

Good day Commissioners and Staff,

The General Plan Still does not Recognize Momentary Noises.

- Gunshots at shooting ranges, Car Alarms, Dog barking,
- Boom Box Cars, Leaf Blowers, and Non-emergency Car Honking

These transient, or recurring momentary noises generate the vast majority of complaints. Not merely complaints about noise, complaints to police departments about anything.

Yet the General Plan COMPLETELY avoids mentioning, regulating or prohibiting them.

Car Alarms, Dog barking, Gunshots at shooting ranges, Boom Box Cars, Leaf Blowers, and Non-emergency Car Honking and others are all very intrusive transient noises that must be avoided or mitigated.

It would be hard to imagine what more we could do to bring this to your atten O-10a

- We have given you probably the world's most up-to date research on the real harm of noise - the World Health Organization's Review of Noise.
- We have made available to you, for free, one of the world's top acoustics experts, Dr. Herman Medwin, Ph.D.

All of this has been ignored.

So, to provide you with a small legal push - the attached Noise Element has Findings that reflect the best available Noise Science. Because of those findings, most of the remainder of the Element is required as mitigation for noise existing in Monterey County - and which could arise from development provided for by the D-GP.

We respectfully request you explain why, if any, you disagree with any of the Findings and provide references for such disputes; and we want you to use the element as feasible mitigation.

Thank you,
-David Dilworth, Executive Director

Founded in 1998, *H.O.P.E.* is a non-profit, tax deductible, public interest group protecting our Monterey Peninsula's natural land, air, and water ecosystems and public participation in government, using science, law, education, news alerts and advocacy.

Noise (Free) Element for Monterey County's General Plan

By David J. Dilworth (with assistance from Herman Medwin, Ph.D.)

Informed Consent Noise Policy

This Noise Prevention Policy or General Plan Element is intended to be painless for Monterey county to merely plug into the General Plan with virtually no editing.

You may notice that this Element has three improvements over typical Noise control laws:

1. It is aimed at what appears in the "ear of the beholder" in addition to what is caused by the noisy activity,
2. It includes limits on inaudible noise, and
3. It allows noise pollution, but only when consent is given by all affected parties.

Noise Goal

The purpose of this noise element is to restore and maintain (your jurisdiction's¹) overall and specific quiet healthful environment and natural aesthetics; to eliminate harmful and disturbing man-made unwanted sound, known as noise, in and adjacent to (our jurisdiction).

Noise Findings

1. This Plan agrees with the World Health Organization in recognizing that noise is not merely a nuisance, it is a "serious health hazard." Noise levels and types can cause harm as well as annoyance, and even death to humans and wildlife, and can interfere with individual and community activities and harm property and reduce its value.
 - a. **Damage:** Continuous or transient noise at and above 75 dBA at the ear of the listener can cause hearing damage;
 - b. **Annoying and Significant:** Noise above 55 dBA can be annoying and the U.S. EPA considers it a significant impact;
 - c. **Conversation Blocking:** Noise levels of 50 dBA barely permits intelligible conversation; and
 - d. **Inaudible Harm:** Inaudible low frequency infrasound and high frequency ultrasonic noise can cause biological and property damage.
2. This Plan recognizes that relative levels of noise intrusion compared to the existing noise levels, are sometimes more important than absolute noise levels.

For example 50 dBA can be annoying or harmful in a quiet natural area - a park, a

trail, rural areas, or at a beach, but unnoticed in town. Thus it is important to measure existing sound level baselines rather than time averaged man-made noise levels, which may be too high already.

3. This Plan recognizes that harm and complaints are more often caused by actual short duration maximum noise levels rather than calculated average noise levels.
4. This Plan recognizes each Californian's inalienable Right to Safety.
5. This Plan recognizes the California legislature's determination to take all action necessary to provide the people of this state with enjoyment of aesthetic, and natural environmental qualities, and freedom from excessive noise.
6. This Plan recognizes that there is no right to pollute, harm or annoy others.
7. This Plan recognizes the fundamental rights of each individual --
 - a. To be fully informed of a harmful action before it occurs, and
 - b. To deny consent.

Quiet Restoration and Protection Actions

1. Within one year of adoption of this Plan and updated at least yearly -
 - a. A complete inventory shall be prepared of -
 - I. All areas of natural sound, and
 - II. Noise sources of all existing man-made activities experiencing transient and continuous noise of at least 45 dBA; and Physical measurements shall be taken, as opposed to estimates or computer models, and maps shall be prepared of natural sound levels in all public areas and legally accessible private lands, and of continuous and repeating transient maximum noise levels for all noise sources in the updated inventory of noise levels of all man-made activities including, but not limited to --

Air Conditioners, Amplified Music, Barking Dogs, Chainsaws & Wood Chippers, Construction Vehicles, Construction Power Tools & Equipment, Generators, Industrial Fans, Industrial Engines, Leaf Blowers, Lawn Mowers, Portable Radios, Power Transformers, Public Address Systems, Public Fields or Stadiums (e.g. Football, Baseball, Soccer), Racing Tracks, Rock Quarries, Theaters, Vehicles, Weapon use (including Firing Ranges and Hunting), Aircraft, Busses, Cars, Neighborhood traffic, Traffic near Parks, Car Music, Event Traffic, Idling Busses, & Trucks, Motorcycles, Street Sweepers, Trucks, Garbage Trucks, Rockets, Spacecraft and Trains.
 - b. The measurements shall separately measure and map all noise locations in our jurisdiction, and sound levels, for --

I. The Maximum Instantaneous Noise levels,

II. Noise Durations,

III. CNEL (if required by law), and

IV. The dBA difference of an area's average natural sound level to that of the man-made intruding noise level at the time of the intrusion.

2. To prevent harm, annoyance and activity interference by noise, no activity, existing or proposed, is permitted, except to alleviate an emergency, which can cause any transient or continuous noise exceeding --
 - a. Noise levels of 55 dBA on any party unwilling or unable to give their consent.
 - b. Natural sound levels by 5 dBA, where any alternative exists.

For example: Truck routes can be specified and truck speed limits can be lower than for other vehicles. An alternative to idling a bus or a truck is to require the motor to be turned off. An alternative to a 117 dBA chainsaw - is the use of an axe which only causes 55 dBA maximum.

3. To adequately warn people consenting to sound levels exceeding 55 dBA about the potential harm to their health, prior to the noise activity, each person whose consent is required must be given a readable copy of a true declaration clearly describing maximum noise levels and durations, and all potential harms to their health from the activity. Consent is only valid when a copy of the declaration is signed by the party affected by the noise. Proxy signatures are not valid.
4. To eliminate outside noises which adversely affect our area, (our jurisdiction e.g. Carmel or Monterey County) shall encourage avoidance and alternatives to all agencies and jurisdictions which have control over those noisy activities.
5. This Plan is intended to reflect the best available science. Whenever significantly improved information, alternatives, methods and equipment become available all policy related to this subject shall be updated within one year.
6. At all times (the jurisdiction e.g. Carmel or Monterey County) shall provide adequate resources to fully enforce this element and employ at least one full-time safety officer trained in noise detection and enforcement and noise free alternatives.
7. Compliance shall be encouraged with meaningful substantial fines collected, equal to the yearly cost of the noise making equipment by each responsible party for violations of each provision of this policy. Such fines shall be wholly applied to providing non-noisy alternatives and noise monitoring.
8. When successful enforcement of this ordinance is brought and accomplished by any person or entity other than the District Attorney the successful plaintiff shall be awarded \$5,000 civil penalty from defendant and any other fees and costs deemed appropriate by the court including those awarded pursuant to (California Code of Civil Procedure Section 1021.5)²

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Calderon, Vanessa A. x5186

From: David Dilworth [David8@1hope.org]
Sent: Monday, February 02, 2009 4:31 PM
To: ceqacommments
Subject: HOPE: GP Noise Element Replacement



impulse309.pdf (26 KB)
NOISLMNT09.pdf (18 KB)

Because the GP does not have a required Noise Inventory we are providing you with a Replacement Noise Element.