



# Monterey County

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## Board Report

Legistar File Number: ORD 14-027

December 16, 2014

Introduced: 12/4/2014

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

### Consider:

Adoption of an ordinance amending Chapter 10.60 of the Monterey County Code relating to Noise control.

(Nighttime Noise Ordinance - REF140008, County-wide; exempt under CEQA)

### RECOMMENDATION:

It is recommended that the Board of Supervisors adopt an ordinance (Attachment B) amending Chapter 10.60 of the Monterey County Code relating to Noise control.

### SUMMARY:

On December 2, 2014, the Board of Supervisors introduced, waived reading and set December 16 at 1:30 p.m. to consider adoption of an ordinance that amends Chapter 10.60 of the Monterey County Code to add regulations for the control of nighttime noise. (Attachment B). It establishes two new standards for nighttime noise-65 dBA (maximum noise level) and 45 Leq dBA (hourly equivalent noise level)-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. If the ordinance remains as introduced, it can be adopted on December 16.

Since December 2, staff received comments on the ordinance regarding outdoor gatherings and events conducted on commercial or institutional premises and animal noise. Staff finds that the ordinance, as drafted, can be interpreted to address the issues. However, staff could work with these stakeholders to develop language that is more explicit. If the Board would like to consider potential revisions to the ordinance staff requests the Board provide direction to staff as to the revisions and staff will return to the Board, as per state law, with an amended ordinance.

### DISCUSSION:

The purpose of the proposed ordinance 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. This item was initiated through a referral from Supervisor Calcagno's Office to address public complaints about loud sounds from late-night activities in residential neighborhoods. The primary basis for this new regulation is Monterey County's police power to protect the public health, safety, and welfare. This ordinance would complement, but not replace, the larger effort to prepare a community noise ordinance, per Safety Element Policy S-7.1, which will be undertaken in FY 15-16.

Robert E. Brown, from Brown-Buntin Associates, and Joe Moses, from the Monterey County Sheriff's Office, will be available at the hearing to answer technical questions and to address enforcement efforts. For further discussion see Attachment A. An underline/strikeout version of the current proposed ordinance is presented in Attachment C.

CEQA

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.

OTHER AGENCY INVOLVEMENT:

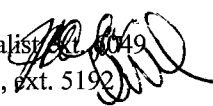
As the proposed ordinance amendments would not apply to noise from commercial agricultural operations, to daytime construction noise, or to noise from commercial events, outreach has been limited to the following agencies. These departments have reviewed the project, participated in the workshop series, and recommended revisions, many of which have been incorporated into the proposed draft ordinance:

Monterey County Sheriff's Office  
Monterey County Environmental Health

County Counsel has approved the ordinance as to form.

FINANCING:

Funding for staff time associated with this project is included in the FY14-15 Adopted Budget for RMA Planning.

Prepared by: Martin Carver, Management Specialist 

Approved by: Mike Novo, Director, RMA-Planning, ext. 5192

Carl Holm, Acting Director, Resource Management Agency 

This report was reviewed by Jacqueline  Onciano, RMA Planning Services Manager

cc: Front Counter Copy; Planning Commission (10); Environmental Health Bureau; Land Use Advisory Committees (11); Henry Gowin, District #2; Carl Holm, Acting RMA Director; Wendy Strimling, County Counsel; Jacqueline R. Onciano, RMA Services Manager; RMA Building Services; RMA Public Works; Martin Carver, Project Planner; Tamara Dooley; Lynn Learch; Luana Conley; Thomas Ponleithner; Scott Barnett; Dale Ellis; Laurie Hastings; Joe Moses, Sheriff's Office; Sheriff-Elect Bernal; Molly Hubbard, Environmental Health; Monterey County Agricultural Commission; Builders Exchange; Ernie Mills; Rob Carver; Michael Waxer; Lino Belli; Planning File REF140008.

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

Attachment A      Discussion  
Attachment B      Draft ordinance

Attachment C Draft ordinance (w/track changes) showing changes from current County Code

# Attachment A

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## ATTACHMENT A DISCUSSION

### OVERVIEW

The proposed ordinance that was introduced on December 2 would:

- Apply to nighttime noise (10 pm to 7:00 am)
- Set standard for maximum noise levels at 65 dBA
- Set standard for hourly equivalent (Leq) at 45 dBA
- Retain existing standard for maximum noise level anytime of the day (85 dBA)
- Apply to all sources of exterior noise (w/ exceptions)
- Direct that noise be measured at offending property
- Add definition for “Emergency Work” consistent with definition used in Zoning Ordinance
- Amend Section 10.60.030 (Operation of noise-producing devices restricted) to clarify the class of offenders that are regulated during any time of the day.

The proposed ordinance would exempt the following:

- Bells, chimes, etc as part of religious service, public holiday
- Uses and events on commercial or institutional premises
- Emergency work
- Commercial agricultural operations

The standard proposed for nighttime noise (i.e., 45  $L_{eq}$  dBA/65 dBA) is tailored to be consistent with widely accepted standards used in many neighboring jurisdictions. Exhibit 1 shows a table of comparative noise levels intended to provide a common reference to what the proposed nighttime noise standards represent.

### SUMMARY OF PLANNING COMMISSION WORKSHOP SERIES

On November 12, 2014, the Monterey Planning Commission concluded a three-part workshop on the amendment of Chapter 10.60 of the Monterey County Code to add regulations for the control of nighttime noise. The first part of the workshop was held on April 30, 2014, the second part was held on May 14, 2014, and the third part was held on November 12, 2014.

The following is a summary of comments made during the workshop series and our response:

- 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 testimony during the workshop, 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.

- 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 recommended no change here, as regulating daytime noise engenders a broad range of issues that would require extensive technical and policy analysis.**
- Commissioners expressed a desire to hear from a noise expert on the proposed code revisions. **Robert E. Brown, from Brown-Buntin Associates, consulted with staff, attended the November 12<sup>th</sup> Planning Commission workshop, and answered questions about the proposed ordinance.**
- Commissioners also wanted to ensure that the Monterey County Sheriff's Office had been consulted on code enforcement. **Mr. Joe Moses, Sheriff's Commander, attended the November 12<sup>th</sup> Planning Commission workshop and answered questions about code enforcement related to noise complaints and demonstrated the use of the Sheriff's Department's noise meter.**
- Commissioners asked for additional information on exterior versus interior noise. **Robert Brown spoke to this issue at the November 12, 2014 workshop and recommended against addressing it in the proposed ordinance.**
- The Sheriff's Department recommended a revision to the existing regulations to clarify the class of offenders that are regulated during any time of the day (see Section 10.60.030). **We included the requested change in the proposed ordinance.**
- Commissioners noted that the proposed definition of "Emergency" was not the same as used in the Zoning Ordinance. **We revised the definition to make it consistent with the definition used in the Zoning Ordinance.**

The ordinance that had its first reading on December 2, 2014 at the Board contained all of the changes referred to above.

Since the first reading of the proposed ordinance on December 2, 2014, staff received comments from a representative from the Hospitality Industry and constituency on the ordinance regarding outdoor gatherings and events conducted on commercial or institutional premises and animal noise. The concerns surrounded changes to Section 10.60.040 C of the proposed regulations. These changes were: 1) expand and clarify the exemption for commercial or public/quasi-public premises to ensure the new regulations don't affect businesses and 2) create a new exemption for animal noise, which is already regulated by Chapter 8.36 (Nuisance and Nuisance Animals) of the Monterey County Code. Possible changes to Section 10.60.040 C to address concerns raised by the public are shown below in underline/~~strikeout~~.

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 public/quasi public 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.*

5. *Noise resulting from the keeping of any dog, cat, household pet, or any other animal; such noise shall be governed by Chapter 8.36 of the Monterey County Code.*

If the board would like to consider potential revisions to the ordinance staff requests the Board provide direction to staff as to the revisions and staff will return to the board, as per state law, with an amended ordinance.



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# Attachment B

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ORDINANCE NO. \_\_\_\_\_

**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 \_\_\_ day of \_\_\_\_\_, 20 \_\_\_, by the following vote:

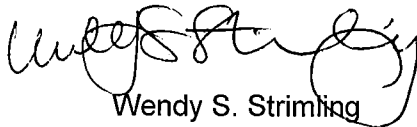
AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Chair, Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
  
Wendy S. Strimling  
Senior Deputy County Counsel

# Attachment C



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**ORDINANCE NO. \_\_\_\_\_**

**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~~Penalty for violations.~~

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 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 increased risk for cardiovascular disease and hypertension cardiovascular diseases.

(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~~No person shall,~~ 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) ~~dB~~BA 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)

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

**10.60.040 Regulation of nighttime noise ~~Penalty for violations.~~**

~~Repealed.~~

~~(Ord. 3659 § 8, 1993)~~

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)

	<u>Standard</u>
<u>Nighttime hourly equivalent sound level (<math>L_{eq}</math> dBA)</u>	<u>45</u>
<u>Maximum level, dBA</u>	<u>65</u>

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 \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Chair, Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  Wendy S. Strimling Senior Deputy County Counsel
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