



# STAFF REPORT

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June 5, 2024  
File Number 0230-50

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## **SUBJECT**

### **NOISE ORDINANCE**

### **DEPARTMENT**

City Attorney's Office and Police Department

### **RECOMMENDATION**

Request the City Council receive a presentation on the City's current noise ordinance.

Staff Recommendation: None (Police Department: Edward Varso, Chief of Police)

Presenter: Ryan Banks, Police Captain

**ESSENTIAL SERVICE** – Yes, Police Services

**COUNCIL PRIORITY** – Eliminate Structural Deficit; Improve Public Safety; Increase Retention and Attraction of People and Businesses to Escondido;

### **BACKGROUND**

Between 2020 and 2023, the Escondido Police Department received an annual average of 73,135 calls for service. Each year approximately 2.8 percent of these calls for service (2066) were noise related. Noise related calls are labelled as general noise complaints, barking dogs and party related. The characterization will vary based on the caller's complaint. General noise complaints may include loud talking, landscape maintenance, and construction noise. In 2023, the Escondido Police Department received approximately 1800 general noise complaints, 155 related to loud parties and 55 barking dog complaints.

Although the Escondido Police Department does not currently track noise complaints related to short term rental properties, an analysis of the 2023 noise complaints revealed three short term rental properties generated 9 of the 155 loud party complaints.

The Escondido Police Department responds to most noise complaints as Priority 4 calls. Barking dog complaints are the lowest Priority 5 calls. Police response to Priority 4 and 5 calls will be delayed when available police assets are busy with higher priority calls.



# CITY *of* ESCONDIDO

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State and federal constitutional law prohibit most restrictions on free speech. Reasonable regulations on volume of speech are permissible but prohibition of all loud speech is not. California law prohibit noise that is maliciously and willfully intended to disturb others, Cal. Penal Code Section 415, see Attachment (1). Someone acts maliciously when he or she intentionally does a wrongful act or when he or she acts with the unlawful intent to annoy or injure someone else. Someone commits an act willfully when he or she does it willingly or on purpose.

Cal. Penal Code section 415 is commonly known as “disturbing the peace.” Properly construed, the term “noise” as used in disturbing the peace statute encompasses communications made in loud manner only when there is clear and present danger of violence or when communication is not intended as such but is merely guise to disturb persons. The distinction between protected communications and noise intended to disturb others can create a significant enforcement challenge.

The Escondido Police Department does not respond to noise complaints unless a person agrees to sign a citizen’s arrest form. One of the requirements for enforcement of the California Penal Code is a person’s peace must be disturbed. In California, a police officer’s “peace” cannot be disturbed. This requires law enforcement to have a victim who is willing to sign a citizen’s arrest to enforce.

The Escondido Municipal Code Noise Abatement Article, see Attachment (2), also provides enforcement authority similar to that found under the California Penal Code. But, the enforcement of local laws must navigate similar constitutional rights to free speech. a

### **ATTACHMENTS**

- a. Attachment “1”- California Penal Code 415
- b. Attachment “2”- Escondido Municipal Code Chapter 17, Article 12, Noise Abatement and Control.