



Community Development Department
675 Wildwood Avenue
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For the Meeting of August 27, 2024

☐ Consent Item; ☒ Public Hearing Item

To: Planning Commission

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager

Date: August 13, 2024

Subject: Ordinance No. 408-2024 amending the Rio Dell Municipal Code (RDMC) to establish Chapter 8.45 "Noise Control Ordinance" of the Rio Dell Municipal Code (RDMC) to establish noise standards for the City

Recommendation:

That the Planning Commission:

1. Allow staff to discuss Ordinance No. 408-2024 amending the Rio Dell Municipal Code (RDMC) to establish Chapter 8.45 "Noise Control Ordinance" of the Rio Dell Municipal Code (RDMC) to establish noise standards for the City; and
2. Open public comment and receive comments from the public; and
3. Close public comment; and

4. Direct staff to make any changes to the draft ordinance if necessary; and
5. Adopt Resolution No. 179-2024 recommending that the City Council approve the proposed Ordinance.

Summary:

The City of Rio Dell currently does not have a municipal noise ordinance to protect the peace, health, safety, welfare, and quality of life of its community members and visitors from excessive, unnecessary, and unreasonable noise. Adopting a Noise Control Ordinance will provide guidance for community members and visitors and allow for police and code enforcement staff to mitigate and penalize excessive, unnecessary, and unreasonable noise.

Discussion:

Because the City of Rio Dell does not have a Noise Ordinance, the City must rely on California Penal Code (PC) Section 415 (2) which states: “Any person who maliciously and willfully disturbs another person by loud and unreasonable noise” has committed a misdemeanor. However, pursuit and conviction of PC Section 415(2) involves several complex requirements, including: a willing and participatory victim, a thorough police report inclusive of evidence, and involvement of the County District Attorney’s Office.

A noise ordinance allows appropriate enforcement staff to respond to a noise complaint, determine if the noise is disturbing the peace per the guidelines and standards set forth in the proposed ordinance (Attachment 1), and administer the appropriate penalty.

The proposed ordinance includes standards for determining excessive noise levels. Table 8.45.1 identifies acceptable noise levels for various use types. Noise nuisances are identified by the sound level of the objectionable noise versus ambient noise; the intensity and duration of the noise, proximity to residential neighborhoods and other sensitive land uses; whether the origin of the noise is natural or unnatural; and the nature and zoning of the area. The Council may remember that the City amended the Nuisance regulations in 2020 to address neighborhood concerns regarding the use of generators.

While the intent of the Noise Ordinance is to prohibit all disturbing, excessive, and offensive noises, some activities are exempt. Examples of exempt activities include but are not limited to emergency work and response, garbage removal, noise created by recreational activities on public property which are permitted by law and for which a license or permit has been granted by the City (e.g. parades, sporting events, rodeos, concerts, firework displays, permitted special events), and other activities detailed in the proposed ordinance.

The proposed Ordinance incorporates a lot of information from the City of Fortuna's recently adopted Noise Ordinance. Fortuna staff reviewed the noise ordinances of various California cities including Eureka, Arcata, Ferndale, Sebastopol, Rohnert Park, Novato, Anderson, and Petaluma, among others.

CEQA:

This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty that there is no possibility the Noise Control Ordinance may have a significant adverse effect to the environment. Additionally, the Noise Control Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15308 in that the Noise Control Ordinance establishes maximum acceptable noise levels and enforcement mechanisms to protect the environment from excessive, unnecessary, and unreasonable noise.

ATTACHMENT 1: 1. Resolution No. 179-2024 recommending that the City Council amend the Rio Dell Municipal Code (RDMC) to establish Chapter 8.45 "Noise Control Ordinance" of the Rio Dell Municipal Code (RDMC) to establish noise standards for the City.

RESOLUTION NO. 179-2024



**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
RECOMMENDING THAT THE CITY COUNCIL AMEND CHAPTER 15.05
“CONSTRUCTION CODES” OF THE RIO DELL MUNICIPAL CODE (RDMC) TO
ESTABLISH CONSTRUCTION ACTIVITY NOISE REGULATIONS.**

WHEREAS every so often the City is contacted by contractors and neighbors regarding construction noise and allowed hours and days of construction; and

WHEREAS currently there are no regulations in the Rio Dell Municipal Code (RDMC) regarding allowed hours and days of construction; and

WHEREAS staff believes it is in the public interest to establish allowed hours and days of construction; and

WHEREAS the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment under Title 14 of the California Code of Regulations, Section 15061(b)(3). No further environmental review is necessary.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Rio Dell recommends that Chapter 15.05 of the Rio Dell Municipal Code (RDMC) be amended as follows:

Chapter 15.05 is hereby amended as follows:

Sections:

15.05.010 Administration.

15.05.020 Building codes.

15.05.030 Work exempt from permit.

15.05.040 Fees for permits and inspections.

15.05.050 Person may do own work.

15.05.060 ~~Penalty.~~ Construction noise.

15.05.070 Penalty.

15.05.060 ~~Penalty~~ Construction noise.

(1) No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, unless authorized to do so in accordance with subsection (2) of this section.

(2) Hours of construction. No construction activity shall commence prior to 7:00 a.m. nor continue later than 8:00 p.m., seven days a week, Monday through Sunday. The term "construction activity" shall include any physical activity, including those identified in subsection (1), on the construction site or in the staging area, including the delivery of materials. In approving modified hours, the Chief Building Official may specifically designate and/or limit the activities permitted during the modified hours.

(3) The provisions of subsection (2) of this section shall not apply to the following:

(a) Emergency work performed pursuant to written authorization of the City Manager, or Community Development Director, or Building Official

(b) Maintenance, repair or improvement of any public work or facility by public employees, by any person or persons acting pursuant to a public works contract, or by any person or persons performing such work or pursuant to the direction of, or on behalf of, any public agency; provided, however, this exception shall not apply to the City, or its employees, contractors or agents, unless:

- i. The City Manager or department director determines that the maintenance, repair or improvement is immediately necessary to maintain public services;
- ii. The maintenance, repair or improvement is of a nature that cannot feasibly be conducted during normal business hours; or
- iii. The City Council has approved project specifications, contract provisions, or an environmental document that specifically authorizes construction during hours of the day which would otherwise be prohibited pursuant to this section.

(4) No landowner, construction company owner, contractor, subcontractor, or employer shall permit or allow any person or persons working under their direction and control to operate any tool, equipment or machine in violation of the provisions of this section.

(5) Modification. At any time before commencement of or during construction activity, the chief building official may modify the permitted hours of construction upon twenty-four (24) hours written notice to the contractor, applicant, developer or owner. The chief building official can reduce the hours of construction activity below the 7:00 a.m. to 8:00 p.m. time frame or increase the allowable hours.

(3) Sign required. If the hours of construction activity are modified, then the general contractor, applicant, developer or owner shall erect a sign at a prominent location on the construction site to advise subcontractors and material suppliers of the working hours. The contractor, owner or applicant shall immediately produce upon request any written order or permit from the chief building official pursuant to this section upon the request of any member of the public, the police or city staff.

APPROVED AND ADOPTED by the Planning Commission of the City of Rio Dell at their meeting of August 27, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Nick Angeloff, Chair

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Resolution No. PC 179-2024 adopted by the Planning Commission of the City of Rio Dell on August 27, 2024.

Karen Dunham, City Clerk, City of Rio Dell