

# STAFF REPORT

## *City Council Business Item*

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**DATE:** August 5, 2024

**TO:** Honorable Mayor and City Councilmembers

**FROM:** Shari Meads, Community Development Director

**THRU:** Amy Nilsen, Interim City Manager

**SUBJECT:** **Introduce and Conduct the First Reading of *Ordinance 2024-771*, Amending Fortuna Municipal Code Title 8, adding Chapter 8.45, Noise Control Ordinance**

### **STAFF RECOMMENDATION:**

The Community Development Department recommends that the City Council receive the staff report and presentation and consider public comments prior to introducing and conducting a first reading of *Ordinance 2024-771* adding Chapter 8.45, Noise Control Ordinance, to Fortuna Municipal Code Title 8, Health and Safety, and determine the ordinance to be exempt from the California Environmental Quality Act (CEQA).

### **EXECUTIVE SUMMARY:**

The City of Fortuna 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.

### **BACKGROUND:**

City of Fortuna community members are protected by 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.

In some instances, the use of PC Section 415(2) as an enforcement option is appropriate. However, for most noise complaints, a municipal noise control ordinance is a more reasonable and nimble enforcement tool. A municipal noise control 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.

Proposed guidelines and standards for determining if a noise is prohibited include, but are not limited to: 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; the nature and zoning of the area; the purpose or

motivation behind generation of the noise; and whether it is produced by a commercial or noncommercial activity.

While the intent of the Noise Control 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.

Prior to drafting the Noise Control Ordinance staff reviewed the noise ordinances of various California cities including Eureka, Arcata, Ferndale, Sebastopol, Rohnert Park, Novato, Anderson, and Petaluma, among others. The proposed Fortuna Noise Control Ordinance is not modeled entirely after any one jurisdiction, but instead incorporates language and regulations considered appropriate for the City's community and that uphold the intent of the ordinance. The draft Noise Control Ordinance has also been reviewed by the City's legal team.

### **FISCAL IMPACT:**

Adoption of the Noise Control Ordinance is not anticipated to have an effect on the General Fund. Enforcement of the Noise Control Ordinance is anticipated to be offset at least partially through the collection of applicable fines as allowed by California Government Code Section 36900 (b).

### **ENVIRONMENTAL REVIEW:**

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. A Notice of Exemption shall be filed with the Humboldt County Clerk in accordance with CEQA guidelines.

### **RECOMMENDED COUNCIL ACTION:**

1. Open the Public Hearing
2. Receive staff presentation and review draft ordinance with staff.
3. Open public comment.
4. Close public comment.
5. Motion to introduce and conduct the first reading, by title only, of *Ordinance 2024-771*.  
Roll call vote.

### **ATTACHMENT:**

1. *Ordinance 2024-771, An Ordinance of the City Council of the City of Fortuna amending Fortuna Municipal Code Title 8, Health and Safety, adding Chapter 8.45, Noise Control Ordinance, to protect the peace, health, safety, welfare, and quality of life of its community members and visitors from excessive, unnecessary, and unreasonable noise, and finding the ordinance to be exempt from the California Environmental Quality Act.*