



MEMORANDUM

DATE: June 15, 2021
TO: Christine Daniel, City Manager
FROM: Charles S. Bryant, Community Development Director
SUBJECT: **Informational Report on Construction Noise Waivers**

RECOMMENDATION

Staff recommends that the City Council consider this report and provide comment and direction as appropriate.

BACKGROUND

At the City Council meeting on April 6, 2021, under future agenda item requests, Councilmember Patz requested and received majority support that two years of data on Noise Ordinance waiver requests, including how many were approved or denied, be compiled and presented to the Council. This item is responsive to that request.

DISCUSSION

The Noise Ordinance at Chapter 13 of Title 5 of the Emeryville Municipal Code regulates construction noise. Section 5-13.05(a) stipulates that “General construction noise on private and public projects shall be limited to weekdays from 7:00 a.m. to 6:00 p.m. Pile driving and similarly loud activities shall be limited to weekdays from 8:00 a.m. to 5:00 p.m.”

Section 5-13.05(d)(3) provides that “The City Council may allow construction noise beyond the hours contained in this chapter, upon request of a developer, owner or contractor for a waiver, following the procedure set forth in Section 5-13.06.” The procedure in Section 5-13.06 requires that the City Council hold a noticed public hearing on a noise waiver request and provides that certain conditions of approval may be included in the City Council resolution if the waiver is approved.

Section 5-13.05(e) states that “In an urgent situation, the City Manager, the Planning and Building Director [i.e., Community Development Director] or the Public Works Director may approve weekend or night work. Weekend work shall be limited to 9:00 a.m. to 6:00 p.m. except for time-sensitive tasks. When approving weekend or night work, staff shall notify the City Council and Planning Commission as soon as possible.”

The attached table summarizes construction noise waivers that have been requested since January 2019. As this table shows, there have been 25 such requests, or an average of about one per month. This list is sorted by decision date, from the first on

February 19, 2019 to the most recent on May 14, 2021. Nine were decided by the City Council, four by the Public Works Director, and twelve by the Community Development Director (eleven of which were for Sherwin Williams). Of the City Council requests, one was denied, one was continued, one was withdrawn, and six were approved. All of the Public Works and Community Development Director requests were approved. (There may have been other requests that would not have been approved, and so were discouraged from applying; there is no record of such requests.)

For the sixteen “urgent” requests that were approved by the Public Works and Community Development Directors, the reason for the urgency is indicated in the table. One related to the need to protect modular housing units from forecasted rain, one related to PG&E electrical work, two related to gas leaks, one related to a sanitary sewer flow investigation to comply with the EPA Consent Decree, and eleven related to the need to complete the pouring and finishing of monolithic structural concrete slabs. These requests involved situations that were not anticipated sufficiently in advance to have been scheduled for a City Council hearing, the lead time for which is at least three weeks.

Staff will be prepared to respond at the City Council meeting to any questions that the Council may have about the noise waivers reflected in the attached table, or about the process in general.

FISCAL IMPACT

This report is for informational purposes only and has no fiscal impact on the City’s operations.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has had no communication with the public on this City Council item.

CONCLUSION

Staff recommends that the City Council consider this report and provide comment and direction as appropriate.

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

ATTACHMENTS:

- Table of Construction Noise Waivers 2019 to Present