



# **CITY COUNCIL AGENDA REPORT**

MEETING DATE: FEBRUARY 16, 2010

ITEM NUMBER:

**SUBJECT:** SECOND READING OF ORDINANCE 10-3 ADOPTING CODE AMENDMENT CO-09-16 TO AMEND TITLE 13, CHAPTER XIII, SECTION 13-279 RELATING TO THE DAYS AND HOURS IN WHICH CONSTRUCTION ACTIVITY IS EXEMPT FROM THE CITY'S NOISE REGULATIONS AND TO ESTABLISH A PROCEDURE TO SEEK RELIEF FROM THE PROPOSED RESTRICTIONS.

**DATE:** FEBRUARY 4, 2010

**FROM:** DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY:** KHANH NGUYEN, ACTING DIRECTOR

**FOR FURTHER INFORMATION CONTACT:** WENDY SHIH, 714-754-5136  
WSHIH@CI.COSTA-MESA.CA.US

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## **RECOMMENDATION**

Give second reading to Ordinance No. 10-3, read by title only, and waive further reading.

## **BACKGROUND**

The Zoning Code amendment modifies construction hours in the Noise Ordinance and provides a waiver procedure for deviation from the specified hours. The amendment will provide consistent regulation of all construction activities and will be comparable to regulations set by the surrounding cities.

On January 11, 2010, Planning Commission recommended approval of the Ordinance by a 4-1 vote (Righeimer voted no). On February 2, 2010, City Council gave first reading to Ordinance No. 10-3 with a modification to prohibit construction on specified Federal holidays:

<b>Date</b>	<b>Official Name</b>
<b>January 1</b>	<b>New Year's Day</b>
Third Monday in January	Birthday of Martin Luther King, Jr.
Third Monday in February	Washington's Birthday
<b>Last Monday in May</b>	<b>Memorial Day</b>
<b>July 4</b>	<b>Independence Day</b>
<b>First Monday in September</b>	<b>Labor Day</b>
Second Monday in October	Columbus Day
November 11	Veterans Day
<b>Fourth Thursday in November</b>	<b>Thanksgiving Day</b>
<b>December 25</b>	<b>Christmas Day</b>

A list of the specified holidays is included in the Ordinance.

  
WENDY SHIH  
Associate Planner

  
KHANH NGUYEN  
Acting Development Services Director

Attachment: 1. Ordinance

Distribution: City Manager  
Asst. City Manager  
City Attorney  
Public Services Director  
City Clerk (2)  
Staff (4)  
Planning Staff (8)  
File (2)

File: 021610CO09162ndRead	Date: 020410	Time: 9:30 a.m.
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**ORDINANCE NO. 10-3**

**AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-09-16 TO AMEND TITLE 13, CHAPTER XIII, SECTION 13-279 OF THE COSTA MESA MUNICIPAL CODE RELATING TO THE DAYS AND HOURS IN WHICH CONSTRUCTION ACTIVITY IS EXEMPT FROM THE CITY'S NOISE REGULATIONS AND TO ESTABLISH A PROCEDURE TO SEEK RELIEF FROM THE RESTRICTIONS.**

**THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1: TITLE 13.** Title 13, Chapter XIII. Noise Control, of the Costa Mesa Municipal Code is hereby amended as follows:

- a. Amend Section 13-279 as follows:

**"Sec. 13-279. EXCEPTIONS FOR CONSTRUCTION**

The provisions of this chapter shall not apply to the following:

- (a) Emergency machinery, vehicles, or work; or
- (b) Construction equipment, vehicles, or work between the following approved hours, provided that all required permits for such construction, repair, or remodeling have been obtained from the appropriate City departments.

**HOURS FOR CONSTRUCTION ACTIVITIES**

7:00 a.m. through 7:00 p.m.	Mondays through Fridays
9:00 a.m. through 6:00 p.m.	Saturdays
Prohibited all hours	Sundays and the following specified Federal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day

- (c) **Waiver Procedure.** An applicant may request approval of a minor modification for a temporary waiver for construction equipment, vehicles, or work outside these permitted hours. The minor modification may be granted by the Development Services Director or his/her designee. Any

temporary waiver shall take into consideration the unusual circumstances requiring construction activity outside the permitted hours and the short-term impacts upon nearby residential and business communities.

Minor modification findings shall indicate whether or not the extended construction hours will be materially detrimental to the health, safety, and general welfare of persons residing or working within the immediate vicinity of the construction site.

Unless a temporary waiver is approved, construction activity outside the permitted hours shall still be subject to the City's noise regulations."

**SECTION 2: ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this ordinance amending the Zoning Code will have a significant effect on the environment.

**SECTION 3: INCONSISTENCIES.** Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**SECTION 4: APPLICABILITY.** The provisions of this ordinance shall be applicable to all building permit activities that will generate noise audible from off-site.

**SECTION 5: SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 6: PUBLICATION.** This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

\_\_\_\_\_  
ALLAN R. MANSOOR  
Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk of the City of Costa Mesa

\_\_\_\_\_  
City Attorney

