

**CITY OF DANA POINT**  
**AGENDA REPORT**

Reviewed By: DH CM CA
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**DATE: AUGUST 23, 2006**

**TO: CITY MANAGER/CITY COUNCIL**

**FROM BRAD FOWLER, DIRECTOR OF PUBLIC WORKS AND ENGINEERING SERVICES**

**SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTION 11.10.014 OF THE MUNICIPAL CODE TO ADDRESS RECENT CHANGES IN PERMITTED WORK HOURS ON PUBLIC STREETS**

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**RECOMMENDED ACTION:**

That the City Council (1) adopt an Ordinance of the City of Dana Point (Action Document A) as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTION 11.10.014 OF THE MUNICIPAL CODE TO ADDRESS RECENT CHANGES IN PERMITTED WORK HOURS ON PUBLIC STREETS

**ISSUES:**

Whether to approve the ordinance amendment included in Action Document A designed to update and improve an existing City code section.

**BACKGROUND:**

The Dana Point Municipal Code addresses allowable working hours in City streets in Chapter 14. Section 14.01.140 was updated by the City Council on May 24, 2006 with the adoption of a revised ordinance to provide more appropriate guidance to contractor and utility companies related to work on Pacific Coast Highway and other City owned streets to reduce traffic congestion caused by construction.

Since the new ordinance in Section 14 requires night time work on Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern, City staff has determined that Section 11.10.014 (Noise Control Special Provisions) needs to also be amended to reflect the change in Section 14. The reason night time work is being required on Pacific Coast Highway is due to the volume of traffic and the tremendous impact construction causes to the flow of traffic during daytime hours in this segment. However, the current noise control provisions restrict night work.

The City Council introduced the ordinance modification and held the first reading on July 12, 2006.

**DISCUSSION:**

The proposed ordinance section is as follows (changes are in bold):

**11.10.014 Special Provisions.**

*The following activities shall be exempted from the provisions of this Chapter:*

- (a) Activities conducted on the grounds of any public or private nursery, elementary, intermediate or secondary school or college;*
- (b) Outdoor gatherings, public dances and shows; provided said events are conducted pursuant to a license or permit duly issued by the City;*
- (c) Activities conducted on any park or playground, provided such park or playground is owned and operated by a public entity;*
- (d) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or work;*
- (e) Noise sources associated with construction, repair, remodeling, or grading of any real property, provided said activities do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a Federal holiday; **with the exception of work on Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern which is defined in subsection (k) of this Section;***
- (f) All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions;*
- (g) Mobile noise sources associated with agricultural operations, provided such operations do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a Federal holiday;*
- (h) Mobile noise sources associated with agricultural pest control through pesticide application; provided, that the application is made in accordance with restricted material permits issued by or regulations enforced by the Agricultural Commissioner;*
- (i) Noise sources associated with the maintenance of real property, provided said activities take place between 7:00 a.m. and 8:00 p.m. on any day except Sunday or a Federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a Federal holiday;*
- (j) Any activity to the extent regulation thereof has been preempted by State or Federal law. (Added by Ord. 92-11, 11/24/92)*

***(k) Noise sources associated with the construction, street repairs, utility work, striping work, signal work, maintenance work including, but not limited to, landscape and tree maintenance, and any other noise generating activity related to construction or maintenance of Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern, at any time.***

City staff recommends that the City Council consider adopting the new ordinance to allow staff to better regulate working hours in public streets.

**NOTIFICATION/FOLLOW-UP:**

None

**FISCAL IMPACT:**

None

**ALTERNATIVE ACTIONS:**

- 1. Other City Council directed actions.

**ACTION DOCUMENTS:**

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**SUPPORTING DOCUMENTS:**

None

**Action Document A – Ordinance**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA AMENDING SECTION 11.10.014 OF THE MUNICIPAL CODE TO ADDRESS RECENT CHANGES IN PERMITTED WORK HOURS ON PUBLIC STREETS**

WHEREAS, the City of Dana Point (“City”) has determined that Section 11.10.014 of the Dana Point Municipal Code, which is used to regulate noise in the City, needs to be modified;

THE CITY COUNCIL OF THE CITY OF DANA POINT DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Section 11.10.014 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

**11.10.014 Special Provisions.**

The following activities shall be exempted from the provisions of this Chapter:

- (a) Activities conducted on the grounds of any public or private nursery, elementary, intermediate or secondary school or college;
- (b) Outdoor gatherings, public dances and shows; provided said events are conducted pursuant to a license or permit duly issued by the City;
- (c) Activities conducted on any park or playground, provided such park or playground is owned and operated by a public entity;
- (d) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or work;
- (e) Noise sources associated with construction, repair, remodeling, or grading of any real property, provided said activities do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a Federal holiday, with the exception of work on Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern which is defined in subsection (k) of this Section;
- (f) All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions;

(g) Mobile noise sources associated with agricultural operations, provided such operations do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a Federal holiday;

(h) Mobile noise sources associated with agricultural pest control through pesticide application; provided, that the application is made in accordance with restricted material permits issued by or regulations enforced by the Agricultural Commissioner;

(i) Noise sources associated with the maintenance of real property, provided said activities take place between 7:00 a.m. and 8:00 p.m. on any day except Sunday or a Federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a Federal holiday;

(j) Any activity to the extent regulation thereof has been preempted by State or Federal law. (Added by Ord. 92-11, 11/24/92)

(k) Noise sources associated with the construction, street repairs, utility work, striping work, signal work, maintenance work including, but not limited to, landscape and tree maintenance, and any other noise generating activity related to construction or maintenance of Pacific Coast Highway between the San Juan Creek Bridge and Crystal Lantern, at any time.

SECTION 3. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
LARA ANDERSON, MAYOR

ATTEST:

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KATHY M. WARD, ACTING CITY CLERK

STATE OF CALIFORNIA)

COUNTY OF ORANGE ) ss

CITY OF DANA POINT )

I, Kathy M. Ward, Acting City Clerk of the City of Dana Point, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_ introduced at a regular meeting of the City Council held this 12<sup>th</sup> day of July, 2006, and passed and adopted at a regular meeting held this 23<sup>rd</sup> of August, 2006, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

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KATHY M. WARD, ACTING CITY CLERK