

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Barry K. Hogan, Community Development Director
Prepared By: Joseph R. Vacca, Principal Planner



DATE: January 3, 2007 (CC Meeting of 2/07/2007)

SUBJECT: Consider Amending the Moorpark Municipal Code Section 15.26.010 (Construction Activity Restricted to Certain Hours) Subsection A, by Allowing the Community Development Director to Permit Changes in Construction Hours on Private Property

BACKGROUND/DISCUSSION

Section 15.26.010.A of the Moorpark Municipal Code only allows construction activity between the hours of seven (7:00) a.m. and seven (7:00) p.m., Monday through Saturday, unless a permit for different hours has first been issued by the City Engineer/Public Works Director. For purposes of this section "construction" means the erection, maintenance or repair of any building or structure, the moving or excavation of earth, the laying of pavement, the loading or unloading of material, equipment or supplies or any other construction activity. The code states that no such permit shall be issued except upon a finding by the director that the public peace, safety, health and welfare will not be adversely affected by performance of the work at the requested time and that without issuance of the permit the applicant will suffer substantial loss or inconvenience. Staff surveyed the cities within Ventura County on the allowed hours of construction within those cities, and found that the allowed hours of construction in Moorpark are relatively consistent with the allowed hours of construction in the other cities within the county. Results of the survey are attached.

With the exception of construction hours, construction on private property is regulated under the authority of the Community Development Director. The proposed code amendment would give the Community Development Director the discretion to determine when it is appropriate to permit different hours for construction activity on private property, while leaving the authority for regulating construction hours within the public right-of-way with the City Engineer/Public Works Director. This code amendment would include a provision requiring the Community Development Director to mail public notices to surrounding property owners within a three hundred foot radius of the private

property when a request for extended construction hours is submitted. The Community Development Director will wait a period of ten (10) days after the notice was sent out, allowing for public input, prior to making a final determination. The City Attorney has reviewed and approved this ordinance as to form and content.

ENVIRONMENTAL DETERMINATION

In accordance with the City's environmental review procedures adopted by resolution, the Community Development Director determines the level of review necessary for a project to comply with the California Environmental Quality Act (CEQA). Some projects may be exempt from review based upon a specific category listed in CEQA. Other projects may be exempt under a general rule that environmental review is not necessary where it can be determined that there would be no possibility of significant effect upon the environment. A project which does not qualify for an exemption requires the preparation of an Initial Study to assess the level of potential environmental impacts.

The Director has reviewed this project and found it to qualify for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

STAFF RECOMMENDATION

Introduce Ordinance No. _____ for first reading, waive full reading, and schedule second reading and adoption for February 21, 2007.

ATTACHMENTS:

1. Ordinance No. _____.
2. Survey of Allowed Hours of Construction in Cities in Ventura County

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA,
AMENDING SECTION 15.26.010 (CONSTRUCTION ACTIVITY
RESTRICTED TO CERTAIN HOURS), SUBSECTION A, OF THE
MOORPARK MUNICIPAL CODE

WHEREAS, at its meeting of February 7, 2007, the City Council considered this ordinance to amend Section 15.26.010 (Construction Activity Restricted to Certain Hours), Subsection A, of the Moorpark Municipal Code, reached a decision; and

WHEREAS, the City Council concurs with the community development director's determination that this project is exempt from the provisions of the California Environmental Quality Act by the general rule that CEQA only applies to projects that may have a significant effect on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 15.26.010 (Construction Activity Restricted to Certain Hours), Subsection A, of the Moorpark Municipal Code is hereby amended in its entirety to read as follows:

15.26.010 Construction activity restricted to certain hours.

A. It is unlawful within the incorporated limits of the city to engage in or conduct any outdoor work relative to construction, except between the hours of seven (7:00) a.m. and seven (7:00) p.m., Monday through Saturday, unless a permit for different hours has first been issued by the public works director for projects within the public right-of-way; or by the community development director for projects on private property. Application for such a permit shall be made in writing to the appropriate department director and shall state the name and business address of the applicant, the location of the proposed work, the reason for seeking a permit to do the work on Sunday or between seven (7:00) p.m. and seven (7:00) a.m. on other days, and the estimated duration of the work. For purposes of this section "construction" means the erection, maintenance or repair of any building or structure, the moving or excavation of earth, the laying of pavement, the loading or unloading of material, equipment or supplies or any other construction activity.

For projects on public or private property, notice of a pending decision on a request for extended construction hours shall be mailed by the appropriate director to owners of real property, as identified on the latest adjusted Ventura County Tax Assessor Roles, within three-hundred (300) feet of the exterior boundaries of the assessor's parcel(s) where the time extension is requested, at least ten (10) calendar days prior to the decision. Public comments concerning potential adverse affects on public peace, safety, and health and welfare will be accepted during the period before

the date of the decision. After the comment period has ended, the appropriate department director may approve the request, deny the request, or approve the request subject to conditions necessary for the extension of construction hours upon making a finding by the appropriate department director that the public peace, safety, health and welfare will not be adversely affected by performance of the work at the requested time and that without issuance of the permit the applicant will suffer substantial loss or inconvenience.

SECTION 2. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 3. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this _____ day of _____, 2007.

Patrick Hunter, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk

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Hours of Construction for Ventura County Cities

City	Monday - Friday	Saturday	Sunday	Holidays
Moorpark	7am - 7pm	7am - 7pm	Not Permitted	N/A
Camarillo	8am - 5pm	8am - 5pm	8am - 5pm	N/A
Fillmore	7am - 8pm	7am - 8pm	Not Permitted	Not Permitted
Ojai	7am - 5pm	Not Permitted		
Oxnard	<i>No Codified Regulations, Refer to Noise Ordinance</i>			
Port Hueneme	7am - 7pm	7am - 7pm	9am - 6pm	N/A
Santa Paula	8am - 6pm	9am - 5pm	9am - 5pm	9am - 5pm
Simi Valley	7am - 7pm	7am - 7pm	7am - 7pm	N/A
Thousand Oaks	7am - 7pm	7am - 7pm	Not Permitted	Not Permitted
Ventura	7am - 8pm	7am - 8pm	7am - 8pm	N/A

Most Restrictive:

City	Monday - Friday	Saturday	Sunday	Holidays
Ojai	7am - 5pm	Not Permitted		
Camarillo	8am - 5pm	8am - 5pm	8am - 5pm	N/A

Sunday Construction Hours

City	Sunday
Camarillo	8am - 5pm
Port Hueneme	9am - 6pm
Simi Valley	7am - 7pm
Ventura	7am - 8pm