

ORDINANCE NO. 9700 (NEW SERIES)

AN ORDINANCE AMENDING SECTION 36.410 OF THE SAN DIEGO COUNTY CODE RELATED TO THE OPERATION OF CONSTRUCTION EQUIPMENT AND ADDING SECTION 375.20 TO THE ADMINISTRATIVE CODE RELATED TO THE ROLES OF STAFF AND COUNTY COUNSEL

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that it is desirable to (1) clarify the hours of operation and noise standards for construction equipment found at Section 36.410 of the San Diego County Code, and (2) add Section 375.20 to the Administrative Code concerning the role of staff and County Counsel in providing advice and recommendations to decision making bodies.

Section 2. Section 36.410 of the San Diego County Code is hereby amended to read as follows:

SEC. 36.410. CONSTRUCTION EQUIPMENT.

Except for emergency work,

(a) It shall be unlawful for any person to operate construction equipment between the hours of 7 p.m. of any day and 7 a.m. of the following day.

(b) It shall also be unlawful for any person to operate construction equipment on Sundays, and days appointed by the President, Governor, or the Board of Supervisors for a public fast, Thanksgiving, or holiday, but a person may operate construction equipment on the above-specified days between the hours of 10 a.m. and 5 p.m. at his residence or for the purpose of constructing a residence for himself, provided that the average sound level does not exceed 75 decibels during the period of operation and that the operation of construction equipment is not carried out for profit or livelihood.

(c) It shall also be unlawful to operate any construction equipment so as to cause at or beyond the property line of any property upon which a legal dwelling unit is located an average sound level greater than 75 decibels between the hours of 7 a.m. and 7 p.m.

Section 3. Section 375.20 is hereby added to the Administrative Code to read as follows:

Section 375.20 ROLES OF STAFF AND COUNSEL.

The Directors and staff of the Departments of Planning and Land Use, Public Works, Environmental Health and others making reports and recommendations to the decision making body and the County Counsel and his or her deputies are charged with performing fair and impartial analyses to assist the decision making bodies in implementing the applicable laws, ordinances, and regulations. They are not partisans or advocates on one side or the other of a land use dispute.

They are charged with interpreting Federal, State, and particularly County laws, investigating all relevant issues, receiving all information, gathering and producing technical and professional advice, weighing competing interests, and presenting to the decision making bodies advice and recommendations within their respective areas of professional responsibility and competence, which in their professional judgment will best protect the interests of the County of San Diego. Staff and Counsel shall act at all times relating to the hearing process in an investigatory and advisory capacity, rather than a prosecutorial or adversarial one. They are to act in this neutral manner at all levels of the decision making process and provide the decision making body with professional and impartial advice and recommendations regardless of what other decisions may have been made at lower levels.

Section 4. This Ordinance shall take effect and be in force 30 days after the date of its passage, and before the expiration of 15 days after its passage, a summary shall be published once with names of the members voting for and against the same in the *San Diego Commerce*, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 5<sup>th</sup> day of January 2005.