



Staff Report

For City Council Meeting - 8/4/2021

Subject - Old Business - Discussion - Contractor Work Hours Ordinance Draft

Synopsis: The City has received correspondence over the last few months regarding noise associated with contractors working. A worksession was held where Council discussed the topic at length. Chief Bowman also submitted his recommendations associated with the subject. Attached are two draft Ordinances regarding Contractor Work Hours. Each makes an adjustment (shown in red) to the current Contractor Work Hours Ordinance #876, which would be repealed and replaced.

Recommended Motion: Staff recommends Council make a decision and choose one of the attached draft versions of Ordinance #930. (#1 or #2) Staff would then officially submit the ordinance to Council next month, giving the public time to provide feedback on the chosen draft. A motion to approve (and/or approve upon further amendments) reading once by title only could be made at the September Council meeting. It would then be read by title only again the following month, taking effect 30 days later in November.

Legal Analysis: N/A

Financial Analysis: N/A

Respectfully Submitted,



Chad

ORDINANCE NO. 930
[#1]

AN ORDINANCE REGULATING CONTRACTOR WORK HOURS IN THE CITY OF GEARHART.

The City of Gearhart does ordain as follows:

Definitions:

The following terms and definitions shall apply in this chapter unless the context requires otherwise;

- "Contractor" means any of the following;
 - A person that, for compensation or with the intent to sell, arrange or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move wreck or demolish for another, a building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate or to do any part thereof.

- "Commercial Contractor" means a licensed contractor that holds an endorsement as a:
 - (a) Commercial general contractor level 1;
 - (b) Commercial specialty contractor level 1;
 - (c) Commercial general contractor level 2;
 - (d) Commercial specialty contractor level 2; or
 - (e) Commercial developer.

- "Commercial developer" means a developer of property that is zoned for or intended for use compatible with a small commercial or large commercial structure.

- "General contractor" means a contractor whose business requires the use of more than two unrelated building trades or crafts that the contractor supervises or performs in whole or part, whenever the sum of all contracts on any single property, including materials and labor.

- "Landscape construction professional" means an individual who for compensation or with the intent to be compensated performs or supervises activities requiring the art, ability, experience, knowledge, science and skill to;
 - (a) Plan or install lawns, shrubs, vines, trees or nursery stock;
 - (b) Prepare property on which lawns, shrubs, vines, trees or nursery stock is to be installed;
 - (c) Maintenance on lawns, shrubs, vines, trees or nursery stock.
 - (d) Construct, repair or maintenance on ornamental water features, drainage systems or irrigations systems;
 - (e) Plan or install fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining wall

- "Lawn care contractor" means an individual who for compensation or with the intent to be compensated performs or supervises activities requiring the use of mowers, edging tools, blowers, hand shovels, rakes, brooms and other lawn maintenance equipment.
- "Employee" means an individual who for compensation or with intent to be compensated performs labor activities for a contractor.

General Prohibition.

- 1) No work shall be performed within the city limits of Gearhart by any Contractor, Commercial contractor, Commercial developer, General contractor or employees between the hours of 6pm and 8am the next day, **Monday-Saturday. No work shall be performed on Sundays.**
- 2) No work shall be performed within the city limits of Gearhart by any Landscape construction professional, Lawn care contractor or employees between the hours of 7pm and 7am the next day, **Monday-Saturday. No work shall be performed on Sundays.**

Exemptions:

- 1) Repairs or excavations of bridges, streets, or highways by or on behalf of the City, State or the federal government is exempt from General Prohibition (1) & (2).
- 2) Gearhart Golf Course maintenance may only use lawn mowers in good repair outside the working hours in General Prohibition (1) & (2).
- 3) In cases of emergencies contractors or employees are exempt from General Prohibition (1) & (2).
- 4) In cases of non-emergencies, the City Administrator may issue a permit, upon application, if the City Administrator determines that the public health and safety will not be impaired. The City Administrator may issue a permit for (5) five working days. The permit may be revoked if complaints arise by working outside of the permit parameters.

Enforcement:

- 1) The following individuals shall enforce this subchapter; The police will have primary responsibility for the enforcement of the Contractor Work Hours regulations contained in this subchapter. Nothing in this subchapter shall prevent the City Administrator or Police Chief from obtaining voluntary compliance by way of warning, notice or education.

Penalty:

- 1) General. Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to 10.99.
- 2) Contractor Work Hours
 - a) Any person who violates a provision of this chapter shall be fined up to \$500.
 - b) Each occurrence of a violation, or in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offence and may be punished separately.

ORDINANCE NO. 930
[#2]

AN ORDINANCE REGULATING CONTRACTOR WORK HOURS IN THE CITY OF GEARHART.

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 - (a) Commercial general contractor level 1;
 - (b) Commercial specialty contractor level 1;
 - (c) Commercial general contractor level 2;
 - (d) Commercial specialty contractor level 2; or
 - (e) Commercial developer.

- "Commercial developer" means a developer of property that is zoned for or intended for use compatible with a small commercial or large commercial structure.

- "General contractor" means a contractor whose business requires the use of more than two unrelated building trades or crafts that the contractor supervises or performs in whole or part, whenever the sum of all contracts on any single property, including materials and labor.

- "Landscape construction professional" means an individual who for compensation or with the intent to be compensated performs or supervises activities requiring the art, ability, experience, knowledge, science and skill to;
 - (a) Plan or install lawns, shrubs, vines, trees or nursery stock;
 - (b) Prepare property on which lawns, shrubs, vines, trees or nursery stock is to be installed;
 - (c) Maintenance on lawns, shrubs, vines, trees or nursery stock.
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- "Lawn care contractor" means an individual who for compensation or with the intent to be compensated performs or supervises activities requiring the use of mowers, edging tools, blowers, hand shovels, rakes, brooms and other lawn maintenance equipment.
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General Prohibition.

- 1) No work shall be performed within the city limits of Gearhart by any Contractor, Commercial contractor, Commercial developer, General contractor or employees between the hours of 6pm and 8am the next day, **Monday-Friday. No work shall be performed on Saturdays and Sundays.**
- 2) No work shall be performed within the city limits of Gearhart by any Landscape construction professional, Lawn care contractor or employees between the hours of 7pm and 7am the next day, **Monday-Friday. No work shall be performed on Saturdays and Sundays.**

Exemptions:

- 1) Repairs or excavations of bridges, streets, or highways by or on behalf of the City, State or the federal government is exempt from General Prohibition (1) & (2).
- 2) Gearhart Golf Course maintenance may only use lawn mowers in good repair outside the working hours in General Prohibition (1) & (2).
- 3) In cases of emergencies contractors or employees are exempt from General Prohibition (1) & (2).
- 4) In cases of non-emergencies, the City Administrator may issue a permit, upon application, if the City Administrator determines that the public health and safety will not be impaired. The City Administrator may issue a permit for (5) five working days. The permit may be revoked if complaints arise by working outside of the permit parameters.

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698 PACIFIC WAY • P. O. Box 2510 • GEARHART, OREGON 97138 • (503) 738-5501

NOTICE

COMMERICAL CONTRACTORS AND LANDSCAPERS

**THE GEARHART CITY COUNCIL WILL BE CONSIDERING CHANGES TO
WORKING DAYS/HOURS FOR COMMERICAL CONSTRUCTION AND
LANDSCAPING AT THE NEXT CITY COUNCIL MEETING ON:**

AUGUST 4, 2021 AT 7:00PM

OPTIONS TAKEN BY COUNCIL COULD BE:

- 1) MAKE NO CHANGES**
- 2) ELMINATE ONE OR TWO WORKING DAYS A WEEK
(SATURDAY/SUNDAY)**
- 3) REDUCED BUILDING HOURS ON ALL OR CERTAIN WORKING DAYS**
- 4) OR SOMETHING ELSE**

**PUBLIC INPUT IS WELCOME. YOU CAN APPEAR IN-PERSON, BY VIDEO,
EMAIL OR LETTER.**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT GEARHART CITY HALL


Jeffrey T. Bowman
Chief of Police



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CONTRACTOR/LANDSCAPER WORK HOURS #876

SYNOPSIS #1...

Terminate all contractor and landscaping on Saturday, Sunday, Holidays and Holidays observed days of the week. This is simple and much easier for contactors and landscapers to work with. The Golf Course can be the only one given an exception that "Green's mowers" are allowed. We can easily get the word spread to all the contractors/landscapers and will be easiest to understand.


SYNOPSIS #2...

Try to determine what activities and tools/equipment that can be used at any given construction site or landscaping site. It's important to note, landscapers/maintenance also use heavy equipment. We need to stay away from "noise" issue as that is addressed in another ordinance.

#1 is the easiest and quickest way to resolve whatever the issue is at this present time. It will also be the easiest to enforce. Contractors will be able to provide all their subs information that building sites in the city are off-limits on Saturdays, Sundays and Holidays. Landscapers/maintenance can switch some of their clients around to different days. (Emergency issues and permits are already in place)

#2 will just cause confusion and may even inconvenience contractors/landscapers. Add that these individuals (subs and workers) may receive a \$500.00 citation, complaints will pour in about LE and we are not really liked at this time as it is.

#2 will also cause us to have many work sessions and when we think it's done, "oppsss" we missed something and we need to change it.


Jeffrey J. Bowman
Chief of Police

ORDINANCE NO. 876

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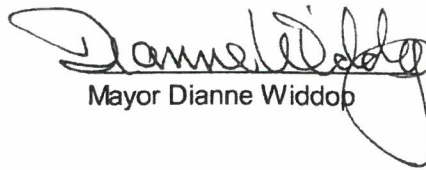
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Passed by the City Council of Gearhart this 5th day of February, 2014.

Yeas: 4
Nays: 0
Absent: 1
Abstain: 0

Approved and signed by the Mayor of the City of Gearhart this 5th day of February, 2014.



Mayor Dianne Widdop



Chad Sweet, City Administrator