



Staff Report

For City Council Meeting - 9/3/2025

Subject - Ordinances/Resolutions - Ordinance #951 An Ordinance Amending Sections of Ordinance #930 Known as the Contractor Work Hour Ordinance

Synopsis: Councilor Gould provided Council with amendment suggestions via late correspondence at the July City Council meeting. A discussion was also held during the July worksession. Councilor Cockrum requested a redline version of the current ordinance with Gould's suggestions. That is attached, along with Ordinance #951 which would officially implement the changes.

After review, legal counsel advised that the ordinance is overly broad and may unintentionally regulate activities not meant to be restricted. Counsel recommends that the City take more time to complete a comprehensive rewrite to better target the intended activities. If Council wishes to proceed now, two minor clarifications to the draft amendments have been suggested.

Council Options:

- 1) Motion to approve ordinance #951 reading once by title only;
- 2) Make changes and motion to approve as amended;
- 3) Take other action as desired by Council.

Recommended Motion: This is a Councilor-based suggestion and Council decision.

Legal Analysis: Other suggested topics for Council to consider and discuss as additional ordinance amendments:

- Loosening restrictions due to winter/wet weather, most notably during emergency situations
- Exemptions for garbage collection on Sundays
- Restrictions over holidays
- Contractor Noise Ordinance #877 compliance in regards to playing music, etc.

Attorney Review:

Staff and legal counsel reviewed the existing ordinance and proposed amendments. The review found that the ordinance, as written, is overly broad. For example, it technically prohibits activities such as a contractor meeting with a client at 7 p.m. to discuss a schedule or preparing and emailing a bid proposal after hours. This creates an overbreadth issue that extends beyond the intended scope of regulation.

Counsel recommends the City slow down and undertake a more comprehensive rewrite of the ordinance to ensure it more precisely regulates the intended activities. This work will require additional time beyond the current amendment process.

If Council wishes to move forward with Ordinance #951 at this time, two minor clarifications were suggested for the draft:

Clarify the definition of "noise polluting equipment" to include all powered tools, equipment, and machinery audible beyond a property line (e.g., power washers, saws, blowers, mowers, impact tools).

Clarify that Sunday restrictions prohibit use of noise-polluting equipment, ensuring the section applies to both tools and machinery.

Legal counsel is available to assist with a full rewrite if Council wants to pursue that path now, or to answer questions about the narrower edits above.

Financial Analysis: Staff spends the most time administrating "Sunday" work complaints. Offenders say the work being done is quiet so should be allowed, that contractors were only available to work on Sunday for a named project, and/or there was a break in the weather on a Sunday.

Respectfully Submitted,

A handwritten signature in blue ink, consisting of a stylized 'C' followed by a horizontal line and a small flourish.

Chad



AN ORDINANCE AMENDING NAMED SECTIONS OF ORDINANCE #930 KNOWN AS
THE CONTRACTOR WORK HOUR ORDINANCE

The City of Gearhart ordains as follows:

DEFINITIONS of Ordinance #930 shall be amended to read the following:

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

DEFINITIONS of Ordinance #930 shall be amended to include the following:

"Noise polluting equipment" means tools and machinery utilized by a contractor, commercial contractor, commercial developer, general contractor, or their employees, that rely on a power source, like an engine or motor, to perform tasks that would otherwise require manual labor, or which can be heard beyond an owner's property line. Specific examples of noise polluting equipment may include, but not be limited to power washers, leaf blowers, power driven saws, lawn mowers, and impact tools such as hammers.

GENERAL PROHIBITION of Ordinance #930 shall be amended to read the following:

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

GENERAL PROHIBITION of Ordinance #930 shall be amended to include the following:

- 3) Contractors, commercial contractors, commercial developers, general contractors, landscape construction professionals, landscape care contractors, or employees of such entities may only perform work within the city limits of Gearhart on Sundays between the hours of 9am and 5pm. No entity identified in this section shall perform work using tools meeting the definition under this ordinance of noise polluting equipment on Sundays.

Passed by the City Council of Gearhart this ____ day of _____, 2025.

Yeas: ____

Nays: ____

Absent: ____

Abstain: ____

Approved and signed by the Mayor of Gearhart this ____ day of _____, 2025.

Mayor Kerry Smith

ATTEST:

City Administrator, Chad Sweet



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 **related to yard or plant care and** requiring the use of mowers, edging tools, blowers, hand shovels, rakes, brooms **and or** other lawn maintenance equipment.

- "Employee" means an individual who for compensation or with intent to be compensated performs labor activities for a contractor.
- "Noise polluting equipment" means tools and machinery utilized by a contractor, commercial contractor, commercial developer, general contractor, or their employees, that rely on a power source, like an engine or motor, to perform tasks that would otherwise require manual labor, or which can be heard beyond an owner's property line. Specific examples of noise polluting equipment may include, but not be limited to power washers, leaf blowers, power driven saws, lawn mowers, and impact tools such as hammers.

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 **of such entities** 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 **of such entities** between the hours of 7pm and 7am the next day, Monday-Saturday. **No work shall be performed on Sundays.**
- 3) **Contractors, commercial contractors, commercial developers, general contractors, landscape construction professionals, landscape care contractors, or employees of such entities may only perform work within the city limits of Gearhart on Sundays between the hours of 9am and 5pm. No entity identified in this section shall perform work using tools meeting the definition under this ordinance of noise polluting equipment 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.

Passed by the City Council of Gearhart this 3rd day of November, 2021.

Yeas: _____

Nays: _____

Absent: _____

Abstain: _____

Approved and signed by the Mayor of Gearhart this 3rd day of November, 2021.

Mayor Paulina Cockrum

ATTEST: City Administrator, Chad Sweet

Amended Letter

Dear Members of the Gearhart City Council,

In 2021, Gearhart City Council voted to adopt Ordinance 930, an ordinance regulating contractor work hours in the City of Gearhart. While I was not on the council at that time, I spoke out against the ordinance in the public hearing. It is my understanding that in imposing a full-scale prohibition preventing contractors from working on Sundays, the council was attempting to reduce neighborhood noise complaints generated by professional construction and landscaping activities. I believe the ordinance as adopted has resulted in some unintended and unnecessary negative consequences for property owners and contractors alike. I believe some of the language is ambiguous and the restrictions are overly broad to the point they do not serve a legitimate public interest.

In my opinion, it is unreasonable to prohibit *a//* contracted work on Sunday, as some contracted work may not infringe on a neighbor's right to enjoy their own property. For example, a plumber who works inside a home to replace a leaking faucet may perform this work without power tools and in such a way that a neighbor is completely unable to hear the work being performed. What legitimate interest is being served by this? By allowing a plumber to do some work on Sundays, the city could help plumbers better meet high demand in an industry where the work force may be limited. This would certainly benefit homeowners who are waiting for their services. However, under the current ordinance, this is prohibited work. A landscaper may water newly planted sod, rake and sweep leaves, or use manual labor to plant flowers without employing noisy power tools. Yet this work is prohibited on Sundays if the work is performed by a person who is being paid to accomplish it. In a community with so many second homeowners who may not be physically present to water their own newly planted yards, this prohibition seems unreasonable and counter to our community's values. I believe people who live here full time want their second homeowner neighbors to be able to care for the appearance and safe functioning of their homes and landscaping.

The ordinance's language defining a contractor as someone who does work to "alter" or "improve" a property could be interpreted to prevent a variety of work that would benefit a homeowner without disturbing the peace in our neighborhoods. Examples of the work I am referring to include the tasks I listed above as well as, but not limited to painting projects performed without power tools, house cleaning, and general handywork. Activities such as changing batteries in smoke detectors, hanging pictures, moving furniture, and some minor electrical work which can be performed indoors (such as replacing light fixtures) fall under the category of general handywork. All this work may be unnecessarily prohibited by the imprecise language in the existing ordinance.

I believe an ordinance is most defensible when it is well considered and the ordinance should only include those prohibitions that protect the public's interest and employ the least restrictive means to further that interest. Restrictions on homeowners should not be arbitrary or

capricious. There are better ways to achieve the goal of preventing noise pollution without creating delays that may unintentionally extend the timeline for a noisy project, and/or undermine a homeowner's right to freely exercise their will on their property. I have no personal complaint about contractors working on Sundays and would prefer to lift the restrictions altogether, but I anticipate that is not likely to be the will of the council majority. Therefore, I offer the following suggestions to improve the ordinance.

HERE ARE MY SUGGESTIONS:

Currently it is unclear what public interest this ordinance serves. I suggest we define the council's goal to provide appropriate time for homeowners to rest in their own homes without noise pollution in a preceding "whereas". I also suggest inserting the following definition into the ordinance:

Noise polluting equipment means tools and machinery utilized by a contractor, commercial contractor, commercial developer, general contractor, or their employees, that rely on a power source, like an engine or motor, to perform tasks that would otherwise require manual labor, or which can be heard beyond an owner's property line. Specific examples of noise polluting equipment may include, but not be limited to power washers, leaf blowers, power driven saws, lawn mowers, and impact tools such as hammers.

Currently, landscape care contractors other than lawn care contractors are excluded from the definition of "Lawn care contractor." I believe this is an oversight and suggest the following change for clarity. Change the "Lawn care contractor" definition to read:

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

Currently, the paragraph under General Prohibitions, Section 1 reads:

"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. No work shall be performed on Sundays."

I propose the paragraph be amended to read:

No work shall be performed within the city limits of Gearhart by any contractor, commercial contractor, commercial developer, general contractor, or employee of such entities between the hours of 6 P.M. and 8 A.M. the next day, Monday-Saturday.

Currently, the paragraph under General Prohibitions, Section 2 reads:

"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."

I propose the paragraph be amended to read:

No work shall be performed within the city limits of Gearhart by any landscape construction professional, landscaping care contractor, or employee of such entities between the hours of **7 P.M. and 7 A.M.** the next day, Monday-Saturday.

I propose to add under General Prohibitions, an additional paragraph to read:

3.) Contractors, commercial contractors, commercial developers, general contractors, landscape construction professionals, landscape care contractors, or employees of such entities may only perform work within the city limits of Gearhart on Sundays between the hours of 9 A.M. and 5 P.M. No entity identified in this section shall perform work using tools meeting the definition under this ordinance of noise polluting equipment on Sundays.

ADDITIONAL SUGGESTIONS:

I would like the council to engage in discussion about the possibility of loosening the restrictions during specified winter months when inclement weather severely limits contractors' available workdays. I believe this would benefit homeowners, and the winter weather would naturally prevent contractors from chronically disturbing the peace. At the very least, I would like to see the council agree that roofing repairs fall under the emergency provisions of this ordinance during the wet winter months.

I would like the council to engage in discussion regarding the reasoning behind the Sunday only prohibition. I am simply curious to know what the thought process was behind prohibiting contracted work on Sundays but allowing it on all major holidays. This seems arbitrary to me and works against any cohesive argument that contractor noise is a legitimate public concern requiring government intervention.

Do we need to create an exemption for garbage collection should it ever need to fall on a Sunday?

I would be open to discussing a provision requiring contractors to comply with the city's noise ordinances which prohibit blasting loud music from vehicles or job sites. This is a frequent problem in this community and prohibiting this would not interfere with a homeowner's property rights.

I appreciate your attention to this matter.

Sincerely,

Dana Gould