

Source: Community Development - BSD

To: <u>City Council</u> From: <u>City Manager and Staff</u>

Council Meeting Date:

May 20, 2013

Agenda Item No: REP 73-13

Re.

Report: Construction on Sundays - Tracker 3858

EXECUTIVE SUMMARY:

Council requested a report on the construction hours ordinance and recommendations to either make the prohibition on Sunday construction more enforceable or amend the ordinance to permit construction on Sundays within limited hours.

DISCUSSION:

Permitted construction hours are described in Chapter 16 (Offenses and Miscellaneous Provisions), Section 16-265 (Noise). The ordinance prohibits construction activity outside the permitted hours - 7:00 A.M to 7:00 P.M. weekdays; 9:00 A.M. to 5:00 P.M. Saturdays; no construction is permitted on Sundays. The ordinance provides for applications for extended work hours to be made to the Director of Public Works for periods not to exceed three consecutive days.

Adopting Sunday Construction Hours

Many municipal ordinances prohibit construction on Sundays (and some on holidays) though it appears a number of communities around the country have permitted hours of construction on Sundays. Council could amend the ordinance to permit construction on Sundays; if that were the case, staff recommends that the Saturday hours be adopted, 9:00 A.M. to 5:00 P.M. If Council changes the ordinance to permit construction on Sundays, enforcement mechanisms will still be necessary before 9:00 A.M. and after 5:00 P.M., as is the case for violations of the weekday 7:00 A.M. to 7:00 P.M. hour limits.

Enforcement

Enforcement of the ordinance is relatively straightforward but it is essential that a witness be produced to testify in Municipal Court that the witness observed construction activity at a prohibited hour. The witness may be a police officer who responds to a complaint of construction outside the permitted hours and observes the activity, or it may be any person willing to sign an affidavit attesting to the Sunday construction. Since a violation will only occur after or before regular business hours, City inspectors, with rare exceptions, are not available to investigate complaints. Building and Site Development (BSD) staff will admonish any contractor about which a complaint is received but without a witness account, our enforcement will be based on hearsay and vulnerable to challenge. BSD staff advise persons making complaints to contact the Police Department (Non-emergency number) at the time the construction activity occurs or come to the Community Development office to sign a complaint. Many persons are reluctant to make complaints unless made anonymously.

As a deterrent, Council also could consider increasing the fine, currently set in Section 16-66(4) as \$200.00 for all "infractions" under Chapter 16, and consider a fee for an Extended Work Hours permit, currently issued without a fee.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

VISION IMPACT:

http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php

None.

SUGGESTED COUNCIL ACTIONS:

Provide direction to staff on any desired changes to the ordinance and any suggestions for involvement in the review of an amended ordinance.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Epands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	

Chapter 16 OFFENSES AND MISCELLANEOUS PROVISIONS*

Section 16-265 Construction, repair and demolition of buildings, streets and utilities.

- (a) *Buildings*. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by demolishing, constructing, altering or repairing any building or structure other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays.
- (b) Streets. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by excavating, grading, paving, constructing, altering or repairing any public or private street, drive or parking lot other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays. Nothing in this article shall prevent work on any public street, including utility installation, removal or repair, when the director of public works has determined that the work is necessary in order to minimize traffic disruption.
- (c) *Utilities.* It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by installing, removing or repairing any utility other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays. Nothing in this article shall prevent work on any utility in order to maintain or restore utility service.
- (d) Site preparation. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by operating any earthmoving, excavating, paving or tree cutting equipment other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays.
- (e) Permits. Upon application, the director of public works may grant a permit to any person extending the hours of work set forth in subparagraphs (a) through (d) for an identified project. The permit shall state the nature, location and extended hours of the work to be done. The permit may be granted for a period of time not to exceed three (3) days and may be renewed for periods not to exceed three (3) days on an emergency basis only as determined by the director of public works. A permit authorized by this subsection shall be granted only if the director of public works first determines that the public health and safety will not be impaired by the permitted work and that significant loss or inconvenience would result to any party if the permit were not granted.

(Ord. No. 12622, § 1, 6-4-90; Ord. No. 13202, § 1, 12-16-91)

Editor's note--Section 1 of Ord. No. 12622, adopted June 4, 1990, repealed former § 16-265 and enacted new provisions in lieu thereof to read as herein set out. The repealed provisions pertained to erection, repair and demolition of buildings and derived fdrom Code 1964, § 7.310.

Cross reference(s)--Buildings and building regulations, Ch. 6.