

AN ORDINANCE OF THE NIXA CITY COUNCIL AMENDING CHAPTER 16-225 OF THE NIXA CODE OF ORDINANCES AS THEY RELATE TO HEAVY EQUIPMENT HOURS OF USE

Background:

The City has experienced an increase in complaints regarding excessive noise from construction projects near established residential areas, particularly early in the morning. Staff have also received increased requests for permits to begin construction work earlier than the time allowed by code. Staff reviewed the existing code language and determined it to be vague. Staff believes this amendment would provide greater clarity and create reasonable avenues for exceptions.

Analysis:

Current code language:

Section 16-225 - Prohibiting use of heavy equipment during certain hours

The use of heavy equipment including bulldozers and dump trucks or blasting activity within the city other than between the hours of 7:00a.m. and 6:00p.m. on Monday through Saturday, excluding holidays observed by the city, is prohibited, except and then only with a permit from the city clerk which shall be rescinded on any complaint concerning noise or dust during the prohibited hours being registered by a resident. This prohibition does not apply to roadwork by or on behalf of the city, county, or state.

Proposed code language:

Section 16-225 Heavy Equipment Hours and Noise Regulations

(a) **Definitions.** As used in this Section the following terms and phrases shall have the meaning ascribed to them, unless the context indicates otherwise:

Heavy Equipment shall mean:

- (1) Any engine-powered or mechanically powered equipment;
- (2) That is being used for construction; and
- (3) Which produces significant continuous noise or vibration comparable to the following: bulldozers, backhoes, excavators, dump trucks, pile drivers, jackhammers, or generators with a power rating of 5 kilowatts or more.

(b) **Standard Hours of Operation.** Except as otherwise provided in this section, the use of Heavy Equipment shall be unlawful within the city at any time other than between the hours of 7:00 a.m. and 7:00 p.m. The performance of other construction-related work that does not involve Heavy Equipment is not restricted by this section.

(c) **Hot Weather Early Start Exception.** The use of Heavy Equipment may commence at 6:00 a.m. if the National Weather Service has issued a heat advisory or excessive heat warning for the area for that day. No permit, as described in Section 16-225(e) shall be required to utilize this exception.

(d) **Exceptions.** The prohibitions of this section shall not apply to:

- (1) Emergency work which is necessary to protect public health, safety, and welfare.
- (2) Roadwork or capital improvement projects conducted by or on behalf of the city, county, or state.
- (3) Activities for which a Permit has been granted by the City Administrator.

(e) **Permit**

- (1) The City Administrator may grant a Permit to allow the use of Heavy Equipment outside the standard hours of operation upon a finding that the work is in the public interest or that compliance would impose an unreasonable hardship.
- (2) In granting such a permit, the City Administrator shall consider the nature of the work, its duration, its proximity to residential areas, and

any proposed noise mitigation measures, and may place conditions on the permit to minimize public disturbance.

- (f) **Violations.** Any person who operates heavy equipment in violation of this section, and any employer, principal, or supervisor who directs, authorizes, or permits such operation, shall be subject to punishment in accordance with Section 1-9 of the Nixa City Code.

Planning and Zoning Commission:

A public hearing for this item was held at the February 3rd Planning and Zoning Commission meeting. No one approached the Commission to speak on this item. The P&Z Commission voted unanimously (5-0) to recommend approval to the Nixa City Council.

Recommendation:

The new code language would allow for an extra hour in the evening and allow for an earlier start time on days that have excessive heat warnings. Additionally, this amendment allows for several exceptions, gives authority to the City Administrator in place of the City Clerk, and includes language on who is punishable for violations. Staff recommend approval of this code amendment.

MEMO SUBMITTED BY:

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1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING SECTION 16-**
2 **225 OF THE NIXA CITY CODE FOR THE PURPOSE OF UPDATING REGULATIONS**
3 **REGARDING HEAVY EQUIPMENT HOURS OF OPERATION, NOISE STANDARDS,**
4 **AND PERMITTING EXCEPTIONS.**

5
6 **WHEREAS** the City has received concerns regarding noise from construction
7 projects near residential areas and requests for clearer regulations regarding operating
8 hours; and
9

10 **WHEREAS** City Staff has reviewed the existing Code and determined that the
11 current language regarding heavy equipment is vague and lacks necessary exceptions
12 for extreme weather conditions; and
13

14 **WHEREAS** while not legally necessary for Council's approval, the Planning and
15 Zoning Commission held a public hearing on February 3, 2026, and voted unanimously
16 to recommend approval of these amendments to the City Council; and
17

18 **WHEREAS** the City Council finds that amending the Code to define "Heavy
19 Equipment," adjust standard hours, and provide a "Hot Weather Early Start" exception
20 balances the needs of construction development with the public welfare; and
21

22 **WHEREAS** the City Council desires to modify the City Code as set forth herein.
23

24 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
25 **NIXA, AS FOLLOWS, THAT:**
26

27 **SECTION 1:** Chapter 16, Article V, Section 16-225 of the Nixa City Code is hereby
28 amended by repealing Section 16-225 in its entirety and adopting in lieu thereof a new
29 Section 16-225, which said section shall read as follows (Explanation: Language in bold-
30 face type (e.g., **thus**) is language to be added. Language in bold-faced brackets (e.g.,
31 [~~thus~~]) is not enacted and is intended to be omitted or deleted.):
32

33 Sec. 16-225. [Prohibiting use of heavy equipment during certain hours.] **Heavy**
34 **Equipment Hours and Noise Regulations.**
35

36 [The use of heavy equipment including bulldozers and dump trucks or blasting activity
37 within the city other than between the hours of 7:00 a.m. and 6:00 p.m. on Monday
38 through Saturday, excluding holidays observed by the city, is prohibited, except and then
39 only with a permit from the city clerk which shall be rescinded on any complaint
40 concerning noise or dust during the prohibited hours being registered by a resident. This
41 prohibition does not apply to roadwork by or on behalf of the city, county or state.]
42

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51 drivers, jackhammers, or generators with a power rating of 5 kilowatts or
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54 use of Heavy Equipment shall be unlawful within the city at any time other than
55 between the hours of 7:00 a.m. and 7:00 p.m. The performance of other
56 construction-related work that does not involve Heavy Equipment is not
57 restricted by this section.

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59 at 6:00 a.m. if the National Weather Service has issued a heat advisory or
60 excessive heat warning for the area for that day. No permit, as described in
61 Section 16-225(e) shall be required to utilize this exception.

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70 Equipment outside the standard hours of operation upon a finding that the
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72 unreasonable hardship.

73 (2) In granting such a permit, the City Administrator shall consider the nature of
74 the work, its duration, its proximity to residential areas, and any proposed
75 noise mitigation measures, and may place conditions on the permit to
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77 (f) *Violations.* Any person who operates heavy equipment in violation of this
78 section, and any employer, principal, or supervisor who directs, authorizes,
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