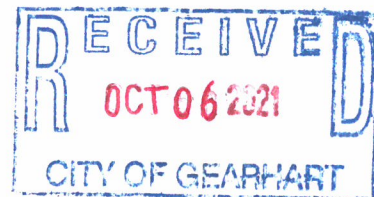


October 5, 2021

RE: City of Gearhart Noise Ordinance



Dear Mayor Cockrum and City Council Members,

I own Mancill Lawn & Yard Maintenance, Inc. I wrote a previous letter in August at the last meeting regarding this issue. I am STRONGLY OPPOSED the ordinance banning contractors from working Sundays.

The most glaring issue to begin with is that Councilor Warren is operating in a gray area with his wife Sheila Nolan being the Chief petitioner of this noise proposal. I could not find in any previous council minutes where he declared that his wife was behind this. While he may not be receiving a financial gain from his vote, his vote affects all contractors financially. This is not a decision to be taken lightly or to push his wife's agenda at the expense of all the hardworking contractors. Last month the Seaside Planning Commission held a public hearing regarding a development. 3 commissioners recused themselves as they own property in the same neighborhood. I'm sure that none of them stood to gain financially from it but they, in high regard of the integrity required of them as a public official, recused themselves so there would be no hint of bias in their decision making. Council Warren should hold himself to those same high standards of integrity and step aside. The Mayor & council should be aware they have the authority to determine a councilors right to participate as well.

The 2<sup>nd</sup> most glaring issue is the 20 signatures on the initial noise petition. In the Gearhart City Charter, Section 34. Referendum it is stated that "The initiative and referendum powers reserved to the people by the state constitution are hereby further reserved to the legal voters of the city" (Attached)

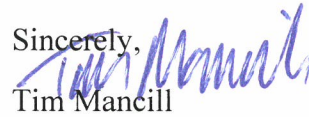
The petition that Sheila Nolan submitted has 20 signatures. Almost every person lives in the Creekside, N. Cottage & 10<sup>th</sup> St. neighborhood. Further, at least 3 couples (6 people) use Seattle, West Linn & Portland as their mailing addresses. This likely means that they are not registered voters in Gearhart or Clatsop County. At best 14 of these signatures are valid. Further, initiative petitions usually require addresses to verify their voter registration. This petition lacks addresses so I had to look up on County tax records their legal mailing addresses. Since when do 14 people get to submit a petition that changes the ordinances so drastically for a group of people like contractors? It's not right. What's worse is that the city is even entertaining this proposal. At the August 4 meeting there were only 2 people that spoke in favor of the noise ordinance. Many contractors & residents spoke against it. That should tell the council what the majority of people want. I think if it was on the ballot banning Sundays the ordinance would be voted down in a landslide.

It was also very mind boggling that many contractors like myself received no notification from the city that all this noise ordinance was going on since March. I didn't find out until a week before the August meeting & only found out by chance. That seemed like a common complaint at that meeting. This whole thing feels like it was being snuck through as quietly as possible.

As I've stated in my other letter, the reason contractors like myself work Saturdays & Sundays is not because we want to. Things happen during the week that gets us behind. The weather is so fickle here on the coast. Sometimes it's so stormy during the week that we get behind & the only way to catch up is work weekends. Equipment breaks down & we get behind. This year there has been such shortages of supplies, parts, & equipment it has been a nightmare trying to keep things going. Sometimes working Sunday is the only option to get work done. For the record I've not had a single complaint about making noise on a Sunday in 20 years. I try to not start until well past 9am & do my commercial properties (e.g., bowling alley) first before going to residential areas.

At this point I think Gearhart should leave their current noise ordinance the way it is. It's more restrictive than other area cities but is workable. These people complaining need to find something better to do. Soon the houses in their neighborhoods will be complete & they won't hear any more construction noise. Building houses here is good for the economy & good for the city tax rolls. Contractors are a vital part of the economy and we support many local businesses to support our operations.

Sincerely,



Tim Mancill

755 N. Wahanna Rd.

Seaside, OR 97138

(503) 440-2620

**Section 34. Referendum.**

The initiative and referendum powers reserved to the people by the state constitution, are hereby further reserved to the legal voters of the City.

**CHAPTER IX. PUBLIC IMPROVEMENT****Section 35. Condemnation.**

Any necessity of taking property for the City by condemnation will be determined by the Council and declared by resolution of the Council describing the property and stating the uses to which it will be devoted.

**Section 36. Improvements.**

The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinances or, to the extent not so governed, by the applicable general laws of the state. Action on any proposed public improvement declared by a majority of the Council to be needed at once because of an emergency may be suspended for six (6) months upon a remonstrance thereto by the owners of two-thirds of the land to be specially assessed therefor. In this section "owner" will mean the record holder of legal title or, where land is being purchased under a land sale contract recorded or verified to the treasurer in writing by the record holder of legal title to the land, the purchaser will be deemed the "owner".

**Section 37. Special Assessments.**

The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property will be governed by state law and general ordinance.

**Section 38. Contracts.**

Except as authorized by state law, all city contracts shall be based on competitive bids unless otherwise authorized by the Council.

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**FW: Construction Noise and Vibration Concerns**

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connellpc@comcast.net &lt;connellpc@comcast.net&gt;

Fri, Mar 19, 2021 at 2:30 PM

To: Chad Sweet &lt;chadsweet@cityofgearhart.com&gt;, Krysti Ficker &lt;krysti@cityofgearhart.com&gt;

I don't see you two on the recipients of this...

**From:** Sheila Nolan <senolan@gmail.com>**Sent:** Friday, March 19, 2021 12:08 PM**To:** mayorcockrum@cityofgearhart.com; Brent Warren <councilorwarren@cityofgearhart.com>; councilorjesse@cityofgearhart.com; councilorsmith@cityofgearhart.com; Reita Fackerell <councilorfackerell@cityofgearhart.com>; Carole Connell <connellpc@comcast.net>**Subject:** Construction Noise and Vibration Concerns

March 19, 2021

City of Gearhart

Dear Mayor Cockrum, City Council Members and Ms. Connell:

As you are aware, Gearhart is undergoing unprecedented construction. In fill lots and long dormant subdivisions are now being built to accommodate our community's recent population surge from people wishing to escape urban areas.

Unfortunately, this has compromised the sanctuary of full-time and part-time residents due to increased traffic, excavation, dump trucks and general construction. Construction is currently allowed seven days per week between the hours of 8:00 am and 6:00 pm and on holidays. We have experienced regular construction throughout all weekends, holidays, and outside of the allowed hours.

Many jurisdictions have moved in the direction of ordinances to assist in providing compromise to existing homeowners subject to neighborhood construction noise and vibration.

Attached is a proposal for your consideration which would limit residential construction performed by contractors requiring a permit Monday through Friday and restrict work on weekends and holidays. Do

it yourself projects and interior work as well as allowance for emergency repairs would not be impacted. Please refer to the attached proposal.

As a result of Covid-19 a limited number of residents were able to be contacted, but we feel confident there is considerable support for this proposal. Thank you for your consideration.

Sincerely,

Sheila Nolan ✓

Jeanne & Wilson Mark ✓

Penny & Rick Sabol ✓

Lisa Cerveny & David Russell - Seattle

Chris Bell

Dianne Widdop

Maxine & Joel Johnson

Betty & David Smith

Bebe Michel & Eric Halperin

Sarah & Rob Murphy - West Cinn

Steve & Kelly Scott - Portland

Bradley Wenger

October 5, 2021

Mayor Paulina Cockrum  
Gearhart City Council  
698 Pacific Way  
Gearhart, Oregon 97138

Re: October 12, 2021 Public Hearing on Proposed Noise Ordinance

Dear Mayor and City Council:

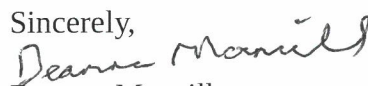
I originally questioned how twenty people could easily change a city ordinance. On further examination of the signatures, there was no mailing or street addresses listed. Apparently for good reason, because some of people live in Portland or West Linn. They have no legal right to change any laws within the City of Gearhart.

According to the City of Gearhart Code of Ordinances passed on 10/01/2008), 30.45 Petitions section: Initiative Petition states that only citizens and legal voters of the City of Gearhart can respectfully demand that the following proposed ordinance or amendment to the City Charter shall be submitted to the legal voters of the City of Gearhart with the following information: name, residence, and street number. (Ord. 373, 10/2/68) 30.47: The forms herein are not mandatory, and if substantially followed in any petition, it shall be sufficient, disregarding clerical and technical errors.

15% of voters in the last Mayor's election are required on the petition to qualify for an election. It should not be as easy as submitting invalid signatures and expecting the City Council to follow their whims.

The idea of not working on Sundays is called a Blue Law, that was based on religious beliefs or alcohol prohibition. Oregon and California do not have Blue Laws. Generally, the law is not applied to general contractors, except for the City of Portland and Lake Oswego. Chief Petitioner Sheila Nolan's proposed noise ordinance is a carbon copy of what Portland has. I personally do not want to be a suburb of Portland and live with restrictions that affect my family's right to earn a living.

Please reject the proposed noise ordinance. The 2014 Noise Ordinance was very well crafted and should not be amended. Thank you for considering these comments. Please enter this letter into the public record.

Sincerely,  
  
Deanna Mancill  
2945 Hwy 101 North  
Gearhart, Oregon 97138  
Telephone: 503)738-3021

