



CITY OF
PORTLAND, OREGON
OFFICE OF NEIGHBORHOOD INVOLVEMENT

CHLOE EUDALY, COMMISSIONER
Suk Rhee, Interim Bureau Director
Noise Control Program
1221 SW 4th Avenue, Room 110
Portland, Oregon 97204

Promoting a culture of civic engagement

FINDINGS AND DECISION OF THE NOISE REVIEW BOARD

APPLICANT: ENVIRONMENTAL SERVICES, CITY OF PORTLAND *MARGARET RUSSELL*

VARIANCE NUMBER: 17-236910-000-00-NV

DECIDED: September 13, 2017

DECISION: APPROVED WITH CONDITIONS

BACKGROUND:

Title 18 establishes sound levels based on the zones of both the source and receivers of noise. Events that produce noise above permitted levels may be considered for variance from the code. The Noise Review Board is charged by code to review and act upon some of these applications. The review must consider the physical characteristics; times & duration of the emitted sound; the geography, zone and population density of the affected area; whether the public health, safety or welfare is impacted; whether the sound source predates the receiver(s); and whether compliance with the standard would produce hardship without equal or greater benefit to the public. The code does not preclude review of other factors, nor does it specify the weight to be given to each criterion.

REQUEST:

Margaret Russell, representing Bureau of Environmental Services, is requesting a variance for the St. Johns – Cathedral Park Sewer Repair Project on several streets in St Johns, using Open Trench, Pipe Bursting, and Cured in Place Pipe methods of construction for dates between April 1, 2018 and August 15, 2019.

FINDINGS:

- A. The public's health, welfare and safety are not affected by the anticipated noise levels, except possible temporary interference with sleep at later hours and for closer-in properties.
- B. The sound source does not predate receivers.
- C. The last criterion in reviewing Noise Variances speaks to a sort of "balancing test", in which compliance/non-compliance is measured against the "public good." Will the denying of this application produce hardship without equal or greater benefit to the public? Based on the potential traffic disruptions that would occur without this variance, the Noise Review Board finds that denying this request will not benefit the public good.

DECISION:

Motion was made by Kerrie Standlee to grant a variance with the conditions below. Jamie Hurd seconded the motion. The motion passed 4 - 0. Board members voting: Melissa Stewart, Kerrie Standlee, Jamie Hurd, and Michael Wallace. Ryan Hyke was not in attendance.

The Variance is approved with the following conditions:

- A. Noise variance shall run from April 1, 2018 through August 15, 2019
 - a) Allowable night work hours as follows due to either cure times or traffic restrictions:
 - b) N Midway between Fessenden and Powers from 6:00 p.m. to 7:00 a.m. for up to 6 nights.
 - c) N Ida at Kellogg St from 9:00 p.m. to 6:00 a.m., Monday through Saturday for up to 6 nights.
 - d) N Ivanhoe between John and Charleston from 10:00 p.m. to 6:00 a.m. Monday through Saturday, No work on Sundays for up to 14 days.
 - e) N Lombard between John and Richmond from 10:00 p.m. to 6:00 a.m. Monday through Saturday, no work on Sundays for up to 21 days.
 - f) N Swift Way near Columbia Blvd from 6:00 p.m. to 7:00 a.m. for up to 3 nights for CIPP lining.
 - g) N Fessenden between Midway and Columbia Way from 8:00 p.m. to 6:00 a.m., Monday through Saturday, no work on Sundays for up to 5 nights for CIPP lining.
 - h) N Lombard St/US 30 Bypass between N Polk and Burr Ave from 10:00 p.m. to 6:00 a.m., Monday through Friday, 9:00 p.m. to 7 am Saturday, no work on Sundays for up to 5 nights for CIPP lining.
- B. Truck backup alarms will be turned off after 8pm.
- C. Applicant is required to use an enclosure for stationery equipment. It will be placed away from neighbors whenever possible and isolated from any residential neighbors designed to reduce sound levels outside of all residential structures to go no higher than 70 dBA
- D. All saw cutting shall be performed during daytime allowable work hours. If saw cutting is required during night work, it shall be done prior to midnight. Saw cutting taking place between 10 pm and midnight shall include portable sound barriers being utilized to decrease the noise level to a level of no more than 75 dBA at any point immediately outside a residential structure)
- E. Notice to be mailed and emailed two weeks prior to start of work to a two-block radius of the work site. Notice shall include nature of work, anticipated noise sources and a contact phone number for a person on site to explain the work and possibly mitigate the issue.
- F. Noise office to be notified once staging areas have been chosen for the project.
- G. BES inspector is to be on site during all work hours with a sound level meter to be able to confirm noise limits are met when complaints are received.
- H. The applicant will send complaint reports along with a complaint log and details of how the problem was resolved to the City of Portland Noise Control Officer. These logs can be emailed to noise@portlandoregon.gov.

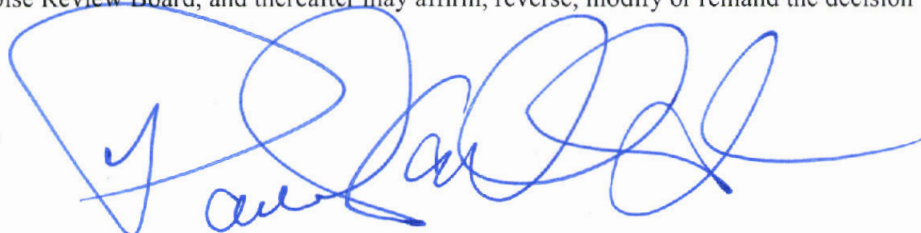
- I. The applicant shall prepare to develop a noise mitigation plan with the Noise Control Office should complaints arise.
- J. The noise variance will be reviewed upon receipt of complaints. If complaints are filed, the Noise Control Officer may modify the variance as needed to resolve community noise disturbances.
- K. The applicant will notify the Noise Control Officer by the next morning if the variance was needed to work outside the permitted construction hours. The applicant will keep a running tally of variance days used. This log shall be made available to the Noise Control Office upon request.

The applicant understands that this variance is subject to review upon complaint.

This decision becomes effective on September 13, 2017

APPEAL PROCEDURES: PCC Section 18.14.020 (i) states that "A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows: (1) A variance decision may be appealed by the applicant, his legal representative, or by any person who has submitted oral or written testimony on the application. (2) Notice of intent to appeal shall be submitted in writing to the City Auditor's Office within 10 day of the effective date of the decision. The notice shall identify the decision that is being appealed, and shall include the appellant's name, address and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including alleged misapplication of City Codes. (3) Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council. At the time of hearing, the City Council may consider such new matters as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision".

Paul van Orden,
for the Noise Review Board,
City of Portland



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