



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

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1221 SW 4th Avenue, Room 110
Portland, Oregon 97204

Promoting a culture of civic engagement

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**FINDINGS AND DECISION OF
THE NOISE REVIEW BOARD**

APPLICANT: OREGON ZOO *IVAN RATCLIFF*

REQUEST: THREE-YEAR VARIANCE FOR OREGON ZOO SUMMER CONCERT SERIES FOR
SUMMER 2016- 2018

VARIANCE NUMBER: 15-253615-000-00-NV

DECIDED: DECEMBER 9, 2015

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:

Ivan Ratcliff, representing Oregon Zoo, is requesting a noise variance for the Oregon Zoo Summer Concert series for summer, 2016 - 2018. The Oregon Zoo is requesting a noise variance for the Oregon Zoo Summer Concert series for up to 19 concerts from mid-June to mid-September, with sound levels not to exceed 65 dBA at residences, between the hours of 3:00 p.m. until 10:00 p.m.

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 zoo has been holding concerts at their location for 35 or more years. In the last twenty years the current Noise Control Officer has had a limited number of complaints filed with Noise Office relative to the number of concerts that occur each summer. On average, the Noise Control Officer reports that 3 concerts a year have a tendency, based on the booking pattern of the selected musical genres, to be of a higher concern for potential community noise impacts. It has been noted by the Noise Officer that many of the other less bass intensive concerts annually are clearly audible at residences but actually fully comply with the 55 dBA City Code standard that is the predominate permitted decibel level in the neighborhood, up to 10 PM each day.
- D. 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? Although “benefit” usually refers to economic gain, the Board also includes the pleasure obtained from the viewing of an event, the fostering of interest in an activity, or the pride in one’s city, which occurs via national exposure. In the present case the event is not only a well recognized community event, per se, but it also contributes to the national exposure of the City of Portland. The Noise Review Board finds that denying this event will not benefit the public good.

DECISION:

Motion was made by Julie Greb to grant a variance for Ivan Ratcliff, representing the Oregon Zoo, for a 3 year noise variance for the Summer Zoo Concert series to take place between mid-June – mid-September 2016 – 2018 between the hours of 3:00 pm & 10:00 pm (6:30 pm – 10:00 pm actual concert) with the conditions below. Melissa Stewart seconded the motion. The motion passed 4 - 1 with Kerrie Standlee voting “no”.

The Variance is approved with the following conditions:

- 1) The variance shall run for three summer concert season at the Metro Oregon Zoo in the summers of 2016, 2017, and 2018. The permitted hours of operation shall be 3 pm to 10 pm. Sound checks may begin at 3:00 pm and the concerts will be between the hours of 6:30 pm and 10 pm under the permit.
- 2) The Zoo shall be permitted no more than 19 summer concerts each of the three summer seasons that exceed Title 18 Land Use Zone standards under this decision.
- 3) The permitted sound level will be 65 dBA and 80 dBC (Lmax Fast), as measured at any residential property line.
- 4) The Oregon Zoo will work with the Noise Control Officer to designate several monitoring sites that will be monitored at each event.
- 5) The final schedule of concerts will be mailed to the neighbors, using the applicant’s current notification addresses.

- 6) A hotline phone line to call in with concerns will be established and will be included in the concert schedule notification announcement to the neighbors. The phone line will be answered by a live person during events.
- 7) Sound levels will be monitored in response to complaints received at the source of the complaints where possible.
- 8) The Oregon Zoo will maintain a log of complaints received and the actions taken to mitigate the community concerns. The log will include the sound level measurement taken in response to complaints. The complete log will be forwarded to the Noise Control Officer within one week after each show.
- 9) The results of the routine noise monitoring for each show will also be forwarded to the Noise Control Officer within one week after each show.

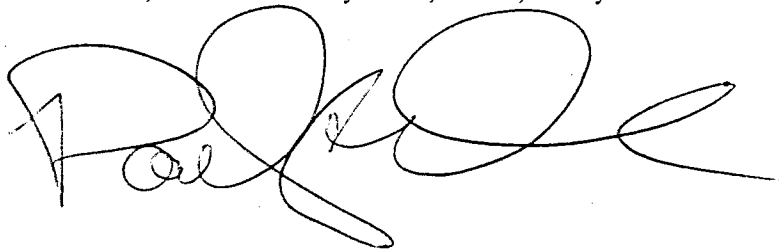
The applicant understands that this variance is subject to review upon complaint.

This decision becomes effective on December 9, 2015.

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

A handwritten signature in black ink, appearing to read "Paul van Orden", written over a horizontal line.

Signed on January 6, 2016