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CITY OF  
**PORTLAND, OREGON**  
OFFICE OF NEIGHBORHOOD INVOLVEMENT

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

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*Promoting a culture of civic engagement*

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

APPLICANT: OREGON DEPARTMENT OF TRANSPORTATION \*MATT FREITAG\*

REQUEST: ONE YEAR VARIANCE FOR INTERMITTENT PERIODS BETWEEN OCTOBER  
2018 THROUGH OCTOBER 31<sup>st</sup>, 2020

VARIANCE NUMBER: 18-181243-000-00-NV

DECIDED: JUNE 13, 2018

**FILE COPY**

***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:**

Request from Matt Freitag, Oregon Department of Transportation to perform up to 92 nights and 8 weekends on the Outer Powell Safety Improvement Project on SE Powell Boulevard from SE 119<sup>th</sup> Avenue to SE 138<sup>th</sup> Avenue. The work ranges from grinding and paving to stormwater line construction.

**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:**

**Destiny Wright moved to approve the variance application as written with a few minor additions, and Jamie Hurd seconded the motion.**

**The motion passed unanimously, 4 – 0 (Kerrie Standlee and Ernest Harris were present and voted in support of the motion ) (One absent member was Michael Wallace )**

**The Variance is approved with the following conditions:**

1. The permit was approved with the requested number of nights and weekends from within the application.
2. A weekend for the purposes of this permit shall be defined as the period of time from 6PM on a Saturday evening, to 7 AM on a Monday morning.
3. The Chair of the Noise Review Board will determine after 10 months of the permit being in effect, if the applicant needs to come back to the full Noise Board for updates and review, or the Chair may simply require a written report for the Board members edification.
4. Restrict the use of asphalt saws to periods before 10 PM to reduce impacts at residential properties at night.
5. Restrict tree removal and concrete saws associated with UIC construction to weekends before 10 PM.
6. All equipment used shall have sound control devices no less effective than those provided on the original equipment. No equipment shall have an unmuffled exhaust.
7. All haul trucks will meet or exceed the standards outlined in Chapter 34, Section 35 of the Oregon Administrative Rules, Oregon Department of Environmental Quality, April 1983.
8. All equipment shall comply with pertinent equipment noise standards of the U.S. EPA.
9. The contractor shall use "smart alarms" or a spotter instead of standard reverse signal alarms between 6 PM to 10 PM . a "guide person" or "spotter" shall be used for equipment backup between 10 PM and 7 AM.
10. The contractor will be directed to install temporary or portable sound barriers around stationary construction noise sources should a specific noise impact complaint occur.
11. The contractor will have or portable noise meters on the job during night work activities for noise level spot checks on specific operations.