



Promote the common good

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FINDINGS AND DECISION OF THE NOISE REVIEW BOARD-Revised

APPLICANT: BUREAU OF ENVIRONMENTAL SERVICES *BRANDON WILSON*

VARIANCE NUMBER: 16-274735-002-00-NV

DECISION: APPROVED WITH CONDITIONS, DELEGATED FOR AUTHORITY BY NOISE CONTROL OFFICER, PER BOARD CHAIR, CAROL GOSSETT

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:

Brandon Wilson, representing Bureau of Environmental Services (BES) is requesting a noise variance for the Eliot Sewer and Stormwater Project. The noise variance is for sewer repair work taking place for 52 nights, 6 locations, non-consecutive nights, between May 1, 2017 and May 31, 2018. The requested hours are between 6:00 pm – 6:00 am. The work will consist of open trench work on NE Martin Luther King Jr. Blvd. at six crossing locations (NE Brazee, Sacramento, Thompson, Tillamook, and San Rafael).

On November 30, 2017, a date extension was requested and granted, to extend the project until March 31, 2019

On March 5, 2019, a date extension was requested to extend the project until June 30, 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? 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:

APPROVED WITH CONDITIONS, DELEGATED FOR AUTHORITY BY NOISE CONTROL OFFICER, PER BOARD CHAIR, CAROL GOSSETT

The Variance is approved with the following conditions:

- A. From 6:00 p.m. until 10:00 p.m. during any variance period, the applicant will be required to use “smart alarm” back up beepers instead of a standard reverse alarm for all equipment activity.
- B. From 10:00 p.m. until 7:00 a.m. during any variance period, the applicant is required to disconnect the backup alarms and spotters will be used to safely back up vehicles.
- C. Saw cutting shall be performed during daytime allowable work hours. If saw cutting is required during a variance period, it shall be done prior to midnight. Saw cutting taking place between 10:00 p.m. and midnight shall include the use of portable sound barriers placed to decrease the noise radiating to any nearby residential, motel or hotel buildings.
- D. The applicant is required to use direct connection to power whenever possible. Gasoline or diesel generators or other stationary equipment will be placed away from residential neighbors when possible if equipment is required, and at all times the equipment will be isolated from any residential neighbors with the safe use of a ¾ inch plywood enclosure that does not impact the proper ventilation of the unit.
- 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. BES inspector to be on site during all work hours.
- G. 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 but they must be sent to the Noise Control Office within 3 days of the complaint