



Promote the common good

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## **FINDINGS AND DECISION OF THE NOISE CONTROL OFFICER**

APPLICANT: OUR LADY OF LAVANG CHURCH – JACQUES NGUYEN

REQUEST: SEVEN DATES OF OUTDOOR MASSES, CULTURAL EVENTS, AND AN ANNUAL FREEDOM CELEBRATION BETWEEN MAY 25TH AND SEPTEMBER 15, 2019

VARIANCE NUMBER: 19-138106-000-00-NV

### ***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.

#### APPLICANT'S REQUEST:

Jacques Nguyen, representing Our Lady of La Vang Church, is requesting a noise variance to cover the use of outdoor amplification seven outdoor events at the church in the 2019 summer season. Our Lady of La Vang is requesting the following dates and time for use of amplification: May 25, 2019 from 4:00 p.m. to 6:00 p.m.; July 5, 2019 from 3:00 p.m. to 9:00 p.m.; July 6, 2019 from 2:00 p.m. to 10:00 p.m.; July 20, 2019 from 10:00 a.m. to 2:00 p.m.; August 11, 2019 from 8:30 a.m. to 2:00 p.m., September 8, 2019 from 8:30 a.m. to 11:00 a.m.; and September 15, 2019 from 2:00 p.m. to 7:30 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. This event is not generally reported to be a bass intensive event for its use of amplifications

D. The church has been holding events at this location for many years. In recent years neighbors have raised concerns about the volume and frequency of amplified events. In the last year the Noise Office observed a few events at the location and offered guidance for controlling the sound to Jacques Nguyen. He is a layperson who coordinates their use of the sound system for events. At more modest, shorter time frame events and for marching events around the church area, excessive sound was not produced during observations from the City.

This corresponds with the majority of concerns from the community, in which we understand the primary impacts to be for longer time frame events and the events running later into the night.

E. 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:**

The Noise Control Officer has approved the request with modifications to the end time on one event date and with conditions noted below.

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

- 1) The variance shall run for the summer season 2019 on these dates and times. Our Lady of La Vang is allowed the use of amplification with all the remaining conditions on: May 25, 2019 from 4:00 p.m. to 6:00 p.m.; July 5, 2019 from 3:00 p.m. to 9:00 p.m.; July 6, 2019 from 2:00 p.m. to 10:00 p.m.; July 20, 2019 from 10:00 a.m. to 2:00 p.m.; August 11, 2019 from 8:30 a.m. to 2:00 p.m.; September 8, 2019 from 8:30 a.m. to 11:00 a.m.; and September 15, 2019 from 2:00 p.m. to 7:30 p.m.
- 2) The rosary parade is a subdued affair and not a significant noise impact on the community from observations of the Noise Officer. For the Rosary parade on May 25, 2019, no decibel level monitoring will be required. Sound levels will not be audible further than a block and half, or 350 feet from the sound source.
- 3) For all the remaining events after the May 25<sup>th</sup> event, the permitted sound level across the street at the NW corner of NE 55<sup>th</sup> Ave and at the NW corner of Alameda St and NE 56<sup>th</sup> Ave shall not exceed 65 decibels, dBA FAST MAXIMUM, with occasional peaks up to 68 dBA MAX FAST.
- 4) A hotline phone line at 503-249-5892 to call in with concerns will be available for the hours of events to the neighbors. The phone line will be answered by a live person during events.
- 5) Sound levels will be monitored on a least an hourly basis at the two prescribed monitoring locations in the permit conditions. Sound levels will also be monitored in response to complaints received from the community. These sound readings will be taken