



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

AMANDA FRITZ, COMMISSIONER
Amalia Alarcón de Morris, 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: CHAD YOUNT

REQUEST: ONE-YEAR, DATE EXTENSION OF VARIANCE NUMBER: 11-204358-000-00-NV

DECIDED: OCTOBER 14, 2015

DECISION: APPROVED FOR VARIANCE EXTENSION FOR DATES BETWEEN NOVEMBER 30, 2015 THROUGH DECEMBER 31, 2016, 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:

Chad Yount, with Slayden/Sundt requested a date extension for the construction noise variance granted to Slayden/Sundt on March 14, 2012, which was granted a construction variance from March 15, 2012 through November 30, 2015. The variance application request asks for an extension for dates between November 30, 2015 through December 31, 2016. The work encompasses nighttime and Sunday work on the Sellwood Bridge and OR-43. Work will include finishing the new bridge 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? 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 Kerrie Standlee to grant a variance date extension for Slayden/Sundt for work to finish the new Sellwood Bridge construction with the conditions below. Melissa Stewart seconded the motion. The motion passed unanimously, 3 – 0. Board members Carol Gossett and Julie Greb were not in attendance at the meeting.

The Variance is approved with the following conditions:

1. The noise variance will run from November 30, 2015 to December 31, 2016.
2. The variance will permit a total of 4 Sunday shifts from 8 AM to 6 PM which will be measured at a 66 to 68 Leq dBA FAST, for a 15 minute measurement period.
3. The variance will permit up to 100 nights of work, from 6 PM to 7 AM.. Of these approved nights, up to 75 nights will operate at no higher then at an 66 to 68 Leq dBA FAST, for a 15 minute measurement period; and no more than 25 nights will operate at no higher than a 84 to 86 Leq dBA FAST, for a 15 minute measurement period.
4. Sound data will be submitted to the Noise Control Office after the first 10 variance nights for review, and from then on, upon request.
5. 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.

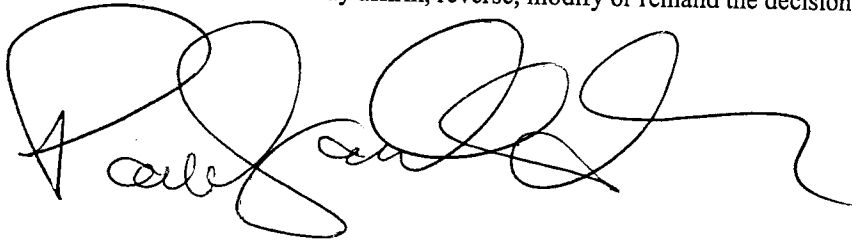
6. All haul trucks will meet or exceed the standards outlined in Chapter 34, Section 35 of the Oregon Administrative Rules, Oregon Department of Environmental Quality (ODEQ), April 1983.
7. All equipment shall comply with pertinent equipment noise standards of the U.S. Environmental Protection Agency.
8. The contractor will be required to use "smart alarm" back up beepers, instead of a standard reversal alarm, between the hours of 6 pm and 10 pm and a guide person or "spotter" for backing equipment between 10 pm and 7 am the next day.
9. Slayden/ Sundt and the County will have portable sound level meters on the job at all times for noise level spot checks on specific operations. These meters will be able to collect second by second Lmax dBA data as well as the 15 minute Leq information defined in the conditions.
10. The contractor will be required to provide noise monitoring systems at the closest residential receiver. The location will be determined in conjunction with the neighborhood association, the contractor, and the County.
11. A 24-hour "construction information" telephone number will be provided in the notice. The construction information line will provide current information on planned night work activities. It will be updated on a weekly basis, or as is necessary. The line will be available on a 24-hour basis for neighbors to obtain the current night work schedule or to lodge complaints
12. Multnomah County shall send out updates via email and shall provide answers to citizen questions via email and shall update the project schedule.
13. Slayden/ Sundt's project manager will send a copy of the construction schedule to the Noise Control Officer at the beginning of the project and provide schedule updates as changes occur.
14. There will be a 24-hour telephone response line (in addition to the Construction Information line) available to the nearest receptors. Complaints will be investigated by the on-site Multnomah County or contractor supervisor working that night. Complaints will be investigated and addressed within 24 hours or before the next scheduled night work. Multnomah County will notify the Noise Control Officer within 24 hours of receiving a complaint.
15. The contractor may be directed to install temporary or portable noise barriers around stationary construction noise sources should a specific noise impact complaint occur.
16. Multnomah County or its contractor shall maintain a current log of the nights and Sundays of work that have been completed on the project. 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 October 14, 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 in a cursive style.