



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: OREGON DEPARTMENT OF TRANSPORTATION \*RONALD LARSON\*

REQUEST: ONE-YEAR VARIANCE FOR ROADWAY MAINTENANCE

VARIANCE NUMBER: 15-243019-000-00-NV

DECIDED: NOVEMBER 12, 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:**

Ronald Larson, representing Oregon Department of Transportation requesting a noise variance for the 1-5 SB exit ramp to Broadway –Weidler Project. The noise variance is for roadway maintenance taking place between January 4, 2016 through September 30, 2016 between the hours of 6:00 p.m. and 7:00 a.m. and will require intermittent nighttime construction work in order to minimize traffic impacts, maximize safety to the travelling public and neighbors, and to meet the project construction schedule.

**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 Julie Greb to grant a variance for Ronald Larson, representing ODOT with the conditions below. Melissa Stewart seconded the motion. The motion passed unanimously, 4 – 0. ( Board member Kerrie Standlee was absent).**

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

- All equipment will be properly maintained and operated with exhaust mufflers and will meet all noise limits.
- All equipment will follow the equipment noise standards provided by the U.S. Environmental Protection Agency.
- Smart alarms will be disconnected after 10:00 pm. After 10:00 pm, spotters shall be used instead.
- Sawcutting shall take place when the shift starts, prior to midnight. Between the hours of 10:00 pm and 12:00 am, all sawcutting shall include sound barriers.
- The contractor will have portable noise monitoring equipment available on site during nighttime work and have staff knowledgeable on maintaining and using the equipment.
- Notice shall be given 2 weeks prior to the start of work within ½ mile of the site. Notice shall include a contact number.
- The contractor will provide a 24-hour hotline available to nearby residents to record and respond to nighttime construction noise complaints. A site representative will respond to all complaints within 24-hours of the complaint.
- Complaint reports shall be made available to the Noise Control Office within 7 days of the complain, and shall include a report of how the complaint was dealt with.
- In the event of nighttime construction noise complaints, the contractor will be required to construct or erect temporary noise barriers or shields to limit construction noise from stationary or slow-moving noise sources.
- 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.
- The project manager will insure compliance with any and all noise variance conditions including the management and application of any and all mitigation measures

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

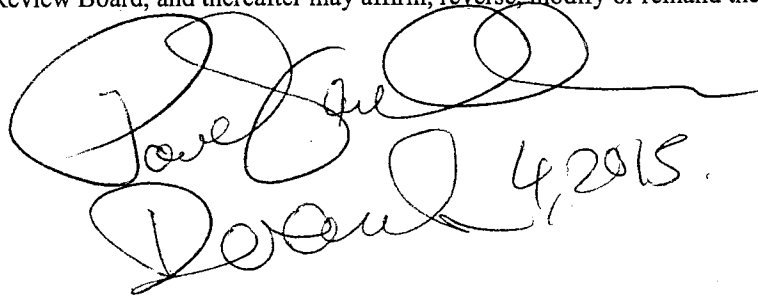
ODOT

**This decision becomes effective on November 12, 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



Paul van Orden  
4/20/15