



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 - REVISED**

APPLICANT: BUREAU OF ENVIRONMENTAL SERVICES *BRANDON WILSON*

VARIANCE NUMBER: 15-204179-000-01-NV

DECIDED: August 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:

Brandon Wilson, representing Bureau of Environmental Services, requesting a noise variance for the NW District Sewer Project. The noise variance is for sewer repair work taking place between January 1, 2016 through January 31, 2017 between the hours of 8:00 pm and 5:30 am in the area of NW Vaughn from NW 27th Ave to NW 23rd Ave and will require 120-150 nights of variance work during that time. The work will consist of trench cutting and open trench repair work to replace aging sewers and is intended to increase sewer system capacity and help prevent sewer backups in basements.

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 Bureau of Environmental Services with the conditions below. Kerrie Standlee seconded the motion. The motion passed with 2 in favor, 1 opposed, and 1 abstention. David Sweet was not in attendance at the meeting

The Variance is approved with the following conditions:

- A. Noise variance shall run from January 1, 2016 through January 31, 2017.
- B. Allowable night work hours are 8pm to 5:30 am Sunday through Thursday.
- C. From 6 pm until 9:30 pm the contractor will be required to use “smart alarm” back up beepers instead of a standard reverse alarm for all equipment activity. From 9:30 pm until 6 am the following morning back up alarms will be disconnected and spotters will be used to safely back up vehicles.
- D. The applicant shall work to utilize direct connection to power whenever possible. Use of gasoline or diesel generators or other stationary equipment will be isolated from any residential neighbors with the safe use of a ¾ inch plywood enclosure that does not impact the need of the unit to be properly ventilated.
- E. Saw cutting shall be performed during day time allowable work hours as a first preference. If required, saw cutting during night work hours can only be performed until midnight Sunday through Thursday. All saw cutting shall include portable sound barriers being utilized to decrease the noise level to nearby buildings.”.
- F. Pipe cutting and adjustments during night work hours will be performed on the north side of NW Vaughn utilizing the numbered streets within the industrial area of the project.
- G. 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.
- H. Noise office to be notified once a staging area has been chosen for the project.
- I. BES inspector to be on site during all work hours.
- J. 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.
- K. The applicant shall prepare to develop a noise mitigation plan with the Noise Control Office should complaints arise.
- L. The noise variance will be reviewed upon receipt of complaints. If complaints are filed, the Noise Control Officer may modify the variance as needed to resolve community noise disturbances.


- M. The applicant will notify the Noise Control Officer by the next morning if the variance was needed to work outside the permitted construction hours. The applicant will keep a running tally of variance days used. This log shall be made available to the Noise Control Office upon request.
- N. Permitted dBA level to be decided between applicant and Noise Office, with the aid of Kerrie Standlee
- O. Pipe, manhole, storm drains and leads and lateral replacement as described in the specification near the Silver Cloud and Holiday inns is to be completed between October and March during the contract timeline.

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

This decision becomes effective on August 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



for PVO