



CITY OF

**PORTLAND, OREGON**

OFFICE OF NEIGHBORHOOD INVOLVEMENT

*Promoting a culture of civic engagement*

CHLOE EUDALY, COMMISSIONER

David Austin, Interim Bureau Director

Noise Control Program

1221 SW 4th Avenue, Room 110

Portland, Oregon 97204

## **FINDINGS AND DECISION OF THE NOISE REVIEW BOARD-REVISED**

APPLICANT: OREGON DEPARTMENT OF TRANSPORTATION \*KYLE CRATE\*

VARIANCE NUMBER: 16-260486-000-01-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:**

Kyle Crate, representing The Oregon Department of Transportation (ODOT) is requesting a nighttime noise variance to City of Portland Code, Title 18, to perform construction work during nighttime hours to limit daytime traffic disruption anticipated along this heavily traveled section of I-5 and off-ramps. The I-5 Bridge Deck Rehab Project (K18564) will repair and resurface two ramps at the I-5 Morrison Interchange and the I-5 Bridge over Moda Center Tri-Met Stop at Northeast Multnomah Street. This project will also replace the I-5 median barrier from Northeast Multnomah Street to Southeast Salmon Street. The project will also include shoulder paving, rehab of the Morrison Bridge Ramps and the rehab and resurfacing of the Hassalo Bridge.

At this time exact project phasing has not been defined, but it is anticipated that the contractor will require intermittent periods of nighttime work between April 15, 2017 and August 15, 2017 between the hours of 6:00 pm – 7:00 am.

## **UPDATED REQUEST**

On June 7, 2017, a request was made to change the dates to June 12, 2017 through October 27, 2017. Because the original determination was delegated to the Noise Control Officer by the Noise Review Board Chair, staff was able to grant this request.

## **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:**

***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. Nighttime construction activities will comply with ORS 467, OAR 340-035, all other applicable laws and regulations, and to the extent feasible, the following construction noise abatement measures:
- B. Equipment will use sound control devices no less effective than those provided on the original equipment. Equipment with un-muffled exhausts is prohibited.
- C. Equipment will comply with pertinent equipment noise standards of the

EPA.

- D. If a specific noise complaint is received, mitigation measures will be developed in concert with the NCO:
- E. Nighttime sound levels at the exterior of Legacy Hospital shall not exceed 77 dBA Fast as measured with a 15 minute LEQ at the exterior of the hospital.
- F. Nighttime sound levels at the interior of Legacy Hospital shall not exceed 52 dBA Fast as measured with a 15 minute LEQ at the interior of the hospital
- G. Temporary or portable acoustic barriers will be installed around stationary construction noise sources.
- H. Where feasible, electric-powered equipment will be operated using line voltage power or solar power.
- I. All equipment will be properly maintained and operated with exhaust mufflers and meet all noise limits.
- J. Equipment will comply with pertinent equipment noise standards provided by the Environmental Protection Agency
- K. The contractor will have portable noise monitoring equipment available onsite during nighttime work and have staff knowledgeable on maintaining and using the equipment
- L. 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
- M. 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
- N. 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.**

**This decision becomes effective on January 6, 2017.**