



City of Mukilteo, Washington

Noise Variance Notice of Approval (VAR-NOISE-2022-003) for Snohomish County PUD #1

The City of Mukilteo has **APPROVED, with conditions**, a Noise Variance application (City File No. VAR-NOISE-2022-003) from Snohomish County PUD #1 for work activities associated with the moving of a transformer into a substation. The work will occur overnight between the hours of 2:00 am to 3:30 am on October 28, 2022.

APPLICANT:

Erin Callar
Snohomish County PUD #1
1802 75th St. SW
Everett, WA 98203

DESCRIPTION OF PROJECT:

Snohomish County PUD #1 is requesting a variance from noise requirements to conduct nighttime work established in Mukilteo Municipal Code (MMC) Chapter 8.18 (Noise Control).

Specifically, Snohomish County PUD #1 proposes to transport a transformer to the substation at 11501 Harbour Pointe Blvd. Beginning at 1802 75th St. SW. Everett, 98203 to SR 526, continuing onto SR 525 (Mukilteo Speedway) and then onto Harbour Pointe Boulevard to the substation. When crossing Chennault Beach Road, a Ziply Fiber cable may need to be raised up to accommodate the height of the load.

The work is proposed to be performed overnight for one night between the hours of 2:00 am to 3:30 am on October 28, 2022. These hours are outside of the City's allowed construction hours of seven (7) a.m. to nine (9) p.m. weekdays and nine (9) a.m. to seven (7) p.m. weekends/holidays. The work was originally scheduled for October 21, 2022, under File No. VAR-NOISE-2022-002; however, it was rescheduled.

This request for nighttime work is necessitated by the Washington State Department of Transportation's (WSDOT's) restricted work hour requirements of 9:00 p.m. to 4:30 a.m. for work on Mukilteo Speedway and due to the size of the load being transported.

LOCATION OF PROPOSAL:

Outside City Limits (1802 75th St. SW, Everett, WA 98203) and the route to 11501 Harbour Pointe Boulevard; multiple parcels.

FINDINGS OF FACT:

1. Snohomish County PUD #1 submitted a noise variance application to the City of Mukilteo on October 20, 2022.
2. Snohomish County PUD #1 proposes to conduct construction activities outside of the hours permitted in Mukilteo Municipal Code (MMC) subsection 9.46.080(A). Work is proposed to be performed overnight for one evening between the hours of 2:00 am and 3:30am Friday, October 28, 2022.
3. Work will consist of:
 - Moving a transformer from outside City limits on a lowboy truck and into the substation.
 - Raising a cable in cooperation with Ziplly Fiber at Chennault Beach Drive and Harbour Pointe Boulevard for height clearance.
4. Land uses in the immediate area and along the route consist of Paine Field, schools, commercial properties and residential areas.
5. Snohomish County PUD #1 anticipates the lowboy truck will be a source of sound.
6. Snohomish County PUD #1 has proposed the following mitigation measures during construction:
 - a. Upon arrival, the lowboy truck will be parked and work will not continue until 8:00am the next morning.
 - b. Equipment will be shut off when not in use.
7. Mukilteo Municipal Code (MMC) section 9.46.080 (“Construction Noise”) states:
 - A. Prohibited. It is unlawful for any person, firm or corporation to cause, or for any person, firm or corporation in possession of real property to permit, construction noise which is audible on residential, mixed use or retirement home property beyond the property lines of the property on which the construction activity is conducted as follows:
 1. Monday through Friday, prohibited before seven a.m. and after nine p.m.
 2. Saturdays/Sundays/holidays (defined in RCW 1.16.050), prohibited before nine a.m. and after seven p.m.
 - B. “Construction noise” means any sound caused by construction activity including but not limited to site preparation, mobilization, clearing, grading, assembly, erection, demolition, substantial repair, alteration or similar action.
 - C. Exemptions shall be in accordance with WAC 173-60-050 and 173-60-080 as adopted in Chapter 8.18.”
8. WAC 173-60-080 “Variances and implementation schedules” states:

- “(1) Variances may be granted to any person from any particular requirement of this chapter, if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of non-availability of feasible technology or control methods. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.
- (2) An implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued.
- (3) Variances shall be issued only upon application in writing and after providing such information as may be requested. No variance shall be issued for a period of more than 30 days except upon due notice to the public with opportunity to comment. Public hearings may be held, when substantial public interest is shown, at the discretion of the issuing agency.
- (4) Sources of noise, subject to this chapter, upon which construction begins after the effective date hereof shall immediately comply with the requirements of this chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of a variance.”

9. In accordance with WAC 173-60-080, the City finds that:

- a. Snohomish County PUD #1, has requested a noise variance in writing and has submitted the information necessary and requested to review the application.
- b. The variance is necessary due to the Washington State Department of Transportation’s restricted work hour requirements for work on Mukilteo Speedway (SR 525). WSDOT’s restricted work hours are intended to ensure that work performed on Mukilteo Speedway (SR 525) is done during periods of lighter traffic
- c. The work being performed does not consist of a period of more than 30 days.

DECISION:

The noise variance was reviewed for consistency with the standards and regulations of the City of Mukilteo and State of Washington Administrative Code (WAC), and is hereby **APPROVED** subject to the following conditions:

- 1. Snohomish County PUD #1 shall provide public notification prior to beginning the nighttime work authorized by this variance.
 - a. Notification shall be provided to residents and businesses located within 380 feet of the project limits immediately prior to beginning work.
 - b. The notification shall provide a name and contact number for residents/businesses to call in case they have questions or complaints.
 - c. The City shall have the ability to review and comment on the form and content of the notification identified prior to distribution.
- 2. The noise variance is only applicable to the work described in the application.

3. A copy of this noise variance decision shall be kept on the project site at all times, and available for inspection by City and other regulatory officials upon request.
4. Stationary equipment, such as light plants, generators, and compressors shall utilize approved noise mitigation shields, noise blankets, skirts or other means available.
5. All equipment will be shut off when not in use.
6. This noise variance approval shall be valid from October 28, 2022, at 2:00am through 3:30am. Any work requiring a noise variance after that this time period shall require a new noise variance application.
7. All permits, including a City right-of-way permit, shall be obtained prior to the commencement of work activity.
8. In the event an appeal of this decision is filed, work shall stop immediately until such time the appeal is decided. Any work done prior to the end of the appeal period shall be at the applicant's own risk.

APPEALS:

Any person aggrieved by the granting of this variance may appeal the decision to the Pollution Control Hearings Board, pursuant to RCW 43.21B under the procedures of WAC 371-08. Copies of the Notice of Approval are available from the City of Mukilteo, Community Development Department, 11930 Cyrus Way, Mukilteo, WA 98275.

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24 HOUR PUD CONTACT: Bill Rife
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DATE ISSUED: Tuesday, October 25, 2022

Signature: Matt Nienhuis Date: 10/24/2022
Matt Nienhuis
Public Works Director

