



City of Mukilteo, Washington

Noise Variance
Notice of Approval
(VAR-ADMIN-2021-003)
NOISE CR 8-27-2021
for

Washington State Department of
Transportation

NOISE CR 8-27-2021
The City of Mukilteo has **APPROVED, with conditions**, a Noise Variance application (City File No. VAR-ADMIN-2021-003) from the Washington State Department of Transportation (WSDOT) under Mukilteo Municipal Code (MMC) Chapter 8.18 "Noise Control", and Washington Administrative Code (WAC) 173-60-050, "Exemptions". The purpose of the WSDOT Noise Variance application is to perform a pedestrian bridge retrofit and upgrade pedestrian ADA ramps between 3rd Street and 1st Street on State Route 525 (SR 525, also known as Mukilteo Speedway) for up to 35 non-consecutive weeknights beginning no earlier than January 15, 2022, with expected completion by October 31, 2022.

APPLICANT:

Maria Laura Musso-Escude
Air Quality, Acoustics and Energy Specialist
Washington State Department of Transportation
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

DESCRIPTION OF PROJECT:

WSDOT has applied for a noise variance to complete work 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 proposal is for up to 35 non-consecutive weeknights of nighttime work to occur intermittently throughout the duration of the project. Specific weeknights will depend on project scheduling and also on when the weather is conducive to the work that needs to be performed.

The purpose of this request is to rehabilitate the bridge deck pavement and widen the east sidewalk along SR 525 over Bridge No. 525/010 between 3rd Street and 1st Street. Additional items of work and amenities include:

- A crosswalk and an overlook plaza at the northeast corner of SR 525 and 2nd Street;
- Stair access to and from the east side of SR 525 north of the bridge;
- A pedestrian shelter on the east side of SR 525 north of the bridge; and
- A pathway from the top of the stairs north to 1st Street.

Other construction activities include, but are not limited to pavement repair, temporary erosion and sediment control, and traffic control.

WSDOT anticipates beginning construction no earlier than January 15, 2022, and completing work by October 31, 2022.

LOCATION OF PROPOSAL:

SR 525 between 3rd Street and 1st Street.



FINDINGS OF FACT:

1. WSDOT submitted a noise variance application to the City of Mukilteo on May 13, 2021.
2. WSDOT will conduct night work for up to 35 non-consecutive weeknights, to be used intermittently throughout the duration of the project. WSDOT anticipates beginning construction no earlier than January 15, 2022, and completing work by October 31, 2022.
3. WSDOT states that the certain work is planned during nighttime to minimize congestion and traffic overflow to local arterial and city streets. Furthermore, this is a busy and well-traveled section of state highway, especially with the public using the Mukilteo Ferry Terminal to and from Island County. Nighttime work will minimize traffic impacts to the road system that provides access to and from the Mukilteo Ferry Terminal.

4. Construction activities on the project include rehabilitating the bridge deck pavement and widening the east sidewalk along SR 525 over Bridge No. 525/010, located between 3rd Street and 1st Street. Additional items of work and amenities include:

- A crosswalk and an overlook plaza at the northeast corner of SR 525 and 2nd Street;
- Stair access to and from the east side of SR 525 north of the bridge;
- A pedestrian shelter on the east side of SR 525 north of the bridge; and
- A path from the top of the stairs north to 1st Street.

Other construction activities include, but are not limited to pavement repair, temporary erosion and sediment control, and traffic control.

5. Nighttime construction work will be both stationary and mobile, depending on the work, and it may be weather dependent. The longest duration of night work will be for the bridge retrofit. This work could take approximately 20 work nights. Pedestrians will be directed to the nearest ADA accessible facilities around the work zone.

Preliminary scheduling for the overnight work is as follows:

Type of Work	Number of Work Nights	Preliminary Construction Timeframe (Weather Dependent)
Bridge Retrofit (demolition of bridge rail, widening concrete work, rebuilt bridge rail)	20	Winter 2021- Spring 2022
Sidewalk/ADA Ramps Upgrade /Build Overlook	10	Winter 2021- Spring 2022
Pavement Repair/ Paving /Striping	5	Spring-Summer 2022
Total	35	

An updated schedule will be provided to the City as soon as the project is awarded to a contractor and the construction schedule is approved by the WSDOT project engineer.

6. WSDOT will close multiple lanes at a time. One-way traffic will alternate directions and will be controlled by a flagger.
7. WSDOT anticipates short-term detours and a street closure may be required for the 2nd Street improvements during overnight construction. The street closure at SR 525 and 2nd Street is necessary to install the roadway and pedestrian improvements. Street closure signs will be installed a minimum of five (5) days prior to the street closure. The signs will identify the hours of street closure. Access to the businesses in the area will be via Park Avenue.

8. The equipment WSDOT anticipates the contractor will require for work includes, but may not be limited to, the following:

- a) Pavement Repair and Paving
 - Front loader
 - Jackhammer/Sawcutter
 - Paver Haul truck
 - Light Plant
 - Paver
 - Pavement marker /striping machine
- b) ADA/Sidewalk/Overlook
 - Loader
 - Trucks
 - Light plants
 - Crane
 - Concrete Mixer Truck
 - Sawcutter
 - Compressor
- c) Bridge Retrofit
 - Same as Items a and b
 - Crane
 - Loader

9. WSDOT has proposed the following mitigation measures during construction:

- a) The contractor shall mail notification of the nighttime work to residents within 1,000 feet of the work zone. The City shall review and approve the form and content of any notification, prior to distribution by the contractor. The contractor shall provide the notification draft to the City for review at least 24 calendar days prior to start of the nighttime work.
- b) Truck tailgate banging is prohibited. All trucks shall be secured to prevent excessive noise from banging.
- c) All trucks performing export haul shall have well maintained bed liners as inspected and approved by WSDOT's engineer.
- d) A copy of this noise variance shall be kept on the project site at all times.
- e) WSDOT will provide a complaint number as well as a list of designated contact persons for the purpose of forwarding complaints.
- f) Stationary equipment, such as light plants, generators, and compressors shall utilize WSDOT approved noise mitigation shields, noise blankets, skirts or other means available as approved by the WSDOT engineer.

10. MMC Subsection 9.46.080 ("Construction Noise"), states,

9.46.080 Construction noise.

- 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.

The applicant proposes to conduct construction activities outside of the hours permitted in MMC subsection 9.46.080(A). An exemption request has been requested in accordance with MMC subsection 9.46.080(C).

- 11. WAC 173-60-080 “Variances and implementation schedules” states,

WAC 173-60-080

Variances and implementation schedules.

- (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 [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.”

- 12. The request is for a night work for more than 30 days. On June 18, 2021, the City of Mukilteo provided notice to property owners in the area and interested agencies of the proposed noise variance work with a 14-calendar day comment period.
- 13. In response to the public notice, Community Transit submitted a comment regarding precise dates and times that the roadway and transit operations may be impacted, and the purpose of the new shelter on the north end of the bridge. No additional public comments were received.
- 14. In accordance with WAC 173-60-080, the City finds that:

- a) WSDOT has requested the construction noise variance and has submitted the information necessary to review the request.
 - b) WSDOT has requested a nighttime noise variance due to special circumstances in order to minimize roadway hazards to workers and the traveling public through the construction zone and minimize ferry traffic backups and delays.
 - c) WSDOT has provided a schedule for its construction activities. A final schedule will be submitted to the City once the contract has been awarded.
15. The Mukilteo Community Development Director may grant a variance to the construction noise regulations in accordance with MMC subsection 9.46.080(C) (under the section entitled “Construction Noise”) and finds the improvements to the State corridor to be essential to the operation of the overall highway system.

PROJECT DECISION:

The project was reviewed for consistency with the standards and regulations of the City of Mukilteo and State of Washington Administrative Code and is hereby **APPROVED** subject to the following conditions:

- 1. The noise variance shall be valid for up to 35 non-consecutive weeknights beginning no earlier than January 15, 2022, through October 31, 2022.
- 2. WSDOT shall provide residents and businesses within 1,000 feet of the work zone with two (2) separate mailed notices at the following times:
 - a) The first notice shall occur prior to the first day of night work authorized by this noise variance.
 - b) The second notice shall occur prior to the first day of night work associated with the pavement repair/ paving /striping phase of the project.
- 3. Each notice identified in Condition 2 above shall:
 - a) Be mailed at least ten (10) calendar days, but no sooner than thirty (30) calendar days, in advance of the first day of night work associated with the activity.
 - b) Provide a name and contact number for residents/businesses to call that will be answered during the time the overnight work is taking place in order to respond to questions or comments.

At the time of mailing, a copy of the notice and documentation of the mailing date shall be provided to the City of Mukilteo Community Development Department to verify the time requirement has been met.

- 4. Prior to the initiation of night work authorized by this decision, WSDOT shall:

- a) Contact Community Transit to address the comments it (Community Transit) provided during the public notice/comment period; and,
 - b) Provide the City with a written summary of its communication with Community Transit.
5. Prior to the closing of any City Street, WSDOT shall submit a detour plan to the City for review and approval a minimum of fourteen (14) *business* days in advance of the street closure.
 6. All equipment and lights shall be shut off when not in use. All backup alarms on equipment shall be shut off during overnight work periods.
 7. Construction lighting shall be directed towards the work area and shall not be turned towards residential and hotel uses, including but not limited to the Losvar Condominiums, residential areas on the hill (e.g. "Old Town") and the Silver Cloud Inn.
 8. Truck tailgate banging is prohibited. All trucks shall be secured to prevent excessive noise from banging.
 9. All trucks performing export haul shall have well maintained bed liners as inspected and approved by the WSDOT engineer assigned to the project.
 10. Stationary equipment, such as light plants, generators, and compressors shall utilize WSDOT approved noise mitigation shields, noise blankets, skirts or other means available as approved by the WSDOT engineer assigned to the project.
 11. 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.
 12. A copy of the construction bid advertisement shall be provided to the City when the project is advertised.
 13. Should an appeal of this decision be filed, work authorized under this decision is not permitted 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 and shall cease if an appeal is filed.
 14. The applicant shall comply with all other applicable codes, regulations and conditions of approval.

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. As of the date of this decision, Mukilteo City Hall is open to the public for limited hours on Tuesdays, Wednesdays, and Thursdays from 9:00 AM - 3:30 PM (closed for lunch from 12 noon to 1:00 PM). City staff is also available to assist you remotely during regular business hours.

CONTACT PERSON:

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WSDOT CONTACT:

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DATE OF ISSUANCE:

August 27, 2021

Signature: David Osaki Date: 08.25.2021
David Osaki
Community Development Director

PC: Applicant Community Development Director Police Chief File Copy (2)
Parties of Record Fire Chief Permit Services Assistant (2)