



City of Mukilteo, Washington

Noise Variance Notice of Approval (VAR-ADMIN-2020-002)

for
CableCom LLC on behalf of Comcast

The City of Mukilteo has **APPROVED, with conditions**, a Noise Variance application (City File No. VAR-ADMIN-2020-002) from CableCom, LLC for work activities associated with the installation of overhead cable and an underground vault. The work will occur overnight from March 23, 2020, through March 26, 2020, from 9:00 p.m. to 4:30 a.m.

APPLICANT:

Chris Atkinson
CableCom LLC
1316 Bonneville Avenue
Snohomish, WA 98290

DESCRIPTION OF PROJECT:

CableCom LLC, on behalf of Comcast, is requesting a variance from noise requirements to conduct nighttime work established in Mukilteo Municipal Code (MMC) Chapter 8.18 (Noise Control).

Specifically, CableCom LLC proposes to strand cable onto power poles on the east side of Mukilteo Speedway, beginning at approximately 10809 Mukilteo Speedway (former Lombardi's Pizza location) north to the intersection of Mukilteo Speedway and 106th Street SW. The cable will then connect to a new underground vault at the southwest corner of Mukilteo Speedway and 106th Street SW intersection (approximately 4410 106th Street SW). CableCom LLC will then directional drill north under the intersection to the northwest corner of 106th Street SW Mukilteo Speedway in order to provide service to 4407 106th Street SW.

The work is proposed to be performed overnight for three consecutive evenings between the hours of 9:00 p.m. to 4:30 a.m. beginning March 23, 2020 (beginning 9:00 p.m.) through March 26, 2020 (concluding 4:30 a.m.). 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.

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.

LOCATION OF PROPOSAL:

Mukilteo Speedway between approximately 10809 Mukilteo Speedway and 4407 106th Street SW (also known as APN 28042100102500). Work will be within Section 21 Township 28 Range 04 NE Quarter in Snohomish County, Washington

FINDINGS OF FACT:

1. CableCom LLC, on behalf of Comcast, submitted a noise variance application to the City of Mukilteo on January 7, 2020.
2. CableCom LLC 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 three consecutive evenings between the hours of 9:00 p.m. and 4:30 a.m. beginning Monday, March 23, 2020 (beginning 9:00 p.m.) through Thursday, March 26, 2020 (concluding 4:30 a.m.).
3. Work will consist of:
 - Stranding cable onto power poles on the east side of Mukilteo Speedway, beginning at approximately 10809 Mukilteo Speedway (former Lombardi's Pizza location) north to the intersection of Mukilteo Speedway and 106th Street SW.
 - Connecting the cable to a new underground vault at the southwest corner of the Mukilteo Speedway and 106th Street SW intersection (approximately 4410 106th Street SW).
 - Directional drilling north under the Mukilteo Speedway and 106th Street SW intersection to the northwest corner of the intersection of Mukilteo Speedway and 106th Street SW in order to provide service to 4407 106th Street SW.
4. Land uses in the immediate area consist of Paine Field, a medical clinic, and dental clinics. The nearest residential use is the Carvel Apartments located approximately 214 feet north and over 500 feet west of where the work will terminate on 106th Street SW. A greenbelt lies between 106th Street SW and the Carvel Apartments to the north.
5. CableCom LLC anticipates the following sources of noise:
 - a. Generators
 - b. Drill Machine
 - c. Vactor Truck
 - d. Other Crew Vehicles
6. CableCom LLC has proposed the following mitigation measures during construction:
 - a. Use of noise blankets. These quilted fiberglass blankets are typically used to control sound and noise in industrial, manufacturing and construction areas.
 - b. Equipment will be shut off when not in use.
 - c. All vehicles shall be equipped with ambient backup warning devices. The contractor may use back-up observers in lieu of back up warning devices for all

equipment except dump trucks (if dump trucks are used). The contractor shall use back-up observers and back up warning devices for dump trucks in compliance with WAC Chapter 296-155-610. (“Motor vehicles on construction sites”).

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. CableCom LLC, on behalf of Comcast, 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. CableCom LLC 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 a minimum of seven (7) calendar days 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 five (5) calendar days 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 March 23, 2020 (beginning 9:00 p.m.) through March 26, 2020 (ending 4:30a.m.), only between the hours of 9:00 p.m. and 4:30 a.m. 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.

CONTACT PERSON:

Linda Ritter, Senior Planner
City of Mukilteo
11930 Cyrus Way
Mukilteo, WA 98275
(425) 263-8043

COMCAST CONTACT:

Chris Atkinson
CableCom LLC
1316 Bonneville Avenue
Snohomish, WA 98290
(360) 926-3437

DATE OF ISSUANCE:

March 11, 2020

Signature: _____



David Osaki
Community Development Director

Date: _____



PC:

Applicant
Parties of Record

Community Development Director
Fire Chief

Police Chief
Permit Services

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