



City of Mukilteo, Washington

Noise Variance Notice of Approval (VAR-ADMIN-2020-003)

for Washington State Department of Transportation

The City of Mukilteo has **APPROVED, with conditions**, a Noise Variance application (City File No. VAR-ADMIN-2020-003) 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 allow WSDOT to perform certain nighttime construction activities (catch basin cleaning) along 84th Street SW between SR 525 and Paine Field Boulevard. The work will occur between the hours of 7:00 p.m. and 10:00 p.m. for up to three (3) evenings between July 6, 2020 through August 4, 2020.

Work could occur any day from Sunday to Thursday during the July 6, 2020 through August 4, 2020 time frame, depending on weather. WSDOT has stated there is a good chance the work will be completed in one night. This Noise Variance addresses that portion of the construction activities occurring after 9:00 p.m. on weekdays and 7:00 p.m. on Sundays, which are the latest allowable time for construction noise under the Mukilteo Municipal Code for those days.

APPLICANT:

Akberet Ghebregzabiher
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 approved construction hours. Work within the city limits includes cleaning out catch basins along 84th Street SW between SR 525 and Paine Field Boulevard. (*NOTE: Additional work outside the city limits, that is not subject to this noise variance decision, includes repairing three (3) 10-foot sections of pavement along the SR 525 Spur (Paine Field Boulevard) between SR 525 and approximately 92nd Street SW.*)

This work will require lane closures. Due to heavy traffic volumes during daytime hours, WSDOT indicates that it cannot close the lanes without causing congestion and significant delays. WSDOT is proposing to have the contractor clean the catch basins on 84th Street using a vactor-truck during the hours of 7:00 p.m. to 10:00 p.m. Stopping work at 10:00 p.m. is intended to limit overnight noise impacts to neighbors.

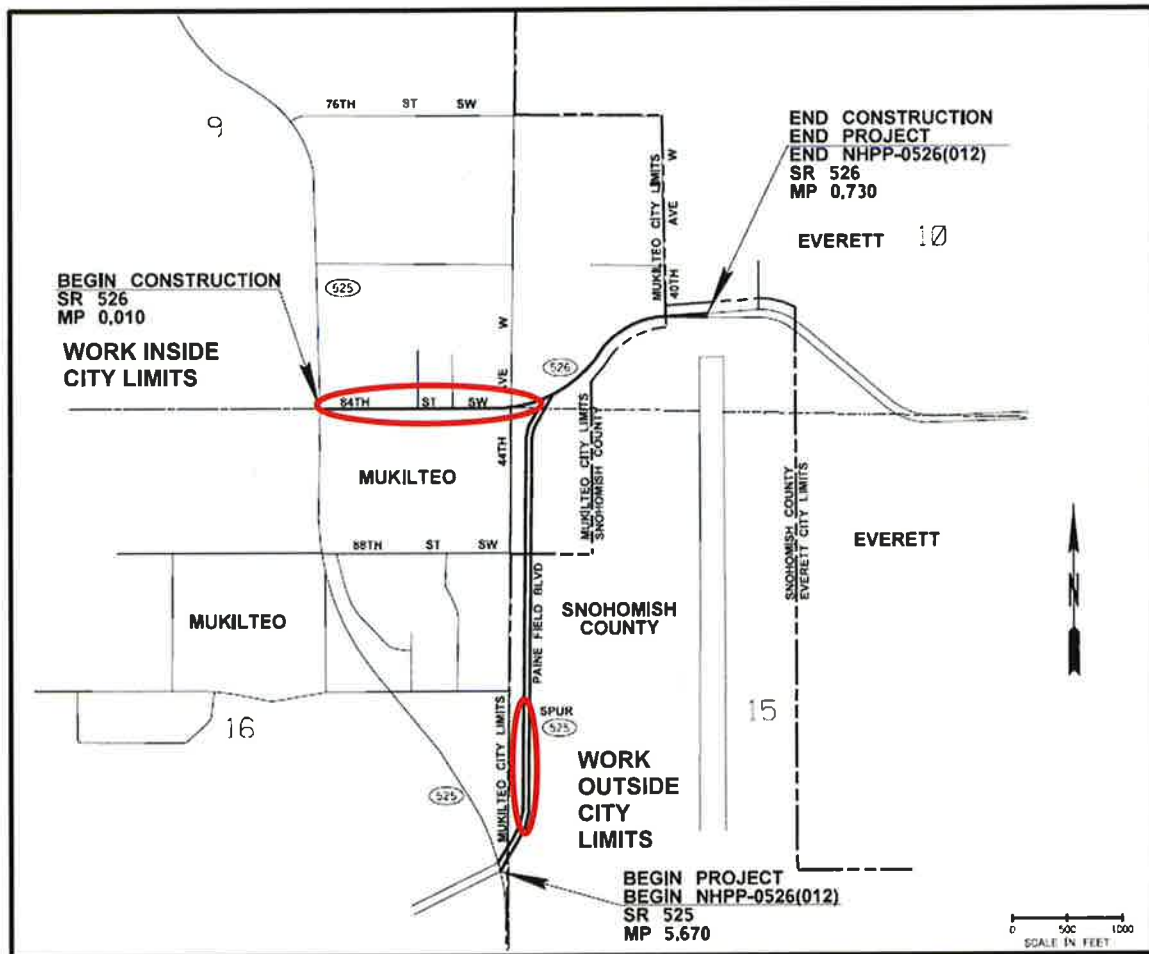
WSDOT will provide notification to businesses and all residents living within 500 feet of the work zone prior to the beginning of work to include a contact number for individuals in case they have questions or complaints.

WSDOT's noise variance application states that WSDOT will conduct night work for up to three (3) nights intermittently throughout the duration of the project, although WSDOT has stated there is a good chance the work will be completed in one night. WSDOT anticipates that this work will be completed between July 6, 2020 through August 4, 2020.

LOCATION OF PROPOSAL:

Work inside the City of Mukilteo is located on 84th Street SW between SR 525 and Paine Field Boulevard. Work outside of the City limits, that is not subject to this noise variance decision, is located along the SR 525 Spur (Paine Field Boulevard) between SR 525 and approximately 92nd Street SW.

The following map shows the location of the work both inside the City limits (subject to this Noise Variance) and, as a matter of information, WSDOT work planned outside of the City limits (not subject to this Noise Variance application as it is outside of the City limits).



FINDINGS OF FACT:

1. WSDOT submitted a noise variance application request to the City of Mukilteo on May 21, 2020.
2. WSDOT indicates that it is planning lane closures on 84th Street Southwest, between SR 525 and Paine Field Boulevard, where work is to be performed in the evening. The work will include cleaning out catch basins. WSDOT states that performing work during the evening will minimize roadway hazards to workers and the traveling public through the construction zone and minimize traffic backups and delays.
3. WSDOT’s application states that WSDOT will conduct the work up to three (3) evenings between July 6, 2020 through August 4, 2020. WSDOT has stated there is a good chance the work will be completed in one night.
4. WSDOT indicates that the construction work and lane and shoulder closures could occur anytime during the following days and times of the week:
 - Sunday 7:00 PM to 10:00 PM
 - Monday 7:00 PM to 10:00 PM
 - Tuesday 7:00 PM to 10:00 PM
 - Wednesday 7:00 PM to 10:00 PM
 - Thursday 7:00 PM to 10:00 PM

The Mukilteo Municipal Code allows construction noise until 9:00 p.m. on weekdays and 7:00 p.m. on Sundays. This noise variance application addresses evening work done after those times up to 10:00 p.m. WSDOT indicates that the specific day when work takes place is weather dependent.

5. WSDOT is proposing to have the contractor clean the catch basins on 84th Street Southwest using a vactor truck during the hours of 7:00 p.m. to 10:00 p.m. in order to limit overnight noise impacts to neighbors.
6. The equipment WSDOT anticipates the contractor will require includes, but may not be limited to, the following:
 - Vactor Truck
 - Pickup Truck
7. 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).

8. 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 nonavailability 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) WSDOT has requested the construction noise variance and has submitted the information necessary to review the request.
- b) WSDOT has requested this variance as night work to minimize roadway hazards to workers and the traveling public through the construction zone and minimize traffic backups and delays.
- c) WSDOT has provided a schedule for its construction activities. The noise variance is being granted for a period up to three (3) days between July 6, 2020 through August 4, 2020.

10. WSDOT has proposed and shall implement the following mitigation measures during construction:

- a) The contractor shall distribute nighttime work mail notification to residents within 500 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 seven (7) working days prior to start of the nighttime work.
- b) Work to clean the catch basins shall be no later than 10:00 p.m.

- c) Truck tailgate banging is prohibited. All trucks shall be secured to prevent excessive noise from banging.
 - d) All trucks performing export haul shall have well maintained bed liners as inspected and approved by WSDOT's engineer.
 - e) A copy of noise variance shall be kept on the project site at all times.
 - f) Provide a WSDOT complaint number as well as a list of designated contact persons for the purpose of forwarding complaints.
 - g) 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.
11. 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. WSDOT shall provide residents and businesses within 500 feet of the work zone with at least seven (7) *calendar* days notification prior to the beginning of any work. The notification shall provide a name and contact number for residents/businesses to call in case they have questions or complaints.
2. The City shall have the opportunity to review and comment on the form and content of the notification identified in Condition 1 above, prior to distribution. A draft notification shall be provided to the City for review at least seven (7) *working* days prior to start of the nighttime work.
3. Work authorized under this Noise Variance shall take place no later than 10:00 p.m.
4. All trucks shall be secured to prevent excessive noise from tailgate banging.
5. All trucks performing export haul shall have well maintained bed liners as inspected and approved by the WSDOT engineer.
6. A copy of the noise variance shall be kept on the project site at all times and shall be available to any City official upon request.
7. The public shall be provided with a WSDOT complaint number as well as a list of designated contact persons for the purpose of forwarding or responding to questions or complaints.
8. 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.
9. All work authorized by this noise variance shall be completed by August 4, 2020.
10. Should an appeal of this decision be filed, work shall not commence and/or 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.
11. The applicant shall comply with all other applicable codes, requirements and ordinances.

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: Linda Ritter, Senior Planner (425) 263-8043.

CONTACT PERSON:

Linda Ritter
Senior Planner
City of Mukilteo
11930 Cyrus Way
Mukilteo, WA 98275
(425) 263-8043
Email: lritter@mukilteowa.gov

WSDOT CONTACT:

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Washington State Department of Transportation
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710
(206) 579-7562
Email: GhebreA@wsdot.wa.gov

DATE OF ISSUANCE:

Thursday, June 25, 2020

Signature: 
David Osaki
Community Development Director

Date: June 23, 2020

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