



City of Mukilteo, Washington

Noise Variance Notice of Approval (VAR-NOISE-2023-002)

for Washington State Department of Transportation

The City of Mukilteo has **APPROVED, with conditions**, a Noise Variance application (City File No. VAR-NOISE-2023-002) 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.”

APPLICANT:

Kelsey Donahue
Washington State Department of Transportation
15700 Dayton Avenue North
P.O. Box 330310
Shoreline, WA 98133

DESCRIPTION OF PROJECT:

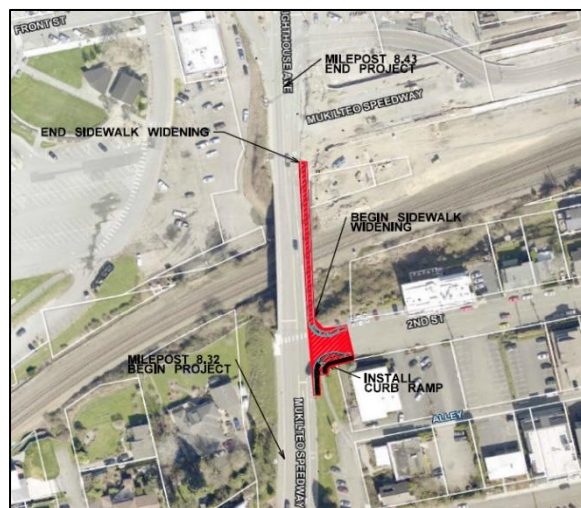
WSDOT has applied for a noise variance to complete work outside of the City’s allowed construction hours of 7 a.m. to 9 p.m. weekdays and 9 a.m. to 7 p.m. weekends/holidays. The proposal is for up to 21 nights of work to occur intermittently throughout the duration of the project. Specific nights will depend on project scheduling and on when the weather is conducive to the work that needs to be performed.

The purpose of this request is to perform bridge work on SR 525 in order to widen the east sidewalk between 2nd Street and the Mukilteo ferry lane and construct a raised crosswalk at SR 525 and 2nd Street on both the north and south sides of that intersection. Additional items of work and amenities include adding permanent pavement markings on the 2nd Street intersection, temporary erosion and sediment control, roadside restoration and traffic control.

WSDOT anticipates beginning construction no earlier than October 1, 2023 and completing work by April 1, 2024.

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 August 30, 2023.
2. WSDOT will conduct night work for up to 21 non-consecutive nights, to be used intermittently throughout the duration of the project (with no more than 5 five used consecutively). WSDOT anticipates beginning construction no earlier than October 1, 2023, and completing work by April 1, 2024.
3. WSDOT states that the certain work is planned during nighttime to minimize congestion and traffic overflow to local arterial and City streets. This is a busy and well-traveled section of state highway, serving the Mukilteo Ferry Terminal with connections 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 bridge work on SR 525 in order to widen the east sidewalk between 2nd Street and the Mukilteo ferry lane and construct a raised crosswalk at SR 525 and 2nd Street. Additional items of work and amenities include adding permanent pavement markings on the 2nd Street intersection, temporary erosion and sediment control, roadside restoration 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 consecutive duration of night work will be five nights.

Preliminary scheduling for the overnight work is as follows:

Type of Work	Number of Work Nights	Preliminary Construction Timeframe (Weather Dependent)
Sidewalk/ADA Ramps Upgrade	15	October – April 2024
Pavement Marking	6	October – April 2024
Total	21	

6. WSDOT may close lanes to accommodate the work. 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 days prior to the street closure. The signs will identify the hours of street closure.

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

- a) Sidewalk / ADA Ramps Upgrade
 - Loader
 - Trucks
 - Concrete Mixer Truck
 - Light Plans
 - Compressor
 - Sawcutter
- b) Pavement Marking
 - Trucks
 - Pavement Grinder
 - Pavement Marker/ Striping Machine

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 14 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) Temporary noise shields if feasible around stationary equipment.

10. MMC 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. 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.

13. The Mukilteo Community Development Director finds the improvements to the State corridor to be essential to the operation of the overall highway system and may grant a variance to the construction noise regulations in accordance with MMC 9.46.080(C).

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 21 nights (with no more than 5 consecutive nights) beginning no earlier than October 1, 2023, through April 1, 2024.
2. WSDOT shall provide residents and businesses within 1,000 feet of the work zone with a notice of the project which shall:
 - a) Be mailed at least 10 calendar days, but no sooner than 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 requirement has been met.

3. WSDOT shall submit a detour plan to the City for review and approval a minimum of 14 *business* days in advance of any street closures.
4. All equipment and lights shall be shut off when not in use. All construction equipment and vehicles shall be equipped with non-pure tone back up alarms.
5. 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.
6. Truck tailgate banging is prohibited. All trucks shall be secured to prevent excessive noise from banging.
7. All trucks performing export haul shall have well maintained bed liners as inspected and approved by the WSDOT engineer assigned to the project.
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 assigned to the project.
9. 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.
10. A copy of the construction bid advertisement shall be provided to the City when the project is advertised.

11. 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.
12. 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.

CITY CONTACT:

Devyn Walter
Assistant Planner
City of Mukilteo
11930 Cyrus Way
Mukilteo, WA 98275
(425) 263-8067
dwalter@mukilteowa.gov

WSDOT CONTACT:

Kelsey Donahue
Washington State Department of Transportation
15700 Dayton Avenue North
Shoreline WA 98133
425-754-7991
donahuk@wsdot.wa.gov

DATE OF ISSUANCE:

September 13, 2023

Signature: _____



Devyn Walter
Assistant Planner

Date: 09/11/2023