



Austin Chapter of the Associated General Contractors

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Austin, TX 78704
(512) 442-7887

March 16, 2015

Mr. Greg Guernsey
Planning & Development Review
City of Austin
505 Barton Springs Road
Austin, Texas 78704

Dear Greg:

On behalf of the Austin Chapter of the Associated General Contractors of America (AGC), I am writing to express support for the proposed language attached to this letter offering improvements to the City of Austin Ordinance §§9-2-21 and related ordinances. After participating in many outreach meetings with other stakeholders on this issue, the Austin AGC believes this proposal offers a balanced, compromise solution that addresses concerns of industry, downtown residents, and all who come downtown for work or social activities.

As our colleagues at the Texas Aggregate and Concrete Association (TACA) have noted in separate correspondence to you, this language achieves a practical balance of viewpoints with the following:

- Creates a performance based ordinance that is not focused on a specific activity, but rather the root cause of the issues, the noise;
- Allows for complete disclosure to the downtown residents of what is occurring, when it is occurring, and whom to contact should there be any issues;
- Allows for the business community to find best practice solutions to mitigating issues of sound and light, without overly prescriptive requirements;
- Allows for construction timelines to continue without a massive disruption to current construction practices;
- Does not decrease the safety of the workers by placing them in a more stressful work environment, increase traffic congestion, or decrease air quality if the concrete work had to shift to daytime hours.

Thank you for your consideration of our views. I am happy to answer any questions you may have.

Sincerely,

Phil Thoden

Phil Thoden
President and CEO

§ 9-2-1 - DEFINITIONS.

"Construction Activity" means any commercial or individual activity designed to build, construct, demolish, erect, any portion of a building, residence, municipal, civil, or other structure, object, or item.

§ 9-2-3 - GENERAL RESTRICTIONS.

(A) A person may not:

(3) conduct Construction Activity ~~operate a machine that separates, gathers, grades, loads, or unloads sand, rock, or gravel~~ within 600 feet of a residence, church, hospital, hotel, or motel between 7:00 p.m. and 6:00 a.m., except for the installation of concrete as authorized under Section 9-2-21 ~~Section 9-2-15 (Permit for Construction Activity Concrete Installation During Non-Peak Hour Periods)~~;

§ 9-2-14 - RESTRICTIONS ON PERMITS IMPACTING RESIDENTIAL PROPERTIES.

(B) The accountable official may not issue a permit for use of sound equipment within 100 feet of property zoned and used as residential, except as authorized under ~~Section 9-2-21 (Permit for Concrete Installation During Non-Peak Hour Periods)~~, Chapter 8-1, Article 4 (Restrictions on Amplified Sound), or Section 14-8-34 (Permit Required for the Use of Sound Equipment).

§ 9-2-15 - RESTRICTIONS ON MULTIPLE PERMITS FOR A SINGLE PROPERTY.

(A) Except as otherwise provided under Chapter 8-1, Article 4 (Restrictions on Amplified Sound) ~~or Section 9-2-21 (Permit for Concrete Installation During Non-Peak Hour Periods)~~, the accountable official may not issue more than one sound amplification permit under this chapter for the same site or property within 30 days.

§ 9-2-21 - ~~PERMIT FOR CONSTRUCTION ACTIVITY CONCRETE INSTALLATION~~ DURING NON-PEAK HOUR PERIODS.

(A) Subject to the limitations in Subsections ~~[subsections]~~ (B), ~~and (C) and (D)~~ of this section, a person may conduct Construction Activity ~~the director may issue a permit authorizing an applicant to deliver, finish, place, or pour concrete~~ during the non-peak hour period of 7:00 p.m. to 6:00 a.m. at property that is located within:

(1) the Downtown Density Bonus area identified in Section 25-2-586(B) (Downtown Density Bonus Program) and one of the following zoning districts:

(a) the Central Business District (CBD) base zoning district; or [and]

(b) the Public (P) zoning district; and

(2) 600 feet of a residence, church, hospital, hotel, or motel.

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~~(B) The director may issue a permit under subsection (A) of this section only if the director determines that the delivery, finishing, placement, or pouring of concrete during non-peak hour periods is in the interest of public health, safety, or welfare or is justified by urgent necessity.~~

~~(C) A permit issued under this section must state the duration during which the authorized activity may occur, which may not exceed 72 hours.~~

~~(D) In addition to information required by Section 9-2-12 (Application Requirements), a person intending to conduct Construction Activity an application to deliver, finish, place, or pour concrete during non-peak hour periods must notify the director of the proposed activity and provide under Section 9-2-22 (Restrictions on Permit) must include:~~

- ~~(1) the name, address, and telephone number of the person intending to conduct Construction Activity applicant;~~
- ~~(2) the address or a description of the location of the property where the work will be performed; and~~
- ~~(3) the amount of time, up to 72 hours, needed to complete the work and the reason why the work cannot be completed during normal business hours.~~

~~(C) To mitigate possible impacts and minimize disruptions to adjacent residential and commercial uses, the director shall require the person intending to conduct Construction Activity to:~~

- ~~(1) contact adjacent property owners located next door or across the street, and representatives of property owners or residents within 600 feet, to inform them when the non-peak Construction Activity will occur and the duration of the project;~~
- ~~(2) provide 24-hour contact information for the individual with primary responsibility for the project to adjacent property owners located next door or across the street, to representatives of property owners or residents within 600 feet, and to city staff; and~~
- ~~(3) provide a sound and light mitigation plan, which must:~~
 - ~~(a) identify where vehicles related to Construction Activity will queue to ensure minimal disruption to adjacent residences and businesses and, if necessary, relocate them to a location that will minimize disruption to adjacent residential uses;~~
 - ~~(b) shield after-hour lighting associated with Construction Activity from adjacent residential uses; and~~
 - ~~(c) require such other actions as the director determines are reasonably necessary to protect public health, safety, and welfare and to ensure reasonable expectations of a sound environment that does not preclude sleep.~~



(D) In no event shall this section authorize a person to conduct Construction Activity between 2:00 a.m. and 6:00 a.m. in excess of 75 decibels, as measured at the property line of the work site except in special circumstances of limited duration.

(E) If an application for a building permit was submitted prior to December 1, 2014, the director shall:

(1) permit the Construction Activity associated with that building during the non-peak hour period of 7:00 p.m. to 6:00 a.m. under the ordinances in effect when the application for building permit was submitted; and

(2) require a sound and light mitigation plan, as provided in Subsection (C)(3) of this section.

***Note, these changes are shown as compared to the permanent ordinance that will be in place when the 120-day ordinance expires.*