



MEMORANDUM

TO: Mayor and City Council

FROM: Gregory I Guernsey, AICP, Director
Planning and Zoning Department

DATE: November 3, 2016

SUBJECT: Non-Peak Hour Concrete Installation

This memorandum explains the revised Staff recommendation relating to the requirements for non-peak hour concrete installation within portions of the Central Business District (CBD) and Public (P) zoning districts.

The recommendation provides for three types of permits that would be processed by the Development Services Department (DSD). All permits would adhere to an approved Sound Management Plan (SMP) outlined later in this memorandum, would be limited to the current three day permit life and would not allow an applicant to hold more than one permit at a time. All sound levels would be measured from the source of the sound on the property. The permit types are as outlined below:

Permit Types

(1) Type 1 – Non-Peak Hour Permit:

- a) Maximum concrete pours sound level: 85 dBA as measured at a distance of 75' from the source of sound, unless further restricted by the Sound Management plan.
- b) Permitted days during the week: Everyday
- c) Permitted hours during the week: 7:00 p.m. to midnight

(2) Type 2 – Non-Peak Hour Permit:

- a) Maximum concrete pours sound level: 80 dBA as measured at a distance of 75' from the source of sound, unless further restricted by the Sound Management plan.

- b) Permitted days during the week: Everyday
- c) Permitted hours during the week: midnight to 6:00 a.m.

(3) Type 3 –Non-Peak Hour Permit:

- a) Maximum concrete pours sound level: Unlimited
- b) Permitted days during the week: Unlimited
- c) Permitted hours during the week: Unlimited
- d) The Director may only issue a Type 3 Non-Peak Hour Permit if a "special circumstance" exists that requires a continuous concrete pour, such as a mat slab or similar foundation pour that would be inconsistent with a Type 1 or Type 2 Permit.
- e) Accompanying a Type 3 permit must be a letter from a Professional Engineer of Record for the project to confirm the late night concrete pour must be continuous and should not be broken down into smaller pours.

Decibel restrictions for Type 1 and Type 2 permits shall be based on measurements taken from a distance of 75 feet from the source of the sound. If a neighbor adjacent to the site with the late night concrete pour permit alleges a violation of the applicable decibel limit, then decibel levels violations shall be verified by City staff resulting in the deployment of sound monitoring equipment to the construction site for the purpose of documenting compliance or violations.

In addition to information required by Section 9-2-12 (Application Requirements) an application to deliver, finish, place or pour concrete during non-peak hours must include:

- 1) the name, address and telephone number of the applicant;
- 2) the address or a description of the location of the property where the work will be performed; and,
- 3) the type of permit requested, which must be one of the three listed above.

To mitigate possible impacts and minimize disruptions to adjacent residential and commercial uses, the applicant is responsible for ensuring that all delivery, placement and pouring of concrete permitted under this section complies with the requirements:

- 1) Notification of the exact date, time and duration of non-peak hour activity authorized by the permit as well as 24-hour contact information for the individual with primary responsibility for the project, shall be:
 - a) provided to City staff and to abutting property owners located next door or across the street;
 - b) provided to representatives of property owners or residents within 300 feet; and
 - c) clearly stated on a sign posted on the property at the construction entrance and visible from the street.
- 2) As a condition of approval of a non-peak hour permit under this section, an applicant must provide a Sound Management Plan (SMP) and light mitigation plan that must:

- a) identify where concrete trucks will queue to enter or exit the site to ensure minimal disruption to adjacent residences and businesses;
- b) identify where the concrete pump(s) will be located during all phases of construction and provide for an alternate location in the event the Director determines that relocating the pump is necessary to minimize disruption to adjacent residential uses;
- c) identify the location, materials and the manner of placement of proposed sound mitigation materials (such as sound baffling) on the property to contain noise from the concrete pumps and concrete trucks during their high revolutions per minute (RPM) cycle before construction begins and with each construction phase;
- d) provide the name and the cell phone number for the supervisor on the property during each the late night concrete pour;
- e) shield after-hour lighting associated with the concrete installation from adjacent residential uses; and,
- f) include additional measures or other elements for the Sound Management Plan (SMP) and required by the Director that are reasonably necessary to protect public health, safety and welfare and to ensure reasonable expectations of a sound and light environment that does not preclude sleep.

The SMP is a plan submitted once and designed to mitigate the negative impacts of sound during the duration of a project. With reasonable notice provided to the late night concrete permit holder, the Director may modify the SMP to address changes to a project or unanticipated impacts on abutting properties. The SMP does not need to be prepared and sealed by an acoustical engineer. The SMP will be reviewed and approved by City staff having the training and/or experience to apply sound mitigation techniques.

Staff does not propose to change the current 72 hour (3 days) life of a permit. The short life of the permit will allow an amendment to a sound mitigation plan and light mitigation plan as necessary, if a previous plan was not effective or building construction changes. However, staff recommends the inclusion of the bad actor provisions that would provide a suspension for the issuance of new late night concrete pour permits for thirty (30) days, if three or more violations occur within a thirty (30) day period. In addition, if more than six (6) suspensions are issued within any twelve (12) month period, then a new late night concrete pour permit for the duration of the project will not be issued.. If there are less than six (6) suspensions are issued within twelve (12) month period from the issuance of the first late night concrete pour permit, then the twelve (12) month violation clock is reset. The Director may permit time exceptions that would not count as a violation for reasonable documented equipment failures as confirmed by the Director.

Finally, the proposed ordinance allows for concrete finishing between 7:00 p.m. and 6:00 a.m. and does not include delivery, placement or pouring. It also provides an exception for building permit applications submitted prior to December 1, 2014 that:

- 1) permits the delivery, placement or pouring of concrete in connection with the construction of that building during the non-peak hour period of 7:00 p.m. and 6:00 a.m.; and,
- 2) requires a Sound Management Plan (SMP) and light mitigation plan.

The field enforcement of the sound provisions of this ordinance will be enforced by the Austin Police Department (APD) and non-sound provisions by the Austin Code Department (ACD). Upon passage of the ordinance, the Staff will report back to the City Council in one year on the effectiveness of the

ordinance and make suggested changes to the ordinance that would improve the non-concrete pour permitting and enforcement process.

- cc. Elaine Hart, Interim City Manager
- Sue Edwards, Assistant City Manager
- Rodney Gonzales, Director, Development Services Department
- Kevin Johns, Director, Economic Development Department