

# AGENDA



## Recommendation for Council Action

Austin City Council	Item ID	58640	Agenda Number	12.
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Meeting Date:	5/19/2016	Department:	Planning and Zoning
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## Subject

Approve an ordinance amending City Code Chapter 9-2 relating to requirements for non-peak hour concrete installation within portions of the Central Business District and Public zoning districts. Related to Item # 13.

## Amount and Source of Funding

## Fiscal Note

<b>Purchasing Language:</b>	<p>November 20, 2014 - Council approved Ordinance No. 20141120-056 relating to requirements for non-peak hour concrete installation within portions of the Central Business District (CBD) and Public (P) zoning districts.</p> <p>March 26, 2015 - Council approved an ordinance extending the expiration date of Ordinance No. 20141120-056 to June 30, 2015.</p> <p>June 18, 2015 - Council approved an ordinance extending the expiration date of Ordinance No. 20141120-056 to September 30, 2015.</p> <p>September 17, 2015 - Council approved an ordinance extending the expiration date of Ordinance No. 20141120-056 to December 31, 2015.</p> <p>December 17, 2015 - Council approved an ordinance extending the expiration date of Ordinance No. 20141120-056 to March 31, 2016.</p> <p>March 31, 2016 - Council approved an ordinance extending the expiration date of Ordinance No. 20141120-056 to May 31, 2016.</p>
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<b>Prior Council Action:</b>	
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<b>For More Information:</b>	Viktor Auzenne, Development Services Department, 512-974-2387; Gregory I. Guernsey, Planning and Zoning Department, 512-974-2387.
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<b>Council Committee, Boards and Commission Action:</b>	March 18, 2015 - Approved by the Downtown Commission on a 9-0 vote with conditions.
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<b>MBE / WBE:</b>	
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<b>Related Items:</b>	
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## Additional Backup Information

This ordinance would replace Ordinance No. 20141120-056, approved in November 2014, which addressed permits for Concrete Installation During Non-Peak Hours on certain downtown properties zoned Central Business District (CBD). Previously, the City Council requested staff to convene a stake holder working group to discuss the permitting

of late night concrete pours downtown. To date, this group has met four times, but consensus on a final ordinance version has not been achieved. In addition, the Downtown Commission has met three times since the passage of the interim ordinance. The Downtown Commission recommended approval of a permanent ordinance with conditions that differ from the current interim ordinance and recommended the City Council address all construction related noise, not just the pouring of concrete.

The current interim ordinance will expire on May 31, 2016. If the current ordinance expires, then the previous language that addresses non-peak hour for concrete pour returns. The previous ordinance allowed permits for authorizing an applicant to deliver, finish, place or pour concrete between the hours of 7:00 p.m. to 6:00 a.m. at property that is located within the CBD zoning district and within 600 feet of a residence, church, hospital, hotel or motel. The previous ordinance allowed the issuance of a permit if the director determined it was in the interest of public health, safety or welfare or justified by urgent necessity. In addition, the previous ordinance required the applicant provide contact information, a description of the work to be performed, the amount of time needed for the permit (up to 72 hours), and the reason why the work could not be performed during normal business hours.

Revised Staff Recommendation:

This amendment, as recommended by Staff, would change City Code Section 9-2 titled "Noise and Amplified Sound" to allow the issuance of a concrete installation permit for non-peak hours on property zoned CBD district zoning and Public (P) district zoning, when these properties are located within the area eligible for a downtown density bonus under Section 25-2-586 (Downtown Density Bonus Program) of the City Code (see attached map exhibit). Properties in the downtown district that are eligible for density bonuses are located within the area bounded by Martin Luther King Jr. Blvd. to the north, Lady Bird Lake to the south, Interstate Highway 35 to the east and Lamar Blvd. to the west. The current ordinance only allows the issuance of a concrete installation permit for non-peak hours on property zoned CBD base district zoning.

The reason for this request is to address current methods of multistory building construction that many times require the continuous pouring of concrete when temperatures are cooler (particularly for buildings utilizing a parking garage or a mat slab) to ensure proper curing of the concrete and enhanced worker safety due to the heat generated during the curing process, the need to reduce traffic conflicts and allow the timely delivery of concrete material during non-daylight hours, improve air quality and minimize the duration of construction disruption on adjacent residential and commercial properties. Downtown residents have expressed concerns about the noise created by the concrete pour equipment and associated delivery vehicles which does not allow them to sleep at night and does not provide them enough advanced warning when these pours will occur.

This amendment would change Section 9-2-21 (Permit for Concrete Installation During Non-Peak Hours) and would allow the director (Development Services Department) to issue a permit authorizing an applicant to deliver, place, or pour concrete during the non-peak hour period of 7:00 p.m. to 6:00 a.m. Working with the Music and Entertainment Division of the Economic Development Department (EDD), staff is recommending permits limit the maximum sound level to 85 dBA\* measured at the applicant's property line between 7:00 p.m. and:

- 10:30 p.m. on Sunday through Wednesday
- 11:00 p.m. on Thursday; and
- 12 midnight on Friday or Saturday.

In addition, the ordinance would limit the maximum sound level of 3 dBA\* above the ambient sound level for late night concrete pour permits measured at the applicant's property line between:

- 10:30 p.m. and 6:00 a.m. on Sunday through Wednesday
- 11:00 p.m. and 6:00 a.m. on Thursday; and
- 12 midnight and 6:00 a.m. on Friday or Saturday.

This amendment also mitigates possible impacts caused by the issuance of the permit and limits disruptions to adjacent residential and commercial uses by requiring permit applicants to address the following conditions:

- (1) Require the permit holder to notify when the non-peak pour will occur and the duration of the project: a) to abutting property owners located next door or across the street; b) to representatives of property owners or residents within 300 feet; and c) on a sign posted on the property at the construction entrance that is visible from the street.

- (2) Provide 24-hour contact information for the individual with primary responsibility for the project: a) to abutting property owners located next door or across the street; b) to representatives of property owners or residents within 300 feet; c) on a sign posted on the property at the construction entrance that is visible from the street; and d) to city staff;
- (3) Provide and a sound impact plan and light mitigation plan, which must:
  - a) identify where concrete trucks will queue to ensure minimal disruption to adjacent residences and businesses;
  - b) locate the concrete pump and if necessary, relocate it to a location that will minimize disruption to adjacent residential uses;
  - c) locate where and how sound mitigation materials (such as sound baffling) will be placed on the property during the pour events;
  - d) address the current sound impact plan requirements of Section 9-2-41;
  - e) include mitigation measures needed to insure compliance;
  - f) shield after-hour lighting associated with the concrete installation from adjacent residential uses; and
  - g) 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.
- (4) For permits that allow work between 10:30 p.m. and 6:00 a.m., a sound impact plan must also include the following:
  - a) the ambient sound levels of the pre-construction concrete pour site; and
  - b) a sound permit plan prepared and sealed by an acoustical engineer who is a member or certified with the National Council of Acoustical Consultants (NCAC) or the Acoustical Society of America (ASA).

Staff does not propose to change the current 72 hour (3 days) life of a permit that will allow an amendment to a sound impact plan and light mitigation plan through time if a previous plan was not effective or building construction changes. However, staff also recommends that the provisions addressing bad actor provisions of Section 9-2-57 "Denial of Permit for repeat Offences" apply to late night concrete pour permits.

Finally, the proposed ordinance allows for concrete finishing between 7:00 p.m. and 6:00 a.m. and provides an exception for building permit applications submitted prior to December 1, 2014 with the requirement of a sound impact plan and light mitigation plan. The field enforcement of the sound provisions of this ordinance will be enforced by the Austin Police Department and non-sound provisions by the Austin Code Department.

[\*Note: According to 2015 sound monitoring assessment by the Music and Entertainment Division (EDD), the eight hour average of the ambient sound levels downtown (between 11:00 p.m. and 7:00 a.m.) was 63 dBA. The sound impact plan may be more or less restrictive than the average ambient sound level obtained by the Music and Entertainment Division staff. ]