

# AGENDA



## Recommendation for Council Action

Austin City Council	Item ID	61968	Agenda Number	47.
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Meeting Date:	8/18/2016	Department:	Planning and Zoning
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## Subject

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

## Amount and Source of Funding

## Fiscal Note

Purchasing Language:	
Prior Council Action:	
For More Information:	Gregory I. Guernsey, Director, Planning and Zoning Department, 512-974-2387; Viktor Auzenne, Senior Planner, Development Services Department, (512) 974-2941
Council Committee, Boards and Commission Action:	
MBE / WBE:	
Related Items:	

## 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) zoning. 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, large and small stakeholder groups have met on seven occasions and have reached a general consensus on a final ordinance version. 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 August 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.

City Council may extend the current interim ordinance if it finds additional time is necessary to consider the proposed amendment.

#### 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 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 congestion and allow the timely delivery of concrete material during non-daylight hours, improved air quality, and to 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 the 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.

Four types of permits are recommended with this amendment. All permits would adhere to an approved Sound Impact Plan outlined later in this recommendation, 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 property line of an impacted complainant property and not the property that holds the permit.

#### Recommended Permit Types

Type 1            Maximum concrete pours sound level: 72 dBA  
Permitted days during the week: Everyday  
Permitted hours during the week: 7:00 p.m. to midnight

Type 2            Maximum concrete pours sound level: 72 dBA  
Permitted days during the week: Everyday  
Permitted hours during the week: midnight to 6:00 a.m.

Type 3            Maximum concrete pours sound level: 85 dBA  
Permitted days during the week: Monday through Friday  
Permitted hours during the week: 7:00 p.m. to midnight

Note: This Type C permit is only available for projects on sites within 100 feet of a neighboring site occupied by a residential use or hotel.

Type 4            Maximum concrete pours sound level: Unlimited  
Permitted days during the week: Monday through Friday  
Permitted hours during the week: Unlimited

Note: This Type D permit is limited and only available to projects that have a “special circumstance” that requires a continuous concrete pour, such as a mat slab or similar foundation pour, that would not be accommodated by the other three permit types.

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 a Sound Impact Plan (SIP) and a light mitigation plan, which must:
  - a. identify where concrete trucks will queue to ensure minimal disruption to adjacent residences and businesses;
  - b. location of the concrete pump(s) and if necessary, relocate it to a location that will minimize disruption to adjacent residential uses;
  - c. provide specifications of proposed sound mitigation materials (such as sound baffling) that will be used and installed around noise sources on the property during the pour events;
  - d. address the current SIP 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.

The SIP is a plan submitted once and designed to mitigate the negative impacts of sound during the duration of a project. The SIP may be amended to address unexpected changes to a project or unanticipated impacts on abutting properties. The SIP does not need to be prepared and sealed by an acoustical engineer. The SIP will be reviewed and approved by City staff having the training and/or experience to apply sound mitigation techniques.

In the interim, the Music and Entertainment Division of the Economic Development Department (EDD) will provide the expertise to assist the Development Services Department with the review and approval of SIPs. It is anticipated that a maximum of 4-6 applications will trigger the SIP requirement per year.

Staff does not propose to change the current 72 hour 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 the inclusion of the bad actor provisions of Section 9-2-57 “Denial of Permit for repeat Offences” to apply to concrete pour equipment. However, it would address documented violations in lieu of convictions and make extended time exceptions 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 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. Staff also recommends this ordinance come back to City Council after one year for review and possible improvements.