



## **EXHIBIT B**

**ISSUE STATEMENT:** PUBLIC HEARING AND POSSIBLE VOTE CONCERNING THE PROPOSED AMENDMENTS TO SECTION 16-225 OF THE NIXA CITY CODE RELATING TO HEAVY EQUIPMENT HOURS AND NOISE REGULATIONS

**DATE:** FEBRUARY 3, 2026

**SUBMITTED BY:** PLANNING AND DEVELOPMENT DEPARTMENT

**PRESENTED BY:** PLANNING AND DEVELOPMENT DEPARTMENT

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### **Background**

The City has experienced an increase in complaints regarding excessive noise from construction projects near established residential areas, particularly early in the morning. Staff have also received increased requests for permits to begin construction work earlier than the time allowed by code. Staff reviewed the existing code language and determined it to be vague. Staff believes this amendment would provide greater clarity and create reasonable avenues for exceptions.

### **Analysis**

Current code language:

#### **Section 16-225 - Prohibiting use of heavy equipment during certain hours**

The use of heavy equipment including bulldozers and dump trucks or blasting activity within the city other than between the hours of 7:00a.m. and 6:00p.m. on Monday through Saturday, excluding holidays observed by the city, is prohibited, except and then only with a permit from the city clerk which shall be rescinded on any complaint concerning noise or dust during the prohibited hours being registered by a resident. This prohibition does not apply to roadwork by or on behalf of the city, county, or state.



Proposed code language:

### **Section 16-225 Heavy Equipment Hours and Noise Regulations**

(a) Definitions. As used in this Section the following terms and phrases shall have the meaning ascribed to them, unless the context indicates otherwise:

Heavy Equipment shall mean:

- (1) Any engine-powered or mechanically powered equipment;
- (2) That is being used for construction; and
- (3) Which produces significant continuous noise or vibration comparable to the following: bulldozers, backhoes, excavators, dump trucks, pile drivers, jackhammers, or generators with a power rating of 5 kilowatts or more.

(b) Standard Hours of Operation. Except as otherwise provided in this section, the use of Heavy Equipment shall be unlawful within the city at any time other than between the hours of 7:00 a.m. and 7:00 p.m. The performance of other construction-related work that does not involve Heavy Equipment is not restricted by this section.

(c) Hot Weather Early Start Exception. The use of Heavy Equipment may commence at 6:00 a.m. if the National Weather Service has issued a heat advisory or excessive heat warning for the area for that day. No permit, as described in Section 16-225(e) shall be required to utilize this exception.

(d) Exceptions. The prohibitions of this section shall not apply to:

- (1) Emergency work which is necessary to protect public health, safety, and welfare.
- (2) Roadwork or capital improvement projects conducted by or on behalf of the city, county, or state.
- (3) Activities for which a Permit has been granted by the City Administrator.

(e) Permit

- (1) The City Administrator may grant a Permit to allow the use of Heavy Equipment outside the standard hours of operation upon a finding that the work is in the public interest or that compliance would impose an unreasonable hardship.
- (2) In granting such a permit, the City Administrator shall consider the nature of the work, its duration, its proximity to residential areas, and any proposed noise mitigation measures, and may place conditions on the permit to minimize public disturbance.



- (f) Violations. Any person who operates heavy equipment in violation of this section, and any employer, principal, or supervisor who directs, authorizes, or permits such operation, shall be subject to punishment in accordance with Section 1-9 of the Nixa City Code.

### **Recommendation**

The new code language would allow for an extra hour in the evening and allow for an earlier start time on days that have excessive heat warnings. Additionally, this amendment allows for several exceptions, gives authority to the City Administrator in place of the City Clerk, and includes language on who is punishable for violations. Staff recommend approval of this code amendment.

(Explanation: Language in bold-face type (e.g., **thus**) is language to be added. Language in bold-faced brackets (e.g., **[thus]**) is not enacted and is intended to be omitted or deleted.):

Sec. 16-225. ~~[Prohibiting use of heavy equipment during certain hours.]~~ **Heavy Equipment Hours and Noise Regulations.**

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